

INTRODUCTION

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 100, 1100, 123, 1123, 160, 200, 1151, and 1320. The changes are effective May 12, 2008.

EXPLANATORY REPORT MAY 2008

Rule 100 & 1100 - Scope of Rules

It has come to Committee's attention that the Rules of Civil Procedure and the Rules of Criminal Procedure are being used when there is not a Rule of Juvenile Procedure on certain matters. This is an error of law that is being made by several judicial districts. The Committee believes that this addition to the *Comment* will rectify this error of law.

This change does not prohibit a party from arguing that a situation is analogous to a Civil or Criminal matter when there is no juvenile court procedural rule in a particular area.

Additionally, the Committee has added a paragraph in the *Comment* to Rule 100 explaining the scope of the Rules by distinguishing dependency from delinquency matters. When this rule was adopted, there were no dependency rules.

Rules 123 & 1123 - Subpoenas

It is obvious that a person may file a motion to quash a subpoena if they do not believe it is valid. However, this issue arose with respect to non-parties quashing a subpoena. Any person who is subpoenaed or who is to produce items may file a motion with the Court to quash the subpoena. The Committee believes that the *Comment* change will clarify any issues that are occurring in some counties.

Rule 160- Inspection of Juvenile File/Record and Rule 200 - Commencing Proceedings

There was some confusion in the transferring of records in decertification cases from criminal court to juvenile court. When a case is transferred from adult criminal court to juvenile court, the entire record is to be transferred. The Criminal Rules no longer apply. Rule 160 now governs the inspection of that record. The changes in the *Comments* to these rules clarify that the Juvenile Rules govern the case file.

Rule 1151 - Assignment of Guardian Ad Litem & Counsel

An issue arose as to whether this rule applies to appointment of guardians for minor “guardians” or incapacitated persons. There are some instances when the guardian of the dependent child is also a minor or the adult guardian is incapacitated. In those rare instances, a guardian of the person should be appointed. This is not governed by the Rules of Juvenile Court Procedure but governed by 55 Pa.C.S. § 5501 *et seq.* and Pa.O.C. Rules 14.2 - 14.5. The Committee believes this *Comment* was important because of the confusion over this issue.

Rule 1320 - Application to file a private petition

The Committee has deleted paragraph (B) of this rule because this rule is an application for a petition. An application comes prior to the filing of the petition. If there is no petition, there are no parties. Therefore, a party cannot be served as required by paragraph (B). If the court decides to grant the application under Rule 1321 (Hearing on Application for Private Petition) and allow a petition to be filed pursuant to Rule 1330 (Petition: Filing, Contents, Function, Aggravated Circumstances), the parties will be served under the normal service procedures of Rule 1331 (Service of Petition).