

INTRODUCTION

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modifications to Rules 160, 330, and 515 be adopted and prescribed. The proposed modified Rule 160 provides that the court shall create a public document for cases designated eligible for public inspection. The proposed modified Rule 330 sets forth a new averment in the petition if the case is eligible for public inspection. The proposed modified Rule 515 provides a designation in the court order if a case is eligible for public inspection. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the intent of the rules. Please note that the Committee's *Reports* 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*.

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

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than Friday, March 30, 2007.

January 17, 2007

BY THE JUVENILE COURT PROCEDURAL
RULES COMMITTEE:

Francis Barry McCarthy, Chair

A. Christine Riscili, Esq.
Staff Counsel

EXPLANATORY REPORT

RULE 160 - INSPECTION OF JUVENILE FILE/RECORDS

The Committee is proposing that paragraph (b) be added to this rule. Act 81 of 2006 amended 42 Pa.C.S. § 6307, allowing limited public access to specific information for specified juvenile cases. See the Act of July 7, 2006 (P.L. 378, No. 81, § 3). This amended rule sets forth the procedure on how the court is to create a public document with the specific information if a case is deemed eligible pursuant to Rules 330 and 515. See 42 Pa.C.S. § 6307(b)(2).

Because the juvenile's file contains sensitive and confidential information, the committee believes it is easier to create a new document with limited information rather than redacting the juvenile file. The public document is to contain only the following information: 1) the juvenile's name; 2) the juvenile's age; 3) the juvenile's address; 4) the offenses alleged in the juvenile's petition; 5) the adjudication on each allegation; and the disposition of the case.

RULE 330 - PETITION

To help the court determine if a case is eligible for public inspection pursuant to Rule 160, the contents of the petition is to include an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(ii) for limited public information. See 42 Pa.C.S. 6307(b)(1)(ii) for the enumerated offenses that are eligible.

RULE 515 - DISPOSITIONAL ORDER

To implement the new proposed procedures of Rule 160, the dispositional order is to include a designation as to whether the case is eligible for limited public information pursuant to 42 Pa.C.S. § 6307(b)(1)(i). See 42 Pa.C.S. 6307(b)(1)(i) for the enumerated offenses that are eligible.

RULE 160. INSPECTION OF JUVENILE FILE/RECORDS

A. General Rule. All files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166, are open to inspection only by:

- 1) the judges, masters, juvenile probation officers, and staff of the court;
- 2) the attorney for the Commonwealth, the juvenile's attorney, and the juvenile, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information, except in the discretion of the court;
- 3) a public or private agency or institution providing supervision or having custody of the juvenile under order of the court;
- 4) a court and its probation officers and other officials or staff and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent;
- 5) a judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings, and histories of bench warrants and escapes;
- 6) the Administrative Office of Pennsylvania Courts;
- 7) officials of the Department of Corrections or a state correctional institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except in the discretion of the court;
- 8) a parole board, court or county probation official in considering an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except in the discretion of the court;
- 9) the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;

- 10) the State Sexual Offenders Assessment Board for use in completing assessments; and
- 11) with leave of court, any other person, agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

B. Public availability. Upon request, the court shall order the creation of a public document for each case designated eligible for public inspection pursuant to Rule 330 or 515. The public document shall contain only the following information:

- 1) the juvenile's name;
- 2) the juvenile's age;
- 3) the juvenile's address;
- 4) the offenses alleged in the juvenile petition;
- 5) the adjudication on each allegation;
- 6) the disposition of the case.

COMMENT

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

This rule is meant to include the contents of the juvenile court file as described in Rule 166 and the contents of the juvenile probation records or reports. Juvenile probation records or reports, include, but are not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, and placement facility records and reports.

Under Paragraph (B), there is one document for each eligible case that is open for public inspection. The public document should be clearly marked for employees of the clerks of courts' office as the only document available for inspection by the general public. All other information contained in the juvenile court file is not open for public inspection but only open to inspection to the persons enumerated in paragraph (A).

