

THE COURTS

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 1]

Proposed Amendment of Pa.R.J.C.P. 161, 170, and 172

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 161, 170, and 172 governing expungement procedures for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Chief Counsel
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 Supreme Court of Pennsylvania
 Pennsylvania Judicial Center
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All communications in reference to the proposal should be received by May 31, 2024. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Juvenile Court
 Procedural Rules Committee*

JUDGE ANDREA MARCECA STRONG,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

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

[**A.**] (a) *Inspecting and Copying.* Except as provided in [**paragraph (C)**] **subdivision (c)**, juvenile probation files shall be open to inspection [**and/or**] **and** 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.**] (b) *Juvenile Probation Information.*

1) Information maintained by juvenile probation offices other than juvenile probation files shall be subject to inspection [**and/or**] **and** 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)**] **subdivision (a)**.

[**C.**] (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.**] (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.

(e) Expungement Information. Upon written request by an eligible juvenile for the purpose of expungement, and without the necessity of a court order, the juvenile probation office shall provide the juvenile the following within 30 days of the request:

- (1) a list of recipients to whom the juvenile probation office has disseminated the juvenile's record;**
- (2) the identification of the records disseminated; and**
- (3) any other information reasonably necessary to expunge the juvenile's record.**

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] **and** copying under [**paragraph (A)**] **subdivision (a)**. "Juvenile probation files," as used in [**paragraph (A)**] **subdivision (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).

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

Rule 170. Motion to Expunge or Destroy Records.

[A.] (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] (i) when six months have elapsed since the final discharge of the juvenile from supervision; and

[b] (ii) if no proceeding seeking adjudication or conviction is pending;

4) **[when] if** a juvenile has been discharged from court supervision pursuant to Rule 631:

[a] (i) five years have elapsed;

[b] (ii) the juvenile has not been convicted or adjudicated delinquent for a felony or misdemeanor;

[c] (iii) no court proceeding is pending seeking such conviction or adjudication; and

[d] (iv) the delinquent act is not an act precluded from expungement pursuant to 18 Pa.C.S. § 9123(a.1); or

5) **[when] if** the attorney for the Commonwealth consents to the expungement.

[B.] (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 identification of records to be expunged or destroyed; and

(11) the [agencies] recordkeepers upon which certified copies of the court order shall be served.

[C.] (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.] (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] 30** days of the filing of the motion, they shall be deemed waived.

[E.] (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.] (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.] The juvenile or the juvenile probation office may initiate an expungement proceeding in accordance with this rule.

Under [paragraphs (A)(1) & (2)] subdivisions (a)(1)-(a)(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).

For the information required by subdivision (b), see Pa.R.J.C.P. 161(e) (requesting expungement information from the juvenile probation office).

Under [paragraph (B)(6)] subdivision (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)] subdivision (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)] subdivision (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] Pa.R.J.C.P. 173; Pa.R.J.C.P. 120, cmt.

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)] subdivision (d), the attorney for the Commonwealth is given an opportunity to respond to the motion. The attorney for the Common-

wealth 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] Pa.R.J.C.P. 173.

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)] subdivision (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 <https://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)] subdivision (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] see 18 Pa.C.S. § 9123(a.1) for cases that are ineligible for expungement proceedings. [See also] 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).]

Rule 172. Order to Expunge or Destroy.

[A.] (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)] 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] recordkeeper[, upon request,] shall notify the court or its designee, within 30 days of service of the order and 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 and to comply with the notice requirement of subdivision (a)(4);
- 6) the printed name and signature of the judge issuing the order; and
- 7) the date of the court order.

[B.] (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)] subdivision (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)] subdivision (a)(4), an agency, department, school, or office [may be requested] is required to produce evidence of compliance with the court order to expunge or to explain why compliance cannot be made. The court's designee to receive written notice under this subdivision can be the juvenile probation office. Non-compliance may result in a finding of contempt of court.

Pursuant to [paragraph (A)(5)] subdivision (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] Pa.R.J.C.P. 163. [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).]

**SUPREME COURT OF PENNSYLVANIA
JUVENILE COURT PROCEDURAL RULES
COMMITTEE**

PUBLICATION REPORT

**Proposed Amendment of Pa.R.J.C.P. 161,
170, and 172**

The Juvenile Court Procedural Rules Committee ("Committee") is considering proposing the amendment of Pennsylvania Rules of Juvenile Court Procedure 161, 170, and 172 to facilitate the complete expungement of delinquency court records.

The Committee previously published a proposal to revise the required contents of an expungement order to direct that all records be expunged or destroyed and to provide the juvenile court with the discretion to establish a compliance deadline. *See* 49 Pa.B. 7293 (December 14, 2019). That proposal was intended to address concerns of undue delay in compliance with expungement orders and incomplete expungements.

During the course of rulemaking, the Pennsylvania Juvenile Justice Task Force was formed. Released in June of 2021, the Task Force's Report and Recommendation included proposals changing the expungement eligibility criteria and making the juvenile probation office responsible for initiating the expungement process. Responsive legislation was introduced as Senate Bill 170, Regular Session 2023-2024, to amend the Juvenile Act. Consequently, the Committee paused further rulemaking.

The Committee was informed that the concerns giving rise to the original proposal continue to exist. Accordingly, the Committee opted to reopen rulemaking to address those concerns while remaining mindful of the pending legislation.

First, "incomplete expungements" occur when the motion and order fail to identify all the recordkeepers to be served and all the records to be expunged or destroyed. This is a particular concern in counties where the burden of initiating the expungement process is placed on the juvenile because often the juvenile does not know "who received what" as it is typically the juvenile probation office (JPO) disseminating records, including those in the manner of "service inquiries" to prospective providers of services.

Second, there should be a "feedback loop" requiring the recordkeepers to act on the expungement order by a date certain. Anecdotally, the information in the expungement order may not match the recordkeeper's required identifiers, *e.g.*, Offense Tracking Number, so there is no expungement. However, the feedback that an expungement cannot occur based upon the information in the order is not communicated to the juvenile or the court.

