

RULE 100. SCOPE OF RULES

- A. These rules shall govern delinquency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to domestic relations proceedings and dependency proceedings.

- B. Each of the courts exercising juvenile jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, may adopt local rules of procedure in accordance with Rule 121.

COMMENT

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through Ten (Rules 100 - 1099). All dependency matters are governed by Chapters Eleven through Twenty (Rules 1100 - 2099).

These rules govern proceedings when the Juvenile Act vests jurisdiction in the Juvenile Court. See 42 Pa.C.S. §§ 6321 and 6302. These rules do not govern summary offense proceedings unless: 1) the summary offense(s) was committed with a delinquent act, as defined by 42 Pa.C.S. § 6302, during the same episode or transaction, as provided in 42 Pa.C.S. § 6303(a)(5), and has been properly alleged in a delinquency petition; or 2) a juvenile has failed to comply with a lawful sentence imposed for the summary offense(s), as provided in 42 Pa.C.S. § 6302.

Unless specifically provided in these rules, the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Criminal Procedure do not apply to delinquency proceedings commenced pursuant to Rule 200 and 42 Pa.C.S. § 6301 *et seq.*

The Rules of Criminal Procedure apply in cases involving juveniles in summary and court cases, as defined by Pa.R.Crim.P. 103, to the extent that the Juvenile Act does not apply to these proceedings. See, *e.g.*, Pa.R.Crim.P. 100 and 400. See *also* 42 Pa.C.S. §§ 6302 and 6303.

Each judicial district may promulgate local rules that follow the requirements of Rule 121 and Pa.R.J.A. 103.

Official Note: Rule 100 adopted April 1, 2005, effective October 1, 2005. **Amended May, 12, 2008, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 100 published with the Court's Order at - Pa.B. - (- 2008).

RULE 1100. SCOPE OF RULES

- A. These rules shall govern dependency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to orphans' court, domestic relations and delinquency proceedings.

- B. Each of the courts exercising dependency jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, may adopt local rules of procedure in accordance with Rule 1121.

COMMENT

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through Ten (Rules 100 - 1099). All dependency matters are governed by Chapters Eleven through Twenty (Rules 1100 - 2099).

Unless specifically provided in these rules, the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Criminal Procedure do not apply to dependency proceedings commenced pursuant to Rule 1200 and 42 Pa.C.S. § 6301 et seq.

These rules govern proceedings when the Juvenile Act vests jurisdiction in the Court of Common Pleas. See 42 Pa.C.S. §§ 6321 and 6302.

Each judicial district may promulgate local rules that follow the requirements of Rule 1121 and Pa.R.J.A. 103.

Official Note: Rule 1100 adopted August, 21, 2006, effective February 1, 2007.
Amended May 12, 2008, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1100 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the amendments to Rule 1100 published with the Court's Order at - Pa.B. - (- 2008).**

RULE 123. SUBPOENAS

A. **Contents.** A subpoena in a delinquency case shall:

- 1) order the witness named to appear before the court at the date, time, and place specified;
- 2) order the witness to bring any items identified or described;
- 3) state on whose behalf the witness is being ordered to testify; and
- 4) state the identity, address, and phone number of the person who applied for the subpoena.

B. **Service.**

- 1) **Method of Service.** A subpoena shall be served upon a witness by:
 - a) in-person delivery;
 - b) registered or certified mail, return receipt requested, or
 - c) by first-class mail.
- 2) **Proof of Service.** The following shall be *prima facie* evidence of service of the subpoena:
 - a) A completed return receipt;
 - b) Hand signed receipt of personal delivery; or
 - c) Affidavit of in-person delivery signed by a process server.

C. **Duration.** A subpoena shall remain in force until the end of a proceeding.

D. **Bench Warrant.** If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 140.

E. **Parental notification.**

- 1) *Generally.* If a witness is a minor, the witness's guardian shall be notified that the minor has been subpoenaed.
- 2) *Exception.* Upon prior court approval and good cause shown, a subpoena may be served upon a minor without such notification to the guardian. If and

when necessary, request for such prior court approval may be obtained *ex parte*.

COMMENT

Prior to issuing a bench warrant for a minor, the judge should determine if the guardian of the witness was served. Nothing in these rules gives the guardians of witnesses legal standing in the matter being heard by the court or creates a right for witnesses to have their guardians present. In addition, lack of required notice to the guardian does not prevent the minor witness from testifying. See Rule 140 for procedures on bench warrants.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa.Super. 36, 519 A.2d 978 ([Pa. Super. Ct] 1987) for punishing juveniles for contempt.

Any person may file a motion to quash the subpoena for a witness and/or for requested items. The court is to rule on the motion prior to the production of the witness or the items.

Official Note: Rule 123 adopted April 1, 2005, effective October 1, 2005. Amended February 26, 2008, effective June 1, 2008, **Amended May 12, 2008, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 123 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 123 published with the Court's Order at - Pa.B. - (- 2008). **Final Report explaining the amendments to Rule 123 published with the Court's Order at - Pa.B. - (- 2008).**

RULE 1123. SUBPOENAS

A. **Contents.** A subpoena in a dependency case shall:

- 1) order the witness named to appear before the court at the date, time, and place specified;
- 2) order the witness to bring any items identified or described;
- 3) state on whose behalf the witness is being ordered to testify; and
- 4) state the identity, address, and phone number of the person who applied for the subpoena.

