

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

#### [ 210 PA. CODE CHS. 1 AND 9 ]

#### Order Amending Rules 102, 108, and 904 of the Pennsylvania Rules of Appellate Procedure; No. 312 Appellate Procedural Rules Docket

#### Order

#### *Per Curiam*

And Now, this 26th day of July, 2024, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been published for public comment at 53 Pa.B. 4962 (August 12, 2023):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 102, 108, and 904 of the Pennsylvania Rules of Appellate Procedure are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective October 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

#### Annex A

#### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE I. PRELIMINARY PROVISIONS

#### CHAPTER 1. GENERAL PROVISIONS

#### IN GENERAL

#### Rule 102. Definitions.

Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

\* \* \* \* \*

**Orphans' Court Appeal.—Any appeal from an order of the Orphans' Court Division as set forth in Pa.R.A.P. 342 or an appeal from an order from the First Judicial District Family Division deciding an adoption petition.**

\* \* \* \* \*

(*Editor's Note:* Rule 108 as printed in 210 Pa. Code reads "Official Note" rather than "Note." Rule 108 was not included in the proposal that was published for public comment at 53 Pa.B. 4962.)

#### Rule 108. Date of Entry of Orders.

##### (a) *General [ rule ] Rule.*

(1) Except as otherwise prescribed in this rule, in computing any period of time under these rules involving the date of entry of an order by a court or other government unit, the day of entry shall be the day the clerk of the court or the office of the government unit mails or delivers copies of the order to the parties, or if

such delivery is not otherwise required by law, the day the clerk or office of the government unit makes such copies public. The day of entry of an order may be the day of its adoption by the court or other government unit, or any subsequent day, as required by the actual circumstances.

(2) When pursuant to law a determination of a government unit other than a court is deemed to have been made by reason of the expiration of a specified period of time after submission of a matter to the government unit or after another prior event, any person affected may treat the expiration of such period as equivalent to the entry of an order for the purposes of appeal (in which event the notice of appeal or other document seeking review shall set forth briefly facts showing the applicability of this [ **paragraph** ] **subdivision**) and shall so treat the expiration of the period where the person has actual knowledge (other than knowledge of the mere lapse of time) that the implied determination has occurred.

(b) *Civil [ orders ] Orders.*—The date of entry of an order in a matter subject to the Pennsylvania Rules of Civil Procedure shall be the [ **day** ] **date** on which the clerk makes the notation in the docket that **written** notice of entry of the order has been given as required by Pa.R.Civ.P. 236(b).

(c) [ **Emergency appeals.**—**Notwithstanding Subdivisions (a) and (b) of this rule, an order subject to Rule 301(e) (emergency appeals) shall be deemed entered for the purposes of these rules when the party intending to appeal has complied with such rule to the extent practicable under the circumstances.** ] *Orphans' Court Orders.*—**The date of entry of an order in a matter subject to the Pennsylvania Rules of Orphans' Court Procedure shall be the date on which the clerk makes the notation in the docket that written notice of entry of the order has been given as required by Pa.R.O.C.P. 4.6.**

##### (d) *Criminal Orders.*

(1) In determining the date of entry of criminal orders, subdivision (a)(1) shall apply except as provided in [ **subparagraph** ] **subdivision** (d)(2).

(2) In a criminal case in which no post-sentence motion has been filed, the date of imposition of sentence in open court shall be deemed to be the date of entry of the judgment of sentence.

(e) **Emergency Appeals.**—**Notwithstanding the provisions of this rule, an order subject to Pa.R.A.P. 301(e) (emergency appeals) shall be deemed entered for the purposes of these rules when the party intending to appeal has complied with such rule to the extent practicable under the circumstances.**

#### [ *Note:* ] **Comment:**

Based in part on 42 Pa.C.S. § 5572 (time of entry of order) (which is not applicable to appeals to or judicial review of quasijudicial orders by the Supreme, Superior, or Commonwealth Courts; see 42 Pa.C.S. § 5571(a) (appeals generally)) and 1 Pa. Code § 31.13. The purpose of this rule is to fix a date from which the time periods such as those set forth in [ **Rules** ] **Pa.R.A.P. 903** (time for appeal), **Pa.R.A.P. 1113** (time for petitioning for allowance of appeal), **Pa.R.A.P. 1311** (interlocutory appeals by per-

mission), **Pa.R.A.P. 1512** (time for petitioning for review), **Pa.R.A.P. 1602 (filing)**, and **Pa.R.A.P. 2542** (time for application for reargument) [ **shall be** ] **are** computed. [ **Rule** ] **Pa.R.A.P. 5101(g)** (statutes suspended) suspends all inconsistent statutes so that all appellate time periods are [ **now** ] computed on the same basis.

Subdivision (a)(2) is patterned after 42 Pa.C.S. § 5571(c)(6) (implied determinations). See [ **note** ] **Comment** to [ **Rule** ] **Pa.R.A.P. 903** (time for appeal). The purpose of the provision is [ **, on the one hand, ]: (1)** to permit an aggrieved party to appeal immediately after the expiration of the period notwithstanding the failure of the government unit to take formal action [ **, and on the other, ];** **and (2)** to eliminate complicated calendar watching by forcing the government unit or another affected person to notify all parties of the expiration of the period as a prerequisite to commencement of the running of the appeal period for the purpose of the finality of the implied determination. [ **See, e.g. Rule** ] **See, e.g., Pa.R.A.P. 1571(b)(3)** (determinations of the Board of Finance and Revenue).

[ **See** ] **Subdivision (d)**—See Pa.R.A.P. 301(a)(1) and (2), Pa.R.A.P. 903(c)(3), and Pa.R.Crim.P. 462, 720, and 721 governing criminal appeals. **When no post-sentence motion is filed, the time for appeal begins to run from the date of imposition of sentence. See Pa.R.Crim.P. 462(H)(2), 720(A)(3) and (D), and 721(B)(2)(a)(ii), Pa.R.A.P. 301(a)(2) and 903(c)(3). See also Commonwealth v. Green, 862 A.2d 613 (Pa. Super. 2004) (en banc), petition for allowance of appeal denied, 882 A.2d 477 (Pa. 2005). When post-sentence motions are denied by operation of law, the appeal period shall run from the date of entry of the order denying the motion by operation of law. See Pa.R.Crim.P. 720(A)(2)(c).**

#### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—1979**

Where a determination is implied by the passage of time without action by a government unit, an aggrieved party is given the option either to appeal at once at the expiration of the period or to rely on the government unit or other affected person to give notice that an implied determination has been made.

