

RULE 120. DEFINITIONS

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JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

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COMMENT

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A "juvenile probation officer" is an officer of the court. "Properly commissioned" as used in the definition of a juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court.

A properly commissioned juvenile probation officer is vested with all the powers and duties set forth in 42 Pa.C.S. § 6304, and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. See also 23 Pa.C.S. § 6315.

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Official Note:

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Amended May 20, 2011, effective July 1, 2011.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 120 published with the Court's Order at 41 Pa.B. - (-).

Part (D)(2)
Juvenile Probation Officers

Rule 195. Powers, Duties, and Training of a Juvenile Probation Officer

A. Powers and Duties of a Juvenile Probation Officer. Subject to any limitation imposed by the court, a juvenile probation officer shall:

- 1) take children, juveniles, and minors into custody pursuant to:
 - a) the Juvenile Act, 42 Pa.C.S. §§ 6304 and 6324;
 - b) the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6301 et seq.;
 - c) a bench warrant as set forth in Rules 140, 141, and 1140; or
 - d) Rule 1202;
- 2) authorize detention or shelter care for a juvenile, and the shelter care of a child, pursuant to 42 Pa.C.S. §§ 6304, 6325, or 6331;
- 3) receive and examine written allegations unless the District Attorney has elected to receive and approve all written allegations pursuant to Rule 231(B);
- 4) make appropriate referrals for informal adjustment, consent decree, or other diversionary programs;
- 5) file petitions if diversionary programs are not appropriate unless the District Attorney has elected to file all petitions pursuant to Rule 330(A);
- 6) make investigations, reports, including social studies pursuant to Rule 513, and recommendations to the court;
- 7) make appropriate referrals to private and public agencies, psychological or psychiatric providers, drug and alcohol facilities or programs, or any other necessary treatments or programs;
- 8) communicate to the court and parties, and facilitate any special needs, including health and education, of the juvenile;
- 9) supervise and assist a juvenile placed on probation or a child under the court's protective supervision or care;

10) search the person and property of juveniles pursuant to 42 Pa.C.S. § 6304(a.1);

11) regularly oversee and visit juveniles in placement facilities;

12) report suspected child abuse pursuant to 23 Pa.C.S. § 6311; and

13) perform any other functions as designated by the court.

B. Limitations on powers and duties. The President Judge of each judicial district may limit the power and duties of its juvenile probation officers by local rule.

C. Training. No later than January 1, 2012 or within 180 days after being appointed or employed, a juvenile probation officer shall be trained on:

1) the Juvenile Act;

2) the Pennsylvania Rules of Juvenile Court Procedure;

3) the Child Protective Services Law (CPSL); and

4) any local procedures.

COMMENT

Pursuant to paragraph (A)(1), a juvenile probation officer has the authority to take children, juveniles, and minors into custody pursuant to the Juvenile Act, the CPSL, a bench warrant, or Rule 1202. 23 Pa.C.S. § 6301 et seq. and 42 Pa.C.S. § 6301 et seq.

When a juvenile is under the court's supervision, the juvenile probation officer may take a juvenile into custody pursuant to the Juvenile Act, 42 Pa.C.S. §§ 6304(a)(3) and (5) and 6324(1) through (5), and bench warrants as set forth in Rules 140, 141, and 1140.

When a child, juvenile, or minor is not under the court's supervision, the juvenile probation officer, as a duly authorized officer, may take a child, juvenile, or minor into custody pursuant to the Child Protective Services Law (CPSL), 23 Pa.C.S. § 6315 and the Juvenile Act, 42 Pa.C.S. §§ 6304 (a)(3) and (5) and 6324(1), (3), and (4).

A properly commissioned juvenile probation officer is vested with all the powers and duties as set forth in 42 Pa.C.S. § 6304 and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to paragraph (B).

The President Judge may adopt a local rule, pursuant to the procedures of Rule 121, limiting the authority granted by the commission to juvenile probation officers. In determining whether to limit the authority of juvenile probation officers, the President Judge should consider the training and experience necessary to perform the various duties as provided in this rule. For example, the President Judge may choose to prohibit juvenile probation officers from taking a child into protective custody who is believed to be in imminent danger from his or her surroundings, but who is not under the court's supervision as a delinquent or dependent child. See 42 Pa.C.S. § 6324.

In situations when a juvenile probation officer takes a child into protective custody who is in imminent danger from his or her surroundings pursuant to 42 Pa.C.S. § 6325, 23 Pa.C.S. § 6315, and Rule 1202, the juvenile probation officer should take the appropriate steps to ensure the

child's safety, immediately contact the county agency, and document for the county agency the circumstances which necessitated protective custody. See Rule 1202 and its *Comment*.

