

**Proposed new Pa.Rs.Crim.P. 490 and 790, and rescission of Rule 722.**

*INTRODUCTION*

*The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rules of Criminal Procedure 490 and 790 that would establish the procedures for petitioning for expungement and ordering expungement in summary and court cases. The Committee also is proposing that the Supreme Court correlatively rescind Rule 722 as no longer necessary. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.*

*The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.*

*The text of the proposed new rules and the proposed rescission precedes the Report. Deletions are in bold and brackets.*

*We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,*

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***no later than Friday, September 4, 2009.***

*July 25, 2009*

*BY THE CRIMINAL PROCEDURAL RULES COMMITTEE:*

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*D. Peter Johnson, Chair*

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*Anne T. Panfil  
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*Jeffrey M. Wasileski  
Staff Counsel*

## CHAPTER 4

### PROCEDURES IN SUMMARY CASES

#### PART H. SUMMARY CASE EXPUNGEMENT PROCEDURES

##### RULE 490. PROCEDURE FOR OBTAINING EXPUNGEMENT IN SUMMARY CASES; EXPUNGEMENT ORDER.

###### (A) PETITION FOR EXPUNGEMENT

(1) Except as provided in Rule 320, an individual who satisfies the requirements of 18 Pa.C.S. § 9122 for expungement of a summary case may request expungement by filing a petition with the clerk of the courts of the judicial district in which the charges were disposed.

(2) The petition shall set forth:

(a) the petitioner's name and any aliases that the petitioner has used, address, date of birth, and last four digits of the social security number;

(b) the name and address of the issuing authority who accepted the guilty plea or heard the case;

(c) the name and mailing address of the affiant as shown on the complaint or citation, if available;

(d) the magisterial district court number;

(e) the docket number;

(f) the date on the citation or complaint, or the date of arrest, and, if available, the criminal justice agency that made the arrest;

(g) the specific charges, as they appear on the charging document, to be expunged;

(h) the disposition and, if the sentence includes a fine, costs, or restitution, whether the amount due has been paid;

(i) the reason(s) for expungement; and

(j) a verification by the petitioner that facts set forth in the petition are true and correct to the best of the petitioner's personal knowledge or information and belief. The verification may be by a sworn affidavit or by an unsworn written statement that the facts are verified subject to the penalties for unsworn falsification to authorities under the Crimes Code § 4904, 18 Pa.C.S. § 4904.

(3) A copy of the petition shall be served on the attorney for the Commonwealth concurrently with filing.

## (B) OBJECTIONS; HEARING

(1) If the attorney for the Commonwealth objects to the expungement, the objections shall be filed with the judge within 30 days after service of the petition, and copies of the objections shall be served on the petitioner's attorney, or the petitioner if unrepresented.

(2) If the attorney for the Commonwealth consents to the expungement or fails to file objections to the petition within the 30-day period, the judge promptly shall enter an order directing the expungement. The order shall contain the information required in paragraph (C).

(3) If the attorney for the Commonwealth files objections within the 30-day period, the judge promptly shall hold a hearing on the objections, affording all parties an opportunity to be heard. Following the hearing, the judge promptly shall enter an order granting or denying the petition. If the judge grants the petition, order shall contain the information required in paragraph (C).

(4) If the judge grants the petition for expungement, the order shall be stayed for 30 days pending an appeal. If a timely notice of appeal is filed, the expungement order is stayed pending the disposition of the appeal and further order of court.

## (C) ORDER

(1) Every order for expungement shall include:

(a) the petitioner's name and any aliases that the petitioner has used, address, date of birth, and the last four digits of the petitioner's social security number;

(b) the name and address of the issuing authority who accepted the guilty plea or heard the case;

(c) the name and mailing address of the affiant as shown on the complaint or citation, if available;

(d) the magisterial district court number;

(e) the docket number

(f) the date on the citation or complaint, or the date of arrest, and, if available, the criminal justice agency that made the arrest;

(g) the specific charges, as they appear on the charging document, to be expunged;

(h) the disposition and, if the sentence includes a fine, costs, or restitution, whether the amount due has been paid;

(i) the reason(s) for expungement; and

(j) the criminal justice agencies upon which certified copies of the order shall be served.

(2) The clerk of courts shall serve a certified copy of the Order to each criminal justice agency identified in the in the court's Order.

