

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART IV. COURT OF JUDICIAL DISCIPLINE

#### [207 PA. CODE CH. 5]

#### Amendment to the Rules of Procedure; Doc. No. 1 JD 94

*Per Curiam:*

#### Order

*And Now*, this 21st day of November, 1997, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted a proposed new Rule of Procedure No. 505 and renumbering former Rule 505 as Rule 506, as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Court Administrator Wanda W. Sweigart provide for the publication of the proposed Rules in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments, or objections no later than thirty days from the publication of this Order in that Bulletin.

#### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART IV. COURT OF JUDICIAL DISCIPLINE

#### ARTICLE II. PROCEEDINGS BASED ON THE FILING OF FORMAL CHARGES

#### CHAPTER 5. TRIAL PROCEDURES

#### Rule 505. Post Sanction Proceedings.

(A) When the Court includes as part of an order of discipline a period and conditions of probation, the Court shall retain the power to reconsider the sanction imposed if, after hearing, the Court determines that a judicial officer has violated the terms of probation.

(B) When the Board finds that the judicial officer has violated the conditions of probation, the Board shall file a Petition with the Court alleging such a violation. This Petition shall request a hearing and request the Court to provide the Board with any relevant material or other written information in possession of the Court.

(C) At any hearing held pursuant to Section B of this Rule:

(1) The Board shall have the burden of proving by clear and convincing evidence that the judicial officer failed to comply with one or more of the terms of probation.

(2) All testimony shall be under oath.

(3) The Board and the judicial officer shall be permitted to present evidence and examine and cross-examine witnesses.

(4) The judicial officer shall have the right to counsel.

(5) All hearings shall be public proceedings conducted pursuant to the Rules of this Court and in accordance with the principles of due process and the laws of evidence.

(D) When the Court learns that the judicial officer may not be in compliance with the conditions of said proba-

tion, and the Judicial Conduct Board has not already filed a Petition alleging failure to comply with a condition of probation, the Court may ask the Board to undertake an inquiry to determine whether a violation has occurred. If upon investigation the Board finds that the judicial officer has violated the terms of probation, the Board may file a Petition and the matter shall proceed pursuant to Sections B and C of this Rule. If after investigation the Board finds that the judicial officer has not violated the terms of probation, the Board may file a Report stating in detail the basis for that conclusion, and requesting the Court to order the inquiry concluded, ended, and terminated. Notwithstanding the Board's conclusion that no violation of probation has occurred, the Court may order a hearing to determine whether a violation has occurred.

(E) If, after hearing, the Court determines that the judicial officer has violated the terms of probation, the Court may reconsider the original sanction imposed, revoke probation, and impose any sanction it could have ordered initially in its discretion under Article V, § 18(d)(1). If, after hearing, the Court concludes that the judicial officer has not violated the terms of probation, the Court shall enter an Order dismissing the allegation of violation.

(F) The Board and judicial officer shall serve each other with copies of any pleading filed with this Court under the provisions of this Rule.

#### Rule 506. Appellate Review.

Appellate review shall be governed pursuant to Rules promulgated by the Supreme Court.

[Pa.B. Doc. No. 97-1941. Filed for public inspection December 5, 1997, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CARBON COUNTY

#### Process Service for Domestic Relations; No. 5MI97

#### Administrative Order 10-1997

*And Now*, this 19th day of November, 1997, in order to provide effective process service for the Carbon County Domestic Relations Office, it is hereby

*Ordered and Decried* that effective immediately the Carbon County Sheriff's Department *Shall Provide* process services for any and all Bench Warrants issued by the Domestic Relations Office in Carbon County.

*By the Court*

JOHN P. LAVELLE,  
*President Judge*

[Pa.B. Doc. No. 97-1942. Filed for public inspection December 5, 1997, 9:00 a.m.]

## FRANKLIN AND FULTON COUNTIES

Amendment of Local Civil Action Rule 39-3252;  
Miscellaneous Docket; Volume CC, Page 163

## Order of Court

November 19, 1997, Civil Action Rule No. 39-3252 for the Court of Common Pleas of the 39th Judicial District of Pennsylvania is hereby amended as follows, to be effective thirty (30) days of the publication in the *Pennsylvania Bulletin*.

By the Court

JOHN R. WALKER,  
President Judge

## Rule 39-3252. Writ of Execution—Money Judgments.

The agency to be contacted for legal help as provided by Pa.R.C.P. 3252 (b) is: Pennsylvania Bar Association, Lawyer Referral Service, (800) 692-7375 (PA only) or (717) 238-6715.

[Pa.B. Doc. No. 97-1943. Filed for public inspection December 5, 1997, 9:00 a.m.]

## LEHIGH COUNTY

## Order establishing Uniform Costs for Driving Under the Influence Prosecutions; File No. 638-M of 1997

## Order

And Now, this 12th day of November, 1997, *It Is Ordered* that the Administrative Order establishing uniform costs for driving under the influence prosecutions, be, and the same is, promulgated herewith, to become effective thirty (30) days after the publication of the Administrative Order in the *Pennsylvania Bulletin*; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Courts of the Court of Common Pleas of Lehigh County.

