

INTRODUCTION

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rule 200 and new Rule 337 be adopted and prescribed. The proposed modified Rule 200 adds that the new Pa.R.Crim.P. 595 be followed when transferring a case from a criminal proceeding to a juvenile proceeding. The new Rule 337 provides for the filing of a petition or conversion of the criminal complaint into a petition after a case has been transferred from criminal proceedings. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the intent of the Rules. Please note that the Committee's *Reports* should not be confused with the official Committee *Comments* to the Rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Reports*.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenile.rules@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. If you send in an emailed comment, do not resubmit it as a written comment. We will acknowledge receipt of your comment.

If you 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, Counsel
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.

no later than Friday, September 10, 2010.

August 3, 2010

BY THE JUVENILE COURT PROCEDURAL RULES
COMMITTEE:

Cynthia K. Stoltz, Esq., Chair

Christine Riscili, Esq.
Counsel

EXPLANATORY REPORT

Committee members from the Appellate Court, Criminal, and Juvenile Court Procedural Rules Committees were asked to participate in a Joint Ad Hoc Subcommittee with the Juvenile Court Judges' Commission which was developing best practices for transferring "direct file" cases from criminal proceedings to juvenile proceedings.

The purpose of the Joint Ad Hoc Committee was to make recommendations and develop procedures to smooth the transition of cases from criminal proceedings to juvenile proceedings within the procedural rules.

The majority of the Recommendations affect the Rules of Criminal Procedure because procedures for these cases begin in criminal court. See the proposed Criminal Rule modifications and new Pa.R.Crim.P. 595 for these procedures.

The Juvenile Court Procedural Rules Committee, in conjunction with the Criminal Procedural Rules Committee, is planning to propose the modification of Rule 200 and adoption of new Rule 337.

RULE 200 - COMMENCING PROCEEDINGS

The cite to the new Pa.R.Crim.P. 595 was placed in paragraph (4) when transferring a case from a criminal proceeding to juvenile proceedings.

In the *Comment*, the cite for new Pa.R.J.C.P. 337 was referenced in addition to Rule 404 for a prompt adjudicatory hearing.

RULE 337 - FILING OF PETITION AFTER CASE HAS BEEN TRANSFERRED FROM CRIMINAL PROCEEDINGS

Rather than require a new petition to be filed in every transfer case, this new rule was added to allow the criminal complaint to be converted into the petition when supplemented with the information in paragraph (C). The requirements of this paragraph are the items that are required in the petition which are not required in the criminal complaint. See Pa.R.Crim.P. 504 and Pa.R.J.C.P. 330.

**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) the filing of a certification with 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 **Pa.R.Crim.P. 595** **and** 42 Pa.C.S. § 6322;
- 5) the court accepting jurisdiction of a resident juvenile from another state; or
- 6) the court accepting supervision of a 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.

A proceeding may be commenced pursuant to paragraph (3) by filing a certification that attests the juvenile has failed to comply with a lawful sentence imposed for a summary offense, bypassing the need for a written allegation pursuant to Rule 231.

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. **See Rule 337 for the filing of petition after case has been transferred from a criminal proceeding. See Rule 404 for prompt adjudicatory hearing.**

This is a new rule.

RULE 337. FILING OF PETITION AFTER CASE HAS BEEN TRANSFERRED FROM CRIMINAL PROCEEDINGS.

A. Commencement of Proceedings. Pursuant to Rule 200(4), the transfer of a case from a criminal proceeding pursuant to Pa.R.Crim.P. 595 and 42 Pa.C.S. § 6322 commences juvenile court action.

B. Filing of the petition. When a juvenile is transferred from a criminal proceeding:

- 1) a new petition shall be filed; or**
- 2) the criminal complaint shall be converted into a petition pursuant to paragraph (C).**

C. Conversion of Criminal Complaint. The criminal complaint shall be converted into a petition when supplemented with the following information and filed with the clerk of courts pursuant to Rule 330(B):

- 1) the juvenile's date of birth;**
- 2) the names and ages of any conspirators, if known;**
- 3) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative;**
- 4) whether the case is eligible pursuant to 42 Pa. C.S. § 6307(b)(1)(i) for limited public information; and**
- 5) the transfer order, including, a statement which provides:**
 - a) it is in the best interest of the juvenile and the public that the proceedings be brought in juvenile court; and**
 - b) the juvenile is amenable to treatment, supervision, or rehabilitation as a juvenile.**

COMMENT

When a judge orders that a juvenile is transferred from a criminal proceeding to a juvenile proceeding, the transfer order commences the juvenile delinquency proceeding. See Rule 200(4).

When a juvenile is transferred from a criminal proceeding to a juvenile proceeding, a new petition may be filed, but is not necessary if the criminal complaint is converted into a petition when supplemented with the information as provided in paragraph (C). The petition is to be filed with the clerk of courts and the case is to proceed as any other juvenile case following the Rules of Juvenile Court Procedure.

An adjudicatory hearing is to be held within ten days of the filing of the petition. See also Rule 404.