The juvenile probation officer may also supervise or assist a child placed in his or her protective supervision or care by the court. See 42 Pa.C.S. § 6304.

Pursuant to paragraph (A)(3), the juvenile probation officer is to receive written allegations from local law enforcement agencies to determine if a case may proceed to juvenile court. However, pursuant to Rule 231(B), the District Attorney of any county may require initial receipt and approval of written allegations before a delinquency proceeding may be commenced. See Rule 231(B).

Pursuant to paragraph (A)(6) and (7), the juvenile probation officer is to prepare reports compiling the juvenile's information for the court and make the necessary referrals to programs supported by a need revealed during the investigation.

Pursuant to paragraph (A)(8), the juvenile probation officer is to communicate the information to all parties before approaching the court. See Rule 136 for *ex parte* communication.

Pursuant to paragraph (A)(11), the juvenile probation officer is to oversee all juveniles ordered to placement facilities. Juvenile probation officers should visit all juveniles in placement facilities on a regular basis to determine if: 1) the juvenile is receiving the appropriate treatment; and 2) the facility is meeting the needs of the child. The Juvenile Court Judges' Commission Standards Governing Aftercare Services recommend that all juveniles be visited on a monthly basis. The juvenile probation officer is to report any irregularities or controversies to the court and all parties as soon as they are made known to the juvenile probation officer.

Pursuant to paragraph (A)(13), a juvenile probation officer may perform any other function designated by the court to carry out the purposes of the Juvenile Act.

Pursuant to paragraph (C), the juvenile probation officer is to be trained in the Juvenile Act, the Pennsylvania Rules of Juvenile Court Procedure, the CPSL, and any local procedures. The training is to occur within 180 days of the juvenile probation officer's appointment or employment. It is best practice for juvenile probation officers to receive training within the first ninety days of employment. It is also best practice that juvenile probation officers receive specialized training and educational updates on a continuing basis.

Specialized training for juvenile probation officers should include delinquency and dependency procedures and areas that address their duties as officers of the court.

Official Note: Rule 195 adopted May 20, 2011, effective July 1, 2011.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 195 published with the Court's Order at 41 Pa.B. - (-).

RULE 1120. DEFINITIONS

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JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county’s juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

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COMMENT

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For the family service plan, see 55 Pa. Code § 3130.61.

A “juvenile probation officer” is an officer of the court. “Properly commissioned” as used in the definition of a juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court.

A properly commissioned juvenile probation officer is vested with all the powers and duties set forth in 42 Pa.C.S. § 6304, and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. See also 23 Pa.C.S. § 6315.

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Official Note:

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Amended May 20, 2011, effective July 1, 2011.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1120 published with the Court’s Order at 41 Pa.B. - (-).

RULE 1202. PROCEDURES FOR PROTECTIVE CUSTODY BY A POLICE OFFICER, JUVENILE PROBATION OFFICER, AND COUNTY AGENCY

A. Protective custody.

1) No court order.

- a) A police officer **or a juvenile probation officer** may take a child into protective custody pursuant to Rule 1200 if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from the surroundings and removal is necessary.

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2) Court order.

- a) A police officer, **juvenile probation officer**, or county agency may obtain a protective custody order removing a child from the home **pursuant to Rule 1210** if the court finds that remaining in the home is contrary to the welfare and the best interests of the child.

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COMMENT

A properly commissioned juvenile probation officer has the authority to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. See also 23 Pa.C.S. § 6315.

Under paragraph (A)(1)(a) & (A)(2)(a), the police officer's **or juvenile probation officer's** duty is to protect the child and remove the child safely. A police officer **or juvenile probation officer** may bring the child to the county agency for supervision of the child pending a court order that should be given immediately. The police officer's **or juvenile probation officer's** duty is **to take a child into protective custody if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his or her surroundings, and that protective custody is necessary [enforcement and removal]**, whereas the county agency's duty is to supervise the child and find an appropriate placement for the child **when necessary**. Only a police officer **or juvenile probation officer** may take custody of the child **without a court order**. See Rule 1800 for suspension of 42 Pa.C.S. § 6324, which provides that law enforcement officers may take a child into custody. **[See Rule 1120 for definition of police officer, which may include a probation officer exercising their power of arrest when authorized by law.]**

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Official Note:

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Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1202 published with the Court's Order at 41 Pa.B. - (-).

1800. SUSPENSIONS OF ACTS OF ASSEMBLY

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

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- 6) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6324, which authorizes law enforcement officers to take a child into custody, is suspended only insofar as the Act is inconsistent with Rule 1202, which provides for police officers **and juvenile probation officers** taking a child into custody.

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Official Note:

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Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1800 published with the Court's Order at 41 Pa.B. - (-).