## Order

And Now, this 12th day of November, 1997, the District Attorney of Lehigh County having informed the Court: (A) that the County of Lehigh has obtained a Pennsylvania Department of Transportation grant enabling it to establish a centralized location ("D.U.I. Center") for the testing and initial processing of driving under the influence cases<sup>1</sup>; (B) that after said center becomes operational, all police agencies in said County have agreed to utilize said D.U.I. Center in all such cases initiated by the officers of their departments; and (C) that a specific condition of said grant is that the Court enter an Administrative Order establishing a uniform cost to be assessed against each defendant convicted of, or admitted to the Accelerated Rehabilitative Disposition ("A.R.D.") Program for Driving Under the Influence, which will insure that after the first six (6) months of operation under the grant, the D.U.I. Center will be self-supporting.

*It Further Appearing That* the District Attorney has estimated that in order to meet this self-supporting

<sup>1</sup> Driving under the influence of alcohol or controlled substance in violation of 75 Pa.C.S. § 3731.

requirement, an appropriate cost for each defendant convicted of, or admitted to the A.R.D. Program for Driving Under the Influence would be One Hundred Twenty (\$120.00) Dollars.

*It Is Therefore Ordered and Decreed That:*

1. The District Attorney shall file a certification to the above File Number, in the Office of the Clerk of Courts Criminal, immediately upon the opening of said D.U.I. Center, indicating the date when it became operational.

2. Effective as to all cases where the charges of Driving Under the Influence were initiated on or after the date so certified by the District Attorney, the sum of One Hundred Twenty (\$120.00) shall be assessed as costs in each such case against every Defendant convicted of Driving Under the Influence<sup>2</sup> or admitted to the A.R.D. Program.<sup>3</sup> This charge shall be in addition to all other authorized costs and supervision fees not duplicitous<sup>4</sup> of the processing, booking and testing costs herein authorized.<sup>5</sup>

3. The funds so collected as costs for the D.U.I. Center shall be paid into the General Fund of the County of Lehigh, but separately identified in the County's records and accounts so that the amounts collected during any period can be readily determined. The District Attorney shall maintain appropriate records of all cases processed through the D.U.I. Center, including the dates of processing and the final dispositions and dates thereof as well. These records shall reflect the number of defendants whose cases are processed by the D.U.I. Center, including the number of defendants released without filings, the numbers charged, convicted, admitted to A.R.D., discharged and acquitted of such charges initiated through the D.U.I. Center, and the dates of all such processings, filings, and dispositions. The District Attorney shall also keep complete and accurate records of the actual costs of personnel, equipment and materials expended in the operation of the D.U.I. Center, and correlate such expenses to the cases processed and disposed of. The District Attorney shall account to the Court on an interim quarterly basis with these figures, and shall annually submit to the Court a complete calculation based upon actual experience so that the costs assessed for said D.U.I. Center can be reviewed and adjusted, if necessary, to reflect, as accurately as possible, the actual costs of its operation distributed equally among the defendants convicted and admitted to A.R.D.

4. The Court directs, in accordance with the District Attorney's agreement to do so, that personnel employed at the D.U.I. Center will be rotated into and out of the D.U.I. Center, so that no one other than the supervisor becomes a regular employee. The District Attorney in the interim quarterly accounts to the Court shall supply the names, qualifications, capacities, and hours worked by the personnel employed at the D.U.I. Center, and further the District Attorney shall annually submit to the Court a complete summary of the operations of the D.U.I. Center, including, but not limited to, information on personnel utilization and rotation, the costs of operation information as required in Paragraph 3, above, and a general evaluation of the operation of the D.U.I. Center from the perspective of the District Attorney, the various police

<sup>2</sup> The Act of August 9, 1955, P. L. 323, § 1403, 16 P. S. § 1403, authorizes such costs.

<sup>3</sup> Pa.R.Crim.P. 182, authorizes costs in A.R.D. dispositions; and 75 Pa.C.S. § 3731(e)(6) authorizes certain additional costs in D.U.I./A.R.D. cases.

<sup>4</sup> Where blood samples are analyzed by the Pennsylvania State Police Regional Crime Laboratory rather than by the Laboratory attached to the D.U.I. Center, and costs for such analysis are assessed pursuant to 42 Pa.C.S. § 1725.3, the laboratory component of the D.U.I. Center costs shall be deducted from the costs taxed under this Order, and the authorized user fee taxed pursuant to Section 1725.3.

<sup>5</sup> See 75 Pa.C.S. § 1548.

agencies using the D.U.I. Center and in terms of its efficiency and effectiveness in serving the public.

*It Is Further Ordered That* the Administrative Order dated November 26, 1991, and filed to No. 84-M of 1992, relating to Costs for Municipal Police in A.R.D./D.U.I. Cases, shall be inapplicable to any cases initiated by municipal police agencies on or after the date the D.U.I. Center is certified operational by the District Attorney of Lehigh County pursuant to Paragraph 1 herein.<sup>6</sup> No costs

<sup>6</sup> That Administrative Order provided for the collection of \$110.00 as court costs in A.R.D./D.U.I. cases in order to reimburse the municipal police departments for their processing and testing costs in such cases.

shall be assessed, and no reimbursements made to any municipalities under that prior Administrative Order in any case instituted after the D.U.I. Center is certified operational.

*By the Court*

JAMES KNOLL GARDNER,  
*President Judge*

[Pa.B. Doc. No. 97-1944. Filed for public inspection December 5, 1997, 9:00 a.m.]