

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

ADOPTION REPORT

Amendment of Pa.R.Crim.P. 115, 550, 590 and 591

On August 3, 2026, the Supreme Court amended Pennsylvania Rules of Criminal Procedure 115, 550, 590, and 591. The Criminal Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

Currently, Pa.R.Crim.P. 550 governs procedures for guilty pleas in court cases that are entered before a magisterial district judge. Similarly, Pa.R.Crim.P. 590 governs procedures for guilty and *nolo contendere* pleas entered before a judge of the court of common pleas. These rules provide, *inter alia*, that a plea shall not be accepted unless the judge determines, “after inquiry of the defendant, that the plea is voluntarily and understandingly tendered.” See Pa.R.Crim.P. 550(B); Pa.R.Crim.P. 590(A)(3). The Comments to both rules outline specific inquiries for judges to engage in at the time of the plea to ensure that the defendant’s plea is being entered into voluntarily and understandingly, *i.e.*, a guilty plea colloquy. In addition, the Comment to Pa.R.Crim.P. 550 provides that the magisterial district judge should be satisfied of the court’s jurisdiction to accept the plea and that the defendant is eligible to plead guilty before a magisterial district judge.

Upon review, the Committee found it inapt to identify these mandatory inquiries in rule commentary. Accordingly, the Committee proposed relocating them to the rule text. In addition, the Committee proposed expanding upon these inquiries to include additional topics relevant to determining whether the plea is being entered knowingly, intelligently, and voluntarily, *e.g.*, the defendant’s understanding that a conviction may result in immigration consequences if the defendant is not a United States citizen. The Committee also proposed amendments to both rules that would govern the manner of conducting the colloquy.

The proposed amendments to Pa.R.Crim.P. 590 would have also required defense counsel to certify that counsel “has had the opportunity to discuss the case with the defendant and that the defendant has been advised of the defendant’s rights.” The Committee did not initially include a similar certification requirement in proposed Pa.R.Crim.P. 550.

The Committee published the proposal in the *Pennsylvania Bulletin*, see 52 Pa.B. 2689 (May 7, 2022), and received three comments. The Committee made a number of

post-publication revisions. The proposed rules were restyled and Pa.R.Crim.P. 115 and 591 were added to the proposal with corollary amendments. Other post-publication revisions were more substantive.

Post-publication, the Committee revisited the manner in which a guilty plea colloquy would need to be conducted in the magisterial district court. As initially proposed, Pa.R.Crim.P. 550 would have required the magisterial district judge to perform the entire colloquy. This was distinguishable from proposed Pa.R.Crim.P. 590 which gave the court of common pleas judge discretion to allow counsel to perform portions of the colloquy. Certain portions of the colloquy would also be able to be conducted in writing and outside of the judge's presence.

The Committee observed no reason why the magisterial district judge should be required to conduct the entire colloquy, while the court of common pleas judge would have discretion to delegate certain portions to counsel. Accordingly, proposed Pa.R.Crim.P. 550 was further revised to give discretion to the magisterial district judge to let counsel perform certain portions of the colloquy. As with procedures in the court of common pleas, when counsel performs the colloquy, the rule would require that certain portions be done in the presence of the magisterial district judge.

In addition, the Committee revised proposed Pa.R.Crim.P. 550 to expressly authorize a magisterial district judge to utilize a written colloquy with respect to those inquiries that need not be conducted in the magisterial district judge's presence. However, the Committee did note that magisterial district judges already utilize a written guilty plea colloquy form provided by the Administrative Office of Pennsylvania Courts (AOPC) pursuant to Pa.R.Crim.P. 104 (Design of Forms). The Committee anticipates that AOPC will update the form to effectuate these amendments.

A commenter suggested that Pa.R.Crim.P. 550 require a detailed acknowledgment of all rights that the defendant is waiving by entering a plea. The commenter noted that review of a plea entered before a magisterial district judge is difficult because the magisterial district court is not a court of record and there is no requirement that the colloquy be reduced to writing. The Committee declined to make this revision because magisterial district judges do typically use a written colloquy. However, to address the underlying concern, the proposed Comment to Pa.R.Crim.P. 550 was revised to make clear that the written colloquy should be included in the documents transmitted to the clerk of courts pursuant to subdivision (i).

A commenter raised a concern regarding the requirement in Pa.R.Crim.P. 550 that the magisterial district judge confirms that the defendant is eligible to enter a guilty plea. As originally proposed, the commentary would have directed the magisterial district judge to review the defendant's criminal record. This was seen as potentially problematic because magisterial district judges do not have access the relevant databases necessary

to obtain the defendant's record. To address this concern, the Committee included additional commentary explaining that the Commonwealth or the arresting officer is responsible for providing the magisterial district judge with the defendant's record.

