

# THE COURTS

## Title 255—LOCAL COURT RULES

### LEHIGH COUNTY

#### Promulgation of Rule of Criminal Procedure 301; No. AD-13-2011

#### Administrative Order

*And Now*, this 21st day of October, 2011, *It Is Hereby Ordered That* the following Lehigh County Rule of Criminal Procedure 301 (Accelerated Rehabilitative Disposition in Summary Cases) be and the same is hereby *Adopted*:

#### **Leh.R.Cr.P. 301. Accelerated Rehabilitative Disposition in Summary Cases.**

A. A defendant charged with a summary offense or offenses under 18 Pa.C.S. §§ 6307, 6308 and/or 6310.3, the Underage Drinking offenses, eligible for A.R.D. in Lehigh County, may request admission into this program by making an application on a form which complies with Part B of this local rule, to the Magisterial District Judge (M.D.J.) within ten (10) days of receipt of the citation or summons. This period may be extended by the M.D.J. for good cause shown. When an application is received, the M.D.J. shall forward same to the District Attorney who shall either approve or disapprove the defendant for summary A.R.D. within five (5) court days and provide notice of same to the M.D.J. in writing.

If the District Attorney disapproves the application, the District Attorney shall set forth the reason on the notice to the M.D.J., and the prosecution will proceed under the Pa.Rs.Crim.P. applicable to the summary case.

If the District Attorney approves the application, the District Attorney shall forward a copy of the approval notice sent to the M.D.J. to the Juvenile Probation Officer of Lehigh County, and the M.D.J. shall, in a court proceeding in the presence of the defendant, and counsel, if any, admit the defendant into the Summary A.R.D. Program under the terms set forth in Part C of this local rule.

B. The Application for Summary A.R.D. shall include the following:

1. A statement by the defendant subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, that the defendant has not previously been placed in an A.R.D. program nor previously convicted of an offense under 18 Pa.C.S. §§ 6307, 6308 or 6310.3.

2. A statement by the defendant specifically waiving all applicable statutes of limitations and rights to a speedy trial under any applicable Federal or State constitutional provision, statute or rule of court during the period of the application and/or enrollment in the program, and agree to abide by all terms, conditions and monetary obligations imposed of the program.

3. If the defendant is represented by counsel, counsel must sign the application and certify that counsel has reviewed the requirements of the program and application with the defendant.

C. The Conditions of the Summary A.R.D. program shall include:

1. The Defendant shall be responsible for and pay the costs of the program and the administrative expenses taxable for summary case A.R.D. Those costs and expenses shall be \$60.00 for the A.R.D., and an Expungement Fee of \$87.65, or in such amounts and for such purposes, as subsequently approved by the President Judge by Administrative Order. The A.R.D. costs shall be payable at the time of entry into the program. These costs do not include any further assessments as set forth in the subsequent provisions of this section.

2. The term of the summary case A.R.D. program shall be six (6) months, unless earlier completed as certified by the Juvenile Probation Officer.

3. The defendant shall attend and successfully complete the Lehigh County Juvenile Probation Office's Underage Drinking Program, and pay the costs of same. If drug or alcohol evaluation or treatment are required, the program may be extended to insure compliance with these requirements.

4. The defendant shall be responsible for and pay restitution as imposed in the case.

5. The defendant shall abide by the Rules and Regulations established by the Juvenile Probation Office for persons in this program.

D. Administration of the Summary A.R.D. program:

1. The Juvenile Probation Office shall administer the program for all defendants admitted thereto.

2. Upon successful completion of the program, including payment of all applicable costs, expenses and restitution, including the expungement fee if not previously paid, the Juvenile Probation Officer shall notify the M.D.J. of that fact and the M.D.J. shall dismiss the charges.

3. The Juvenile Probation Officer shall provide a certification of each defendant who successfully completes the program and that certification shall explain the law and procedure regarding the right of the defendant to expungement in Common Pleas Court.

4. If the defendant fails to abide by the terms of the program, the Juvenile Probation Officer shall notify the M.D.J. of that fact, and the case will proceed under the Pa.Rs.Crim.P. applicable to the summary case.

4. The Juvenile Probation Office shall maintain a record of the cases it administers under this program which record shall be confidential and only accessible for purposes of determining a defendant's eligibility for A.R.D.

5. Each M.D.J. shall submit a monthly report to the District Attorney and the Juvenile Probation Officer of cases during the previous month where a summary A.R.D. application has been made, summary A.R.D. has been granted by the M.D.J. and where summary A.R.D. has been denied or terminated, either successfully or unsuccessfully. The District Attorney and the Juvenile Probation Officer shall notify the Magisterial District Judge Administrator promptly of any M.D.J. who fails to file a monthly report on or before the 15th day of each month for the prior month's activities.

*Comment:* This Rule complements existing Leh.R.Crim.P. 300.

This Order shall take effect thirty (30) days after its publication in the *Pennsylvania Bulletin*.

*It Is Further Ordered That* one (1) certified copy of this Order shall be filed by the Court Administrator of Lehigh County with the Administrative Office of Pennsylvania Courts; that two (2) certified copies and a computer diskette or CD-ROM copy that complies with the requirement of 1 Pa. Code § 13.11(b) 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, which Committee has certified to this court that this Administrative Order is not inconsistent with any general rule of the Supreme Court. Finally, it is ordered that the Court Administrator of Lehigh County publish a copy of this Order on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

*By the Court*

CAROL K. MCGINLEY,  
*President Judge*

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