

RULE 120. DEFINITIONS

AFFIANT is any responsible person, capable of taking an oath, who signs, swears to, affirms, or when permitted by these rules, verifies a written allegation and appreciates the nature and quality of that person's act.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law and local practice to maintain the official juvenile court file and docket, without regard to that person's official title.

COURT is the Court of Common Pleas, a court of record, which is assigned to hear juvenile delinquency matters. Court shall include masters when they are permitted to hear cases under these rules **and magisterial district judges when issuing an arrest warrant pursuant to Rule 210.** Juvenile Court shall have the same meaning as Court.

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

GUARDIAN is any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding.

INTAKE STAFF is any responsible person taking custody of the juvenile on behalf of the court, detention facility, or medical facility.

ISSUING AUTHORITY is any public official having the power and authority of a magistrate, a Philadelphia bail commissioner, or a Magisterial District Judge.

JUVENILE is a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MASTER is an attorney with delegated authority to hear and make recommendations for juvenile delinquency matters. Master has the same meaning as hearing officer.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a juvenile medically or psychologically.

ORDINANCE is a legislative enactment of a political subdivision.

PARTIES are the juvenile and the Commonwealth.

PENAL LAWS include all statutes and embodiments of the common law, which establish, create, or define crimes or offenses, including any ordinances that may provide for placement in a juvenile facility upon a finding of delinquency or upon failure to pay a fine or penalty.

PETITION is a formal document by which an attorney for the Commonwealth or the juvenile probation officer alleges a juvenile to be delinquent.

PETITIONER is an attorney for the Commonwealth or a juvenile probation officer, who signs, swears to, affirms, or verifies and files a petition.

PLACEMENT FACILITY is any facility, privately or publicly owned and operated, that identifies itself either by charter, articles of incorporation or program description, to receive delinquent juveniles as a case disposition. Placement facilities include, but are not limited to, residential facilities, group homes, after-school programs, and day programs, whether secure or non-secure.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of the person's employment.

POLITICAL SUBDIVISION shall mean county, city, township, borough, or incorporated town or village having legislative authority.

PROCEEDING is any stage in the juvenile delinquency process occurring once a written allegation has been submitted.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

WRITTEN ALLEGATION is the document that is completed by a law enforcement officer or other person that is necessary to allege a juvenile has committed an act of delinquency.

COMMENT

Under the term "court," to determine if masters are permitted to hear cases, see Rule 187. **See Rule 210 for the power of magisterial district judges to issue arrest warrants.**

Neither the definition of "law enforcement officer" nor the definition of "police officer" gives the power of arrest to any person who is not otherwise given that power by law.

A "petition" and a "written allegation" are two separate documents and serve two distinct functions. A "written allegation" is the document that initiates juvenile delinquency proceedings. Usually, the "written allegation" will be filed by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a "probable cause affidavit," "complaint," "police paper," "charge form," "allegation of delinquency," or the like. Once this document is submitted, a preliminary determination of the juvenile court's jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

For definition of "delinquent act," see 42 Pa.C.S. § 6302.

Official Note: Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. **Amended March 23, 2007, effective August 1, 2007.**

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 120 published with the Court's Order at 36 Pa.B. 187 (January 14, 2006). **Final Report explaining the amendments to Rule 120 published with the Court's Order at 37 Pa.B. --- (April --, 2007).**

RULE 200. COMMENCING PROCEEDINGS

Juvenile delinquency proceedings within a judicial district shall be commenced by:

- 1) submitting a written allegation pursuant to Rule 231;
 - 2) an arrest without a warrant:
 - a) when the offense is a felony or misdemeanor committed in the presence of the police officer making the arrest; or
 - b) upon probable cause when the offense is a felony; or
 - c) upon probable cause when the offense is a misdemeanor not committed in the presence of the police officer making the arrest, when such arrest without a warrant is specifically authorized by statute;
 - 3) **a certification to the court that a juvenile has failed to comply with a lawful sentence imposed for a summary offense;**
- [3]4) transfer of a case from a criminal proceeding pursuant to 42 Pa.C.S. § 6322;
- [4]5) the court accepting jurisdiction of a resident juvenile from another state; or
- [5]6) the court accepting supervision of juvenile pursuant to another state's order.