The Committee also added additional commentary to Pa.R.Crim.P. 550 that directs the magisterial district judge to confirm that the defendant has not been induced by promises beyond those contained in any plea agreement. This additional commentary is substantially identical to language that has been proposed in the Comment of Pa.R.Crim.P. 590.

Turning to Pa.R.Crim.P. 590, the Committee added a requirement that the defendant understand that a guilty or *nolo contendere* plea will preclude consideration for ARD and may preclude consideration for other diversionary programs. This addition was meant to mirror similar language included in Pa.R.Crim.P. 550.

The Committee also determined that the certification required from defense counsel in proposed Pa.R.Crim.P. 590 should be more specific. A certification stating that counsel has advised the defendant of his or her "rights" was determined to be too vague and potentially more limited than the inquiries mandated by the proposed rule. Accordingly, the Committee revised proposed Pa.R.Crim.P. 590 to require defense counsel to certify that "counsel has had the opportunity to discuss the case with the defendant and that counsel has explained the items enumerated in subdivisions (a)(3)(ii)(E) and (a)(3)(iii)."

Relatedly, the Committee revised proposed Pa.R.Crim.P. 550 to require a similar certification requirement for defense counsel in proceedings before the magisterial district judge. However, since the magisterial district court is not a "court of record," Pa.R.Crim.P. 550 would require the certification to be in writing.

The Committee also revised both proposed Pa.R.Crim.P. 550 and 590 by including an additional requirement that the defendant understand that he or she would be allowed to participate in the selection of the jury panel if the case were to proceed to trial. This addition was made for the sake of completeness since the proposal would have already required that the defendant understand his or her right to a jury trial.

Additional provisions were also added to both rules to make clear that any written colloquy would need to be read, completed, and signed by the defendant, and that the colloquy would need to be made part of the record. Similar language is currently found in the Comment to Pa.R.Crim.P. 590. Moving it to the rule text was intended to assist courts when reviewing challenges to guilty pleas and to provide further assurance that the defendant is entering the plea knowingly, intelligently, and voluntarily. In addition, it aligns with the similar requirements found in other criminal rules involving the waiver of important rights. See Pa.R.Crim.P. 121(B) (waiver of counsel in proceedings before an

issuing authority must be in writing, signed by the defendant, and made part of the record); Pa.R.Crim.P. 620 (“The waiver [of a jury trial] shall be in writing, made a part of the record, and signed by the defendant, the attorney for the Commonwealth, the judge, and the defendant’s attorney as a witness.”).

A commenter suggested that both Pa.R.Crim.P. 550 and 590 should require that the defendant be advised of the timeframes for filing a post-sentence motion and for filing a notice of appeal. Upon consideration, the Committee declined to make any revisions to address this issue. The Comment to Pa.R.Crim.P. 550 already advises that “[w]ithdrawal of the guilty plea is the only relief available before a magisterial district judge for a defendant who has entered a plea pursuant to this rule. Any further challenge to the entry of the plea must be sought in the court of common pleas.” Pa.R.Crim.P. 550, cmt. Regarding pleas taken entered in the court of common pleas, Pa.R.Crim.P. 704(C)(3)(a) already addresses these concerns. See Pa.R.Crim.P. 704(C)(3)(a) (requiring a defendant to be advised of the time within which to file a post-sentence motion and to file an appeal).

Finally, the following commentary has also been removed:

Pa.R.Crim.P. 550:

Before accepting a plea:

- (a) The magisterial district judge should be satisfied of jurisdiction to accept the plea, and should determine whether any other related offenses exist that might affect jurisdiction.
- (b) The magisterial district judge should be satisfied that the defendant is eligible under the law to plead guilty before a magisterial district judge, and, when relevant, should check the defendant’s prior record and inquire into the amount of damages.
- (c) The magisterial district judge should advise the defendant of the right to counsel. For purposes of appointment of counsel, these cases should be treated as court cases, and the Rule 122 (Appointment of Counsel) procedures should be followed.
- (d) The magisterial district judge should advise the defendant that, if the defendant wants to change the plea to not guilty, the defendant, within 30 days after imposition of sentence, must notify the magisterial district judge who accepted the plea of this decision in writing.