COMMENT: This rule, adopted in 2009, provides the procedures for requesting and ordering expungement in summary cases.

See *also* Rule 320 for the procedures for expungement following the successful completion of an ARD program in a summary case and Rule 790 for court case expungement procedures.

This rule sets forth the information that must be included in every expungement petition and order, but is not intended to be an exclusive list.

A form petition is to be designed and published by the Administrative Office of Pennsylvania Courts in consultation with the Committee as provided in Rule 104.

"Petition," as used in this rule, is a "motion" for purposes of Rules 575, 576, and 577.

The "reason for expungement" in paragraph (A)(2)(i) and (C)(1)(i) means, for example, acquittal, arrest or prosecution free for five years following the conviction for that summary offense, or age.

For the procedures for filing and service of petitions, see Rule 576.

For the procedures for filing and service of orders, see Rule 114.

For purposes of this rule, "criminal justice agency" includes police departments, county detectives, and other law enforcement agencies. See also 18 Pa.C.S. § 9102.

Concerning standing, see *In Re Administrative Order No. 1-MD-2003*, 594 Pa. 346, 936 A.2d 1 (2007); *Commonwealth v. J.H.*, 563 Pa. 248, 759 A.2d 1269 (2000).

NOTE: Adopted \_\_\_\_\_, effective \_\_\_\_\_.

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**COMMITTEE EXPLANATORY REPORTS:**

**Report explaining the proposed new rule providing the procedures for expungements in summary cases published at 39 Pa.B. (\_\_\_\_\_, 2009).**

## CHAPTER 7

### POST-TRIAL PROCEDURES IN COURT CASES

#### PART C. COURT CASE EXPUNGEMENT PROCEDURES

##### RULE 790. PROCEDURE FOR OBTAINING EXPUNGEMENT IN COURT CASES; EXPUNGEMENT ORDER.

###### (A) PETITION FOR EXPUNGEMENT

(1) Except as provided in Rule 320 and 35 P.S. § 780-119, an individual who satisfies the requirements for expungement may request expungement by filing a petition with the clerk of the courts of the judicial district in which the charges were disposed.

(2) The petition shall set forth:

(a) the petitioner's name and any aliases that the petitioner has used, address, date of birth, and last four digits of the social security number;

(b) the name and address of the judge of the court of common pleas who accepted the guilty plea or heard the case;

(c) the name and mailing address of the affiant as shown on the complaint, if available;

(d) the Philadelphia Municipal Court docket number or the court of common pleas docket number, whichever applies;

(e) the offense tracking number (OTN);

(f) the date on the complaint, or the date of arrest, and, if available, the criminal justice agency that made the arrest;

(g) the specific charges, as they appear on the charging document, to be expunged;

(h) the disposition and, if the sentence includes a fine, costs, or restitution, whether the amount due has been paid;

(i) the reason(s) for expungement; and

(j) a verification by the petitioner that facts set forth in the petition are true and correct to the best of the petitioner's personal knowledge or information and belief. The verification may be by a sworn affidavit or by an unsworn written statement that the facts are verified subject to the penalties for unsworn falsification to authorities under the Crimes Code § 4904, 18 Pa.C.S. § 4904.

(3) A copy of the petition shall be served on the attorney for the Commonwealth concurrently with filing.

## (B) OBJECTIONS; HEARING

(1) If the attorney for the Commonwealth objects to the expungement, the objections shall be filed with the judge within 60 days after service of the petition, and copies of the objections shall be served on the petitioner or the petitioner's attorney.

(2) If the attorney for the Commonwealth consents to the expungement or fails to file objections to the petition within the 60-day period, the judge promptly shall enter an order directing the expungement. The order shall contain the information required in paragraph (C).

(3) If the attorney for the Commonwealth files objections within the 60-day period, the judge promptly shall hold a hearing on the objections, affording all parties an opportunity to be heard. Following the hearing, the judge promptly shall enter an order granting or denying the petition. If the judge grants the petition, the order shall contain the information required in paragraph (C).

(4) If the judge grants the petition for expungement, the order shall be stayed for 30 days pending an appeal. If a timely notice of appeal is filed, the order is stayed pending the disposition of the appeal and further order of court.