B. **Service.**

- 1) **Method of Service.** A subpoena shall be served upon a witness by:
 - a) in-person delivery;
 - b) registered or certified mail, return receipt requested; or
 - c) first-class mail.

C. **Duration.** A subpoena shall remain in force until the end of a proceeding.

D. **Bench Warrant.** If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the court may issue a bench warrant.

COMMENT

A *subpoena duces tecum* is to set forth with particularity, the documents, records, or other papers to be produced at the hearing. The items sought are to be relevant to the proceedings. See Rule 1340 on discovery, *In re J.C.*, 412 Pa.Super. 369, 603 A.2d 627 (1992), and *In re A.H.*, 763 A.2d 873 (Pa. Super. Ct. 2000) for production of documents necessary to prepare for a hearing.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa.Super. 36, 519 A.2d 978 (1987) for punishment of contempt (children). See also *In re Griffin*, 456 Pa.Super. 440, 690 A.2d 1192 (1997) (foster parents), *Janet D. v. Carros*, 240 Pa.Super. 291, 362 A.2d 1060 (1976) (county agency), and *In re Rose*, 161 Pa.Super. 204, 54 A.2d 297 (1947) (parents) for additional guidance on contempt for other parties.

Any person may file a motion to quash the subpoena for a witness and/or for requested items. The court is to rule on the motion prior to the production of the witness or the items.

Official Note: Rule 1123 adopted August, 21, 2006, effective February 1, 2007. **Amended May 12, 2008, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1123 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the amendments to Rule 1123 published with the Court's Order at - Pa.B. - (- 2008).**

RULE 160. INSPECTION OF JUVENILE FILE/RECORDS

A. **General Rule.** All files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166, are open to inspection only by:

- 1) the judges, masters, juvenile probation officers, and staff of the court;
- 2) the attorney for the Commonwealth, the juvenile's attorney, and the juvenile, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information, except in the discretion of the court;
- 3) a public or private agency or institution providing supervision or having custody of the juvenile under order of the court;
- 4) a court and its probation officers and other officials or staff and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent;
- 5) a judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings, and histories of bench warrants and escapes;
- 6) the Administrative Office of Pennsylvania Courts;
- 7) officials of the Department of Corrections or a state correctional institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except in the discretion of the court;
- 8) a parole board, court, or county probation official in considering an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except in the discretion of the court;
- 9) the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;
- 10) the State Sexual Offenders Assessment Board for use in completing assessments; and

- 11) with leave of court, any other person, agency, or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

B. **Public availability.** Upon request, a public document shall be created by the clerk of courts if the case is designated eligible for public inspection pursuant to Rule 330 or 515.

- 1) For cases deemed eligible pursuant to Rule 330, the public document shall contain only the following information:
 - a) the juvenile's name;
 - b) the juvenile's age;
 - c) the juvenile's address; and
 - d) the offenses alleged in the juvenile's petition.
- 2) For cases deemed eligible pursuant to Rule 515, the public document shall contain only the following information:
 - a) the juvenile's name;
 - b) the juvenile's age;
 - c) the juvenile's address;
 - d) the offenses alleged in the juvenile's petition;
 - e) the adjudication on each allegation; and
 - f) the disposition of the case.

COMMENT

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

This rule is meant to include the contents of the juvenile court file as described in Rule 166 and the contents of the juvenile probation records or reports. Juvenile probation records or reports, include, but are not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, and placement facility records and reports.

When delinquency proceedings are commenced pursuant to Rule 200(4), the entire criminal court file is to be transferred with the case to juvenile court. This criminal case file is now the juvenile court file and the disclosure requirements of this rule apply.

Under Paragraph (B), there is one document for each eligible case that is open for public inspection. The public document should be clearly marked for employees of the clerks of courts' office as the only document available for inspection by the general public. All other information contained in the

juvenile court file is not open for public inspection but only open to inspection to the persons enumerated in paragraph (A).

See Rule 330 for designation of public availability status in the juvenile petition. See Rule 515 for designation of public availability status in the dispositional order.

Official Note: Rule 160 adopted April 1, 2005, effective October 1, 2005; amended December 30, 2005, effective immediately. Amended August 20, 2007, effective December 1, 2007. **Amended May 12, 2008, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006). Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B.4866 (September 8, 2007). **Final Report explaining the amendments to Rule 160 published with the Court's Order at - Pa.B. - (- 2008).**

**PART A
COMMENCING PROCEEDINGS**

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;
- 4) transfer of a case from a criminal proceeding pursuant to 42 Pa.C.S. § 6322;
- 5) the court accepting jurisdiction of a resident juvenile from another state; or
- 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.

