

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

REPORT

Proposed Amendment of Pa.R.J.C.P. 240, 242, and 1242

The Juvenile Court Procedural Rules Committee proposes to amend Rules 240 and 1242 to preclude waiver of either a detention hearing or a shelter care hearing. The Committee further proposes amendment of Rule 242 to remove a cross-reference to Rule 152.

The Committee received a request to address a situation in a county where a waiver form was being used for detention hearings. The Committee reviewed Rule 242 and concluded that a detention hearing requires the court to determine whether:

- There is probable cause that a delinquent act was committed by the juvenile;
- Detention of the juvenile is warranted; and
- There are any special needs of the juvenile that have been identified and that the court deems necessary to address while the juvenile is in detention.

Pa.R.J.C.P. 242(C).

The Committee recognizes there may instances when a detention hearing might need to be continued or delayed, as permitted by the rules. Additionally, there may be circumstances when probable cause is uncontested or detention is warranted. However, the Committee believes that any stipulations or agreements among the parties about these circumstances should be entered onto the record at the hearing with a colloquy of the juvenile as to whether the stipulation or agreement is knowing, intelligent, and voluntary before the court accepts the stipulation or agreement. Such measures appear warranted as a procedural safeguard for the juvenile. The Committee also observes that ACT is available for these hearings, which should lessen the burden of being physically present. See Pa.R.J.C.P. 129(A).

Similarly, the Committee does not believe that shelter care hearings should be waived. This procedural step in dependency proceedings is sometimes the first time when the parties appear together before the court and involving substantial rights and critical findings. Therefore, the Committee proposes to amend the text of Rule 1242(D) to preclude waiver of a shelter care hearing.

Finally, proposes a corollary amendment to Rule 242(B)(4) to remove the reference to a juvenile's waiver of counsel pursuant to Rule 152. Per Rule 152(A)(3)(a), a juvenile may not waive counsel for a detention hearing.

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