## (C) ORDER

(1) Every order for expungement shall include:

(a) the petitioner's name and any aliases that the petitioner has used, address, date of birth, and the last four digits of the petitioner's social security number;

(b) the name and address of the judge of the court of common pleas who accepted the guilty plea or heard the case;

(c) the name and mailing address of the affiant as shown on the complaint, if available;

- (d) the Philadelphia Municipal Court docket number or the court of common pleas docket number, whichever applies;
- (e) the offense tracking number (OTN);
- (f) the date on the complaint, or the date of arrest, and, if available, the criminal justice agency that made the arrest;
- (g) the specific charges, as they appear on the charging document, to be expunged;
- (h) the disposition and, if the sentence includes a fine, costs, or restitution, whether the amount due has been paid;
- (i) the reason(s) for expungement; and
- (j) the criminal justice agencies upon which certified copies of the order shall be served.

(2) The clerk of courts shall serve a certified copy of the Order to each criminal justice agency identified in the in the court's Order.

COMMENT: This rule, adopted in 2009, provides the procedures for requesting and ordering expungement in court cases.

See *also* Rule 320 for the procedures for expungement following the successful completion of an ARD program in a court case, Rule 490 for summary case expungement procedures, and 35 P.S. § 780-119 for expungement procedures under the Controlled Substance, Drug, Device, and Cosmetic Act.

This rule sets forth the information that must be included in every expungement petition and order under this rule, but is not intended to be an exclusive list. The order for expungement under the Controlled Substance, Drug, Device, and Cosmetic Act, 35 P.S. § 780-119, also must include the information in paragraph (C).

A form petition is to be designed and published by the Administrative Office of Pennsylvania Courts in consultation with the Committee as provided in Rule 104.



“Petition” as used in this rule is a “motion” for purposes of Rules 575, 576, and 577.

The "reason for expungement" in paragraph (A)(2)(i) and (C)(1)(i) means, for example, acquittal or age.

For the procedures for filing and service of petitions, see Rule 576.

For the procedures for filing and service of orders, see Rule 114.

When a summons instead of an arrest warrant is issued pursuant to Rule 518, the date of the summons constitutes the "date of arrest" for purposes of paragraph (A)(2)(f).

For purposes of this rule, "criminal justice agency" includes police departments, county detectives, and other law enforcement agencies. See also 18 Pa.C.S. § 9102.

Concerning standing, see *In Re Administrative Order No. 1-MD-2003*, 594 Pa. 346, 936 A.2d 1 (2007); *Commonwealth v. J.H.*, 563 Pa. 248, 759 A.2d 1269 (2000).

NOTE: Adopted \_\_\_\_\_, effective \_\_\_\_\_.

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**COMMITTEE EXPLANATORY REPORTS:**

**Report explaining the proposed new rule providing the procedures for expungements in court cases published at 39 Pa.B. (\_\_\_\_\_, 2009).**

**[RULE 722. CONTENTS OF ORDER FOR EXPUNGEMENT.] RESCINDED.**

**[Every order for expungement shall include:**

- (1) the defendant's name, date of birth, and social security number;**
- (2) the OTN;**
- (3) the district justice docket number and the magisterial district number, or the Municipal Court docket number;**
- (4) the court of common pleas docket number, if any;**
- (5) the specific charges, as they appear on the charging document, to be expunged;**
- (6) the date of arrest and the criminal justice agency which made the arrest;**
- (7) the disposition;**
- (8) the reason for expungement; and**
- (9) the criminal justice agencies upon which certified copies of the order shall be served.]**

**[COMMENT: This rule sets forth the information that must be included in every expungement order, but is not intended to be an exclusive list.**

**When a summons instead of an arrest warrant is issued pursuant to Rule 518, the date of the summons constitutes the "date of arrest" for purposes of paragraph (6).**

**For purposes of this rule, "criminal justice agency" includes police departments, county detectives, and other law enforcement agencies. See *also* 18 Pa.C.S. § 9102.]**

**[The "reason for expungement" in paragraph (8) means, for example, acquittal, successful completion of ARD, or age.]**

NOTE: Rule 9017 adopted February 24, 1993, effective July 1, 1993; renumbered Rule 722 and *Comment* revised March 1, 2000, effective April 1, 2001 [.] ; rescinded , effective , 2009, and replaced by new Rules 490(C) and 790(C).