The Committee proposes amending Pa.R.J.C.P. 161 to add subdivision (e) to permit an eligible juvenile to submit a written request to the JPO to disclose informa-

tion to the juvenile that is necessary to expunge the juvenile's records. The JPO has 30 days to respond to that request. The requirements for the content of an expungement motion set forth in Pa.R.J.C.P. 170(b) would be amended to include identification of the records to be expunged and the recordkeepers to be served with the expungement order.

The Committee also proposes amending Pa.R.J.C.P. 172 to require recordkeepers to respond in writing within 30 days of service of the expungement order about the action taken in response to the order. This amendment is intended to provide the necessary feedback to ensure compliance with expungement orders and to detect whether additional information is needed to effectuate the expungement.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 24-534. Filed for public inspection April 19, 2024, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 16]

Proposed Amendment of Pa.R.J.C.P. 1601 and 1608

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 1601 and 1608 governing "potential kinship care resource" for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by May 31, 2024. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Juvenile Court
 Procedural Rules Committee*

JUDGE ANDREA MARCECA STRONG,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART A. SUMMONS, NOTICE, AND REPORTS

Rule 1601. Permanency Hearing Notice.

[A.] (a) At least [fifteen] 15 days prior to the hearing, the court or its designee shall give notice of the permanency hearing to:

- 1) all parties;
- 2) the attorney for the county agency;
- 3) the child's attorney;
- 4) the guardian's attorney;
- 5) the parents, child's foster parent, preadoptive parent, [or] relative providing care for the child, **or a potential kinship care resource**;
- 6) the court appointed special advocate, if assigned;
- 7) the educational decision maker, if applicable; and
- 8) any other persons as directed by the court.

[B.] (b) If a party intends to request a goal change from reunification, then either the notice shall state this purpose or the party shall give separate notice of the intended goal change in accordance with [**paragraph (A)] subdivision (a)**.

Comment:

Regarding subdivision (a)(5), see 42 Pa.C.S. § 6302 for the definition of "potential kinship care resource." Once a potential kinship care resource has addressed the court as to the individual's qualifications, the court is to decide whether the potential kinship care resource may receive notice of, or participate in, future hearings. See Pa.R.J.C.P. 1608(d)(1)(xviii). If the court decides that the potential kinship care resource is not to receive notice of future hearings, notice to that individual pursuant to subdivision (a)(5) is no longer required.

Given the significance of discontinuing the goal of reunification, the requirement of [**paragraph (B)] subdivision (b)** is to ensure that parties, counsel, and interested persons have notice of the purpose of the hearing and are able to prepare for and attend the hearing.

[*Official Note*: Rule 1601 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended May 17, 2018, effective October 1, 2018.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1601 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1601 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1601 published with the Court’s Order at 48 Pa.B. 3321 (June 2, 2018).]

PART B(2). PERMANENCY HEARING

Rule 1608. Permanency Hearing.

* * * * *

(d) Court’s Findings.

1) Findings at all Six-Month Hearings. At each permanency hearing, the court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1609. On the record in open court, the court shall state:

* * * * *

(xvi) whether sufficient steps have been taken by the county agency to ensure the child has been provided regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities, including:

(A) consulting the child in an age-appropriate or developmentally-appropriate manner about the opportunities to participate in activities; and

(B) identifying and addressing any barriers to participation; [and]

(xvii) whether the visitation schedule for the child with the child’s guardian is adequate, unless a finding is made that visitation is contrary to the safety or well-being of the child[.]; and

(xviii) if a potential kinship care resource has addressed the court as to the individual’s qualifications, then whether the potential kinship care resource may receive notice of, or participate in, future hearings.

* * * * *

Comment:

See 42 Pa.C.S. §§ 6341, 6351.

* * * * *

Pursuant to subdivision (d)(1)(xv), the county agency is to testify and enter evidence into the record on how it took sufficient steps to ensure the caregiver is exercising the reasonable and prudent parent standard. For the definition of “caregiver” and the “reasonable and prudent parent standard,” see Rule 1120. Pursuant to subdivision (d)(1)(xvi), when documenting its steps taken, the county agency is to include how it consulted with the child in an age-appropriate or developmentally-appropriate manner about the opportunities of the child to participate in activities. For the definition of “age-appropriate or developmentally-appropriate,” see Rule 1120. These additions have been made to help dependent children have a sense of normalcy in their lives. These children should be able to participate in extracurricular, enrichment, cultural, and social activities without having to consult caseworkers and ask the court’s permission many days prior to the event. See also Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), 42 U.S.C. §§ 675 and 675a (2014).

Regarding subdivision (d)(1)(xviii), see 67 Pa.C.S. § 7507(c) for Kinship Care Program.

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SUPREME COURT OF PENNSYLVANIA JUVENILE COURT PROCEDURAL RULES COMMITTEE

PUBLICATION REPORT

Proposed Amendment of Pa.R.J.C.P. 1601 and 1608

The Juvenile Court Procedural Rules Committee (“Committee”) is considering proposing the amendment of Pennsylvania Rules of Juvenile Court Procedure 1601 and 1608 to implement the Act of December 14, 2023, P.L. 412, No. 48, concerning “potential kinship care resource.”

Effective February 12, 2024, the Act added the definition of “potential kinship care resource” to the Juvenile Act, 42 Pa.C.S. § 6302. The Act also amended 42 Pa.C.S. § 6336.1(a) to require the county agency to provide notice of permanency hearings to potential kinship care resources. The potential resource then has the right to be heard at the hearing as to the resource’s qualifications to provide kinship care. Thereafter, the court must decide whether the resource may receive notice of, or participate in, future hearings.

