

# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

[ 234 PA. CODE CHS. 4 AND 10 ]

### Proposed Amendment of Pa.R.Crim.P. 462 and 1010

The Criminal Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the proposed amendment of Pa.R.Crim.P. 462 (Trial *De Novo*) and 1010 (Procedures for Trial *De Novo*) 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.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

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

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Criminal Procedural Rules Committee  
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All communications in reference to the proposal should be received by August 21, 2023. 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 Criminal Procedural  
Rules Committee*

STEFANIE J. SALAVANTIS,  
*Chair*

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 4. PROCEDURES IN SUMMARY CASES

#### PART F. Procedures in Summary Cases for Appealing to Court of Common Pleas for Trial *De Novo*

*(Editor's Note: Rule 462 as printed in 234 Pa. Code reads "Official Note" rather than "Note.")*

#### Rule 462. Trial *De Novo*.

[ (A) ] (a) When a defendant appeals after the entry of a guilty plea or a conviction by an issuing authority in any summary proceeding, upon the filing of the transcript and other papers by the issuing authority, the case shall be heard *de novo* by the judge of the court of common pleas sitting without a jury.

[ (B) ] (b) The attorney for the Commonwealth may appear and assume charge of the prosecution. When the

violation of an ordinance of a municipality is charged, an attorney representing that municipality, with the consent of the attorney for the Commonwealth, may appear and assume charge of the prosecution. When no attorney appears on behalf of the Commonwealth, the affiant may be permitted to ask questions of any witness who testifies.

[ (C) ] (c) In appeals from summary proceedings arising under the Vehicle Code or local traffic ordinances, other than parking offenses, the law enforcement officer who observed the alleged offense [ **must** ] **shall** appear and testify. The failure of a law enforcement officer to appear and testify shall result in the dismissal of the charges unless:

(1) the defendant waives the presence of the law enforcement officer in open court on the record;

(2) the defendant waives the presence of the law enforcement officer by filing a written waiver signed by the defendant and defense counsel, or the defendant if [ **proceeding pro se** ] **self-represented**, with the clerk of courts; or

(3) the trial judge determines that good cause exists for the law enforcement officer's unavailability and grants a continuance.

[ (D) ] (d) If the defendant fails to appear, the trial judge may dismiss the appeal and enter judgment in the court of common pleas on the judgment of the issuing authority.

[ (E) ] (e) If the defendant withdraws the appeal, the trial judge shall enter judgment in the court of common pleas on the judgment of the issuing authority.

[ (F) ] (f) If the defendant has petitioned the trial judge to permit the taking of an appeal *nunc pro tunc* and [ **this** ] **the** petition is denied, the trial judge shall enter judgment in the court of common pleas on the judgment of the issuing authority.

[ (G) ] (g) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial, or, in cases in which the defendant may be sentenced to intermediate punishment, the trial judge may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment.

[ (H) ] (h) At the time of sentencing, the trial judge shall:

(1) if the defendant's sentence includes restitution, a fine, or costs, state:

[ (a) ] (i) the amount of the fine and the obligation to pay costs;

[ (b) ] (ii) the amount of restitution ordered, including

[ (i) ] (A) the identity of the payee(s),

[ (ii) ] (B) to whom the restitution payment shall be made, and

[ (iii) ] (C) whether any restitution has been paid and in what amount; and

[ (c) ] (iii) the date on which payment is due.

If the defendant is without the financial means to pay the amount in a single remittance, the trial judge may

provide for installment payments and shall state the date on which each installment is due;

(2) advise the defendant of the right to appeal to the Superior Court within 30 days of the imposition of sentence, and that, if an appeal is filed, the execution of sentence [ **will** ] **shall** be stayed and the trial judge may set bail;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

(4) issue a written order imposing sentence, signed by the trial judge. The order shall include the information specified in [ **paragraphs (H)(1) through (H)(3)** ] **subdivisions (h)(1) through (h)(3)**, and a copy of the order shall be given to the defendant.

[ **(I)** ] **(i)** After sentence is imposed by the trial judge, the case shall remain in the court of common pleas for the execution of sentence, including the collection of any fine and restitution, and for the collection of any costs.

**(j) Suppression Motion.**

**(1) A motion to suppress evidence shall be made in the first instance in the court of common pleas on appeal from a summary conviction.**

**(2) The motion shall comply with subdivisions (C) through (J) of Rule 581 and shall be filed with the clerk of courts within 30 days of the filing of the notice of appeal.**

**Comment:**

This rule is derived from former Rule 86(G) and former Rule 1117(c).

[ **This rule was amended in 2000 to make it clear in** ] **In** a summary criminal case, [ **that the** ] **a** defendant may file an appeal for a trial *de novo* following the entry of a guilty plea.

“Entry,” as used in [ **paragraph (A) of this rule** ] **subdivision (a)**, means the date on which the issuing authority enters or records the guilty plea, the conviction, or other order in the magisterial district judge computer system.

The procedures for conducting the trial *de novo* in the court of common pleas set forth in [ **paragraphs (B), (G), and (H)** ] **subdivisions (b), (g), and (h)** are comparable to the summary case trial procedures in Rule 454 (Trial in Summary Cases).

Pursuant to [ **paragraph (B)** ] **subdivision (b)**, the decision whether to appear and assume control of the prosecution of the trial *de novo* is solely within the discretion of the attorney for the Commonwealth. When no attorney appears at the trial *de novo* on behalf of the Commonwealth or a municipality, the trial judge may ask questions of any witness who testifies, and the affiant may request the trial judge to ask specific questions. In the appropriate circumstances, the trial judge also may permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the trial judge.

[ **The provisions of paragraph (C) that permit the court to continue the case if there is good cause for the officer’s unavailability were added in response to** *Commonwealth v. Hightower*, 652 A.2d 873 (Pa. Super. 1995).

**Paragraph (D) makes it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial *de novo*. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.**

**New paragraph (F) was added in 2017 to clarify** [ **Subdivision (f) clarifies** that in a case in which a defendant seeks to file an appeal *nunc pro tunc*, and the common pleas judge denies that petition, the case will remain at the court of common pleas. This is consistent with the long-standing policy under the rules that once a case has moved from the minor judiciary to the court of common pleas, the case remains at common pleas.

