

INTRODUCTION

The Juvenile Court Procedural Rules Committee is eliciting public comment on proposed modifications to Rules 187 and 1187 before it considers any recommendations to the Supreme Court of Pennsylvania. These proposed modifications address cases that may be heard by masters and whether “master” should be changed to “hearing officer” throughout the Rules.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

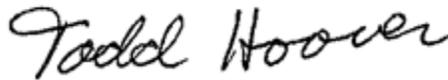
For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

Christine Riscili, Esq.
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Ave, Suite 6200
P.O. Box 62635
Harrisburg, PA 17106-2635.

All comments shall be received no later than Monday, September 24, 2012.

08/14/2012

BY THE JUVENILE COURT PROCEDURAL RULES
COMMITTEE:



Honorable Todd A. Hoover, Chair



Christine Riscili
Counsel

REQUEST FOR PUBLIC COMMENT

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on the authority of masters in juvenile court proceedings and whether “master” should be renamed “hearing officer.”

With the adoption of Act 111 of 2011(P.L. 446, No. 111, Cl. 18), the Committee believes a master should not preside over any cases involving sexual offenses because of the lifetime implications of an adjudication of delinquency for the juvenile. The *Comment* to the rule defines sexual offense as any offense prescribed by 18 Pa.C.S. Chapter 31.

As the Committee was making this proposed change, the Committee thought it was advisable to seek input on whether masters should or should not hear other types of cases in both delinquency and dependency proceedings.

Additionally, the Committee is seeking guidance on whether the term “master” should be changed to “hearing officer.” The origin of the term “master,” as used in the Rules, comes from the Juvenile Act. See 42 Pa.C.S. § 6301 *et seq.* The use of the term “master” has been the subject of controversy in several judicial districts because of the origin of word “master” and its negative connotation.

Because many judicial districts have changed the name of their attorneys presiding as “masters” to “hearing officers,” the Committee thought it should elicit comment to determine if the Rules of Juvenile Court Procedure should also be changed.

RULE 187. AUTHORITY OF [MASTER]HEARING OFFICER

A. **Cases to be heard by [Master]hearing officer.** A [master]hearing officer shall have the authority to preside over only the following:

- 1) detention hearings, detention review hearings, or shelter-care hearings;
- 2) discovery, pre-adjudicatory, or preliminary proceedings for misdemeanors;
- 3) any hearing in which the petition alleges only misdemeanors, **excluding sexual offense cases**; and
- 4) uncontested dispositional review hearings and uncontested probation revocation hearings.

B. **No authority.** A [master]hearing officer shall not have the authority to:

- 1) conduct transfer hearings pursuant to Rule 394;
- 2) **conduct hearings concerning any sexual offense**;
- 3) issue warrants; and
- ~~3~~4) hear requests for writs of *habeas corpus*.

C. **Right to hearing before judge.** Prior to the commencement of any proceeding, the [master]hearing officer shall inform the juvenile, the juvenile's guardian(s), if present, the juvenile's attorney, and the attorney for the Commonwealth that the juvenile and the Commonwealth have a right to have the matter heard by a judge. If the juvenile or the Commonwealth objects to having the matter heard by the [master]hearing officer, the case shall proceed before the judge.

COMMENT

A [master's]hearing officer's authority is limited under paragraph (A) to specifically those types of cases provided. To implement this rule, Rule 800 suspends 42 Pa.C.S. § 6305(b) only to the extent that [masters]hearing officers may not hear all classes of cases.

Pursuant to paragraph (A)(3), a sexual offense is any offense prescribed in 18 Pa.C.S.

Chapter 31.

Under paragraph (B)(2), nothing is intended to limit the [master's]hearing officer's ability, in a proper case before the [master]hearing officer, to recommend to the court that a warrant be issued. This includes arrest, bench, and search warrants.

Concerning the provisions of paragraph (C), see 42 Pa.C.S. § 6305(b).

See Rule 127 for recording of proceedings before a [master]hearing officer.

Official Note: Rule 187 adopted April 1, 2005, effective April 1, 2006. **Amended -, effective -.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 187 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). **Final Report explaining the amendments to Rule 187 published with the Court's order at - Pa.B. -(-).**

RULE 1187. AUTHORITY OF MASTER

A. **No authority.** A **[master]hearing officer** shall not have the authority to:

- 1) preside over:
 - a) termination of parental rights hearings;
 - b) adoptions;
 - c) any hearing in which any party seeks to establish a permanency goal of adoption or change the permanency goal to adoption;
- 2) enter orders for emergency or protective custody pursuant to Rules 1200 and 1210;
- 3) issue warrants; and
- 4) issue contempt orders.

B. **Right to hearing before judge.**

- 1) Prior to the commencement of any proceeding, the **[master]hearing officer** shall inform all parties of the right to have the matter heard by a judge. If a party objects to having the matter heard by the **[master]hearing officer**, the case shall proceed before the judge.
- 2) If a party objects to having the matter heard by the **[master]hearing officer** pursuant to paragraph (B)(1), the **[master]hearing officer** or the court's designee for scheduling cases shall immediately schedule a hearing before the judge. The time requirements of these rules shall apply.

COMMENT

A **[master's]hearing officer's** authority is limited under this rule. To implement this rule, Rule 1800 suspends 42 Pa.C.S. § 6305(b) only to the extent that **[masters]hearing officers** may not hear all classes of cases.

Under paragraph (A)(1)(c), once the permanency goal has been approved for adoption by a judge, all subsequent reviews or hearings may be heard by the **[master]hearing officer** unless a party objects pursuant to paragraph (B).

Under paragraph (A)(3), nothing is intended to limit the **[master's]hearing officer's** ability, in a proper case before the **[master]hearing officer** to recommend to the court that a warrant be issued. This includes arrest, bench, and search warrants.

Concerning the provisions of paragraph (B), see 42 Pa.C.S. § 6305(b).

Under paragraph (B)(2), it should be determined whenever possible before the date of the hearing whether there will be an objection to having the matter heard before a **[master]hearing officer**.

If it is anticipated that there will be an objection, the case is to be scheduled in front of the judge, rather than the **[master]hearing officer** to prevent continuances and delays in the case.

See Rule 1127 for recording of proceedings before a **[master]hearing officer**.

Official Note: Rule 1187 adopted August 21, 2006, effective February 1, 2007. **Amended -, effective -.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1187 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006). **Final Report explaining the amendments to Rule 1187 published with the Court's order at - Pa.B. -(-).**