To reflect the Act, Pa.R.J.C.P. 1601(a)(5) is proposed to be amended to include “potential kinship care resource” as a person to receive notice of the permanency hearing. Additionally, a new subdivision (d)(1)(xviii) is proposed to be added to Pa.R.J.C.P. 1608 to require a finding on whether the potential kinship care resource should receive notices of future hearings.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 24-535. Filed for public inspection April 19, 2024, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 300]

Proposed Rescission and Replacement of Pa.R.Civ.P.M.D.J. 319

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the rescission and replacement of Pa.R.Civ.P.M.D.J. 319, pertaining to the appearance of the parties at the civil hearing for the reasons set forth in the accompanying Publication Report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the Pennsylvania Bulletin for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to include the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be officially adopted by the Supreme Court.

Deletions to the text are bold and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by June 12, 2024. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Minor Court Rules Committee

HONORABLE JAMES R. EDGCOMB,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

(*Editor's Note:* Rule 319 as printed in 246 Pa. Code reads "Official Note" rather than "Note.")

Rule 319. [**Failure of a Party to Appear**] **Parties' Appearance** at the Hearing.

[A. If a plaintiff who has been given notice of the defendant's intention to defend does not appear at the hearing, but the defendant does appear, the magisterial district judge shall enter judgment for the defendant or continue the case for cause. If the plaintiff does not appear at the hearing and the defendant does, but the plaintiff has not been given notice of the defendant's intention to defend, the case shall be continued.

B. If the defendant does not appear at the hearing, the magisterial district judge shall, whether or not the plaintiff appears, enter judgment for the plaintiff or continue the case for cause. If judgment is entered for the plaintiff, the magisterial district judge shall assess damages for the amount to which the plaintiff is entitled if it is for a sum certain or which can be made certain by computation, but if it is not, the damages shall be assessed by the magisterial district judge at a hearing at which the issues shall be limited to the amount of the damages. If such a hearing is to be held, the magisterial district judge shall give the defendant written notice of the time and date of the hearing, which shall be not less than ten (10) days from the date of the notice.

Note: The first sentence of subdivision A of this rule provides for a judgment for the defendant rather than merely a dismissal of the plaintiff's complaint. This provision is intended to prevent the plaintiff from bringing the action again before a magisterial district judge, although he can appeal. The continuance called for in the second sentence of subdivision A will constitute a form of notice to defend and if the plaintiff does not appear at the second hearing judgment will be entered against him.

As to the provisions concerning assessment of damages in subdivision B, compare Pa.R.C.P. Nos. 1037(b) and 1047(b).]

The deleted rule text is replaced in its entirety with the following rule text.

(*Editor's Note:* The following text is proposed to be added and is printed in regular type to enhance readability.)

(a) *Notice of Intent to Defend Given.* If the plaintiff has been given written notice of the defendant's intent to defend pursuant to Pa.R.Civ.P.M.D.J. 318:

(1) *Plaintiff Appears.* If the plaintiff appears at the hearing and the defendant does not appear, then the magisterial district judge shall enter judgment for the plaintiff, subject to subdivision (d)(1).

(2) *Defendant Appears.* If the plaintiff does not appear at the hearing and defendant appears, then the magisterial district judge shall enter judgment for the defendant.

(3) *Both Parties Appear.* If both parties appear at the hearing, then the magisterial district judge shall conduct the hearing in accordance with Pa.R.Civ.P.M.D.J. 321.

(4) *Neither Party Appears.* If neither party appears at the hearing, then the magisterial district judge shall enter judgment for the defendant.

(b) *Notice of Intent to Defend Not Given.* If the plaintiff has not been given notice of the defendant's intention to defend pursuant to Pa.R.Civ.P.M.D.J. 318:

(1) *Plaintiff Appears.* If the plaintiff appears at the hearing and the defendant does not appear, then the magisterial district judge shall enter judgment for the plaintiff, subject to subdivision (d)(1).

(2) *Defendant Appears.* If the plaintiff does not appear at the hearing and the defendant appears, then the magisterial district judge shall continue the case.

(3) *Both Parties Appear.* If both parties appear at the hearing, then the magisterial district judge may conduct the hearing in accordance with Pa.R.Civ.P.M.D.J. 321 or continue the case.

(4) *Neither Party Appears.* If neither party appears at the hearing, then the magisterial district judge shall enter judgment for the plaintiff, subject to subdivision (d)(1).

(c) *Continuances.* The magisterial district judge may grant a continuance upon good cause shown in any case notwithstanding the appearance of a party or parties at the hearing.

(d) *Hearing on Unascertained Damages.*

(1) *Generally.* If plaintiff's damages are not for a sum certain or cannot be computed, the magisterial district judge shall assess damages at a separate hearing at which the issues shall be limited to the amount of the damages.

(2) *Notice of Damages Hearing.* The magisterial district judge shall give the parties written notice of the time and date of the damages hearing, which shall be at least ten days from the date of the notice.

Comment:

See Pa.R.Civ.P.M.D.J. 209 pertaining to continuances, generally. Entry of a continuance is required by subdivision (b)(2) if the magisterial district judge determines from the docket that the plaintiff was not provided with written notice of the defendant's intention to defend. This

outcome is necessary to allow the plaintiff to prepare for an adversarial hearing. Similarly, if the plaintiff was not provided with written notice of the defendant's intent to defend and both parties appear, the magisterial district judge may conduct the hearing, or elect to continue the case at the request of the plaintiff or the judge's own accord if court scheduling cannot accommodate the hearing at that time. *See* Pa.R.Civ.P.M.D.J. 319(b)(3).

In most cases, the amount of damages will be certain and calculable because the plaintiff is required to state the amount claimed in the complaint. *See* Pa.R.Civ.P.M.D.J. 304B(2). However, a separate damages hearing under subdivision (d) may be required in limited circumstances, *e.g.*, when a party has not appeared at the initial hearing and the case is for civil fines or penalties. As to the provisions concerning assessment of damages in subdivision (d), compare Pa.R.Civ.P. 1037(b).

**SUPREME COURT OF PENNSYLVANIA
Minor Court Rules Committee**

PUBLICATION REPORT

**Proposed Rescission and Replacement of
Pa.R.Civ.P.M.D.J. 319**

The Minor Court Rules Committee ("Committee") is considering proposing to the Supreme Court of Pennsylvania the rescission and replacement of Pa.R.Civ.P.M.D.J. 319 relating to appearance of the parties at the civil hearing.