Under paragraph (4), when a case is transferred from a criminal proceeding pursuant to 42 Pa.C.S. § 6322 to juvenile court, the entire case file is to be transferred. The case file is governed by the disclosure requirements of Rule 160.

Paragraph (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 (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.

Official Note: Rule 200 adopted April 1, 2005, effective October 1, 2005. Amended March 23, 2007, effective August 1, 2007. **Amended May 12, 2008, effective immediately.**

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. 1485 (April 7, 2007). **Final Report explaining the amendments to Rule 200 published with the Court's Order at - Pa.B. - (- 2008).**

RULE 1151. ASSIGNMENT OF GUARDIAN *AD LITEM* & COUNSEL

A. Guardian *ad litem* for child. The court shall assign a guardian *ad litem* to represent the legal interests and the best interests of the child if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

- 1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the physical, mental or emotional health, or morals;
- 2) has been placed for care or adoption in violation of law;
- 3) has been abandoned by parents, guardian, or other custodian;
- 4) is without a parent, guardian or legal custodian; or
- 5) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety, or welfare of the child.

B. Counsel for child. The court shall appoint legal counsel for a child:

- 1) if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:
 - a) while subject to compulsory school attendance is habitually and without justification truant from school;
 - b) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of the child's guardian and who is ungovernable and found to be in need of care, treatment, or supervision;
 - c) is under the age of ten years and has committed a delinquent act;
 - d) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or
 - e) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or

2) upon order of the court.

C. **Counsel and Guardian *ad litem* for child.** If a child has legal counsel and a guardian *ad litem*, counsel shall represent the legal interests of the child and the guardian *ad litem* shall represent the best interests of the child.

D. **Time of appointment.**

1) **Child in custody.** The court shall appoint a guardian *ad litem* or legal counsel immediately after a child is taken into protective custody and prior to any proceeding.

2) **Child not in custody.** If the child is not in custody, the court shall appoint a guardian *ad litem* or legal counsel for the child when a dependency petition is filed.

E. **Counsel for other parties.** If counsel does not enter an appearance for a party, the court shall inform the party of the right to counsel prior to any proceeding. If counsel is requested by a party in any case, the court shall assign counsel for the party if the party is without financial resources or otherwise unable to employ counsel. Counsel shall be appointed prior to the first court proceeding.

COMMENT

See 42 Pa.C.S. §§ 6302, 6311, and 6337.

The guardian *ad litem* for the child may move the court for appointment as legal counsel and assignment of a separate guardian *ad litem* when, for example, the information that the guardian *ad litem* possesses gives rise to the conflict and can be used to the detriment of the child. To the extent 42 Pa.C.S. § 6311(b)(9) is inconsistent with this rule, it is suspended. See Rule 1800. See also Pa.R.P.C. 1.7 and 1.8. Under paragraph (C), legal counsel represents the legal interests of the child and the guardian *ad litem* represents the best interests of the child.

Nothing in these rules anticipates that a guardian *ad litem* for an adult is to be appointed by these rules. For appointment of a guardian of the person, see 20 Pa.C.S. § 5501 et seq. and Pa.O.C. Rules 14.2 - 14.5.

Official Note: Rule 1151 adopted August, 21, 2006, effective February 1, 2007. Amended February 20, 2007, effective immediately. **Amended May 12, 2008, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1151 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). Final Report explaining the amendments to this rule published with the Court's Order at 37 Pa.B. 1123 (March 10, 2007). **Final Report explaining the amendments to Rule 1151 published with the Court's Order at - Pa.B. - (- 2008).**

RULE 1320. APPLICATION TO FILE A PRIVATE PETITION

A. **Application contents.** Any person, other than the county agency, may present an application to file a private petition with the court. The application shall include the following information:

- 1) the name of the person applying for a petition;
- 2) the name of the alleged dependent child;
- 3) the relationship of the person presenting this application to the child and to any other parties;
- 4) if known, the following:
 - a) the date of birth and address of the child;
 - b) the name and address of the child's guardian, or the name and address of the nearest adult relative;
 - c) if a child is Native American, the child's Native American history or affiliation with a tribe;
 - d) a statement, including court file numbers where possible, of pending juvenile or family court proceedings and prior or present juvenile or family court orders relating to the child;
- 5) a concise statement of facts in support of the allegations for which the application for a petition has been filed;
- 6) a statement that the applying person has reported the circumstances underlying this application to the county agency or a reason for not having reported the circumstances underlying the application;
- 7) a verification by the person making the application that the facts set forth in the application are true and correct to the 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; and
- 8) the signature of the person and the date of the execution of the application for a petition.

[B. Service. If a person presents an application for a petition under this rule, the person shall serve the application on the court and all parties to the proceeding.]

COMMENT

Rule 1330 requires that the county agency file a petition. Any person, other than the county agency, is to file an application to file a petition under this Rule. Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

See Rule 1321 for hearing on application and finding that a petition is to be filed by the county agency.

Official Note: Rule 1320 adopted August, 21, 2006, effective February 1, 2007. **Amended May 12, 2008, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1320 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). **Final Report explaining the amendments to Rule 1320 published with the Court's Order at - Pa.B. - (- 2008).**