#### **Explanatory Comment—2007**

New subdivision (d) governs criminal appeals. Under new subdivision (d), when no post-sentence motion is filed, the time for appeal begins to run from the date of imposition of sentence. See Pa.R.Crim.P. 462(G)(2), 720(A)(3) and (D), and 721(B)(2)(a)(ii), and the conforming amendments to Pa.R.A.P. 301(a)(2) and 903(c)(3), and 2006 Explanatory Comment thereto. See also *Commonwealth v. Green*, 862 A.2d 613 (Pa. Super. 2004) (*en banc*), *allocatur denied*, 584 Pa. 692, 882 A.2d 477 (2005). When post-sentence motions are denied by operation of law, the appeal period shall run from the date of entry of the order denying the motion by operation of law. See Pa.R.Crim.P. 720(B)(3)(c).

## **ARTICLE II. APPELLATE PROCEDURE**

### **CHAPTER 9. APPEALS FROM LOWER COURTS**

(*Editor's Note:* Rule 904 as printed in 210 Pa. Code does not contain Explanatory Comment—2002.)

### **Rule 904. Content of the Notice of Appeal.**

(a) *Form.* Except as otherwise prescribed by this rule, the notice of appeal shall be in substantially the following form:

\* \* \* \* \*

(b) *Caption.*

(1) *General Rule.* The parties shall be stated in the caption as they appeared on the record of the trial court at the time the appeal was taken.

(2) *Appeal of Custody Action.* In an appeal of a custody action where the trial court has used the full name of the parties in the caption, upon application of a party and for cause shown, an appellate court may exercise its discretion to use the initials of the parties in the caption based upon the sensitive nature of the facts included in the case record and the best interest of the child.

(c) *Request for Transcript.* The request for transcript contemplated by Pa.R.A.P. 1911 or a statement signed by counsel that either there is no verbatim record of the proceedings or the complete transcript has been lodged of record shall accompany the notice of appeal, but the absence of or defect in the request for transcript shall not affect the validity of the appeal.

(d) *Docket Entry.* The notice of appeal shall include a statement that the order appealed from has been entered on the docket. A copy of the docket entry showing the entry of the order appealed from shall be attached to the notice of appeal.

(e) *Content in Criminal Cases.* [ **When** ] **If** the Commonwealth takes an appeal pursuant to Pa.R.A.P. 311(d), the notice of appeal shall include a certification by counsel that the order will terminate or substantially handicap the prosecution.

(f) *Content in Children's Fast Track Appeals.* In a children's fast track appeal, the notice of appeal shall include a statement advising the appellate court that the appeal is a children's fast track appeal.

(g) *Content in Orphans' Court Appeals.* **In an orphans' court appeal, the notice of appeal shall include a statement advising the appellate court that the appeal is an orphans' court appeal.**

(h) *Completely Consolidated Civil Cases.* In an appeal of completely consolidated civil cases where only one notice of appeal is filed, a copy of the consolidation order shall be attached to the notice of appeal.

#### **Comment:**

The Offense Tracking Number (OTN) is required only in an appeal in a criminal proceeding. It enables the Administrative Office of the Pennsylvania Courts to collect and forward to the Pennsylvania State Police information pertaining to the disposition of all criminal cases as provided by the Criminal History Record Information Act, 18 Pa.C.S. §§ 9101 *et seq.*

The notice of appeal must include a statement that the order appealed from has been entered on the docket. Because generally a separate notice of appeal must be filed on each docket on which an appealable order is entered so as to appeal from that order, [ **see** ] **see** Pa.R.A.P. 902(a), the appellant is required to attach to the notice of appeal a copy of the docket entry showing the entry of the order appealed from on that docket. The appellant does not need to certify that the order has been reduced to judgment. This omission does not eliminate the requirement of reducing an order to judgment before

there is a final appealable order where required by applicable practice or case law.

Subdivision (b)(2) provides the authority for an appellate court to initialize captions in custody appeals. *See also* [ **Pa.R.C.P.** ] **Pa.R.Civ.P.** 1915.10.

With respect to subdivision (e), in *Commonwealth v. Dugger*, 486 A.2d 382, 386 (Pa. 1985), the Supreme Court held that the Commonwealth's certification that an order will terminate or substantially handicap the prosecution is not subject to review as a prerequisite to the Superior Court's review of the merits of the appeal. The principle in *Dugger* has been incorporated in and superseded by Pa.R.A.P. 311(d). *Commonwealth v. Dixon*, 907 A.2d 468, 471 n.8 (Pa. 2006). Thus, the need for a detailed analysis of the effect of the order, formerly necessarily a part of the Commonwealth's appellate brief, has been eliminated.

A party filing a cross-appeal should identify it as a cross-appeal in the notice of appeal to assure that the prothonotary will process the cross-appeal with the initial appeal. [ *See also* ] *See also* Pa.R.A.P. 2113, 2136, and 2185 regarding briefs in cross-appeals and Pa.R.A.P. 2322 regarding oral argument in multiple appeals.

**See Pa.R.A.P. 342 for the orders that may be appealed as of right in orphans' court matters.**

A party appealing completely consolidated civil cases using one notice of appeal must attach a copy of the consolidation order to the notice of appeal to assure the applicability of Pa.R.A.P. 902.

#### **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

#### **Explanatory Comment—2002**

See Comment following Pa.R.A.P., Rule 511.

### **SUPREME COURT OF PENNSYLVANIA APPELLATE COURT PROCEDURAL RULES COMMITTEE**

#### **ADOPTION REPORT**

#### **Amendment of Pa.R.A.P. 102, 108, and 904**

On July 26, 2024, the Supreme Court of Pennsylvania adopted amendments to Pennsylvania Rules of Appellate Procedure 102, 108, and 904. The Appellate Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

The Committee received a request to amend Pa.R.A.P. 108 to establish the date of entry of orphans' court orders for purposes of computing any time period involving an orphans' court order under the Pennsylvania Rules of Appellate Procedure. Relevant to the request, Pa.R.A.P. 108(b) provides that the date of entry of an order for civil cases is the date on which the clerk of the trial court makes a notation on the docket that notice of the entry of the order was given as required by Pa.R.Civ.P. 236. Additional provisions address emergency appeals and criminal orders.