Currently, Pa.R.Civ.P.M.D.J. 319 prescribes case outcomes relating to the parties' appearance at the hearing. In addition to being determined by the appearance of the party, the consequences are also determined by whether or not the plaintiff was given written notice that the defendant intends to appear at the hearing and defend against the complaint, *i.e.*, files a "notice of intent to defend." The substantive language of Pa.R.Civ.P.M.D.J. 319 has not changed since it took effect in 1970, notwithstanding changes to the title of the presiding jurist. *See*, *e.g.*, Order of January 6, 2005, Judicial Administration Docket 1, No. 269 (changing the title of "district justice" to "magisterial district judge" throughout court rules).

A Committee member suggested that the Committee review Pa.R.Civ.P.M.D.J. 319B, relating to the outcome of a case when the defendant fails to appear at the hearing. The rule currently provides, among other things, that "[i]f the defendant does not appear at the hearing, the magisterial district judge, shall, *whether or not the plaintiff appears*, enter judgment for the plaintiff or continue the case for cause." Pa.R.Civ.P.M.D.J. 319B (emphasis added). The discussion was driven, in part, by the number of complaints determined solely by the nonappearance of the defendant. There is also a perception that some plaintiffs may engage in litigation strategies utilizing Rule 319B for purposes of obtaining default judgments and taking a *de novo* appeal should a defendant appear. While such strategies are authorized by the current rules, the Committee questioned if that should remain the case.

The Committee discussed these perceived shortcomings of Pa.R.Civ.P.M.D.J. 319B. Some members took the position that: (1) failure of a plaintiff to appear in court for an action he or she initiated reflects a lack of respect for the court; (2) there should not be a greater burden on the defendant to appear than the plaintiff; and (3) there should be consistent procedures across the civil and landlord-tenant rules. However, other members disagreed

with this position, finding that requiring the presence of the plaintiff in the absence of the defendant may constitute "form over substance" if the plaintiff is not further required to give testimony and prove the elements of the complaint. The Committee considered at length whether the plaintiff should be required to appear and meet his or her evidentiary burden prior to a judgment for the plaintiff. *Compare* Pa.R.Civ.P.M.D.J. 512 ("The landlord shall appear at the hearing and present testimony in an action for the recovery of possession of real property."). Ultimately, the Committee agreed to keep the current practice relative to appearance but change the outcomes to better reflect the expectations of the parties based on whether the plaintiff has been notified that the defendant intends to defend against the action.

The rules prescribe a process for the defendant to notify the court of his or her intention to defend against the complaint. In the hearing notice served on the defendant with the complaint, the defendant is directed that: "If you intend to enter a defense to this complaint you should so notify this office immediately." Pa.R.Civ.P.M.D.J. 305(4)(a) (pertaining to setting the date for hearing and delivery for service). The Comment further provides that "giving the notice mentioned in subdivision (4)(a) is necessary if the defendant is to obtain judgment under [Pa.R.Civ.P.M.D.J. 319A] because of a plaintiff's failure to appear." Pa.R.Civ.P.M.D.J. 305, cmt. Upon receipt of a defendant's notice of intent to defend, the magisterial district court is required to "promptly give written notice that the defendant intends to enter a defense." Pa.R.Civ.P.M.D.J. 318. The docket entries of the magisterial district court will reflect whether the defendant gave the court notice of intent to defend and, in turn, whether the magisterial district court then gave written notice of the defendant's intent to defend to the plaintiff. *Id.*, cmt. Thus, a key element in determining the outcome of a case when a party fails to appear is whether the magisterial district court provided the plaintiff with written notice of the defendant's intent to defend.

Ultimately, the Committee agreed that the rule is ripe for both stylistic and substantive changes. The Committee proposes restructuring the rule into a set of outcomes that depend on whether a notice of intent to defend was given to the plaintiff. The Committee further delineated the outcomes of those two subgroups into four subdivisions: (1) the plaintiff appears and the defendant does not appear; (2) the plaintiff does not appear and the defendant does appear; (3) both parties appear; and (4) neither party appears. *See* proposed Pa.R.Civ.P.M.D.J. 319(a)—(b).

Proposed subdivision (a) addresses the scenario when the defendant has filed a notice of intent to defend with the magisterial district court and the court has given written notice of the defendant's intention to the plaintiff. If the plaintiff appears at the hearing but the defendant does not, then the magisterial district judge shall enter judgment for the plaintiff. *See* proposed Pa.R.Civ.P.M.D.J. 319(a)(1). The Committee thought that this is the correct outcome because the plaintiff appeared to plead his or her case upon learning that the defendant intended to defend the matter. In contrast, if the plaintiff does not appear at the hearing but the defendant does, then the magisterial district judge shall enter judgment for the defendant. *See* proposed Pa.R.Civ.P.M.D.J. 319(a)(2). The Committee agreed upon this outcome because the plaintiff knew the defendant intended to defend the matter yet elected not to appear. Proposed subdivisions (a)(1) and (a)(2) are consistent with the current practice.

While not incorporated in the current rule, the Committee added a new subdivision (a)(3) addressing the scenario when both parties appear at the hearing. In the instance when the plaintiff is given notice of the defendant's intent to defend and all parties are present in court, the magisterial district judge will proceed with the civil hearing. While this outcome may seem patently obvious, the Committee thought its absence from the permutations of attendance may raise questions among some readers.

If neither party appears at the hearing, then the magisterial district judge shall enter judgment for the defendant. *See* proposed Pa.R.Civ.P.M.D.J. 319(a)(4). Currently, when neither party appears, the court enters judgment for the plaintiff. The Committee disagreed with this approach when the plaintiff has been advised that the defendant intends to defend the case, believing that the plaintiff has an obligation to appear before the court upon learning that the defendant intends to defend the case.