COMMENT

Paragraph (1) allows for commencing delinquency proceedings by submitting a written allegation. This procedure departs from the Juvenile Act, which provides that the filing of a petition commences a proceeding. Rule 800 suspends 42 Pa.C.S. § 6321 only to the extent that it is inconsistent with the procedures of this rule. Petitions filed by any person circumvent the juvenile probation's office ability to divert the case through informal adjustment as provided in 42 Pa.C.S. § 6323. Probation officers may "receive and examine complaints and charges of delinquency ... of a child for the purpose of considering the commencement of proceedings." 42 Pa.C.S. § 6304(a)(2).

See Rule 231 for procedures on submitting a written allegation.

For the definition of a "written allegation," see Rule 120.

The Juvenile Act provides that "a child may be taken into custody ... pursuant to the laws of arrest." 42 Pa.C.S. § 6324. Paragraph (2) states the laws of arrest without a warrant in Pennsylvania. See Pa.R.Crim.P. 502.

Paragraph ([4]5) encompasses a juvenile who lives in Pennsylvania and commits a crime in another state and that state wants Pennsylvania to accept the disposition of the juvenile and supervise the juvenile.

Paragraph ([5]6) encompasses a juvenile who lives outside of Pennsylvania, committed a crime outside of Pennsylvania, is moving to Pennsylvania, and the other jurisdiction would like Pennsylvania to accept the disposition of the juvenile and supervise the juvenile.

For procedures for when the juvenile is alleged to have violated probation, see Rule 612.

For inter-county transfer of juveniles, see Rule 302.

See § 6321(a) of the Juvenile Act for commencement of proceedings under the Juvenile Act. 42 Pa.C.S. § 6321(a).

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Committee Explanatory Reports:

Final Report explaining the provisions of Rule 200 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). **Final Report explaining the amendments to Rule 200 published with the Court's Order at 37 Pa.B. --- (April -- , 2007).**

RULE 210. ARREST WARRANTS

- A. **Application.** An application for an arrest warrant shall be made by **[filing] submitting** a written allegation supported by a probable cause affidavit with the president judge or any issuing authority designated by the president judge of each judicial district. The president judge shall ensure twenty-four hour availability of a designated issuing authority.
- B. **Approval of Commonwealth.** When a certification is filed by the District Attorney pursuant to Rule 231, no application for an arrest warrant shall be submitted to the issuing authority unless an attorney for the Commonwealth has approved the application.
- C. **Arrest procedures.** When a juvenile is arrested pursuant to a warrant, the case shall proceed in the same manner as a warrantless arrest in accordance with Rule 220.
- D. Transmission of file. If a magisterial district judge issues an arrest warrant for a juvenile pursuant to paragraph (A), the magisterial district judge shall forward the juvenile case file to the clerk of courts immediately or no later than the next business day.**
- E. Return of arrest warrant. Once the arrest warrant has been executed, it shall be returned to the juvenile probation office. The juvenile probation office shall, immediately and no later than the next business day, notify the magisterial district judge that the warrant has been executed.**
- F. Case closed by magisterial district judge. Once a magisterial district judge has been notified that the arrest warrant has been executed pursuant to paragraph (E), the magisterial district judge shall mark the arrest warrant as served and close the case.**

COMMENT

For the contents of a written allegation, see Rule 232. For the requirements of the issuance of an arrest warrant, see Rule 211.

Under paragraph (A), the president judge of each judicial district may designate a juvenile court judge, another common pleas judge, or other issuing authorities to receive applications for arrest warrants. The president judge also is to designate an issuing authority to receive applications after normal business hours and on holidays. For the definition of "issuing authority," see Rule 120.

When issuing an arrest warrant, a magisterial district judge is included in the definition of court pursuant to Rule 120, and as such, the magisterial district judge is to maintain the confidentiality of records as required by Rule 160. For access to court records, see Rule 160.

[To implement the procedures of paragraph (A), Rule 800 suspends 42 Pa.C.S. § 6303(b) only to the extent that magisterial district judges may detain a juvenile for the limited purposes of this rule if the magisterial district judge is so designated by the president judge of the judicial district to receive arrest warrant applications.]

Paragraph (A) provides that a magisterial district judge may order the juvenile to be taken into custody pursuant to the laws of arrest. Pursuant to the Juvenile Act, 42 Pa.C.S. § 6303(b), a district judge of the minor judiciary may not detain a juvenile. This rule allows a magisterial

district judge to issue an arrest warrant, which may lead to detention in limited circumstances. See Rule 800 (8).

Paragraph (D) provides that if the president judge of a judicial district has appointed a magisterial district judge to accept applications for arrest warrants and the magisterial district judge issues an arrest warrant for the juvenile, the magisterial district judge is to send the juvenile case file, including the written allegation supported by a probable cause affidavit, a copy of the arrest warrant, and any other information contained in the juvenile file, to the clerk of courts. For definition of clerk of courts, see Rule 120.