[ **Paragraph (G) was amended in 2008 to permit** ] **Subdivision (g) permits** a trial judge to delay imposition of sentence in order to investigate a defendant’s eligibility for intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension), but only if [ **he or she** ] **the defendant** meets certain eligibility requirements, such as undergoing a drug and alcohol assessment. Potentially this information may not be available to the trial judge following a trial *de novo* at the time of sentencing.

Pursuant to [ **paragraph (H)** ] **subdivision (h)**, if the defendant is convicted, the trial judge [ **must** ] **shall** impose sentence, and advise the defendant of the payment schedule, if any, and the defendant’s appeal rights. See Rule 704(A)(3) and Rule 720(D). No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U.S. 654 (2002)[ , ]; *Scott v. Illinois*, 440 U.S. 367 (1979)[ , and ]; *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

Certain costs are mandatory and must be imposed. See, e.g., [ **Section 1101 of the Crime Victims Act,** ] 18 P.S. § 11.1101.

Once sentence is imposed, [ **paragraph (I)** ] **subdivision (i)** makes it clear that the case is to remain in the court of common pleas for execution of the sentence and collection of any costs, and the case may not be returned to the magisterial district judge. The execution of sentence includes the collection of any fines and restitution.

**Pursuant to subdivision (j), motions to suppress evidence are not to be made before the issuing authority at a summary trial but are to be filed with the clerk of courts no later than 30 days after a notice of appeal has been filed pursuant to Rule 460.**

For the procedure to dismiss upon satisfaction or by agreement a summary case, as defined in Rule 103, that has been appealed to the court of common pleas, see Rule 463.

For the procedures concerning sentences that include restitution in court cases, see Rule 705.1.

For the procedures for appeals from the Philadelphia Municipal Court Traffic Division, see Rule 1037.

[ **Note: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended**

March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; amended February 28, 2003, effective July 1, 2003; *Comment* revised March 26, 2004, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007; amended December 16, 2008, effective February 1, 2009; *Comment* revised October 16, 2009, effective February 1, 2010; *Comment* revised May 7, 2014, effective immediately; amended March 9, 2016, effective July 1, 2016; amended December 29, 2017, effective April 1, 2018; *Comment* revised January 27, 2021, effective June 1, 2021.

*Committee Explanatory Reports:*

**FORMER RULE 86:**

Final Report explaining the March 22, 1993 amendments to former Rule 86 published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the October 28, 1994 amendments to former Rule 86 published with the Court's Order at 24 Pa.B. 5843 (November 26, 1994).

Final Report explaining the February 27, 1995 amendments to former Rule 86 published with the Court's Order at 25 Pa.B. 935 (March 18, 1995).

Final Report explaining the October 1, 1997 amendments to former Rule 86 concerning stays published with the Court's Order at 27 Pa.B. 5408 (October 18, 1997).

Final Report explaining the May 14, 1999 amendments to former Rule 86, paragraph (G), concerning the police officer's presence published with the Court's Order at 29 Pa.B. 2776 (May 29, 1999).

**NEW RULE 462:**

Final Report explaining the reorganization and renumbering of the rules and the provisions of Rule 462 published at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the March 3, 2000 amendments concerning appeals from guilty pleas published with the Court's Order at 30 Pa.B. 1508 (March 18, 2000).

Final Report explaining the February 28, 2003 amendments published with the Court's Order at 33 Pa.B. 1326 (March 15, 2003).

Final Report explaining the March 26, 2004 Comment revision published with the Court's Order at 34 Pa.B. 1931 (April 10, 2004).

Final Report explaining the January 18, 2007 amendment to paragraph (G)(2) published with the Court's Order at 37 Pa.B. 523 (February 3, 2007).

Final Report explaining the December 16, 2008 amendments to permit delay in sentencing for determination of intermediate punishment status published with the Court's Order at 39 Pa.B. 8 (January 3, 2009).

Final Report explaining the October 16, 2009 Comment revision regarding new Rule 1037 and procedures for the appeal from the Philadelphia

Traffic Court published with the Court's Order at 39 Pa.B. 6327 (October 31, 2009).

Final Report explaining the May 7, 2014 Comment revision changing the cross-reference to the Philadelphia Traffic Court to the Traffic Division of the Philadelphia Municipal Court published with the Court's Order at 44 Pa.B. 3056 (May 24, 2014).

Final Report explaining the March 9, 2016 amendments to paragraph (G) concerning required elements of the sentence published with the Court's Order at 46 Pa.B. 1532 (March 26, 2016).

Final Report explaining the December 29, 2017 amendments regarding appeals *nunc pro tunc* published with the Court's Order at 48 Pa.B. 224 (January 13, 2018).

Final Report explaining the January 27, 2021 Comment revisions regarding dismissal by agreement of summary cases in the common pleas court pursuant to Rule 458 published with the Court's Order at 51 Pa.B. 688 (February 6, 2021). ]

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

**PART A. Philadelphia Municipal Court Procedures**

*(Editor's Note: Rule 1010 as printed in 234 Pa. Code reads "Official Note" rather than "Note.")*

**Rule 1010. Procedures for Trial *De Novo*.**

[ (A) ] (a) When a defendant appeals after conviction by a Municipal Court judge,

(1) in a non-traffic summary case, upon the filing of the transcript and other papers, the case shall be heard *de novo* by the judge of the Court of Common Pleas sitting without a jury.

(2) In a Municipal Court case, the attorney for the Commonwealth, upon receiving the notice of appeal, shall prepare an information and the matter shall thereafter be treated in the same manner as any other court case.

[ (B) ] (b) If the defendant fails to appear for the trial *de novo*, the Common Pleas Court judge may dismiss the appeal and thereafter shall enter judgment in the Court of Common Pleas on the judgment of the Municipal Court judge.