Proposed subdivision (b) addresses the scenario when the court docket does not reflect that the plaintiff was provided with a notice of intent to defend as required by Pa.R.Civ.P.M.D.J. 318. This may be because: (1) the defendant did not give the magisterial district court notice of intent to defend; or (2) the magisterial district court did not promptly give the plaintiff such notice. The outcomes in subdivision (b) are largely consistent with current practice. If the plaintiff appears at the hearing and the defendant does not, then the magisterial district judge shall enter judgment for the plaintiff. *See* proposed Pa.R.Civ.P.M.D.J. 319(b)(1). If the plaintiff does not appear at the hearing but the defendant does, then the magisterial district judge shall continue the case. *See* proposed Pa.R.Civ.P.M.D.J. 319(b)(2). This outcome is necessitated by judicial fairness. Without notice of the defendant's intention to defend, the plaintiff may have reasonably anticipated entry of judgment in his or her favor.

Similar to subdivision (a)(3), the current rule does not address the scenario when both parties appear at the hearing but the plaintiff has not received notice of the defendant's intention to defend. Proposed subdivision (b)(3) would give the plaintiff the opportunity to proceed with the civil hearing if they are willing and prepared for the hearing. Alternatively, the court may elect to enter a continuance at the request of the plaintiff or on the court's own accord. The plaintiff may request a continuance to prepare for an adversarial hearing, which they may not have anticipated in the absence of notice. Likewise, the court may not have allotted time for an adversarial hearing if the presence of the defendant was not expected.

If neither party appears at the hearing, then the magisterial district judge shall enter judgment for the plaintiff. *See* proposed Pa.R.Civ.P.M.D.J. 319(a)(3). The Committee agreed that this is the proper outcome because the defendant gave no indication that he or she intended to defend the matter and should bear the consequences of that decision.

Currently, there are numerous continuance provisions throughout the rule. *See* Pa.R.Civ.P.M.D.J. 319. The Committee agreed to add a new subdivision (c) to provide generally that the magisterial district judge may continue

a case for good cause shown instead of entering judgment for a party. *See* proposed Pa.R.Civ.P.M.D.J. 319(c).

Similarly, current Pa.R.Civ.P.M.D.J. 319B contains a provision relating to hearings on unascertained damages that does not strictly pertain to subdivision (a) or (b). The Committee believes this provision pertaining to unascertained damages may have limited application because Pa.R.Civ.P.M.D.J. 304B(2) requires the plaintiff to state "the amount claimed" in the civil complaint. It likely applies to damages sought in a case involving a civil fine or penalty authorized by statute. *See* Pa.R.Civ.P.M.D.J. 304B(3)(c). The Committee agreed the unascertained damages provisions would be better located in a standalone subdivision. *See* proposed Pa.R.Civ.P.M.D.J. 319(d). Cross-references to proposed subdivision (d)(1) were added to proposed subdivisions (a)(1), (b)(1), and (b)(4) to reflect that while judgment may be entered for plaintiff, a separate damages hearing may need to be held if damages are unascertainable.

* * * * *

The Committee welcomes all comments, concerns, and suggestions regarding this proposal.

[Pa.B. Doc. No. 24-536. Filed for public inspection April 19, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUTLER COUNTY

Local Rules of Judicial Administration, L5101—L5105, Custody of Exhibits; MsD No. 2024-40087

Administrative Order of Court

And Now, this 4th day of April, 2024, in accordance with Pa.R.J.A. 5101—5105, it is hereby Ordered and Decreed that Butler County Local Rules of Judicial Administration L5101 through L5105 are approved and adopted and made a part of the Butler County Local Rules of Court for use in the Court of Common Pleas of Butler County, Pennsylvania, the 50th Judicial District of Pennsylvania, effective thirty (30) days after publication of the Rules in the *Pennsylvania Bulletin*.

In accordance with Pa.R.J.A. 103, the District Court Administrator is Ordered and Directed to:

1. File one (1) certified copy of this Administrative Order of Court with the Administrative Office of the Pennsylvania Courts.
2. File two (2) certified copies of this Administrative Order of Court with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Forward one (1) copy of this Administrative Order of Court to the Administrative Office of the *Butler County Legal Journal* for publication as that organization deems appropriate.
4. Distribute a copy of this Administrative Order of Court to the Judges of the Court of Common Pleas of Butler County, Pennsylvania.
5. Forward one (1) copy of this Administrative Order of Court to the Butler County Law Library.

6. Keep continuously available for public inspection copies of this Administrative Order of Court in the Office of the Prothonotary of Butler County, Pennsylvania.

By the Court

S. MICHAEL YEAGER,
President Judge

Rule L5101. Custody of Exhibits in Court Proceedings. Definitions.

(a) The following words and phrases when used in these rules shall have the following meanings unless the context clearly indicates otherwise, or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

(1) “*Court Proceeding.*” Any trial, hearing, argument or similar event before a judge, panel, or hearing officer where evidence, if entered, is on the record. It does not include a proceeding before a magisterial district court, a judicial arbitration matter pursuant to Pa.R.Civ.P. 1301 et seq., a hearing before a Register of Wills pursuant to Pa.R.O.C.P. 10.3, or any matter in which the proceeding is not of record;

(2) “*Custodian.*” The person or persons designated by local rule of judicial administration to safeguard and maintain exhibits offered into evidence in a court proceeding. The custodian shall either be a member of court staff, e.g., Court Reporter, Clerk of Court, hearing officer, or the proponent of the exhibit. Custodian shall also include the custodian’s designee;

(3) “*Exhibit.*” A document, record, object, photograph, model, or similar item offered into evidence, whether or not admitted, in a court proceeding;

(4) “*Proponent.*” A party seeking the admission of an exhibit into the record in a court proceeding; and,

(5) “*Records office.*” The entity with the responsibility and function to maintain and retain the official case file and list of docket entries as required by rule or law.

Rule L5102(a). Custody of Exhibits During Court Proceedings. General Provisions.

(1) The Court Reporter for all of a court proceeding shall be designated as the “Custodian” of all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding and submitted during that period. The presiding judge or the Custodian may seek the assistance of the Sheriff’s Office of Butler County, Pennsylvania, to secure any dangerous items.