(e) The magisterial district judge should make a searching inquiry into the voluntariness of the defendant's plea. A colloquy similar to that suggested in Rule 590 should be conducted to determine the voluntariness of the plea. At a minimum, the magisterial district judge should ask questions to elicit the following information:

- (1) that the defendant understands the nature of the charges pursuant to which the plea is entered;
- (2) that there is a factual basis for the plea;
- (3) that the defendant understands that he or she is waiving the right to trial by jury;
- (4) that the defendant understands that he or she is presumed innocent until found guilty;
- (5) that the defendant is aware of the permissible range of sentences and/or fines for the offenses charged;
- (6) that the defendant is aware that the magisterial district judge is not bound by the terms of any plea agreement tendered unless the magisterial district judge accepts such agreement; and
- (7) that the defendant understands that the plea precludes consideration for ARD or other diversionary programs.

See Rule 590 and the Comment thereto for further elaboration of the required colloquy.

See also *Commonwealth v. Minor*, 356 A.2d 346 (Pa. 1976), overruled on other grounds in *Commonwealth v. Minarik*, 427 A.2d 623, 627 (Pa. 1981); *Commonwealth v. Ingram*, 316 A.2d 77 (Pa. 1974); *Commonwealth v. Martin*, 282 A.2d 241 (Pa. 1971).

While the rule continues to require a written plea incorporating the contents specified in paragraph (C), the form of plea was deleted in 1985

because it is no longer necessary to control the specific form of written plea by rule.

[NOTE: Rule 149 adopted June 30, 1977, effective September 1, 1977; Comment revised January 28, 1983, effective July 1, 1983; amended November 9, 1984, effective January 2, 1985; amended August 22, 1997, effective January 1, 1998; renumbered Rule 550 and amended March 1, 2000, effective April 1, 2001; amended December 9, 2005, effective February 1, 2006; amended January 6, 2014, effective March 1, 2014; Comment revised March 9, 2016, effective July 1, 2016.

COMMITTEE EXPLANATORY REPORTS: Final Report explaining the August 22, 1997 amendments, that clarify the procedures following a district justice's acceptance of a guilty plea and imposition of sentence in a court case published with the Court's order at 27 Pa.B. 4548 (September 6, 1997). Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000). Final Report explaining the December 9, 2005 changes to the rule clarifying the magisterial district judges' exercise of jurisdiction published with the Court's Order at 35 Pa.B. 6896 (December 24, 2005). Final Report explaining the January 6, 2014 changes to the rule increasing the time for withdrawal of the guilty plea from 10 to 30 days published with the Court's Order at 44 Pa.B. 478 (January 25, 2014). Final Report explaining the March 9, 2016 Comment revision concerning the Rule 705.1 restitution procedures published with the Court's Order at 46 Pa.B. 1540 (March 26, 2016).]

Pa.R.Crim.P. 590

It is difficult to formulate a comprehensive list of questions a judge must ask of a defendant in determining whether the judge should accept the plea of guilty or a plea of nolo contendere. Court decisions may add areas to be encompassed in determining whether the defendant understands the full impact and consequences of the plea, but is nevertheless willing to enter that plea. At a minimum the judge should ask questions to elicit the following information:

- (1) Does the defendant understand the nature of the charges to which he or she is pleading guilty or nolo contendere?
- (2) Is there a factual basis for the plea?

- (3) Does the defendant understand that he or she has the right to trial by jury?
- (4) Does the defendant understand that he or she is presumed innocent until found guilty?
- (5) Is the defendant aware of the permissible range of sentences and/or fines for the offenses charged?
- (6) Is the defendant aware that the judge is not bound by the terms of any plea agreement tendered unless the judge accepts such agreement?
- (7) Does the defendant understand that the Commonwealth has a right to have a jury decide the degree of guilt if the defendant pleads guilty to murder generally?

The Court in *Commonwealth v. Willis*, 369 A.2d 1189 (Pa. 1977), and *Commonwealth v. Dilbeck*, 353 A.2d 824 (Pa. 1976), mandated that, during a guilty plea colloquy, judges must elicit the information set forth in paragraphs (1) through (6) above. In 2008, the Court added paragraph (7) to the list of areas of inquiry.

Many, though not all, of the areas to be covered by such questions are set forth in a footnote to the Court's opinion in *Commonwealth v. Martin*, 282 A.2d 241, 244-245 (Pa. 1971), in which the colloquy conducted by the trial judge is cited with approval. See also *Commonwealth v. Minor*, 356 A.2d 346 (Pa. 1976), and *Commonwealth v. Ingram*, 316 A.2d 77 (Pa. 1974). As to the requirement that the judge ascertain that there is a factual basis for the plea, see *Commonwealth v. Maddox*, 300 A.2d 503 (Pa. 1973) and *Commonwealth v. Jackson*, 299 A.2d 209 (Pa. 1973).

