

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

REPORT

Proposed New Pa.R.J.C.P. 415 and 518; Proposed Amendment of Rule 620

The Juvenile Court Procedural Rules Committee proposes new Rule 415 and 518, together with the amendment of Rule 620, to provide a procedural mechanism for weight of the evidence claims to be raised before the juvenile court.

In light of *In re J.B.*, 106 A.3d 76 (Pa. 2014), the Committee considered a procedural rule concerning preservation of the weight of the evidence claims for appeal. In that case, a juvenile was charged with offenses related to the shotgun death of his father's fiancé. At the adjudicatory hearing, there was evidence that the victim's former boyfriend had a history of making threats of violence against her, which might have raised doubt about whether the juvenile committed the offenses. The court entered a finding that the juvenile committed the offenses, excluding the former boyfriend as a suspect. The court thereafter held a dispositional hearing and committed the juvenile to a secure detention facility.

The juvenile filed an appeal, claiming that the finding was against the weight of the evidence. A question before the Supreme Court was whether the juvenile waived the claim by failing to raise it first with the juvenile court. The Court observed that, unlike Pa.R.Crim.P. 607, the Pennsylvania Rules of Juvenile Court Procedure do not contain a provision addressing how or when a weight of the evidence claim should be raised. Moreover, Pa.R.J.C.P. 620 indicates that post-dispositional motions are optional. Ultimately, given the uncertain direction provided by the Rules, the juvenile was permitted to raise the claim in a post-dispositional motion *nunc pro tunc*.

In response, the Committee prepared a proposal concerning weight of the evidence claims and published it for comment at 45 Pa.B. 1491 (March 28, 2015). The proposal provided for a new Rule 420 to require a weight of the evidence claim to be raised by a motion for reconsideration as it relates to a ruling on the offenses, adjudication of delinquency, or transfer to criminal proceedings.

Post-publication, the Committee further revised the proposal to provide for a new Rule 415 addressing claims that a ruling on the offenses or an adjudication of delinquency was against the weight of the evidence. A new Rule 518 would address those types of claims arising from a dispositional order.

In addition, the text to Rule 620 was revised to reflect the required filing of a post-dispositional motion pursuant to new Rule 518 and that post-dispositional motions were

no longer optional in all circumstances. Other revisions, including the modification of the Comment, were primarily stylistic or editorial in nature, but for the addition of paragraph (D)(6).

The intention of Rule 620(D)(6) was to accommodate Pennsylvania Rule of Appellate Procedure 1770, which provides for expedited appellate review of out of home placements in delinquency matters. Pa.R.A.P. 1770(a) requires a petition for review of the out of home placement to be filed with ten days of the placement order. Thereafter, an answer may be filed within ten days of service of the petition. Pa.R.A.P. 1770(d). Moreover, the juvenile court has within five days of service of the petition to either file a statement of the reasons for the placement or indicate in the record where the reasons may be found. Pa.R.A.P. 1770(f).

Guided by need to maintain an expedited review process and consistency with *In re J.B.*, the Committee proposes that Rule 620(D)(6) state:

A post-dispositional motion pursuant to Rule 518 seeking to challenge whether an out of home placement was against the weight of the evidence should be decided by the court within the time constraints of Pa.R.A.P. 1770(f) when the issue is raised in a petition for review pursuant to Pa.R.A.P. 1770.

This approach is not without implication. In this narrow category of cases, one impact may be the virtual elimination of the potential for the prosecution to file an answer to the post-dispositional motion before the juvenile court decides the motion. An alternative would be to subject the Rule 518 motion, albeit narrowed to the issue of whether placement was against the weight of the evidence, to the same time line as all other post-dispositional motions. However, this approach appeared contrary to the expeditious goal of Pa.R.A.P. 1770. Another alternative would be to exclude weight of the evidence claims from the operation of Pa.R.A.P. 1770, but that approach seems to erode the purpose of the rule, which is to expedite review of the out of home placement itself. See Pa.R.A.P. 1770(c)(1). Yet another alternative would be to exclude these types of claim raised in a petition for review from the requirements of Rule 518, but that approach is contrary to *In re J.B.*.

As revised, this proposal is being republished for comment. The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.