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**COMMITTEE EXPLANATORY REPORTS:**

**Report explaining the provisions of the new rule published with the Court's Order at 23 Pa.B. 1134 (March 13, 1993).**

**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).**

**Report explaining the proposed rescission of Rule 722 published at 39 Pa.B. ( , 2009 ).**

## REPORT

*Proposed new Pa.Rs.Crim.P. 490 and 790, and the correlative rescission of Rule 722.*

### PROCEDURES FOR EXPUNGEMENT IN SUMMARY AND COURT CASES

#### I. BACKGROUND

The Committee is planning to propose that the Supreme Court adopt new Rules of Criminal Procedure 490 and 790, and the correlative rescission of Rule 722. The proposed new rules would establish the procedures for requesting and ordering expungement in summary and court cases.

The Committee's examination of the issue of providing in the rules the procedures for requesting expungement was initiated after the enactment of Act 134 of 2008 and after receiving several related communications.<sup>1</sup> Act 134 amends Section 9122 of the Criminal History Record Information Act (18 Pa.C.S. § 9122) ("CHRIA") by providing that a defendant's summary offenses may be expunged when the defendant "has been free of arrest or prosecution for five years following the conviction for that offense." Cognizant that the current Rules of Criminal Procedure only establish procedures for expungement following the successful completion of an Accelerated Rehabilitation Disposition Program (ARD) and provide the contents of an expungement order, and recognizing that many defendants in summary cases will proceed *pro se*, the members agreed to explore statewide uniform procedures for requesting expungement.

#### II. DISCUSSION

Initially, the Committee considered several options for how to proceed. The members considered merely retaining the current Rule 722 (Contents of Order for Expungement) and adding a reference to the summary expungement provisions in CHRIA in the Rule 722 *Comment*. The Committee also discussed adding to Rule 722 a section for procedures for summary case expungements; establishing a separate summary case expungement rule; or developing

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<sup>1</sup> The Committee received communications about summary case expungements from John Heaton, Secretary to the Board of Pardons. Mr. Heaton noted that it would be helpful to have a uniform statewide rule establishing the procedures rather than having 67 different procedures, especially for the defendants who would proceed *pro se*.

procedures for both summary and court case expungements. Ultimately, the Committee agreed (1) that the provisions for expungement following completion of ARD should continue to be handled separately under Rule 320; (2) offenses entitled to expungement under 35 P.S. § 780-119 would continue to proceed under the statute; and (3) there should be separate rules establishing the procedures for summary case expungements and for court case expungements. We believe retaining the separate procedures for ARD cases and for Section 19 cases and having separate new rules for all other summary and court cases will make it easier for the bench, bar, and the public to utilize the correct procedures. The Committee also decided that Rule 722 should be rescinded and the expungement order content requirements of Rule 722 should be incorporated into both new rules.

The next question the Committee considered was the placement of the new rules. Recognizing that an expungement request ordinarily would not occur until after sentencing, the Committee is proposing that the new summary case expungement rule be placed at the end of Chapter 4 as new Rule 490 and that the new court case expungement rule be placed at the end of Chapter 7 as new Rule 790. To distinguish both new rules from the rules immediately preceding these new rules, we are proposing there be a new subchapter added to Chapter 4 and Chapter 7 governing expungement.

In determining what the procedures for summary and court case expungements should be, the Committee looked at the provisions for ARD expungements in Rule 320, the contents of the order set forth in Rule 722, the expungement procedures set forth in local rules, and the expungement procedures in other jurisdictions. Drawing from these resources, we agreed the new rules should provide to the following:

- the petition should be filed with the clerk of courts in the court of common pleas in which the offense occurred, and a copy must be served on the attorney for the Commonwealth;
- the contents of the petition should include the information that must be included in the order required by Rule 722 and the verification language from Rule 575(2)(g);
- the attorney for the Commonwealth should have the right to file objections to the petition;

- the court should conduct a hearing when there are objections and the parties should have an opportunity to respond
- there should be a separate section in the rules for the Order that would require the judge to enter an order and the order must include all the contents from Rule 722;
- the clerk of courts must serve copies of the expungement order on the criminal justice agencies specified in the court's order;

#### **A. PROPOSED NEW RULE 490**

Proposed new Rule 490 sets out the procedures for requesting and ordering expungement in all summary cases.