Paragraph (E) provides that the return of the arrest warrant is to be made with the juvenile probation office. The juvenile probation office immediately is to notify the magisterial district judge of the execution of the arrest warrant so the arrest warrant may be marked as executed in their computer system. This is extremely important so the juvenile does not get rearrested on the same warrant.

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Committee Explanatory Reports:

Final Report explaining the provisions of Rule 210 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). **Final Report explaining the amendments to Rule 200 published with the Court's Order at 37 Pa.B. --- (April -- , 2007).**

800. SUSPENSIONS OF ACTS OF ASSEMBLY

This rule provides for the suspension of the following Acts of Assembly that apply to delinquency proceedings only:

- 1) The Act of November 21, 1990, P.L. 588, No. 138, § 1, 42 Pa.C.S. § 8934, which authorizes the sealing **[or] of** search warrant affidavits, and which is implemented by Pa.R.Crim.P., Rule 211, through Pa.R.J.C.P., Rule 105, is suspended only insofar as the Act is inconsistent with Pa.R.Crim.P., Rules 205, 206, 211.
- 2) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the juvenile may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with Rule 124, which requires a summoned person to fail to appear and the court to find that sufficient notice was given.
- 3) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6336(c), which provides that if a proceeding is not recorded, full minutes shall be kept by the court, is suspended only insofar as the Act is inconsistent with Rule 127(A), which requires proceedings to be recorded.
- 4) The Public Defender Act, Act of December 2, 1968, P.L. 1144, No. 358, § 1 *et seq.* as amended through Act of December 10, 1974, P.L. 830, No. 277, § 1, 16 P.S. 9960.1 *et seq.*, which requires the Public Defender to represent all juveniles who for lack of sufficient funds are unable to employ counsel is suspended only insofar as the Act is inconsistent with Rules 150 and 151, which requires separate counsel if there is a conflict of interest.
- 5) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the juvenile, is suspended only insofar as the Act is inconsistent with Rule 152, which does not allow a guardian to waive the child's right to counsel.
- 6) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6305(b), which provides that the court may direct hearings in any case or class or cases be conducted by the master, is suspended only insofar as the Act is inconsistent with Rule 187, which allows masters to hear only specific classes of cases.
- 7) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6321, which provides for commencement of a proceeding by the filing of a petition, is suspended only insofar as the Act is inconsistent with Rule 200, which provides the submission of a written allegation shall commence a proceeding.

- 8) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6303(b), which provides that a district judge or judge of the minor judiciary may not detain a juvenile, is suspended only insofar as the Act is inconsistent with Rule 210, which allows Magisterial District Judges to **[detain] issue an arrest warrant, which may lead to detention** in limited circumstances.
- 9) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6334, which provides that any person may bring a petition, is suspended only insofar as the Act is inconsistent with Rules 231, 233, and 330, which provide for a person other than a law enforcement officer to submit a private written allegation to the juvenile probation office or an attorney for the Commonwealth, if elected for approval; and that only a juvenile probation officer or attorney for the Commonwealth may file a petition.
- 10) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6304(a)(2), which provides that probation officers may receive and examine complaints for the purposes of commencing proceedings, is suspended only insofar as the Act is inconsistent with Rules 231 and 330, which provide that the District Attorney may file a certification that requires an attorney for the Commonwealth to initially receive and approve written allegations and petitions.
- 11) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6331, which provides for the filing of a petition with the court within twenty four hours or the next business day of the admission of the juvenile to detention or shelter care, is suspended only insofar as the Act is inconsistent with the filing of a petition within twenty-four hours or the next business day from the detention hearing if the juvenile is detained under Rule 242.
- 12) Section 5720 of the Wiretapping and Electronic Surveillance Control Act, Act of October 4, 1978, P.L. 831, No. 164, 18 Pa.C.S. § 5720, is suspended as inconsistent with Rule 340 only insofar as the section may delay disclosure to a juvenile seeking discovery under Rule 340(B)(6); and Section 5721(b) of the Act, 18 Pa.C.S. § 5721(b), is suspended only insofar as the time frame for making a motion to suppress is concerned, as inconsistent with Rules 347 and 350.
- 13) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides for a hearing within ten days of the juvenile's detention unless the exceptions of (a)(1)&(2) or (f) are met, is suspended only insofar as the Act is inconsistent with Rule 391, which provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.

COMMENT

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. See *also* Rule 102.

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Committee Explanatory Reports:

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