

Rule 240. Detention of Juvenile

- (A) **Detention [r]Requirements.** If a juvenile is brought before the court or delivered to a detention facility designated by the court, the juvenile probation officer immediately shall:
- (1) examine the written allegation;
 - (2) make an investigation, which may include an intake conference with the juvenile, the juvenile's attorney, guardian, or other interested and informed adult; and
 - (3) release the juvenile, unless it appears that the juvenile's detention is warranted.
- (B) **Filing of [p]Petition.** The release of the juvenile shall not prevent the subsequent filing of a petition.
- (C) **Prompt [h]Hearing.** If the juvenile is not released, a detention hearing shall be held no later than **[seventy-two] 72** hours after the juvenile is placed in detention. Neither the juvenile nor the juvenile's attorney shall be permitted to waive the detention hearing.
- (D) **Time [r]Restrictions.** Except as provided in **this** paragraph[s (D)(1) and (D)(2)], if the adjudicatory hearing is not held **[or notice of request for transfer is not submitted within the ten-day period as specified in Rules 391 and 404], as required by Rule 404(A), or a transfer hearing is not held, as required by Rule 391(B)**, the juvenile shall be released.
- (1) **[A] Upon motion, a** juvenile may be detained for an additional single period not to exceed **[ten]10** days when the court determines that:
 - (a) evidence material to the case is unavailable;
 - (b) due diligence to obtain such evidence has been exercised;
and
 - (c) there are reasonable grounds to believe that such evidence will be available at a later date[; **and**].

[d] the detention of the juvenile would be warranted.]

- (2) **[A] Upon motion, a juvenile may be detained for [successive ten-day intervals] additional periods, each of which shall not exceed 10 days,** if the delay is caused by the juvenile. The court shall state on the record if failure to hold the hearing resulted from delay caused by the juvenile. Delay caused by the juvenile shall include, but not be limited to:
- (a) delay caused by the unavailability of the juvenile or the juvenile's attorney;
 - (b) delay caused by any continuance granted at the request of the juvenile **[or the juvenile's attorney]**; or
 - (c) delay caused by the unavailability of a witness resulting from conduct by or on behalf of the juvenile.
- (3) **Whenever extended detention is sought under this paragraph, the court shall consider whether detention remains warranted.**

Comment

If a juvenile is detained, the guardian should be notified immediately. See Rules 220 (Procedure in Cases Commenced by Arrest Without Warrant) and 313(B) (Detention from Intake—Notice to Guardian) for notification of the guardian.

Nothing in paragraph (C) is intended to preclude the use of stipulations or agreements among the parties, subject to court review and acceptance at the detention hearing.

Under paragraph (D)(2), if the juvenile causes delay, the juvenile may continue to be held in detention. **[The a]Additional periods** of detention should not **individually** exceed ten days. **[The court may continue such detention for successive ten-day intervals if the juvenile caused the delay.]** The time restrictions of paragraph (D) apply to a juvenile who is placed in detention, even if previously released.

For motions for continuance, see Rule 122.

Under paragraph (D)(3), whenever extension of a juvenile's detention may result, the court should consider whether continued detention is warranted and whether a less restrictive alternative to secured detention is available. Factors for determining whether continued detention is warranted include: protection of the juvenile; protection of others or their property; the risk the juvenile may abscond or be removed from the court's jurisdiction; and whether the juvenile has a parent, guardian, or custodian able to provide supervision and care for the juvenile and return the juvenile to the court when required. See 42 Pa.C.S. § 6325.

[For time restrictions on detention for juveniles scheduled for a transfer hearing to criminal proceedings, see Rule 391.]

For statutory provisions on detention, see 42 Pa.C.S. §§ 6325, 6331, 6335. For the Juvenile Court Judges Commission's Detention Standards, see 37 Pa. Code §§ 200.101 *et seq.* (200[3]7).

If a juvenile is detained, the juvenile is to be placed in a detention facility, which does not include a county jail or state prison. See Rule 120 and its Comment for definition of "detention facility."