In addition, nothing in the rule would preclude the use of a written colloquy that is read, completed, signed by the defendant, and made part of the record of the plea proceedings. This written colloquy would have to be supplemented by some on-the-record oral examination. Its use would not, of course, change any other requirements of law, including these rules, regarding the prerequisites of a valid guilty plea or plea of nolo contendere

The 1995 amendment deleting former paragraph (B)(1) eliminates the absolute prohibition against any judicial involvement in plea discussions in order to align the rule with the realities of current practice. For example, the rule now permits a judge to inquire of defense counsel and the attorney for the Commonwealth whether there has been any discussion of a plea agreement, or to give counsel, when requested, a reasonable period of time to conduct such a discussion.

Paragraph (B)(1) was amended and paragraph (B)(3) was added in 2018 to clarify that the intent of this rule is that a plea made pursuant to an agreement may be entered any time prior to verdict. Any local rule that places a time limit for the entry of such pleas prior to verdict is in conflict with this rule and therefore invalid.

When a guilty plea, or plea of nolo contendere, includes a plea agreement, the 1995 amendment to paragraph (B)(2) requires that the judge conduct a separate inquiry on the record to determine that the defendant understands and accepts the terms of the plea agreement. See *Commonwealth v. Porreca*, 595 A.2d 23 (Pa. 1991).

Former paragraph (B)(3) was deleted in 1995 for two reasons. The first sentence merely reiterated an earlier provision in the rule. See paragraph (A)(3). The second sentence concerning the withdrawal of a guilty plea was deleted to eliminate the confusion being generated when that provision was read in conjunction with Rule 591. As provided in Rule 591, it is a matter of judicial discretion and case law whether to permit or direct a guilty plea or plea of nolo contendere to be withdrawn. See *also Commonwealth v. Porreca*, 595 A.2d 23 (Pa. 1991) (the terms of a plea agreement may determine a defendant's right to withdraw a guilty plea).

Paragraph (C) reflects a change in Pennsylvania practice, that formerly required the judge to convene a panel of three judges to determine the degree of guilt in murder cases in which the imposition of a sentence of death was not statutorily authorized. The 2008 amendment to paragraph (C) and the Comment recognizes the Commonwealth's right to have a jury determine the degree of guilt following a plea of guilty to murder generally.

See Article I, § 6 of the Pennsylvania Constitution that provides that “the Commonwealth shall have the same right to trial by jury as does the accused.” See also *Commonwealth v. White*, 910 A.2d 648 (Pa. 2006).

Note: Rule 319 (a) adopted June 30, 1964, effective January 1, 1965; amended November 18, 1968, effective February 3, 1969; paragraph (b) adopted and title of rule amended October 3, 1972, effective 30 days hence; specific areas of inquiry in Comment deleted in 1972 amendment, reinstated in revised form March 28, 1973, effective immediately; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; paragraph (c) added and Comment revised May 22, 1978, effective July 1, 1978; Comment revised November 9, 1984, effective January 2, 1985; amended December 22, 1995, effective July 1, 1996; amended July 15, 1999, effective January 1, 2000; renumbered Rule 590 and Comment revised March 1, 2000, effective April 1, 2001; amended September 18, 2008, effective November 1, 2008; Comment revised March 9, 2016, effective July 1, 2016; amended January 18, 2018, effective April 1, 2018.

COMMITTEE EXPLANATORY REPORTS: Final Report explaining the December 22, 1995 amendments published with the Court’s Order at 26 Pa.B. 8 (January 6, 1996). Final Report explaining the July 15, 1999 changes concerning references to nolo contendere pleas and cross-referencing Rule 320 published with the Court’s Order at 29 Pa.B. 4057 (July 31, 1999). Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court’s Order at 30 Pa.B. 1478 (March 18, 2000). Final Report explaining the September 18, 2008 amendments to paragraph (C) concerning juries determining degree of guilt published with the Court’s Order at 38 Pa.B. 5431 (October 4, 2008). Final Report explaining the March 9, 2016 Comment revision concerning the Rule 705.1 restitution procedures published with the Court’s Order at 46 Pa.B. 1540 (March 26, 2016). Final Report explaining the January 18, 2018 amendments concerning plea agreement deadlines published with the Court’s Order at 48 Pa.B. 730 (February 3, 2018).

Pa.R.Crim.P. 591

For a discussion of plea withdrawals when a guilty plea or plea of nolo contendere includes a plea agreement, see the Comment to Rule 590.

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The amendments become effective January 1, 2027.