In its initial consideration, the Committee assumed that Pa.R.A.P. 108 was silent on the date of entry of orders in the orphans' court because, when the relevant provisions of Pa.R.A.P. 108 were drafted, the Pennsylvania Rules of Orphans' Court Procedure themselves were silent on the matter of notice of an adjudication or court

order. Notably, however, former Pa.R.O.C.P. 3.1 required conformity with the Pennsylvania Rules of Civil Procedure when the Rules of Orphans' Court Procedure did not provide guidance on a particular matter. Therefore, appellants in orphans' court cases were guided by Pa.R.Civ.P. 236, which squared with Pa.R.A.P. 108(b).

Subsequently, the Rules of Orphans' Court Procedure were largely rewritten and adopted, effective September 1, 2016. The rewrite included new rule Pa.R.O.C.P. 4.6, which established a notice procedure analogous to and derived from Pa.R.Civ.P. 236.

The Committee recognized that the request to amend Pa.R.A.P. 108 also implicated a need to effectively identify orphans' court appeals for purposes of docketing statements. To effectuate Pa.R.A.P. 108 generally, when a notice of appeal is filed with the Superior Court, the prothonotary of that court sends: a docketing statement form [to the appellant] which shall be completed and returned within ten (10) days in order that the Court shall be able to more efficiently and expeditiously administer the scheduling of argument and submission of cases on appeal. Failure to file a docketing statement may result in dismissal of the appeal.

*Pa.R.A.P. 3517.* At present, there are three docketing statement forms: (a) Civil Docketing Statement; (b) Criminal Docketing Statement; and (c) Family and Domestic Relations Docketing Statement. The Civil Docketing Statement requires the date of entry of the Pa.R.Civ.P. 236 notice, although the Family and Domestic Relations Docketing Statement does not. In the absence of an orphans' court specific form, the Civil Docketing Statement presumably has been used with orphans' court appeals. There was a concern that omission of the Pa.R.O.C.P. 4.6 notice date from the Docketing Statement may lead an appellant to complete the form incorrectly, resulting in possible delays or confusion.

While the Committee initially considered a proposed amendment of Pa.R.A.P. 108 to add a new subdivision pertaining to orders subject to the Rules of Orphans' Court Procedure, it concluded that this approach was insufficient because it was unlikely that counsel or a self-represented party would look to Pa.R.A.P. 108 for the requirement to file a docketing statement. In addition, orphans' court appeals are not routinely identified as such when the notice of appeal is filed. As a result, filing office staff would not be aware which docketing statement should be sent to counsel or a self-represented party.

The Committee therefore devised a different approach to address both concerns. Pa.R.A.P. 342 sets forth the orders of the orphans' court that are appealable as of right. The proposal would amend Pa.R.A.P. 102 (definitions) to add a definition of "Orphans' Court Appeal" with a reference to Pa.R.A.P. 342 so that counsel or a self-represented party is advised of the Rule of Appellate Procedure applicable to that appeal. In addition, Pa.R.A.P. 904 was amended to add a new subdivision requiring the notice of appeal to include a statement advising the appellate court that the appeal is an orphans' court appeal. Finally, a statement cross-referencing Pa.R.A.P. 342 regarding orders that may be appealed as of right in orphans' court matters was added to the comment to Pa.R.A.P. 904.

The Committee published the proposal for comment, *see* 53 Pa.B. 4962 (August 12, 2023), and received responses supporting the proposal; the respondents also suggested modifications to the proposal.

A respondent suggested that the amendments of Pa.R.A.P. 102 and 904 did not obviate the need for an

amendment to Pa.R.A.P. 108. The proposal appeared to overlook the reason for amending the rule given the adoption of Pa.R.O.C.P. 4.6. Specifically, without an amendment of Pa.R.A.P. 108, an appellate court's calculation of the timeliness of orphans' court appeals in ascertaining its jurisdiction will diverge from past practice.

The respondent indicated that Pa.R.A.P. 108(a) provides a general rule for computing time periods involving the date of entry of an order: "the day of entry shall be the day the clerk of the court or the office of the government unit mails or delivers copies of the order to the parties," unless it is subject to one of enumerated exceptions set forth in the rule. Pa.R.A.P. 108(b) provides one exception for the date of entry of civil orders. It diverges from the general rule in that it references docketing of the notice:

The date of entry of an order in a matter subject to the Pennsylvania Rules of Civil Procedure shall be the day on which the clerk makes the notation in the docket that notice of entry of the order has been given as required by Pa.R.Civ.P. 236(b).

When the notation of giving of the notice occurs on a date after the day on which the copies were served, the date of expiration of the 30-day appeal period will differ depending on whether the case is subject to Rules of Civil Procedure or the general rule in Pa.R.A.P. 108(a).

Prior to the adoption of Pa.R.O.C.P. 4.6, the notice requirements of Pa.R.Civ.P. 236 applied to orphans' court decisions. Following the adoption of Pa.R.O.C.P. 4.6, Pa.R.Civ.P. 236 no longer governed the notice of the entry of orphans' court orders. Consequently, orphans' court orders are no longer "civil orders" subject to the exception in Pa.R.A.P. 108(b) and instead are now subject to the general rule in Pa.R.A.P. 108(a). As a result, the appeal period begins to run from the date the order is mailed or delivered to the parties, regardless of when the clerk of the orphans' court makes a notation on the docket as required by Pa.R.O.C.P. 4.6. The respondent urged amendment of Pa.R.A.P. 108 to fully account for the adoption of Pa.R.O.C.P. 4.6. In doing so, appeals in civil cases and orphans' court cases will receive equal treatment.

The Committee accepted these suggestions and agreed that Pa.R.A.P. 108 should be amended to add a provision recognizing the operation of Pa.R.O.C.P. 4.6. This new provision governing orphans' court orders is set forth as subdivision (c) and hews to the exact text of Pa.R.O.C.P. 4.6. The text of current subdivision (c) relating to emergency appeals has been moved to new subdivision (e).

