

## **INTRODUCTION**

The Juvenile Court Procedural Rules Committee is eliciting public comment on proposed modifications to Rules 161, 195, 302, 407, 409, 512, and 800 and new proposed Rule 614. These proposed modifications address the adoption of the new Pennsylvania "SORNA" and "Act 21" legislation.

The Committee requests that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel, Christine Riscili at [juvenilerules@pacourts.us](mailto:juvenilerules@pacourts.us). Email is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. Emailed comments need not be reproduced and sent via hard copy. The Committee will acknowledge receipt of your comment.

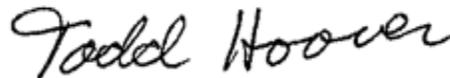
For those who do not have access to email, comments may be faxed to the Committee at 717-231-9541 or written comments may be mailed to:

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Supreme Court of Pennsylvania  
Juvenile Court Procedural Rules Committee  
Pennsylvania Judicial Center  
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Harrisburg, PA 17106-2635.

**All comments shall be received no later than Friday, February 1, 2013.**

11/19/2012

BY THE JUVENILE COURT PROCEDURAL RULES  
COMMITTEE:



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Honorable Todd A. Hoover, Chair



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Christine Riscili  
Counsel

## REQUEST FOR PUBLIC COMMENT

The Juvenile Court Procedural Rules Committee (Committee) is seeking public comment on amendments to Rules 161, 195, 302, 407, 409, 512, and 800 and new proposed Rule 614.

With the adoption of Act 111 of 2011 (P.L. 446, No. 111, Cl. 18) and Act 91 of 2012 (P.L. 880, No. 91, Cl. 18), the legislature has placed several requirements upon the Chief Juvenile Probation Officer and the court to follow when a juvenile is adjudicated delinquent on an enumerated sexual offense. These proposed rule additions reflect these statutory changes.

### **Rule 161**

Rule 161 has been specifically questioned because requirements in this new legislation affect the inspection and copying of juvenile probation files by the State Sexual Offenders Assessment Board (SOAB).

When Rule 161 was adopted by the Court, it was intended to make inspection and copying of juvenile probation files more accessible to attorneys, SOAB, and JCJC. However, this rule never was intended to bypass other legal restrictions placed upon records or reports. For example, there may be confidential communications between a patient and psychiatrist that is protected by law. See *Commonwealth v. Carter*, 821 A.2d 601 (Pa. Super. Court. 2003), for clarification of protected information.

The addition of “unless the court has determined that the information sought is otherwise protected by law” was added to paragraph (A) to clarify the original intent of the rule. If the juvenile probation office fails to permit inspection and/or copying of specific information, the court must to determine whether the information sought is protected communications.

### **Rule 195**

As stated *supra*, the chief juvenile probation officer must follow specific directives in carrying out the registry requirements for juveniles classified as “juvenile offenders.” In addition, if a juvenile is in a placement facility ninety days prior to turning twenty years old and is in placement on an enumerated sexual offense, which could lead to an “Act 21” placement, the chief juvenile probation officer must make a referral to the SOAB.

To assist the chief juvenile probation officer in his or her duties, Rule 195 requires assigned juvenile probation officers to assist their Chief in fulfilling the

mandated duties for notification and registry of “juvenile offenders” and juveniles adjudicated delinquent for acts of sexual violence that may be designated as a “sexually violent delinquent child” in the future.

### **Rules 302, 409, and 800**

Rules 302 and 409 require the court to *classify* an out-of-county juvenile as a “juvenile offender” at the time of the adjudication of delinquency. This differs from 42 Pa.C.S. § 9799.23, which requires the court to classify the “juvenile offender” at the time of disposition.

An out-of-county juvenile is required to *register* as a “juvenile offender” at the time of the adjudication of delinquency pursuant to 42 Pa.C.S. § 9799.19(H). Before a juvenile can register, the juvenile first must be classified as a “juvenile offender” by the court. Therefore, Rule 800 makes these two requirements consistent. See Rule 800 for partial suspension of 42 Pa.C.S. § 9799.23(A).