See Rule 330 for designation of public availability status in the juvenile petition. See Rule 515 for designation of public availability status in the dispositional order.

RULE 330. PETITION: FILING, CONTENTS, FUNCTION

A. **Certification.** The District Attorney of any county may require that an attorney for the Commonwealth shall file all petitions. If the District Attorney elects to require an attorney for the Commonwealth to file the petition, the District Attorney shall file a certification with the court of common pleas. The certification shall:

- 1) state that an attorney for the Commonwealth shall file petitions; and
- 2) specify any limitations on the filing or classes of petitions.

B. **Filings.** In every delinquency proceeding, the attorney for the Commonwealth or the juvenile probation officer shall file a petition with the clerk of courts if it has been determined that informal adjustment or another diversionary program is inappropriate.

C. **Petition contents.** Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
 - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
 - b) the juvenile is in need of treatment, supervision, or rehabilitation;
- 4) the date when the offense is alleged to have been committed; provided, however:
 - a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and
 - b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;
- 5) the place where the offense is alleged to have been committed;
- 6) a) i) a summary of the facts sufficient to advise the juvenile of the

nature of the offense alleged; and

ii) the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but an error in such citation shall not affect the validity or sufficiency of the written allegation; or

b) a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense.

- 7) the name and age of any conspirators, if known;
- 8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;
- 9) a notation if criminal laboratory services are requested in the case;
- 10) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;
- 11) the signature of the petitioner and the date of the execution of the petition;
- 12) the whereabouts of the juvenile and if taken into custody, the date and time thereof; ~~and~~
- 13) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; **and**
- 14) **an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(ii) for limited public information.**

COMMENT

Under paragraph (A), the District Attorney may file a certification with the court of common pleas stating that only an attorney for the Commonwealth may file a petition. If a certification has not been filed, then an attorney for the Commonwealth or a juvenile probation officer may file a petition.

A private citizen has the right to file a written allegation, not a petition. The written allegation commences the proceedings in the juvenile system. See Rule 200. The case should progress in the same manner as any other case in the juvenile system. If the written allegation is disapproved, the private citizen

may file a motion challenging the disapproval with the court of common pleas. See *Comment* to Rule 233.

Informal adjustment or other diversionary programs should be considered before a petition is filed. Once a petition is filed, informal adjustment is not permitted. See *Commonwealth v. J.H.B.*, 760 A.2d 27 (Pa. Super. Ct. 2000).

Petitions should be filed without unreasonable delay. See *Commonwealth v. Dallenbach*, 729 A.2d 1218 (Pa. Super. Ct. 1999).

The contents of a petition are the same as a written allegation except for the additional requirements in paragraphs (C)(12) and (13).

Pursuant to paragraph (14), the petitioner is to designate whether the allegations in the juvenile petition make the case eligible for limited public information. See 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

RULE 515. DISPOSITIONAL ORDER

- A. **Generally.** When the court enters a disposition, the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:
- 1) the terms and conditions of the disposition;
 - 2) the name of any agency or institution that is to provide care, treatment, supervision, or rehabilitation of the juvenile;
 - 3) a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(i) for limited public information;
 - 4) the date of the order; and
 - 5) the signature and printed name of the judge entering the order.
- B. **Restitution.** If restitution is ordered in a case, the dispositional order shall include:
- 1) a specific amount of restitution to be paid by the juvenile;
 - 2) to whom the restitution is to be paid; and
 - 3) a payment schedule, if so determined by the court.
- C. **Guardian participation.** The court shall include any obligation in its dispositional order imposed upon the guardian.

COMMENT

Pursuant to paragraph (A)(3), the court is to determine if the case is eligible for limited public information under the requirements of 42 Pa.C.S. § 6307 (b)(1)(i). See 42 Pa.C.S. § 6307 (b)(2). When the case is designated, the clerk of courts is to clearly mark the file. For information that is available to the public in those eligible cases, see Rule 160.

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. § 6310.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the

Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg,
PA 17120.