A second respondent supported the proposal but also urged amendment of Pa.R.A.P. 108 to distinguish between the date of entry for civil orders and orphans' court orders, and to recognize the requirements of Pa.R.O.C.P. 4.6. The Committee concluded that this suggestion dovetailed with the comment from the first respondent and was addressed by the above-mentioned amendment to Pa.R.A.P. 108(c).

This respondent also suggested that the proposal may benefit from the addition of commentary to Pa.R.A.P. 102 and 904 that is currently set forth in the note to Pa.R.A.P. 342 (appealable orphans' court orders). This commentary identifies orders "otherwise appealable as provided by Chapter 3," *i.e.*, Pa.R.A.P. 311, 312, 313, and 341. The respondent believed that cross-referencing them in commentary to Pa.R.A.P. 102 and 904 would educate counsel and self-represented litigants as to the scope of appealable orphans' court orders. The Committee, however, declined to include the cross reference because the Comment to Pa.R.A.P. 342 provides a substantial discus-

sion of Pa.R.A.P. 342(a)(8), the orders appealable as provided in Chapter 3, and cites to Pa.R.A.P. 311, 312, 313, and 341. Further, the amendments to Pa.R.A.P. 102 and the commentary to Pa.R.A.P. 904 already cross referenced Pa.R.A.P. 342 and were intended to point readers to review Pa.R.A.P. 342 and its comment.

The amendments become effective October 1, 2024.

[Pa.B. Doc. No. 24-1106. Filed for public inspection August 9, 2024, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CH. 1 ]

#### Proposed Amendment of Pa.R.J.C.P. 140 and 141

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 140 and 141 governing bench warrant 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  
 Juvenile Court Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 P.O. Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9541  
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by October 1, 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 A. BUSINESS OF COURTS

#### Rule 140. Bench Warrants for Failure to Appear at Hearings.

[ A. ] (a) *Issuance of [ warrant ] Warrant.*

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

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

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

[ C. ] (c) *Juvenile.*

(1) [ *Where to take the juvenile* ] *Appearance of Juvenile. Detention.*

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

[ b ] (ii) If the juvenile [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer, the juvenile shall be released unless:

[ i ] (A) the warrant specifically orders detention of the juvenile; or

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

[ c ] (iii) If a juvenile is detained **pending a hearing**, the juvenile shall be detained in a detention facility or other facility **either** designated in the bench warrant [ **by the judge** ] **or directed by the court at the time the juvenile is taken into custody** [ **pending a hearing** ].

(2) *Prompt [hearing] Hearing.*

[ a ] (i) If a juvenile is detained, the juvenile shall [ **be brought** ] **appear** before the judge who issued the warrant, a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants, or an out-of-county judge or juvenile court hearing officer pursuant to [ **paragraph (C)(4)** ] **subdivision (c)(4)** within [ **seventy-two** ] **72** hours.

[ b ] (ii) If the juvenile [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer within this time, the juvenile shall be released.

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

(4) *Out-of-[county-custody] County Custody.*

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

[ b ] (ii) Arrangements to transport the juvenile shall be made immediately.

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

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

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

[ D. ] (d) *Witnesses.*

(1) [ *Where to take the witness* ] *Appearance of Witness.*

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

[ b ] (ii) If the witness [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer, the witness shall be released unless the warrant specifically orders detention of the witness.

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

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

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

(2) *Prompt [hearing] Hearing.*

[ a ] (i) If a witness is detained pursuant to [ **paragraph (D)(1)(c)** ] **subdivision (d)(1)(iii)** or [ **brought back** ] **transported** to the county of issuance pursuant to [ **paragraph (D)(4)(f)** ] **subdivision (d)(4)(vi)**, the witness shall [ **be brought** ] **appear** before the judge or juvenile court hearing officer by the next business day.

[ b ] (ii) If the witness [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer within this time, the witness shall be released.

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

(4) *Out-of-[county custody] County Custody.*

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

[ b ] (ii) The witness shall [ **be taken** ] **appear**, without unnecessary delay and within the next business day, [ **to** ] **before** a judge or juvenile court hearing officer of the county where the witness is found.

[ c ] (iii) The judge or juvenile court hearing officer will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and

order or recommend that arrangements be made to transport the witness to the county of issuance.

[ d ] (iv) Arrangements to transport the witness shall be made immediately.

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

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

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

[ f ] (vi) If detention is ordered, the witness shall be [ brought back ] transported to the county of issuance within [ seventy-two ] 72 hours from the execution of the warrant.

[ g ] (vii) If the time requirements of this [ paragraph ] subdivision are not met, the witness shall be released.

[ E ] (e) *Advanced Communication Technology*. A court may utilize advanced communication technology pursuant to Rule 129 for the appearance of a juvenile or a witness unless good cause is shown otherwise.

[ F ] (f) *Return [ & execution ] and Execution of [ the warrant ] Warrant for [ juveniles ] Juveniles and [ witnesses ] Witnesses*.

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

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

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

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

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

Comment:

42 Pa.C.S. § 6335(c) was suspended to the extent it is inconsistent with this rule. See Pa.R.J.C.P. 800(2).

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

[ Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a

bench warrant. The fact that the juvenile or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. ]

The fact that the juvenile or witness did not attend a hearing is not sufficient evidence, alone, for a bench warrant. A judge may issue a bench warrant if the judge finds that a subpoenaed or summoned person failed to appear, and sufficient notice was given.

This rule[, however,] does not prohibit probation from recommending detention for a juvenile. [ The normal rules of procedure in these rules are to be followed if a juvenile is detained. See Chapter Two, Part D. ] For procedures if a juvenile is detained under those circumstances, see Pa.R.J.C.P. 240—243.

Pursuant to [ paragraph (C), the ] subdivision (c), a “juvenile” is the subject of the delinquency proceedings. [ When ] If a witness is a child, the witness is referred to as a “minor.” [ This distinction is made to differentiate between children who are alleged delinquents and children who are witnesses. See paragraph (C) for alleged delinquents and paragraph (D) for witnesses. See also Rule 120 for definition of “juvenile” and “minor.” ] A juvenile is subject to subdivision (c) and a minor witness is subject to subdivision (d). See also Pa.R.J.C.P. 120 (defining “juvenile” and “minor”).

