

## INTRODUCTION

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 120, 160, 166, 167, 172, 220, 232, 300, 302, 330, 345, 362, 408, 409, 515, 1120, 1160, 1166, 1167, 1300, 1302, and 1345 with this Recommendation. The changes are effective immediately.

## EXPLANATORY REPORT DECEMBER 2009

### **Rules 120 & 1120 - Definitions**

These rules provide a new definition for "official court record." This will alleviate any confusion between the official court record and those records kept by the juvenile probation office or the county agency. These definitions also provide clarification that the clerk of courts is the keeper of the official court record. These clarifications are important so that when an appeal is taken, the official court record is clearly defined.

The "official juvenile court file" in the definition of "clerk of courts" was relabeled "official court record" to correspond with its new definition.

### **Rules 160 & 1160 - Inspection of Juvenile File/Record**

The title of these rules was modified to reflect the new definition of "official court record."

In paragraph (A), the "official court record" was added to replace "all files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166" in Rule 160 and "all files and records of the court in a proceeding" in Rule 1160 to correspond with the new definition.

In Rule 160, the term "professional" was added to paragraph (A)(4) to reflect the language of the Juvenile Act and paragraph (A)(9) was moved to paragraph (A)(7) to reflect the order of the Juvenile Act. See 42 Pa.C.S. § 6307.

The *Comments* were also modified to reflect that the official court record does not include the confidential files and records maintained by the juvenile probation office or the county agency.

### **Rules 166, 1166, 167, 1167 & 172- Maintaining Records in the Clerk of Courts, Filings and Service of Court Orders and Notices, & Order to Expunge or Destroy**

These rules were modified to reflect the new definition of "official court record."

### **Rule 220 - Procedures in Cases Commenced by Arrest without Warrant**

The *Comment* was modified to include the Juvenile Act references for the taking of fingerprints and photographs and forwarding them to the Central Repository.

**Rule 232 - Contents of Written Allegation & Rule 330 - Petition: Filing, Contents, Function**

The written allegation and the petition were modified to include a reference indicating whether fingerprints or photographs have been taken. This requirement will alert the juvenile probation officer or the court if they have been taken.

**Rules 300, 1300, 302 & 1302 - Venue & Inter-County Transfer**

These rules were modified to reflect the new definition of “official court record.”

“Juvenile court file” previously included all files, including court, probation, and agency files. Then, the rules modified “juvenile’s court file” to “official court record.” Therefore, separate provisions were added so that the transferring court would transfer the court file (the official court record) to the receiving court and probation or the county agency would transfer the probation or agency file to the receiving probation office or county agency.

**Rules 345 & 1345 - Filing and Service**

These rules were modified to reflect the new definition of “official court record.”

**Rule 362 - Requirements of the Summons & Rule 409 - Adjudication of Delinquency**

If fingerprints or photographs have not been taken, the court must order them to be taken as required by the Juvenile Act. See 42 Pa.C.S. § 6308.

**Rule 408 - Ruling on Offenses, Rule 409 - Adjudication of Delinquency & Rule 515 - Dispositional Order**

If the court finds that the juvenile did not commit ALL of the alleged delinquent acts pursuant to Rule 408(B) or the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A), the court must order the destruction of the fingerprints and photographs pursuant to 42 Pa.C.S. § 6341(a) and the records expunged pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172.

If the court does find that the juvenile committed at least one of the offenses petitioned, there is no destruction of the fingerprints, photographs, or records.

If the court finds the juvenile is in need of treatment, supervision, or rehabilitation and fingerprints and photographs have not been taken, the court must order that they

are taken and forwarded to the Central Repository pursuant to the statutory requirements.