[ (C) ] (c) *Withdrawals of Appeals.*

(1) If the defendant withdraws the appeal, the Common Pleas Court judge shall enter judgment in the Court of Common Pleas on the judgment of the Municipal Court judge.

(2) In a Municipal Court case, the defendant may withdraw the appeal only with the written consent of the attorney for the Commonwealth.

[ (D) ] (d) At the time of sentencing, the Common Pleas Court judge shall:

(1) if the defendant's sentence includes restitution, a fine, or costs, state:

[ (a) ] (i) the amount of the fine and the obligation to pay costs;

[ (b) ] (ii) the amount of restitution ordered, including

[ (i) ] (A) the identity of the payee(s),



[ (ii) ] **(B)** to whom the restitution payment shall be made, and

[ (iii) ] **(C)** whether any restitution has been paid and in what amount; and

[ (c) ] **(iii)** the date on which payment is due.

If the defendant is without the financial means to pay the amount in a single remittance, the Common Pleas Court judge may provide for installment payments and shall state the date on which each installment is due;

(2) advise the defendant of the right to appeal to the Superior Court within 30 days of the imposition of sentence, and that, if an appeal is filed, the execution of sentence [ **will** ] **shall** be stayed and the Common Pleas Court judge may set bail;

(3) if a sentence of imprisonment has been imposed, direct the defendant to appear for the execution of sentence on a date certain unless the defendant files a notice of appeal within the 30-day period; and

(4) issue a written order imposing sentence, signed by the Common Pleas Court judge. The order shall include the information specified in [ **paragraphs (D)(1) through (D)(3)** ] **subdivisions (d)(1) through (d)(3)**, and a copy of the order shall be given to the defendant.

[ **(E)** ] **(e)** After entry of judgment pursuant to [ **paragraphs (B) or (C)(1)** ] **subdivisions (b) or (c)(1)**, or after the trial *de novo* and imposition of sentence, the case shall remain in the Court of Common Pleas for the execution of sentence, including for the collection of any fines and restitution, for the collection of any costs, and for proceedings for violation of probation, intermediate punishment, or parole pursuant to Rule 708.

**(f) Suppression Motion in Summary Cases.**

**(1) A motion to suppress evidence shall be made in the first instance in the Court of Common Pleas on appeal from a summary conviction.**

**(2) The motion shall comply with subdivisions (C) through (J) of Rule 581 and shall be filed with the clerk of courts within 30 days of the filing of the notice of appeal.**

**Comment:**

In any case in which there are summary offenses joined with the misdemeanor charges that are the subject of the appeal, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Speller*, 458 A.2d 198 (Pa. Super. 1983).

[ **Paragraph (B)** ] **Subdivision (b)** makes it clear that the Common Pleas Court judge may dismiss an appeal when the judge determines that the defendant is absent without cause from the trial *de novo*. If the appeal is dismissed, the Common Pleas Court judge [ **must** ] **shall** enter judgment and order execution of any sentence imposed by the Municipal Court judge. Nothing in this rule is intended to preclude the judge from issuing a bench warrant when the defendant fails to appear.

Certain costs are mandatory and must be imposed. See, e.g., [ **Section 1101 of the Crime Victims Act**, ] 18 P.S. § 11.1101.

For the procedures concerning sentences that include restitution in court cases, see Rule 705.1.

Once a judgment is entered and sentence is imposed, [ **paragraph (E)** ] **subdivision (e)** makes it clear that

the case is to remain in the Court of Common Pleas for execution of the sentence and collection of any costs, and the case may not be returned to the Municipal Court judge. The execution of sentence includes the collection of any fines and restitution and any proceedings for violation of probation, intermediate punishment, or parole as provided by Rule 708.

**Pursuant to subdivision (f), motions to suppress evidence are not to be made before the Municipal Court judge at a summary trial but are to be filed with the clerk of courts no later than 30 days after a notice of appeal has been filed pursuant to Rule 1008.**

[ *Note:* Rule 6010 adopted December 30, 1968, effective January 1, 1969; amended July 1, 1980, effective August 1, 1980; amended August 28, 1998, effective immediately; renumbered Rule 1010 March 1, 2000, effective April 1, 2001; Comment revised March 9, 2006, effective September 1, 2006; amended February 12, 2010, effective April 1, 2010; amended September 21, 2011, effective November 1, 2011; amended March 9, 2016, effective July 1, 2016.

**Committee Explanatory Reports:**

Final Report explaining the August 28, 1998 amendment published with the Court's Order at 28 Pa.B. 4627 (September 12, 1998).

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

Final Report explaining the March 9, 2006 Comment revision concerning joinder of summary offenses with misdemeanor charges published with the Court's Order at 36 Pa.B. 1385 (March 25, 2006).

Final Report explaining the February 12, 2010 amendments to paragraph (B) concerning the disposition of summary offenses at the court of common pleas published with the Court's Order at 40 Pa.B. 1068 (February 27, 2010).

Final Report explaining the September 21, 2011 amendments to paragraphs (A)—(C) and adding new paragraphs (D) and (E) concerning the procedures for trials *de novo* in the Court of Common Pleas published with the Court's Order at 41 Pa.B. 5353 (October 8, 2011).

Final Report explaining the March 9, 2016 amendments to paragraph (D) concerning required elements of the sentence published with the Court's Order at 46 Pa.B. 1540 (March 26, 2016). ]

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

**PUBLICATION REPORT**

**Proposed Amendment of Pa.R.Crim.P. 462 and 1010**

The Criminal Procedural Rules Committee is considering proposing to the Supreme Court the amendment of Pa.R.Crim.P. 462 and 1010 to provide for the filing of suppression motions when a summary conviction is appealed to the court of common pleas.<sup>1</sup>

The Committee received a request to consider incorporating procedures into the rules for filing a suppression motion in summary cases. As the requester noted,

<sup>1</sup> Stylistic amendments have also been made to conform to the Supreme Court of Pennsylvania Style and Rulemaking Guide for Procedural and Evidentiary Rules.