Pursuant to [ paragraph (C)(1)(a) ] subdivision (c)(1)(i), the juvenile is to [ be taken ] immediately [ to ] appear before the judge who issued the bench warrant, or a judge or juvenile court hearing officer designated by the President Judge of that county to hear bench warrants. This provision allows the judge or juvenile court hearing officer the discretion to postpone a hearing, for example, the adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the juvenile. If taken into custody on the same day, the juvenile is to [ be brought ] immediately appear before the court for the hearing. However, pursuant to [ paragraph (C)(1)(b) ] subdivision (c)(1)(ii), if a bench warrant specifically provides that the juvenile may be detained in a detention facility, or there are circumstances apparent at the time of the surrender or apprehension that merit detention of the juvenile, the juvenile may be detained without having to [ be brought ] appear before the judge or juvenile court hearing officer until a hearing within [ seventy-two ] 72 hours under [ paragraph (C)(2)(a) ] subdivision (c)(2)(i). The juvenile is not to languish in a detention facility. [ Pursuant to this paragraph, if ] If a hearing is not held promptly, the juvenile is to be released. [ See paragraph (C)(2)(b). ]

Subdivision (c)(1)(iii) permits the warrant to designate where the juvenile should be detained or to include contact information when the juvenile is taken into custody. The information allows the arresting officer to contact the court or the court’s designee to ascertain where the juvenile should be detained based on current availability within facilities.

At the [ seventy-two ] 72-hour hearing, the judge or juvenile court hearing officer may determine that the

juvenile willfully failed to appear and may continue the detention of the juvenile until the rescheduled hearing. If the juvenile is detained, the rescheduled hearing is governed by the time requirements provided elsewhere in these rules. *See* [ **Rules** ] **Pa.R.J.C.P.** 240, 391, 404, 510, and 605.

Under [ **paragraphs (C)(2) and (C)(4)** ] **subdivisions (c)(2) and (c)(4)**, a juvenile taken into custody pursuant to a bench warrant is to have a hearing within [ **seventy-two** ] **72** hours regardless of where the juvenile is found. *See* [ **Rule** ] **Pa.R.J.C.P.** 240(C).

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

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

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

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

Pursuant to [ **paragraph (D)(4)(b)** ] **subdivision (d)(4)(ii)**, a witness is to [ **be brought** ] **appear** before an out-of-county judge or juvenile court hearing officer by the next business day unless the witness can [ **be brought** ] **appear** before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within [ **seventy-two** ] **72** hours of the execution of the bench warrant, the witness is to [ **be brought** ] **appear** before the court by the next business day. [ *See paragraph (D)(4)(f).* ]

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

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

[ **Pursuant to paragraph (F)(5), once the warrant is vacated, the juvenile probation officer, other court designee, or law enforcement officer is to remove the warrant from all appropriate registries so [ The intent of subdivision (f)(5) is to prevent the juvenile [ is not ] from being taken into custody on the same warrant if the juvenile is released.**

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

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

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

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

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

#### **Committee Explanatory Reports:**

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

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

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

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

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

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

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

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

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

[ C. ] (c) [ *Where to take the juvenile* ] *Detention.* The juvenile shall be detained, pending a hearing pursuant to subdivision (d), in a detention facility or other facility either designated in the bench warrant [ pending a hearing pursuant to paragraph (D) ] or directed by the court at the time the juvenile is taken into custody. If the juvenile is taken into custody in a county other than the county of issuance, the juvenile shall be transported back to the county of issuance prior to the hearing pursuant to subdivision (d).

[ D. ] (d) *Prompt [ hearing ] Hearing.*

(1) The juvenile shall have a detention hearing within [ **seventy-two** ] **72** hours of the placement in detention.

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

[ E. ] (e) *Time [ requirements ] Requirements.* The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

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

[ G. ] (g) *Return [ & execution of the warrant ] and Execution of Warrant.*

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

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

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

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

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

Comment:

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

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

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

Pursuant to [ **paragraphs (D)(1) and (E)** ] subdivisions (d)(1) and (e), the time requirements of the Rules of Juvenile Court Procedure are to apply, including the [ **seventy-two** ] **72**-hour detention hearing. *See, e.g., [ Rules ] Pa.R.J.C.P. 240, 391, 404, 510, and 605.*

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

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

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

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

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



**Committee Explanatory Reports:**

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

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

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

**Proposed Amendment of Pa.R.J.C.P. 140 and 141**

The Juvenile Court Procedural Rules Committee ("Committee") is considering proposing the amendment of Pennsylvania Rules of Juvenile Court Procedure 140 and 141 to permit a court to direct a juvenile's place of detention at the time of apprehension pursuant to a bench warrant.

If a juvenile, with sufficient notice, fails to appear at a hearing, or a juvenile absconds, the court may issue a bench warrant for the juvenile. *See* Pa.R.J.C.P. 140, 141. The statewide Common Pleas Case Management System (CPCMS) requires a court user to input specific information to generate a bench warrant. Because CPCMS is programmed to adhere to the requirements of the rules, the user must enter information directing where to detain an apprehended juvenile, *i.e.*, "place of detention," before the bench warrant can be generated and issued. *See* Pa.R.J.C.P. 140(C)(1)(c), 141(C).

The Administrative Office of Pennsylvania Courts (AOPC) maintains CPMCS, as well as receives feedback and requests from users. In consultation with the Committee, AOPC also designs and publishes forms necessary to implement the rules. *See* Pa.R.J.C.P. 165. As is relevant to the instant proposal, AOPC received a request to revise the CPCMS-generated bench warrant to permit the court, at the time of apprehension, to direct where to detain a juvenile. The rationale for the request was that the court could not predict, at the time of issuing a bench warrant, the availability of a detention center at the time of apprehension given that availability can vary over time. Believing that changes to the content of bench warrants was constrained by the rules, the matter was brought before the Committee.

The Committee proposes responsive rule amendments that would modify the "place of detention" requirement to make it optional for the court user to instead insert contact information, *e.g.*, juvenile probation office telephone number, to be used by law enforcement once the juvenile is apprehended. Thus, the court user would have the option of including either the detention facility or the contact information in the bench warrant. These options are intended to be mutually exclusive. Corollary amendments to the rule governing bench warrants for the failure to appear in dependency proceedings were not included because a child would be placed in shelter care and not a detention center. *See* Pa.R.J.C.P. 1140, cmt. at ¶ 4.

