

**SUPREME COURT OF PENNSYLVANIA
JUVENILE COURT PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Modifications to Pa.R.J.C.P. 105

The Juvenile Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the modifications to Pa.R.J.C.P. 105 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

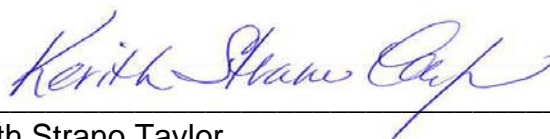
Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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Juvenile Court Procedural Rules Committee
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Pennsylvania Judicial Center
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All communications in reference to the proposal should be received by **October 1, 2015**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Juvenile Court Procedural Rules Committee,



Kerith Strano Taylor
Chair

EXPLANATORY REPORT

When Pa.R.J.C.P. 105 was adopted in 2005, it was believed that there should be one search warrant procedure for police officers to follow regardless of whether the matter concerned a criminal or juvenile case. Therefore, Rule 105 incorporated the Rules of Criminal Procedure into the Rules of Juvenile Court Procedure for search warrants. When Pa.R.J.C.P. 105 was adopted, Pa.R.Crim.P. 212 did not exist.

Pa.R.Crim.P. 212 was adopted in 2008. At that time, the Juvenile Court Procedural Rules Committee (Committee) did not request the addition of Pa.R.Crim.P. 212 to Pa.R.J.C.P. 105 because it believed juvenile records were confidential and not open to public inspection so the criminal rule was inapplicable to juvenile cases. The criminal rule provided that the issuing authority shall not make any search warrants and any affidavit(s) of probable cause available for public inspection or dissemination until the warrant has been executed. The Committee relied upon Pa.R.J.C.P. 160 and 42 Pa.C.S. § 6308.

In 2013, the original text of Pa.R.Crim.P. 212 was made paragraph (A) and a new paragraph (B) was added to clarify unexecuted warrants and affidavit(s) are not public records and shall be destroyed upon return to the issuing authority. Unexecuted warrants neither get filed with Court of Common Pleas nor become a part of the official court record. Therefore, the Juvenile Court Procedural Rules Committee believes it is important to incorporate this paragraph into the Pa.R.J.C.P. 105. Hence, the addition of Pa.R.Crim.P. 212(B) into Pa.R.J.C.P. 105.

To clarify the inapplicability of Pa.R.Crim.P. 212(A) to juvenile proceedings, a comment has been added to Rule 105 providing that warrants for juvenile cases shall be treated as juvenile records. It is illogical to make juvenile search warrants accessible for a brief period of time from the execution of a warrant until the return of the warrant. Once the return of the warrant is filed with the Court of Common Pleas, it is now part of the official court record, which makes the Rules of Juvenile Court Procedure applicable, including Rule 160 governing inspecting, copying, and disseminating the official court record. See Pa.R.Crim.P. 210 for filing of the return warrant with the Court of Common Pleas.