Pa.R.Crim.P. 581 (Suppression of Evidence) is contained in Chapter 5 of the rules, which is titled “Pretrial Procedures in Court Cases.” Pa.R.Crim.P. 103 defines “court case” as “a case in which one or more of the offenses charged is a misdemeanor, felony, or murder of the first, second, or third degree.” Consequently, a case only involving a summary charge is not a court case and thus outside the scope of Pa.R.Crim.P. 581. To accommodate summary suppression motions, the amendment of Rules 462 and 1010 is being proposed.

When considering the request, the Committee needed to determine in which court a motion to suppress in a summary case should be heard. The Committee concluded that suppression motions in summary cases should be heard in the first instance in the court of common pleas on appeal from a summary conviction. The Committee reasoned that magisterial district courts have no motions practice and magisterial district judges are not currently trained with regard to suppression issues and the relevant jurisprudence. Additionally, the need to devise an appropriate appellate procedure, which does not currently exist, to accommodate appeals from summary suppression motions decided in magisterial district courts also weighed against this option. To create consistency in the First Judicial District, the Committee decided suppression motions in summary cases in the First Judicial District should also be heard in the first instance in the court of common pleas on appeal, even though a motions practice does exist in Philadelphia Municipal Court. The Committee is specifically seeking comment on this aspect of the proposal, particularly from the bench and bar of the First Judicial District.<sup>2</sup>

As this proposal requires summary suppression motions to be filed in the court of common pleas on appeal in all judicial districts, both Rule 462 and Rule 1010 would be amended to include a new subdivision, subdivision (j) (Suppression Motion) in Rule 462 and subdivision (f) (Suppression Motion in Summary Cases) in Rule 1010. Proposed Rule 462(j)(1) and Proposed Rule 1010(f)(1) would both provide that motions to suppress evidence “shall be made in the first instance” in the court of common pleas on appeal from a summary conviction. Proposed Rule 462(j)(2) and Proposed Rule 1010(f)(2) would then require such motions to “comply with subdivisions (C) through (J) of Rule 581” and to be filed with “the clerk of courts within 30 days of the filing of the notice of appeal.” Thirty days was chosen to mirror the timing requirement for a suppression motion in a court case. *See* Pa.R.Crim.P. 579 (Time for Omnibus Pretrial Motion and Service).

The following two paragraphs would be removed from the Comment, the first for being merely historical and the second for simply being a restatement of the rule text:

The provisions of paragraph (C) that permit the court to continue the case if there is good cause for the officer’s unavailability were added in response to *Commonwealth v. Hightower*, 652 A.2d 873 (Pa. Super. 1995).

Paragraph (D) makes it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without

cause from the trial *de novo*. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.

Also, the Comment to each rule would be amended to advise that motions to suppress are not to be made in a magisterial district court or in Philadelphia Municipal Court but are to be filed with the clerk of courts within 30 days of a notice of appeal being filed pursuant to Pa.R.Crim.P. 460 or 1008, respectively.

[Pa.B. Doc. No. 23-964. Filed for public inspection July 21, 2023, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

#### [ 246 PA. CODE CHS. 200 AND 500 ]

#### Proposed Amendment of Pa.R.Civ.P.M.D.J. 209 and Adoption of Pa.R.Civ.P.M.D.J. 504.1

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 209 and adoption of Pa.R.Civ.P.M.D.J. 504.1. The proposal provides for the promulgation of local rules governing mediation in residential landlord-tenant actions 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.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded 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 September 12, 2023. 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 DANIEL E. BUTLER,  
Chair

<sup>2</sup> It is the Committee’s understanding that the appeal of a suppression determination entered in Philadelphia Municipal Court is accomplished via a petition for writ of *certiorari* to the court of common pleas. However, “[c]ertiorari is available in non-summary cases only.” Pa.R.Crim.P. 1006, cmt. Thus creating a parallel procedure for summary cases is not feasible.

**Annex A**  
**TITLE 246. MINOR COURT CIVIL RULES**  
**PART I. GENERAL**  
**CHAPTER 200. RULES OF CONSTRUCTION;**  
**GENERAL PROVISIONS**

**Rule 209. Continuances and Stays.**

[ **A.** ] (a) Continuances may be granted for cause or by agreement.

[ **B.** ] (b) Continuances shall be to a specific time and date. The magisterial district judge shall note continuances on the docket and shall promptly give or mail to the parties written notice of continuances.

[ **C.** ] (c) Except for good cause shown[ , ] or agreement of the parties:

(1) not more than one continuance shall be granted to each party, and

(2) the aggregate of all continuances shall not extend the date of the hearing:

[ (a) ] (i) beyond 90 days from the date of filing the plaintiff's complaint in proceedings commenced pursuant to Rule 303, or

[ (b) ] (ii) beyond 30 days from the date of filing the landlord's complaint in proceedings commenced pursuant to Rule 502, **including in mediation authorized by local rule.**

[ **D.** ] (d) In all proceedings governed by these rules, the following shall constitute cause for granting a continuance:

(1) the scheduling of a party's attorney of record to appear at any proceeding under the Pennsylvania Rules of Disciplinary Enforcement, whether

[ (a) ] (i) as counsel for a respondent-attorney before a hearing committee, special master, the Disciplinary Board, or the Supreme Court;

[ (b) ] (ii) as a special master or member of a hearing committee; or

[ (c) ] (iii) as a member of the Disciplinary Board.

(2) the scheduling of a party's attorney of record to appear at any proceeding involving the discipline of a justice, judge, or magisterial district judge under Section 18 of Article V of the Constitution of Pennsylvania, whether

[ (a) ] (i) as counsel for a justice, judge, or magisterial district judge before the special tribunal provided for in 42 Pa.C.S. § 727, the Court of Judicial Discipline, the Judicial Conduct Board, or any hearing committee or other arm of the Judicial Conduct Board; or

[ (b) ] (ii) as a member of the Court of Judicial Discipline, the Judicial Conduct Board, or any hearing committee or other arm of the Judicial Conduct Board.

