

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

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.J.C.P. 1187

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rule of Juvenile Court Procedure 1187 governing the authority of juvenile court hearing officers for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

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Pennsylvania Judicial Center
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All communications in reference to the proposal should be received by **May 26, 2023**. 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,

The Honorable Alice Beck Dubow, Chair

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

PUBLICATION REPORT

Proposed Amendment of Pa.R.J.C.P. 1187

The Juvenile Court Procedural Rules Committee (“Committee”) proposes to amend Rule 1187 of the Pennsylvania Rules of Juvenile Court Procedure to clarify that a juvenile court hearing officer (JCHO) is not prohibited from recommending an order for protective custody.

The Committee has discussed the merits of rulemaking that would permit a JCHO to seek a protective custody order during a permanency hearing. The genesis of these discussions is the occasion when a JCHO hears evidence during a permanency review hearing that would indicate the necessity for an order for protective custody. *Cf.* 1606. When those circumstances arise, the Committee believes the JCHO should be able to immediately contact a judge and recommend such an order provided witnesses are available to the judge at the time of the recommendation. While such an ability may be implicit under Pa.R.J.C.P. 1187, a majority of the Committee favored amending the commentary to clarify the authority of the JCHO.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

Rule 1187. Authority of Juvenile Court Hearing Officer.

[A.](a) No [authority] Authority. A juvenile court hearing officer shall not have the authority to:

(1) preside over:

[a)](i) termination of parental rights hearings;

[b)](ii) adoptions;

[c)](iii) 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] Rule 1202(A)(2) or Rule 1210**;

(3) issue warrants; and

(4) issue contempt orders.

[B.](b) Right to [hearing before judge] Hearing Before Judge.

(1) Prior to the commencement of any proceeding, the juvenile court 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 juvenile court hearing officer, the case shall proceed before the judge.

(2) If a party objects to having the matter heard by the juvenile court hearing officer pursuant to **[paragraph (B)(1)] subdivision (b)(1)**, the juvenile court 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 juvenile court 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 juvenile court hearing officers may not hear all classes of cases.

[Under paragraph (A)(1)(c)] Pursuant to subdivision (a)(1)(iii), once the permanency goal has been approved for adoption by a judge, all subsequent reviews or

hearings may be heard by the juvenile court hearing officer unless a party objects pursuant to **[paragraph (B)] subdivision (b)**.

Subdivision (a)(2) is not intended to limit the juvenile court hearing officer's ability to recommend to the court that an order for protective custody be issued during any proceeding, including a permanency review hearing, if witnesses are available to provide sufficient evidence to a judge at the time of the recommendation.

[Under paragraph (A)(3), nothing] Subdivision (a)(3) is not intended to limit the juvenile court hearing officer's ability, in a proper case before the juvenile court 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)] subdivision (b)**, see 42 Pa.C.S. § 6305(b).

[Under paragraph (B)(2)] Pursuant to subdivision (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 juvenile court hearing officer. If it is anticipated **[that] there will be an objection, the case **[is to] should** be scheduled in front of **[the] a** judge, rather than the juvenile court hearing officer, to prevent continuances and delays in the case.**

See Rule 1127 for recording of proceedings before a juvenile court hearing officer.

[Official Note: Rule 1187 adopted August 21, 2006, effective February 1, 2007. Amended April 6, 2017, effective September 1, 2017.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1187 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006). Final Report explaining the amendments to Rule 1187 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).]