Additionally, Pa.R.J.C.P. 140 and 141 have been revised stylistically. The apprehended juvenile or witness would no longer be "brought" before a judge; rather, they would "appear." Some of the commentary restating the rule text has been removed. In Pa.R.J.C.P. 141, the third paragraph of the Comment has been removed and subdivision (c) amended to include language governing out-of-county apprehension.

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

[Pa.B. Doc. No. 24-1107. Filed for public inspection August 9, 2024, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CHS. 3 AND 6 ]

#### Proposed Amendment of Pa.R.J.C.P. 300, 302, and 630

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 300, 302, and 630 governing venue, intercounty transfers, courtesy supervision, and closing of delinquency cases 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  
Juvenile Court Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
P.O. Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9541  
juvenerules@pacourts.us

All communications in reference to the proposal should be received by October 1, 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 3. PRE-ADJUDICATORY PROCEDURES

#### PART A. VENUE

#### Rule 300. Venue.

[ A. ] (a) *Generally.* A delinquency proceeding shall be commenced in:

- (1) the county in which the delinquent act was allegedly committed; or
- (2) the juvenile's county of residence.

[ B. ] (b) *Change of [ venue ] Venue.* The juvenile may file a motion for change of venue if there is substantial prejudice to the juvenile. The court shall decide the motion and, if granted, specify an effective date for the change of venue.

[ C. ] (c) *Transmission of [ all records ] All Records.* If there is a change of venue pursuant to [ paragraph (B) ] subdivision (b), within five days of the date for the change of venue:

(1) the transferring county's clerk of courts shall inform the receiving county's clerk of courts of the manner in which certified copies of all documents, reports, and summaries in the juvenile's official court record will be transferred;

[ (1) ] (2) the transferring [ court ] county's clerk of courts shall transfer certified copies of all documents, reports, and summaries in the juvenile's official court record to the receiving [ court ] county's clerk of courts; [ and ]

[ (2) ] (3) [ The ] the juvenile probation office of the transferring court shall transfer its juvenile probation files to the juvenile probation office where venue has been transferred;

(4) the receiving county's clerk of courts shall notify its juvenile probation office and the transferring county's clerk of courts of its receipt of the official court records; and

(5) the receiving juvenile probation office shall schedule the next court proceeding in accordance with the time requirements of these rules.

(d) *Next Court Proceeding.* The time requirements of these rules for the next court proceeding shall be calculated from the effective date for the change in venue.

[ *Official Note:* Rule 300 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended May 21, 2012, effective August 1, 2012.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 300 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 300 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 300 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012). ]

Rule 302. [ Inter-County ] Intercounty Transfer and Courtesy Supervision.

[ A. *Adjudication of Delinquency.* When the court proceeds to an adjudicatory hearing for non-resident juveniles, it shall hear evidence on the petition pursuant to Rule 406 or accept an admission pursuant to Rule 407 and shall rule on the offenses in accordance with Rule 408. The court may transfer the case to the juvenile's county of residence for a hearing to determine if the juvenile

is in need of treatment, rehabilitation, or supervision pursuant to Rule 409 and if the court finds the juvenile to be in need of treatment, rehabilitation, or supervision, the receiving court shall proceed under Chapter Five.

*B. Courtesy Supervision.*

1) The court may transfer supervision of the juvenile to the juvenile's county of residence after:

- a) a consent decree is entered; or
- b) a dispositional order is entered; and

2) The county providing courtesy supervision may, with cause, withdraw supervision at any time and return the matter for further action to the county which entered the dispositional order.

*C. Transmission of all records.* If the case is transferred pursuant to paragraph (A) or (B):

1) the transferring court shall transfer certified copies of all documents, reports, and summaries in the juvenile's official court record to the receiving court;

2) the juvenile probation office of the transferring court shall transfer its juvenile probation files to the juvenile probation office where jurisdiction has been transferred. ]

(a) *Intercounty Transfer.*

(1) *Timing.* Upon motion of a party or court, and after a hearing, the court may order the transfer of a non-resident juvenile's case to the juvenile's county of residence at any time after ruling on the offenses in accordance with Rule 408 and prior to the disposition hearing.

(2) *Notice.* The court shall serve notice of the hearing upon the parties and the juvenile probation office. The district attorney in the proposed receiving county shall receive notice of the hearing and be granted standing to participate in the hearing.

(3) *Hearing.* The hearing should be conducted in the transferring county no more than 20 days from the date of the notice in subdivision (a)(2). The district attorney in the proposed receiving county shall be permitted to appear at the hearing utilizing advance communication technology.

(4) *Acceptance of Jurisdiction.* If the court in the transferring county finds that the proposed transfer would be consistent with the protection of the public interest and best suited to the juvenile's treatment, supervision, rehabilitation, and welfare:

(i) the court shall communicate with the president judge or designee of the receiving judicial district to ascertain whether jurisdiction will be accepted;

(ii) a record of the communication shall be made and served promptly by the court on the parties; and

(iii) upon service of the record of the communication, the parties shall have five days to file written responses with the court regarding the decision to accept jurisdiction.

(5) Order.

(i) An order approving a transfer shall specify an effective date for the transfer no less than ten days from date of the order to allow for the coordination of services and preparation of the official court record for transmission.

(ii) If not contained in the official court record, the order should enter a finding of the amount of restitution owed and to whom it should be paid, if available.

(iii) The court shall direct the clerk of courts to serve the order upon the parties, the receiving county agency, and the president judge or designee of the receiving court, if applicable.

(6) Matters of Cooperation between Courts. Communication between courts and juvenile probation offices on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(7) Receiving Court. On or before the effective date of the order established in subdivision (a)(5)(i), the receiving court shall enter an order:

(i) accepting jurisdiction of the case as of the effective date;

(ii) appointing counsel for the juvenile;

(iii) directing the clerk of courts to serve the order upon the transferring court, if necessary, the county agencies, the parties, and the transferring county's clerk of courts; and

(iv) scheduling the next court proceeding for the juvenile.

(8) Next Court Proceeding. The time requirements of these rules for the next court proceeding shall be calculated from the effective date for the transfer.

(9) Transmission of Official Court Record.

(i) The transferring county's clerk of courts shall inform the clerk of the receiving court of the manner in which certified copies of all documents, reports, and summaries in the child's official court record will be transferred.