[ **E.** ] (e) Continuances and stays shall be granted in compliance with federal or state law, such as the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*

[ **Official Note** ] **Comment:**

This rule was amended in 2005 to consolidate the provisions of former Rules 320 (relating to continuances in civil actions) and 511 (relating to continuances in

possessory actions) into one general rule governing continuances. The limitations set forth in subdivision [ **C** ] (c) are intended to ensure that these cases proceed expeditiously. The grounds set forth in [ **subdivisions D and E, of course,** ] subdivisions (d) and (e) are not intended to be the only grounds on which a continuance will be granted.

**Subdivision (c)(2)(ii) clarifies that participation in a landlord-tenant mediation program authorized by local rule will not entitle a party to a continuance beyond 30 days from the date the plaintiff filed the complaint unless there has been good cause shown or agreement by the parties. See Pa.R.Civ.P.M.D.J. 504.1 pertaining to landlord-tenant mediation programs authorized by local rule.**

**CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY**

The following text is entirely new.

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

**Rule 504.1. Mediation.**

(a) The court of common pleas may promulgate a local rule of procedure pursuant to Pa.R.J.A. 103(d) permitting mediation of residential landlord-tenant actions filed pursuant to Rule 503.

(b) A local rule promulgated pursuant to this rule shall not require mediation as a precondition to filing a complaint.

**Comment:**

As used in this rule, mediation means a process, however labeled, by which a neutral third party assists the parties in attempting to reach a mutually acceptable agreement on issues arising out of a residential landlord-tenant action.

The requirements for the promulgation and amendment of local procedural rules are set forth in Pa.R.J.A. 103(d).

A local rule may address aspects of a mediation program including, but not limited to, whether initial participation in mediation is voluntary or mandatory, types of landlord-tenant actions subject to mediation, *i.e.*, nonpayment of rent, end of lease terms, or breach of conditions of the lease, and entities assisting with mediation or rental assistance programs. See also Pa.R.Civ.P.M.D.J. 209(c)(2)(ii) pertaining to continuances.

This rule does not require a judicial district to create, fund, or staff a mediation program.

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

**PUBLICATION REPORT**

**Proposed Amendment of Pa.R.Civ.P.M.D.J. 209 and Adoption of Pa.R.Civ.P.M.D.J. 504.1**

The Minor Court Rules Committee ("Committee") is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 209 and the adoption of Pa.R.Civ.P.M.D.J. 504.1 providing for local rules governing mediation in residential landlord-tenant actions in magisterial district courts.

*Background*

The Committee was first asked to consider developing rules to facilitate eviction diversion programs in 2021.



Housing advocates suggested the Committee should consider making rule recommendations that would support local eviction diversion/mediation programs and encourage informal settlement of landlord-tenant disputes by, e.g., requiring or encouraging landlords to seek mediation prior to the filing of an eviction complaint.

In support of local rulemaking, the Committee was informed that court programs across the Commonwealth were encouraging landlords and tenants to resolve their differences prior to the entry of a judgment for possession. The rationale for developing informal resolution procedures for landlord-tenant disputes is that it could remove the stigma on tenants of an eviction judgment when seeking new housing, serving the interest of judicial economy by diverting cases to mediation programs, and addressing a then-anticipated increase in landlord-tenant cases following expiration of COVID-related eviction moratoria. Housing advocates favored local rulemaking, observing that such a change would enable local communities to maximize the impact of resources created to support tenants with rental assistance, aid landlords in actually recouping missed rental income, and ease strain on already over-burdened emergency resources.

Allegheny and Philadelphia Counties both developed landlord-tenant diversion programs. In Allegheny County, such programs operated in Allegheny County during 2020 and 2021 pursuant to orders issued during the judicial emergency. *See, e.g.*, Order of August 6, 2021, No. 23 WM 2020. Representatives from the Allegheny County Department of Human Services attended landlord-tenant hearings and distributed information about emergency rental assistance funds to landlords and tenants. It is the Committee's understanding that magisterial district judges continued cases as necessary to accommodate disbursement of emergency funds.

The Philadelphia Municipal Court ("PMC") has an existing form of mediation, "judgment by agreement," available in civil and landlord-tenant matters. In summary, a judgment by agreement is a judgment entered into by the parties after negotiation or mediation at the time of trial. In addition to judgment by agreement, both PMC and Philadelphia city government took steps to require parties to participate in eviction diversion programs. Following the expiration of the federal moratorium, PMC sought, and the Court granted, interim orders extending the PMC Landlord-Tenant Diversion Program through December 31, 2021. *See* Orders of July 2, 2021, August 16, 2021, October 28, 2021, and November 15, 2021, No. 21 EM 2020. Philadelphia City Council later passed, and the mayor signed, an ordinance requiring a landlord to participate in the eviction diversion program for at least 45 days prior to filing an eviction complaint. *See* Phil. Code § 9-811. The ordinance was originally effective through December 31, 2022 but was later extended through June 30, 2024. Under the amended ordinance, landlord participation in the program is required for at least 30 days, down from 45 days.

Housing advocates also cited pilot programs in other judicial districts intended to refer willing parties to mediation through outside agencies, such as the United Way and other non-profits. While outside the scope of mediation programs, other programs provided tenants with legal representation in possessory actions.

#### *Discussion*

Initially, the Committee discussed whether a statewide rule permitting mediation of landlord-tenant actions required enabling legislation. The Committee first reviewed

the voluntary mediation rules contained in Pa.R.Civ.P. 1940.1—9 governing child custody actions. Those rules were authorized by 23 Pa.C.S. § 3901(a) ("A court may establish a mediation program for actions brought under this part or Chapter 53 (relating to custody)"). However, mediation in Commonwealth Court pursuant to 210 Pa. Code § 69.501 does not appear to have statutory underpinning.

The Committee was also informed by the relatively recent Pennsylvania Rule of Orphans' Court Procedure 1.6 that authorizes mediation by local rule. *See* Pa.R.O.C.P. 1.6 ("All parties having an interest in a matter may participate by written agreement, or the court by local rule or order in a particular matter may provide for the parties to participate, in private mediation or in court-supervised mediation."). That rule, effective September 1, 2016, was adopted without enabling legislation and has resulted in the promulgation of local mediation rules in several judicial districts.