Rule L5102(b). Custody of Exhibits After Court Proceedings. General Provisions.

(1) At the conclusion of a court proceeding, if the proponent of a non-documentary exhibit is:

(a) *The District Attorney’s Office.* Said office shall retain custody of non-documentary physical evidence after a court proceeding as set forth in the retention schedule for criminal matters.

(b) *The Public Defender’s Office.* Said office shall retain custody of non-documentary physical evidence after a court proceeding as set forth in the retention schedule for criminal matters.

(c) *Private Counsel.* The Court Reporter shall retain custody of non-documentary physical evidence after a court proceeding, until such time that custody is transferred to the appropriate records office.

Rule L5102(c). Custodian.

(1) *Custodian.* The Custodian shall:

(i) Except as provided herein, retain or take custody of all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding; and,

(ii) Except as provided herein, file all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding with the records office within five (5) business days of the conclusion of the court proceeding unless otherwise directed by the court;

(2) *Index of Exhibits.* The Custodian filing the exhibits with the records office shall include a numbered list of exhibits, and for each exhibit identify the proponent, whether the exhibit was admitted or rejected from evidence, and a textual description or identification of the exhibit. The exhibits and standardized Exhibit Index Form set forth in Appendix I shall be typewritten and filed with the appropriate records office within five (5) business days from the conclusion of the proceeding.

(3) *Relief.* If the custodian does not file the exhibits as required by subdivision (c)(1)(ii), the proponent, if not designated as the custodian or in possession of the exhibits by local rule, may seek appropriate relief with the court.

(4) *Multiple Custodians.* If multiple successive custodians are involved with a proceeding, the first custodian shall provide the subsequent custodian (and so on, if more than two successive custodians) with the submitted exhibits and index of exhibits. The custodian at the conclusion of the proceeding shall file with the appropriate records office a typewritten Exhibit Index Form. The exhibits and standardized Exhibit Index Form set forth in Appendix I shall be typewritten and filed with the appropriate records office within five (5) business days from the conclusion of the proceeding.

(d) *Transferring Exhibits.* When exhibits are transferred from the custodian to a subsequent custodian or filing office, a Transfer of Possession Form shall be completed and signed by both the custodian and the subsequent custodian or records office accepting the Exhibit Index Form and exhibits. The Transfer of Possession Form is set forth in Appendix II.

Rule L5103. Custody of Exhibits. Special Provisions.

(1) If directed by the presiding judge, an exhibit book, witness list, or a list of obscure terminology shall be provided by a party or parties, and a copy shall also be provided to the Court Reporter and the judge’s law clerk. If required:

(a) Each party shall prepare a tabbed exhibit book, in advance of trial, containing each exhibit the party plans to show to a witness, to introduce through a witness, or to otherwise proffer as evidence.¹ At the commencement of

¹ Do not include portions of medical records or other voluminous records that will not be specifically referenced through testimony.

the trial, in advance of opening arguments, copies of the exhibit book shall be provided to the presiding judge, his or her law clerk, opposing counsel/unrepresented parties, and the Court Reporter.

The inclusion of an exhibit in the exhibit book does not impose any obligation to introduce the exhibit and the failure to do so shall not be commented on by other counsel.

(b) One week prior to trial, each party shall provide to the court and the Court Reporter a complete list of potential witnesses and a list of any unusual names of other individuals, places, or things likely to be referenced during testimony.

This list should additionally note any witness whose testimony will be received by deposition or video tape, and the particular area of expertise of any expert witness.

(c) Each party shall provide to the court and the Court Reporter a list of obscure or case specific terminology likely to be referenced during testimony.

(2) Documentary exhibits larger than 8 1/2 × 11 inches that are part of the record shall be reduced to 8 1/2 × 11 inches, and all tangible objects that are part of the record shall be photographed in color by the by the proponent, the photograph converted to 8 1/2 × 11 inches, and the photograph appropriately marked.

Four (4) 8 1/2 × 11-inch copies of the reduced documentary exhibits and photographs of tangible objects must be produced during the court proceeding: one (1) copy for the presiding judge, one (1) copy for the judge's law clerk, one (1) copy for opposing counsel/unrepresented parties, and one (1) copy for the Court Reporter for inclusion in the documentary record. The proponent who provides a reduced copy of an oversized exhibit shall ensure the reproduced document is clear and capable of further reproduction.

(3) Any digital exhibit that cannot be printed (i.e., audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive (or other format if expressly approved by the court). If one party has multiple digital exhibits, they may be submitted together on one USB flash drive. Three (3) Universal Serial Bus (USB) flash drives replicating the exact content shall be produced during the court proceeding: one (1) copy for the presiding judge, one (1) copy for opposing counsel/unrepresented parties, and one (1) copy for the Court Reporter for inclusion in the evidentiary record.

(4) If a proponent offers into evidence a photograph, the proponent shall ensure that the original or a copy of the photograph in lieu of the original (no larger in size than 8 1/2 × 11 inches) is entered into the record. A proponent who provides a copy of a photograph shall ensure that the reproduced document is clear and capable of further reproduction or transfer to digital media.

(5) Exhibits comprised of weapons, cash, other items of value, drugs, or other dangerous materials are prohibited from viewing in the jury room. The court may direct alternative viewing arrangements for such exhibits upon the request of the jury.

(6) Unless otherwise ordered, the applicable filing office shall maintain non-documentary exhibits for a minimum of following time periods:

(1) *Non-criminal matters.* After trial or other record proceeding, exhibits admitted into evidence shall be retained by the filing office until it is determined whether an appeal has been taken from a final judgement.

(2) *Criminal matters.* After trial or other record proceeding, exhibits admitted into evidence shall be retained by the filing office as set forth in the schedule below:

i. *Homicides.* Retain exhibits 75 years.

ii. *Summary cases.* Retain exhibits 5 years.

iii. *Other cases.* Retain exhibits 5 years after completion of sentence.