Paragraph (A)(1) and the second paragraph of the *Comment* make it clear that summary case ARD expungements are to proceed pursuant to Rule 320. Paragraph (A)(1) also requires the expungement petition to be filed with the clerk of courts in the judicial district in which the offenses were disposed.<sup>2</sup> Although the requested expungement is of summary offenses that are within the jurisdiction of the magisterial district judges, the Committee believes the CHRIA contemplates that the judges of the courts of common pleas should order expungements, even though this is not spelled out specifically in the CHRIA. Furthermore, the expungement proceedings should be in the court of common pleas because (1) there is not a rule-governed motion practice in the summary case rules; and (2) the magisterial district courts are not courts of record.<sup>3</sup>

As a matter of uniform procedure, the Committee uses of the term “motion” in the rules whenever feasible.<sup>4</sup> However, for these new expungement procedures, we are proposing that the term “petition” be used to avoid confusion because this is the term

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<sup>2</sup> Pursuant to Rules 575 and 576, the petition must be filed with the clerk of courts first rather than taking the petition to a judge or the court administrator before filing.

<sup>3</sup> It should be noted, however, that under local procedures implementing Rules 300 and 301, some magisterial district judges may have the authority to expunge summary ARD records after successful completion in the same manner as common pleas judges under Rule 320.

<sup>4</sup> See the Rule 103 definition of “motion.”

used in the statute and in many of the local rules providing expungement procedures. To clarify this further, a provision would be added to the *Comment* explaining that “petition” as used in this rule is a “motion” for purposes of Rules 575, 576, and 577.

Paragraph (A)(2) sets forth the contents of the petition. The information required to be on the petition all is necessary to aid the attorney for the Commonwealth and the court to accurately identify the offense(s) the defendant is asking to have expunged. Most of the required information is the same as the information that currently is required under Rule 722. In paragraph (A)(2)(a), we added “any aliases that the petitioner has used” as an additional identifier. We also added as paragraph (A)(2)(j) the requirement that the petitioner verify the facts set forth in the petition. The verification requirement is consistent with all other motions. See Rule 575(2)(g).

Rule 722(1) requires the defendant’s social security number be included on the order for expungement. The Committee debated at length whether the social security number should be required on the petition and order in the new expungement rules. We are aware of the position being taken by many governmental agencies that social security numbers should not appear on public documents. The Committee also recognized that the social security number continues to be a necessary identifier for defendants in the criminal justice system. As a compromise, governmental agencies will require only the last four digits of the social security number. The Committee ultimately settled on this approach, and added the requirement of the last four digits of the social security number to the contents of the petition and the contents of the order.

Paragraph (B) sets forth the procedures for the Commonwealth to file objections to the expungement of a summary offense and for the scheduling and conducting of a hearing if the Commonwealth objects. Recognizing that most summary cases are not complicated and do not have extensive court records to be reviewed, the Committee reasoned a 30-day time period was an adequate amount of time for the attorney for the Commonwealth to determine if he or she is going to object to a summary expungement. Paragraph (B)(1) sets forth the provisions for the attorney for the Commonwealth to file objections within 30 days after service of the petition. The attorney for the Commonwealth also must serve copies of the objections on the petitioner’s attorney, or the petitioner if unrepresented.

Paragraph (B)(2) requires the judge to enter an order granting expungement if the attorney for the Commonwealth consents or when the attorney for the

Commonwealth fails to file objections within the 30-day time period. The Committee added the “Commonwealth consents” language to make it clear that the attorney for the Commonwealth may affirmatively consent at any time after the petition is filed rather than allowing the full 30-day period to expire before proceeding with the expungement. The judge’s order is required to include the contents set forth in paragraph (C).

Paragraph (B)(3) requires the judge to promptly schedule a hearing on the objections when the attorney for the Commonwealth files objections within the 30-day period. The parties are to be afforded an opportunity to be heard at the time of the hearing. At the completion of the hearing, the judge promptly must enter an order either granting or denying the petition. If the judge grants the petition, the order must set forth the information required in paragraph (C).

Paragraph (B)(4) provides for the stay of the expungement order during the 30-day time period within which the attorney for the Commonwealth may file an appeal. If the attorney for the Commonwealth does file an appeal, then the order will be stayed pending the disposition of the appeal.

Paragraph (C) sets forth the contents of the expungement order. As previously explained, the information required in paragraph (C) is the same as the information required in current Rule 722 with the addition of the last four digits of the social security number instead of the full social security number. It should be noted that the judge is required to name in the order the criminal justice agencies upon which the certified copies of the order are to be served. In addition, paragraph (C)(2) requires the clerk of courts to serve the order on the criminal justice agencies listed in the order. The Committee learned that the practice in some judicial districts is to require the defendant to provide the criminal justice agencies information for the order and to do the service of the order. The Committee rejected this practice, agreeing both of these functions are functions, and the responsibility should not be placed on the defendant.