Accordingly, the Committee was of the opinion that the Court may authorize, by procedural rule, the use of mediation following the commencement of a landlord-tenant action. Yet, the Committee acknowledges that this authority may not be exclusive to the Court. Notwithstanding the lack of a statute, Philadelphia turned to its local government authority to enact ordinances requiring mediation efforts between the parties in landlord-tenant proceedings. The Committee invites further comments on the need for statutory authority for court-based authorized programs or perceived impact on existing statutes.

Preliminarily, the concept of informal resolution is not foreign in magisterial district courts. Judges, in their neutral capacity, often solicit the parties' positions and attempt to facilitate settlement prior to a hearing. The courtroom may be the first opportunity for the parties to calmly meet and discuss after a complaint has been filed. A difference between a settlement conference and mediation is the facilitator. The use of a mediator permits *ex parte* communications with the mediator, unlike communications with a magisterial district judge. Further, successful mediation often will produce agreements that conditionally postpone eviction proceedings provided that the terms are met. Indeed, the "pay and stay" concept is not new to landlord-tenant actions. *See* Pa.R.Civ.P.M.D.J. 518 (Satisfaction of Order by Payment of Rent and Costs).

The potential merits of mediation reported to the Committee are that it generally results in fewer evictions, which reduces homelessness and trauma, terminates litigation without judicial intervention, preserves judicial resources, and avoids eviction judgements, which can be a barrier for tenants when applying for future leases. Moreover, mediation can provide an opportunity for tenants to access resources to either maintain their current housing or ease transition to new housing. Other merits have been suggested, such as faster results through mediation than through the judicial process, savings of further court costs attributed to posting and forceful eviction, and preservation of a harmonious relationship between parties. However, while these benefits may be realized in certain instances, the Committee is not persuaded that the benefits accrue in all circumstances. It waits to be seen whether merits of mediation can be sustained long term, *i.e.*, whether an eviction deferral results in a lasting reprieve or merely delays possession.

Members agreed that a successful mediation program is often contingent on the knowledge, experience, and expertise of the mediators, which necessarily raises the issue of resources. The Committee invites further comments on

the need for minimum qualifications of mediators and whether such minimum qualifications should be established by statewide or local rule.

The Committee is mindful that the costs of any a mediation program cannot be imposed on judicial districts as an unfunded mandate. It is anticipated that successful mediation programs must be funded in whole or in part by non-judicial entities and not the courts. Whether a portion of the filing fee for the complaint may be used to fund a mediation program is beyond the scope of this proposal.

Related to the cost of mediation programs, an additional factor is the availability of third-party resources to offset rent arrears when nonpayment is the basis for eviction. This factor can be significant to obtain landlord participation and commitment to the mediation process.

The Committee discussed potential concerns of landlords if mediation is viewed as merely delaying possession. Of course, this scenario presumes that mediation will not or did not result in a mutually satisfactory agreement. The countervailing view is that successful mediation will result in a benefit to landlords, such as payment of arrearages. However, there may be situations when a landlord seeks possession rather than arrears or reformed conduct, *e.g.*, the tenant refuses to vacate following the expiration of term. These discussions focused on whether initial participation in mediation should be mandatory or voluntary. One view was that, if mediation was mutually beneficial to all parties, participation would not have been mandated. Another view was that parties lack knowledge about mediation and the most effective means of education is through mandatory participation. Moreover, judicial districts, through local rules, could identify which bases for eviction are subject to mediation. *See* 68 P.S. § 250.501(a) (setting forth circumstances for repossession: “(1) Upon the termination of a term of the tenant, (2) or upon forfeiture of the lease for breach of its conditions, (3) or upon the failure of the tenant, upon demand, to satisfy any rent reserved and due.”). The Committee invites comments on whether courts of common pleas should have the discretion to make initial participation in mediation mandatory.

#### *Proposed Rules*

The Committee has developed amendments to Rule 209 (Continuances) and a new Rule 504.1 (Mediation) to authorize the promulgation of local rules governing mediation in residential landlord-tenant actions. Proposed Rule 504.1(a) delegates procedural responsibility to individual judicial districts via local rulemaking. This approach is intended to provide maximum flexibility so mediation programs can be designed and implemented based upon local resources and need. Additionally, the non-specific statewide rule would have minimal impact on existing programs in operation.

Subdivision (b) requires the filing of a complaint prior to mediation. This action was considered necessary to subject the parties to the court’s jurisdiction and any requirement for mediation. A prefiling mediation requirement operates as a barrier for an aggrieved party to access the courts. The Committee believed that any prefiling requirement should be a matter of public policy reserved for a legislative body rather than one of procedure by the judiciary.

The commentary accompanying proposed Rule 504.1 emphasizes that mediation should involve a neutral third party. This language is intended to address concerns that mediation programs may be tilted in favor of either the tenant or landlord.

A key concern relating to mediation is the potential for conflict with Rule 209 (Continuances). Current Rule 209C provides that, except for good cause shown, the aggregate of all continuances in landlord-tenant matters shall not extend beyond 30 days from the date of filing the landlord-tenant complaint. The Committee agrees it would be prudent to reflect explicitly that continuances may extend beyond current limits when agreed to by the parties. *See* proposed Pa.R.Civ.P.M.D.J. 209(c). The Committee also proposes limiting mediation beyond 30 days except by agreement of the parties. *See* proposed Pa.R.Civ.P.M.D.J. 209(c)(2)(ii). Therefore, mediation by local rule will not unduly postpone the hearing if not agreed to by the parties.