(ii) On the effective date of the transfer, the transferring county's clerk of courts shall transmit certified copies of all documents, reports, and summaries in the juvenile's official court record to the clerk of the court of the receiving county.

(iii) The receiving county's clerk of courts shall notify its county agency and the transferring court of its receipt of the official court records.

(b) Courtesy Supervision.

(1) Timing. The court may transfer supervision of a juvenile to the juvenile's county of residence after:

(i) a consent decree is entered; or

(ii) a dispositional order is entered.

(2) Transmission of Records. The juvenile probation office of the transferring court shall transfer its juvenile probation files and a copy of the official

court record to the juvenile probation office where the case has been transferred.

(3) Continuity of Services. The juvenile probation offices shall arrange for the continuity of services the juvenile may be receiving with minimal disruption.

(4) Withdrawal of Supervision. The county providing courtesy supervision may, with cause, withdraw supervision at any time and return the matter for further action to the county which entered the dispositional order.

Comment:

[ The purpose of allowing transfer of disposition and supervision of the juvenile to the juvenile's county of residence is to allow probation to supervise the juvenile closely. Supervision is difficult if the juvenile lives in another county.

Under paragraph (B), this rule also may apply if the juvenile moves to a different county in this Commonwealth at some stage in the proceedings.

When the case is being transferred under paragraph (A), the transferring court should enter a finding of the amount of restitution owed and to whom it should be paid, if ordered. A restitution order should be included in the dispositional order, if applicable, under paragraph (B). ]

Pursuant to subdivision (a), a juvenile's case may be transferred to the juvenile's county of residence after a ruling on offenses or after an adjudication of delinquency. See 42 Pa.C.S. § 6321(c)(1). However, a transfer is not required.

The court entering the dispositional order is responsible for implementing the disposition, including the costs of placement or treatment, and the collection of any financial obligations from the juvenile.

Judicial communications and service of orders on judges is unnecessary if the intercounty transfer occurs within the same judicial district.

Nothing in the rule is intended to prevent the juvenile probation office's participation as a witness for the district attorney or a witness called by the court. See Pa.R.E. 614 (Court's Calling or Examining a Witness). A transfer is not best suited to the juvenile's treatment, supervision, rehabilitation, and welfare if the receiving judicial district does not accept jurisdiction.

The period between the order approving the transfer and the effective date of the transfer is intended to prepare for the case transfer. The juvenile probation offices are expected to communicate prior to the actual transfer of a case to another county so that efforts can be coordinated and services, if any, transitioned without interruption. Coordination includes the transfer of records maintained by the juvenile probation office that are not otherwise included in the official court record. This period also allows the clerk to prepare the official court record for transmission to the receiving county on the effective date of the transfer.

Nothing in this rule prohibits the use of electronic means when transferring and receiving records. However, if there is an electronic transfer, the receiving county is to send an electronic confirmation of receipt of the records as the return

receipt. The transferring county's clerk of courts is to docket the confirmation of receipt of records by the receiving county and may close the case once the confirmation has been received.

Upon receiving the order accepting the case, the transferring court may order the termination of court supervision pursuant to Rule 630(b).

Pursuant to subdivision (b)(2), if only supervision is being transferred, the juvenile's official court record is not required to be transferred to the clerk of courts of the receiving county.

[ *Official Note:* Rule 302 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended May 21, 2012, effective August 1, 2012.

*Committee Explanatory Reports:*

Final Report explaining the amendments to Rule 302 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Final Report explaining the amendments to Rule 302 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012). ]

CHAPTER 6. POST-DISPOSITIONAL PROCEDURES

PART D. CESSATION OF COURT JURISDICTION OR SUPERVISION

Rule 630. Loss of Court Jurisdiction.

(a) *Age.* When the juvenile has attained the age of [ **twenty-one** ] **21**, the court shall enter an order terminating court supervision of the juvenile.

(b) *Intercounty Transfer.* When a juvenile's case has been transferred to another county pursuant to Rule 302(a), the transferring court shall enter an order within 30 days of the transfer closing the case in the county from which the juvenile was transferred.

Comment:

The Juvenile Court has jurisdiction of a delinquent child if the child is under [ **twenty-one** ] **21** years and committed an act of delinquency prior to reaching the age of [ **eighteen** ] **18**. See 42 Pa.C.S. §§ 6302 [ & ] and 6303.

Subdivision (b) does not apply if a juvenile is receiving courtesy supervision in another county pursuant to Rule 302(b).

[ *Official Note:* Rule 630 adopted February 26, 2008, effective April 1, 2008.

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 630 published with the Court's Order at 38 Pa.B. 1146 (March 8, 2008). ]

SUPREME COURT OF PENNSYLVANIA  
JUVENILE COURT PROCEDURAL RULES  
COMMITTEE

PUBLICATION REPORT

Proposed Amendment of Pa.R.J.C.P. 300, 302, and 630

The Juvenile Court Procedural Rules Committee ("Committee") is considering proposing the amendment of Pennsylvania Rules of Juvenile Court Procedure 300, 302, and

630 governing venue, intercounty transfers, courtesy supervision, and closing of delinquency cases.

The genesis of this proposal was a request to create a statewide form to be used for the transfer of delinquency cases from one county to another. This request prompted the Committee to examine the transfer rules in light of rulemaking previous undertaken concerning the transfer of dependency cases. See 50 Pa.B. 2389 (May 9, 2020) (amending Pa.R.J.C.P. 1300, rescinding and replacing Pa.R.J.C.P. 1302).

The Juvenile Act permits a delinquency proceeding to be commenced in the county where the juvenile resides or in the county where the acts constituting the alleged delinquency occurred. See 42 Pa.C.S. § 6321(b)(1)-(b)(2). Within the rules, Pa.R.J.C.P. 300 governs venue, which addresses where a delinquency proceeding can be commenced. The rule also provides for a change of venue and the transmission of records.

The Juvenile Act also permits the transfer of a delinquency case if the juvenile resides in one county and the proceeding is commenced in another county. See *id.* § 6321(c)(1). Procedurally, intercounty transfers are governed by Pa.R.J.C.P. 302. The rule provides that a court may transfer a case after a ruling on the offenses pursuant to Pa.R.J.C.P. 408. After the transfer, the receiving county is to then determine whether to adjudicate the juvenile as delinquent pursuant to Pa.R.J.C.P. 409. Please note Pa.R.J.C.P. 302(B) also permits the transfer of a case for "courtesy supervision" after disposition.