Official Note: Rule 240 adopted April 1, 2005, effective October 1, 2005. Amended June 28, 2013, effective immediately. Amended May 16, 2017, effective July 1, 2017. **Amended November 30, 2021, effective April 1, 2022.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 240 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 240 published with the Court's Order at 43 Pa.B. 3938 (July 13, 2013). Final Report explaining the amendments to Rule 240 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017). **Final Report explaining the amendments to Rule 240 published with the Courts' Order at Pa.B. (, 2021).**

Rule 391. Time Restrictions for Detention of Juveniles Scheduled for Transfer Hearing

- (A) **Generally.** The detention requirements of Rules 240, 241, 242, and 243 shall be followed for juveniles scheduled for a transfer hearing **[except for the time restrictions provided in paragraph (B) of this rule].**
- (B) **Time Restrictions.** If the transfer hearing is not held within **[ten] 10** days of the filing of the notice of request for transfer to criminal proceedings, the juvenile shall be released **[except as provided in paragraphs (B)(1) and (B)(2)] unless the exceptions of Rule 240(D) apply.**
- [(1) **A juvenile may be detained for an additional single period not to exceed ten days when the court determines:**
- (a) **that evidence material to the case is unavailable, including a psychological or psychiatric evaluation;**
 - (b) **that due diligence to obtain such evidence or evaluation has been exercised;**
 - (c) **that there are reasonable grounds to believe that such evidence or evaluation will be available at a later date; and**
 - (d) **that the detention of the juvenile would be warranted.**
- (2) **A juvenile may be detained for successive ten-day intervals if the result of delay is caused by the juvenile. The court shall state on the record if failure to hold the hearing resulted from delay caused by the juvenile. Delay caused by the juvenile shall include, but not be limited to:**
- (a) **delay caused by the unavailability of the juvenile or the juvenile's attorney;**
 - (b) **delay caused by any continuance granted at the request of the juvenile or the juvenile's attorney; or**
 - (c) **delay caused by the unavailability of a witness resulting from conduct by or on behalf of the juvenile.]**

Comment

The filing of a request for transfer to criminal proceedings resets the **[ten] 10**-day clock for a hearing for the juvenile in detention. The transfer hearing is to be held within **[ten] 10** days of the filing of a request for transfer to criminal proceedings, not **[ten] 10** days from the date of detention for the juvenile. This time requirement is different than the time requirement for the adjudicatory hearing under Rule 240(D). See Rule 800.

[Under Paragraph (B)(1), the case may be extended for only one single period of ten days. However, under paragraph (B)(2) when the juvenile causes delay, the case may be extended for successive ten-day intervals.]

Official Note: Rule 391 adopted April 1, 2005, effective October 1, 2005. **Amended November 30, 2021, effective April 1, 2022.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 391 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). **Final Report explaining the amendments to Rule 391 published with the Courts' Order at Pa.B. (, 2021).**

Rule 404. Prompt Adjudicatory Hearing

- (A) **Detained [j]Juvenile.** If the juvenile is detained, an adjudicatory hearing shall be held within **[ten] 10** days of the filing of the petition. If the adjudicatory hearing is not held within **[ten] 10** days, the juvenile shall be released unless the exceptions of Rule 240(D) apply.
- (B) **Non-detained [j]Juvenile.** If the juvenile is not detained, the adjudicatory hearing shall be held within a reasonable time.
- [(C) **Juveniles transferred from criminal proceedings. Notwithstanding the provisions of paragraphs (A) and (B), if a petition was filed pursuant to Rule 337, an adjudicatory hearing shall be held within ten days of the filing of the petition.]**

Comment

The “filing of a petition” in paragraph (A) includes petitions filed pursuant to Rule 337 if the juvenile is detained following transfer from criminal proceedings.

Official Note: Rule 404 adopted April 1, 2005, effective October 1, 2005. Amended July 31, 2012, effective November 1, 2012. **Amended November 30, 2021, effective April 1, 2022.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 404 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 404 published with the Court’s Order at 42 Pa.B. 5350 (August 18, 2012). **Final Report explaining the amendments to Rule 404 published with the Courts’ Order at Pa.B. (, 2021).**