\* \* \* \* \*

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

[Pa.B. Doc. No. 23-965. Filed for public inspection July 21, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BRADFORD COUNTY

#### Booking Center Processing Fee; No. 2023IR0045

#### Administrative Order

*And Now*, this 11th day of July, 2023, in Order to increase Bradford County’s fingerprinting and reporting compliance pursuant to 18 Pa.C.S.A. § 9112 and the Pennsylvania Commission on Sentencing’s JNET-based SGS Web application, the Bradford County Correctional Facility with support from the Bradford County Criminal Justice Advisory Board, obtained a LIVE Scan, CPIN and Clean Terminal Devise so that all criminal defendants being incarcerated at the Bradford County Correctional Facility will be fingerprinted and processed. *It Is Hereby Ordered*, that the

1. The Bradford County Booking Center shall be located at the Bradford County Correctional Facility.
2. All individuals being incarcerated in the Bradford County Correctional Facility, if not previously done by the arresting authority, shall be processed and fingerprinted prior to intake.
3. Pursuant to 18 Pa.C.S.A. § 9112, an arresting authority shall be responsible for taking the fingerprints of persons arrested for misdemeanors, felonies or summary offenses which become misdemeanors on a second arrest after conviction of that summary offense. All arresting authorities shall have access to the Bradford County Booking Center for fingerprinting and processing. After processing and fingerprinting, the arresting authority shall, within 48 hours, forward same to the central repository in a manner and in such form as may be provided by the central repository.
4. In cases which proceed by issuance of a summons, the Magisterial District Judge presiding at the scheduled Preliminary Hearing or Appearance day shall order the defendant to submit to the issuing authority to be processed within five (5) days.
5. In cases of private prosecutions, the defendant may only be fingerprinted and photographed after conviction of a misdemeanor, felony or summary offense which becomes a misdemeanor on a second arrest after conviction of that summary offense. An order shall be issued from the Court



of Common Pleas after such conviction directing the defendant to report to the Bradford County Booking Center to be fingerprinted and photographed.

6. A booking fee of \$250.00 shall be assessed after sentencing upon conviction of or plea to a misdemeanor or felony offense or acceptance into the Accelerated Rehabilitation Disposition Program. Said fee shall be collected by the Bradford County Collections Office. The adoption of the fee shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

7. The fee will not apply to those defendants whose cases are dismissed by the Magisterial District Judge, withdrawn or nolle prossed by the Commonwealth or who enter a guilty plea to a summary offense at the time of the preliminary hearing.

The District Court Administrator is directed to:

1. File one (1) certified copy of this Administrative Order with the Administrative office of Pennsylvania Courts via email to [adminrules@pacourts.us](mailto:adminrules@pacourts.us);

2. File two (2) paper copies and one (1) electronic copy in Microsoft Word format only to [bulletin@palrb.us](mailto:bulletin@palrb.us) with Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

3. Publish a copy of this Administrative Order on the Bradford County Court of Common Pleas website after publication in the *Pennsylvania Bulletin*;

4. Keep a copy of this Administrative Order continuously available for public inspection and copying in the Bradford County Law Library.

*By the Court*

MAUREEN T. BEIRNE,  
*President Judge*

[Pa.B. Doc. No. 23-966. Filed for public inspection July 21, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### PERRY COUNTY

#### Local Rules of Criminal Court Procedure; No. AD-44-2023

##### Order

And now, July 7, 2023, the Court hereby adopts the following new Local Rules of Criminal Court Procedure to be effective as follows:

Local Rules of Criminal Court Procedure 102 and 576.1, providing for citing the local rules and providing for electronic filing in criminal cases, are hereby adopted in the forms following this Order; and

It is further ordered that the District Court Administrator shall file

(a) one (1) electronic copy of the Local Rules with the Administrative Office of Pennsylvania Courts,

(b) two (2) certified copies and one (1) electronic copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*,

(c) one (1) certified copy to the Juvenile Court Procedural Rules Committee, which shall then forward a copy to the Administrative Office of Pennsylvania Courts for publication on the AOPC website,

(d) The Local Rules shall be kept continuously available for public inspection and copying in the office of the Clerk of Courts and upon request and payment of reasonable costs of reproduction and/or mailing the Clerk of Courts shall furnish to any person a copy of the requested Local Rules.

*By the Court*

KENNETH A. MUMMAH,  
*President Judge*

#### Rule 102. Citing the Local Criminal Court Procedural Rules.

All criminal court procedural rules adopted by the Perry County Court of Common Pleas shall be known as the Perry County Rules of Criminal Court Procedure and shall be cited as P.C.R.Crim.P.

#### Rule 576.1. Electronic Filing and Service of Legal Papers.

(A) *Agreement.* The Administrative Office of Pennsylvania Courts and the Perry County branch of the 41st Judicial District have agreed upon an implementation plan for electronic filing, as that term is defined Pa.R.Crim.P. 576.1(C), in the Perry County Court of Common Pleas through the statewide system known as PACFile, effective August 21, 2023.

(B) *Purpose.*

1) The electronic filing of legal papers and the electronic service of such papers through the PACFile system with the Perry County Clerk of Court for criminal cases in the Perry County Court of Common Pleas is permitted under the terms described in this Local Rule.

2) The exclusive system for electronic filing is the PACFile System, developed and administered by the Administrative Office of the Pennsylvania Courts and located on Pennsylvania's Unified Judicial System Web Portal at <https://ujportal.pacourts.us/PACFile.aspx>.

3) The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing.

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

“*electronic filing*,” the electronic transmission of legal papers by means other than facsimile transmission and the acceptance of the document by the Clerk of Courts;

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

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

(1) applications for search warrants,

(2) applications for arrest warrants,

(3) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment,

(4) submissions filed ex parte as authorized by law,

(5) submissions filed or authorized to be filed under seal,

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

(7) confidential documents, including but not limited to: drug & alcohol assessments and reports, mental health evaluations and reports, and medical records

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

(D) *Participation.*

1) All attorneys and defendants proceeding without counsel shall be permitted to file legal papers electronically in accordance with this local rule.

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

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

4) Establishment of an account by an attorney or authorization of a defendant proceeding without counsel in the PACFile system, to the extent permitted under this local rule and authorized by the Administrative Office of Pennsylvania Courts, shall constitute consent to participate in electronic filing, including acceptance of service electronically of any document filed in the PACFile system.