(7) *Disposition Documentary Exhibits After Trial.* After trial or, hearing, exhibits admitted into evidence shall be retained by the applicable filing office as follow:

If an appeal has been taken, no earlier than sixty (60) days from the receipt of disposition of appeal from the appellate court(s), and provided that all matters in the case have been finally disposed of, the applicable filing office shall Motion for an Order of Court to destroy or dispose of proffered exhibits in sixty (60) days if no Motion to Reclaim Exhibits is filed. All interested parties shall be given notice of such Motion and must file a Motion to Reclaim Exhibits within thirty (30) calendar days of service of the Motion. If no Motion to Reclaim Exhibits is filed, an Order of Court granting the destruction or disposal of proffered exhibits shall be issued.

If an appeal has not been taken within the time frame allowed under the Pennsylvania Rules of Appellate Procedure or Statue and sixty (60) days have lapsed since the final date on which an appeal was to be taken, the applicable filing office shall Motion for an Order of Court to destroy or dispose of proffered exhibits. All interested parties shall be given notice of such Motion and must file a Motion to Reclaim Exhibits within thirty (30) calendar days of service of the Motion. If no Motion to Reclaim Exhibits is filed, an Order of Court granting the destruction or disposal of proffered exhibits shall be issued.

Prior to destruction or disposal of exhibits under any Order of Court, the applicable filing office shall ensure an electronic copy of all documentary exhibits is created for retention in the file.

Rule L5104. Prohibition.

(a) Proceedings before hearing officers in divorce, custody, support, delinquency, and dependency matters that can be appealed de novo to the Court of Common Pleas or upon which exceptions or objections can be filed to the Court of Common Pleas shall be excluded from these general rules.

Rule L5105. Confidentiality. Exhibits Under Seal.

(a) Any exhibit containing confidential information or the equivalent to any of the categories enumerated in Pa. Access Policy § 8.0 must be prepared by the proponent and include a Confidential Document Form attached to a 9 × 12 unsealed envelope, in accordance with Local Rule L100 so that the document can be properly sealed by the record office.

(b) Any exhibit sealed by the court during the court proceeding shall not be accessible to the public.

Appendix I

EXHIBIT INDEX FORM												
Case Number:							Appearances					
Type of Proceeding:							Plaintiff:					
Judge:												
Hearing Date:												
Case Caption:												
							Defendant:					
Witnesses												
PLAINTIFF EXHIBITS					DEFENDANT EXHIBITS							
No.	Mark	Admit	Rej.	Description	No.	Mark	Admit	Rej.	Description			
1					A							
2					B							
3					C							
4					D							
5					E							
6					F							
7					G							
8					H							
9					I							
10					J							
11					K							
12					L							
13					M							
14					N							
15					O							
16					P							
17					Q							

Appendix II

TRANSFER OF CUSTODY FORM

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

Plaintiff, vs. Defendant. Case No.:

I, _____, designated as the "Custodian" of exhibits as defined by Pa.R.J.A. 5101(a)(2) and L5101(a)(2) for all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding in the above-captioned matter, hereby transfer all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding to the appropriate filing Office or the Successor Custodian. Included with the exhibits being transferred is the Exhibit Index Form containing a numbered list of exhibits, the identification of each exhibit's proponent, a checkmark indicating whether the exhibit was admitted or rejected from evidence, and a textual description of each submitted exhibit in accordance with L5102.

Date Custodian

Date Accepting Filing on Behalf of:

- Prothonotary
Clerk of Court
Successor Custodian

[Pa.B. Doc. No. 24-537. Filed for public inspection April 19, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

Fee Schedule For Prothonotary's Office; No. 24-CV-0234

Order of Court

And Now, to wit, this 3rd day of April, 2024, upon consideration of the Petition for Increase of the Fee Schedule of the Carbon County Prothonotary, Kayla M. Semmel, and in accordance with 42 P.S. § 21071.1, it is hereby

Ordered and Decreed that the Fee Schedule of the Carbon County Prothonotary's Office is amended effective June 1, 2024.

It Is Further Ordered and Decreed that the Fee Schedule of the Carbon County Prothonotary's Office, a true and correct copy of which is as follows to this Order and which has been prepared and submitted by the Prothonotary, is approved by the Court and adopted effective June 1, 2024.

It Is Further Ordered and Decreed that the District Court Administrator of Carbon County shall file this Order and cause it to be published on the Carbon County Court website and in the Carbon County Law Journal and the Pennsylvania Bulletin.

By the Court

STEVEN R. SERFASS, President Judge

THE COURTS

CARBON COUNTY PROTHONOTARY'S OFFICE

2 Broadway
 P.O. Box 130
 Jim Thorpe, Pennsylvania 18229-0130
 (570) 325-2481
 Fax (570) 325-8047

Kayla M. Semmel, Prothonotary
 Kelly S. Solt, First Deputy
 Heather L. Williams, Second Deputy
 Karen Flexer, Clerk/PFA Coordinator
 Daphne Gasker, Automation/Passport Clerk
 Attorney James R. Nanovic, Solicitor

FEE SCHEDULE

EFFECTIVE June 1, 2024

ACKNOWLEDGEMENTS:

Sheriff, Treasurer or Tax Claim Bureau \$ 13.90

APPEALS:

To Supreme, Superior or Commonwealth Court \$ 129.40
 (Plus \$90.25 payable to said court)

License Appeal \$ 239.90

Tax Assessment Appeal \$ 178.75

From Arbitration (\$50,000 limit) (exclusive of arbitrators' compensation, Pa.R.C.P. No. 1308) \$ 42.65

From Magisterial District Judge \$ 178.75

From Zoning Hearing Board \$ 178.75

AUDITOR'S REPORT \$ 49.10

BONDING COMPANY \$ 49.10

BUILDING AGREEMENTS:

Waivers, Stipulations & Agreements \$ 33.25

CERTIFICATIONS:

To Bureau of Traffic Safety \$ 13.90

Docket entry & judgment \$ 25.85

Exemplified Record \$ 25.85

Certified Copy (court order/divorce decree, etc.) \$ 13.90

COMMENCEMENT OF ANY ACTION:

Commencement of any action at Law or Equity regardless of procedure, unless otherwise specifically provided for \$ 178.75

Any action or proceeding to open/strike a judgment \$ 178.75

Objections to Tax Sale \$ 178.75

Proceedings on Lien other than revival (e.g., Mechanic's Lien Complaint) \$ 178.75

CONTINUANCE \$ 24.10

CUSTODY:

Complaint/Petition \$ 207.80

Master Deposit \$ 150.00

Complaint w/agreement \$ 207.80

Petition to Modify Custody \$ 26.20

DISCONTINUANCE IN A CASE \$ 13.90

DIVORCE:

Complaint \$ 188.75

Additional Counts (each) \$ 86.50

Custody Count \$ 95.75

Property Settlement/Agreement \$ 17.45

Inventory Appraisalment/Income & Expense \$ 17.45

THE COURTS

2075

Appointment of Master (deposit)	\$ 500.00
Praecipe to Transmit	\$ 17.45
	(+Law Clerk Fee \$25.00)
Retake Maiden Name	\$ 13.90
INITIAL PLEADING IN CASE —unless otherwise indicated	\$ 15.00
EXECUTIONS (includes filing of any praecipe for a writ of execution, including attachment, possession or any other writ of execution not herein specifically provided for)	\$ 43.55
JUDGMENTS:	
Final decrees, order of judgment	\$ 25.85
Assignments/Substitution of Party	\$ 13.90
Judgment notes & transfer other counties	\$ 60.35
Transcript from Magisterial District Judge	\$ 60.10
Satisfaction or Release of judgment	\$ 13.90
Subordination or postponement of lien	\$ 13.90
Complaint & confession of judgment	\$ 101.55
Default judgment	\$ 39.85
LETTER OF ATTORNEY:	
Filing	\$ 22.35
Revocation	\$ 13.90
LIENS:	
Municipal, Mechanics	\$ 51.40
Pennsylvania or Federal (Satisfaction additional fee \$13.60)	\$ 31.35
Lis Pendens (per defendant)	\$ 13.90
NOTARY PUBLIC:	
Registration of signature	\$ 5.40
Certification of Notary Public	\$ 13.90
PASSPORTS:	
Passport book—(Check payable to US Department of State)	\$ 110.00
Passport book (Children under 16 years of age)	\$ 80.00
Passport Card (Check payable to US Dept. of State)	\$ 30.00
Passport Card (Children under 16 years of age)	\$ 15.00
Check/Cash to Prothonotary’s Office (per application)	\$ 35.00
Expedite fee (extra)	\$ 60.00
PETITIONS & MOTIONS (excluding “Petition Actions”)	\$ 7.50
Motion for summary judgment	\$ 36.00
Petition to reassess damages	\$ 36.00
Petition for final judgment, quiet title	\$ 26.20
PHOTOCOPIES (per sheet)	\$.25
PROTECTION FROM ABUSE:	
Final Order	\$ 345.00
Final Order by Agreement	\$ 257.50
POLITICAL SUBDIVISION:	
Maximum charge	\$ 81.45
POUNDAGE:	
For handling of money paid into court First \$1,000.00	\$ 0.03
Each additional \$1,000.00	\$ 0.01
REINSTATE/REISSUE WRIT/COMP	\$ 13.90

REVIVALS:

All amicable revivals	\$ 25.85
Adverse revivals	\$ 70.55

SERVICES IN COURT:

Services in court per diem or part of day	\$ 43.45
Order of court	\$ 17.45

SUBPOENA (each)	\$ 5.40
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WRIT TO JOIN/JOINDER COMPLAINT	\$ 13.90
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For filings in cases not specifically enumerated, the charge imposed will be the same as that for a substantially similar specified filing.

Pursuant to 42 P.S. § 21073(b), the Prothonotary shall not be required to enter on the docket any suit, action or order of court, or enter any judgment thereon, or perform any service whatsoever for any person, political subdivision or the Commonwealth until the requisite fee is paid.

[Pa.B. Doc. No. 24-538. Filed for public inspection April 19, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

**Crime Victim Services and Compensation Fund,
Local Victim Services Fund; No. 3 of 2024**

Administrative Order of Court

And Now, to wit, this 9th day of April, 2024, pursuant to ACT 77 of 2022, Amendments to the Crime Victims Act, Title 18, Section 11.1101, subsection (b), *It Is Hereby Ordered* that an individual who pleads guilty or nolo contendere or who is convicted of a crime or enters a diversionary program shall pay costs of at least \$120.00, unless otherwise ordered by the Court, to the Crime Victim Services and Compensation Fund (CVSC) and the ACT 77-Local Victim Services Fund. This Cost shall be imposed at both the Magisterial District Courts and the Court of Common Pleas of this Judicial District notwithstanding any statutory provision to the contrary.

Pursuant to ACT 77, the disposition of this assessment will occur as follows:

1. \$60.00 of the costs imposed will be paid into the newly established Crime Victim Services and Compensa-

tion Fund (CVSC); this fund will replace both existing Crime Victim’s Compensation Fund and the Victim Witness Service Fund.

2. 30% of any costs in excess of \$60.00 shall be paid to the Crime Victim Services and Compensation Fund (CVSC).

3. 70% of any costs in excess of \$60.00 shall be paid to the ACT 77-Local Victim Services Fund, to be established and administered by the Westmoreland County Fiscal Office. The money in this fund shall be used only for victim services.

4. The Westmoreland County Fiscal Office shall disburse money from the ACT 77-Local Victim Service Fund at the discretion of the Westmoreland County District Attorney.

It Is Further Ordered, that this Administrative Order shall be effective on the date of this Order.

By the Court

CHRISTOPHER A. FELICIANI,
President Judge

[Pa.B. Doc. No. 24-539. Filed for public inspection April 19, 2024, 9:00 a.m.]