Regarding venue, the Committee proposes amendment of Pa.R.J.C.P. 300 to facilitate the transmission of records by specifying when the records should be transferred, requiring identification of the mode of transfer, creating a feedback loop for the receipt of records, assigning responsibility for scheduling the next court proceeding, and addressing the effect a change of venue has on the timing requirements for the next court proceeding.

Concerning the records transfer, the Committee believes the use of Common Pleas Case Management System will expedite the transfer rather than relying upon paper records and the United States Postal Service. Further, at this stage of a proceeding, the record typically is not voluminous.

Concerning the timing requirements for the next court proceeding, the effective date for the change of venue would be used to calculate the next procedural deadline. As Pa.R.J.C.P. 300(B), by its very terms, only permits a juvenile to seek a change of venue, the time restriction on detention for an untimely adjudicatory hearing would be subject to the exception permitted by Pa.R.J.C.P. 240(D)(2) (permitting continued detention for delays caused by the juvenile).

Regarding intercounty transfers, the Committee proposes amending Pa.R.J.C.P. 302(a) to permit transfers any time after ruling on offenses pursuant to Pa.R.J.C.P. 408, including after adjudication of delinquency pursuant to Pa.R.J.C.P. 409, but before disposition pursuant to Pa.R.J.C.P. 512. Currently, the rule only permits transfer after a ruling on the offenses pursuant to Pa.R.J.C.P. 408, but not after adjudication of delinquency pursuant to Pa.R.J.C.P. 409. The Committee proposes this amendment

to provide more flexibility on when to transfer. The Committee understands, at least anecdotally, that some courts are already transferring after adjudication. Further, this amendment would eliminate any potential inconsistency between the rule and the Juvenile Act.

Borrowing from Pa.R.J.C.P. 1302, the Committee proposes intercounty transfer procedures that require notice to the parties and the juvenile probation office of the transferring county. The district attorney in the proposed receiving county would also receive notice and have standing to participate in the transfer hearing. For convenience, the district attorney in the proposed receiving county is able to participate via ACT. The Committee discussed whether the juvenile probation office in the proposed receiving county should also receive notice. Believing that notice may be construed as granting standing, formal notice of the transfer hearing to the juvenile probation office in the proposed receiving county has not been proposed as a procedural requirement. Notwithstanding notice, a juvenile probation officer in the proposed receiving county could be called as a witness at the hearing.

Next, the Committee considered the standard for granting or denying an intercounty transfer motion. Pa.R.J.C.P. 1302(C) incorporates a “best interest” standard for dependency transfers. Instead, the Committee proposes the standard found in 42 Pa.C.S. § 6352 governing delinquency dispositions: The transfer must be consistent with the protection of the public interest and best suited to the juvenile’s treatment, supervision, rehabilitation, and welfare.

The remaining procedures are consistent with those found in Pa.R.J.C.P. 1302 with the exception of subdivision (a)(8), which is based on proposed Pa.R.J.C.P. 300(d). Subdivision (a)(8) would “reset” the procedural deadlines to commence from the effective date of transfer. Readers should note subdivision (a)(3) proposes that the transfer hearing occur no more than 20 days from the date of the hearing notice. This 20-day timeframe was borrowed from Pa.R.J.C.P. 1302(C). Given that an intercounty transfer would not occur until after the adjudicatory hearing, this timeframe was not believed to be inconsistent with Pa.R.J.C.P. 404(A) (adjudicatory hearing must be held within 10 days of filing of petition if juvenile is detained). *Cf.* Pa.R.J.C.P. 409 (requiring finding of delinquency to be made within 20 days of the adjudicatory hearing if juvenile is detained). The Committee specifically welcomes comments on this subject.

Lastly, the Committee proposes amendment of Pa.R.J.C.P. 630 to add subdivision (b). This subdivision would require the transferring county to order a transferred case closed within 30 days of the transfer.

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

[Pa.B. Doc. No. 24-1108. Filed for public inspection August 9, 2024, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### WESTMORELAND COUNTY

#### Prohibition of Cellular Phones in Courtrooms; No. 3 of 2024

##### Administrative Order of Court

*And Now*, this 9th day of July 2024, *It Is Hereby Ordered* that Westmoreland County Rule of Judicial Administration WJ1910 is hereby adopted. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

CHRISTOPHER A. FELICIANI,  
*President Judge*

##### Rule WJ1910. Prohibition of Cellular Phones in Courtrooms.

A. No sound recording, photograph, video recording, cellular phone recording, or motion picture of any type may be made or taken of any judicial proceeding, which includes during, immediately before or immediately after said proceeding or in any hearing room or courtroom or in the area immediately surrounding the entrances or exits of such rooms, without the prior permission of the presiding judge, the presiding hearing officer, or the designee of the presiding judge or the presiding hearing officer.

B. All electronic devices, including, but not limited to, cellular phones, tablets, laptops and cameras, shall be powered off in all hearing rooms, courtrooms and in the area immediately surrounding the entrances and exits of such rooms unless permission to activate such device has been first obtained in advance from the presiding judge, the presiding hearing officer or the designee of the presiding judge or the presiding hearing officer. This directive specifically includes the public, parties, witnesses, support staff of participants, and attorneys.

C. No sound recording, video recording, photograph, cellular phone recording or motion picture of any party, witness, juror, police officer, judge or judicial officer connected to a pending judicial proceeding may be taken or made in the courthouse or in any building housing a courtroom or hearing room, whether or not the court is actually in session, without the prior permission of the presiding judge, the presiding hearing officer or the designee of the presiding judge or presiding hearing officer.

D. The transmission in any form by any means of any conversation or testimony taken by any electronic means during or anytime thereafter any judicial proceeding without the prior permission of the presiding judge, the presiding hearing officer or the designee of the presiding judge or presiding hearing officer is strictly prohibited.

E. Violation of this Order may constitute contempt of court and result in the imposition of a fine or other penalty upon a finding of contempt.

[Pa.B. Doc. No. 24-1109. Filed for public inspection August 9, 2024, 9:00 a.m.]