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

6) Any party who declines to participate in the PACFile electronic filing system, or who is unable to electronically file or accept service of legal papers which were filed electronically, or who is otherwise unable to access the PACFile system, shall be permitted to file legal papers in a physical paper format and shall be served legal papers in a physical paper format by the Clerk of Courts and other parties, whether electronically filed or otherwise, as required by Pa.R.Crim.P. 576.

7) The following offices must be served in accordance with Pa.R.Crim.P. 576: Sheriff, Adult Probation, Court Reporter, and Court Administration. This applies to the service of court orders and notices. Distribution to those parties not automatically served via PACFile with a court order or notice must be filed with the Clerk of Courts office with a complete distribution list including the names and addresses of all parties required to be served with a paper copy.

(E) *Retention, Conversion, and Use of Legal Papers.*

1) All legal papers electronically filed shall be maintained and retained by the clerk of courts in an electronic format in addition to a physical paper format.

2) Any legal paper submitted for filing to the Clerk of Courts in a physical paper format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by applicable rules of court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to .pdf and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.Crim.P. 576.1(C) and this rule.

3) Once converted to .pdf, the .pdf version of the legal paper shall be deemed and treated as the original legal

paper and may be used by the parties and the Court for all purposes, including but not limited to, court hearings and trials in the Perry County Court of Common Pleas.

4) Those legal papers that are not permitted to be electronically filed pursuant to this rule shall be maintained in a physical paper format only.

(F) *Filing.*

1) When a legal paper is to be electronically filed, it shall be submitted to the PACFile system at the Unified Judicial System web portal at <http://ujportal.pacourts.us>, in accordance with Pa.R.Crim.P. 576.1, this rule, and any filing instructions as may be otherwise provided at the web portal site.

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

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

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

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

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

(G) *Signature.*

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

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

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

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

(H) *Confidential Information.* Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential information in legal papers

filed with the Clerk of Courts or the Court whether filed electronically or in a paper format.

(I) *Fees.* Applicable filing fees shall be paid through procedures established by the Clerk of Courts and at the same time and in the same amount as required by statute, Court rule or order, or published fee schedule.

(J) *Record on Appeal.* Electronically filed legal papers, and copies of legal papers filed in a paper format as provided in subsections (D) and (E), shall become the record on appeal.

[Pa.B. Doc. No. 23-967. Filed for public inspection July 21, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### PERRY COUNTY

#### Local Rules of Juvenile Court Procedure; No. AD-45-2023

##### Order

And now, July 7, 2023, the Court hereby adopts the following new Local Rules of Juvenile Court Procedure to be effective as follows:

Local Rules of Juvenile Court Procedure 102, 205, and 1205, providing for citing the local rules and providing for electronic filing in delinquency and dependency cases, are hereby adopted in the forms following this Order; and

It is further ordered that the District Court Administrator shall file

(a) one (1) electronic copy of the Local Rules with the Administrative Office of Pennsylvania Courts,

(b) two (2) certified copies and one (1) electronic copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*,

(c) one (1) certified copy to the Juvenile Court Procedural Rules Committee, which shall then forward a copy to the Administrative Office of Pennsylvania Courts for publication on the AOPC website,

(d) The Local Rules shall be kept continuously available for public inspection and copying in the office of the Clerk of Courts and upon request and payment of reasonable costs of reproduction and/or mailing the Clerk of Courts shall furnish to any person a copy of the requested Local Rules.

*By the Court*

KENNETH A. MUMMAH,  
*President Judge*

#### Rule 102. Citing the Local Juvenile Court Procedural Rules.

All juvenile court procedural rules adopted by the Perry County Court of Common Pleas shall be known as the Perry County Rules of Juvenile Court Procedure and shall be cited as P.C.R.J.C.P.

#### Rule 205. Electronic Filing and Service of Legal Papers.

(a) The Administrative Office of Pennsylvania Courts and the Perry County branch of the 41st Judicial District have agreed upon an implementation plan for electronic filing of legal papers with the Clerk of Courts in cases in delinquency proceedings, as that term is defined in Pa.R.J.C.P. 205(C), in the Perry County Court of Common Pleas through the statewide system known as PACFile, effective August 21, 2023;

(b) Any attorney, juvenile proceeding without counsel, law enforcement officer, and juvenile probation officer may, but is not required to, utilize PACFile for filing a legal paper, as that term is defined in Pa.R.J.C.P. 205(C), but also excluding notices of appeal from the definition of “legal paper”;

(c) Any person who is eligible to participate in PACFile but declines or is unable to do so, may file legal papers in a physical paper format, and that person shall be served legal papers in accordance with the procedures provided under Pa.R.J.C.P. 345(B), and not via PACFile;

(d) All filings shall comply with the Public Access Policy of the United Judicial System addressing confidentiality; and

(e) Applicable filing fees shall be paid through procedures established by the Clerk of Courts, at the same time and in the same manner required by statute, court rule, or published fee schedule.

#### Rule 1205. Electronic Filing and Service of Legal Papers.

(a) The Administrative Office of Pennsylvania Courts and the Perry County branch of the 41st Judicial District have agreed upon an implementation plan for electronic filing of legal papers with the Clerk of Courts in dependency proceedings, as that term is defined in Pa.R.J.C.P. 1205(C), in the Perry County Court of Common Pleas through the statewide system known as PACFile, effective August 21, 2023;

(b) Any party may, but is not required to, utilize PACFile for filing a legal paper, as that term is defined in Pa.R.J.C.P. 1205(C), but also excluding notices of appeal from the definition of “legal paper”;

(c) Any person or entity eligible to participate in PACFile but declining or unable to do so, may file legal papers in a physical paper format, and that person or entity shall be served legal papers in accordance with the procedures provided under Pa.R.J.C.P. 1345(B), and not via PACFile;

(d) All filings shall comply with the Public Access Policy of the United Judicial System addressing confidentiality; and

(e) Applicable filing fees shall be paid through procedures established by the Clerk of Courts, at the same time and in the same manner required by statute, court rule, or published fee schedule.

[Pa.B. Doc. No. 23-968. Filed for public inspection July 21, 2023, 9:00 a.m.]