The *Comment* includes paragraphs elaborating on the provisions of the new rule. It makes it clear that the list of information required to be included in the petition and the order are the minimum requirements and not intended to be an exclusive list. As explained in the Committee’s *Final Report* when Rule 722 was adopted, “we did not want to preclude judges from adding information which they conclude is necessary for



expungement matters in their respective judicial districts or relative to a specific defendant.”<sup>5</sup>

One of the concerns expressed to the Committee about the new summary case expungements under the CHRIA is that many defendants in summary cases will seek expungement without the assistance of counsel. Because of this, it was suggested that the new rule include the form of the expungement petition. The Committee, when considering this suggestion, noted that, except in a few cases in which the Committee agreed the identical form must be used in all judicial districts (e.g. Rule 632 - juror information questionnaire), the Committee has not included the actual forms in the rules since the forms were deleted from the rules in 1985.<sup>6</sup> The members agreed expungement petitions do not fit into the category of forms that must be identical in all judicial districts, and declined to devise a form and include it in the rules. However, we did agree that having a form available for the use of petitioners is a sound idea. Accordingly, as explained in the *Comment*, the Administrative Office of Pennsylvania Courts will design a form incorporating the required contents in paragraph (A)(2) in consultation with the Committee as provided in Rule 104. It is anticipated that this form will be easily accessible for petitioners.

The Committee also discussed whether the rule should address standing to challenge expungement. The member agreed this was not something that should be addressed in the Criminal Rules, but thought it would be helpful if the *Comment* included a cross-reference to the cases on standing in the expungement context.

## **B. PROPOSED NEW RULE 790**

Except when modification of language is necessary to conform with procedures for court cases,<sup>7</sup> the provisions in paragraphs (A)(2) and (C) in new Rule 790 are the

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<sup>5</sup> 23 *Pa.B.* 1135, 1135 (March 13, 1993).

<sup>6</sup> The Committee’s *Report* explaining the deletion of the forms was published at 13 *Pa.B.* 3813 (December 10, 1983).

<sup>7</sup> For example, in paragraph (A)(2)(b), the petition is to provide the name of the judge of the court of common pleas rather than the magisterial district judge and paragraph (A)(2)(e) requires the OTN, a number not assigned to summary cases.

same as paragraphs (A)(2) and (C) in new Rule 490. Paragraph (A)(1) and the second paragraph of the *Comment* make it clear that summary case ARD expungements are to proceed pursuant to Rule 320 and expungements arising under 35 P.S. § 780-119 are to proceed pursuant to that statute. Paragraph (A)(1) also requires the expungement petition to be filed with the clerk of courts in the judicial district in which the offenses were disposed.<sup>8</sup>

Paragraph (B) sets forth the procedures in court cases for the attorney for the Commonwealth to file objections to the petition for expungement and for the judge to schedule a hearing when objections are filed. In court cases, the attorney for the Commonwealth is given 60 days to decide whether to file objections to the petition. The Committee agreed that the attorney for the Commonwealth should be afforded additional time in court cases because there may be more extensive records to review and more complicated issues to address. Paragraphs (B)(1) and (B)(2) incorporate the 60-day time period. In all other respects, paragraph (B) is the same as paragraph (B) in Rule 490.

The Rule 790 *Comment* includes the same provisions that are in the Rule 490 *Comment*. One point the Committee discussed in the context of proposed new Rule 790 is whether the order for expungements that arise under 35 P.S. § 780-119 must include the same contents as orders issued pursuant to Rule 790. The AOPC representative to the Committee pointed out that currently, under Rule 722, these expungement orders do comply with Rule 722. Because Rule 722 would be rescinded under this proposal, would these Title 35 expungement orders still be required to comply? The Committee agreed that the Title 35 orders should continue to include the same information as all other court case expungements. To make this clear, a provision to that effect has been added to the third paragraph of the Rule 790 *Comment*.

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<sup>8</sup> Pursuant to Rules 575 and 576, the petition must be filed with the clerk of courts first rather than taking the petition to a judge or the court administrator before filing.