### **Rule 407**

Rule 407 requires the juvenile to complete a mandatory written admission colloquy with the juvenile prior to entering the courtroom if the juvenile is admitting to the delinquent act(s). A part of this colloquy requires the attorney to review the consequences of an adjudication of delinquency with the juvenile. In addition to this explanation by the attorney, the rule also requires an independent inquiry by the court asking the juvenile if the juvenile understands the consequences that stem from admitting to the delinquent act(s).

Act 111 now requires a juvenile to register as a “juvenile offender” or “a sexually violent delinquent child” for certain sexual offenses and to follow many requirements for that registry. To explain these new requirements to the juvenile, a separate colloquy must be performed in those specific cases when the juvenile is admitting to an enumerated sexual offense. This new “SORNA” and “Act 21” colloquy is an addendum to the admission colloquy. The court is to review both colloquies with the juvenile when making a determination that the admission is knowingly, intelligently, and voluntarily made.

Because the consequences of an adjudication of delinquency on an enumerated sexual offense include reporting requirements for the rest of the juvenile’s life and could include a mandatory jail sentence for non-compliance, the “SORNA” and “Act 21” colloquy is being mandated.

## **Rule 512**

The court must classify the juvenile as a “juvenile offender” at the time of the disposition. See 42 Pa.C.S. § 9799.19(H). For out-of-county juveniles, see Rules 302 and 409.

In addition to the classification, the court must notify the juvenile of specific duties as set forth in paragraph (E)(1) and fulfill specific duties as provided in paragraph (E)(2).

## **Rule 614**

This new proposed rule provides the steps that the Chief Juvenile Probation Officer must take when a juvenile has committed an enumerated sexual offense that actuates possible involuntary civil commitment if the juvenile is in placement ninety days prior to the juvenile’s twentieth birthday for that triggering offense.

Initial proceedings to “evaluate” the juvenile begin in juvenile court but once a petition has been filed by the county solicitor or a designee, civil proceedings are commenced.

The rule specifically provides that the Chief Juvenile Probation Officer has specific duties, which include explaining to juveniles what could occur if they have been adjudicated delinquent for an act of sexual violence and are in a placement facility ninety days prior to their twentieth birthdays.



**RULE 161. INSPECTING, COPYING, AND DISSEMINATING JUVENILE PROBATION FILES**

A. **Inspecting and copying.** Except as provided in paragraph (C), juvenile probation files shall be open to inspection and/or copying, **unless the court has determined that the information sought is otherwise protected by law**, only by:

- 1) the juvenile's attorney;
- 2) the attorney for the Commonwealth;
- 3) the State Sexual Offenders Assessment Board;
- 4) the Juvenile Court Judges' Commission; or
- 5) any other person, agency, or department by order of court.

\* \* \*

**COMMENT**

\* \* \*

Nothing in this rule is intended to preclude the juvenile probation office from sharing information in its file with the juvenile.

**Pursuant to paragraph (A)(5), the court is to order the specific information that may be subject to inspection and/or copying and by whom the file may be viewed.**

**See Commonwealth v. Carter, 821 A.2d 601 (Pa. Super. Ct. 2003) for clarification of protected information.**

**Part (D)(2)**  
**Juvenile Probation Officers**

**Rule 195. Powers, Duties, and Training of a Juvenile Probation Officer**

A. **Powers and Duties of a Juvenile Probation Officer.** Subject to any limitation imposed by the court, a juvenile probation officer shall:

\* \* \*

**13) provide information for “juvenile offenders” and assist the chief juvenile probation officer:**

- a) by identifying adjudicated juveniles who are designated as “juvenile offenders”;**
- b) by informing these identified juveniles of the duty to register as a sexual offender;**
- c) by requiring the juvenile to sign a form acknowledging such duty;**
- d) in collecting information to forward to the Pennsylvania State Police for inclusion in the Registry;**
- e) by ensuring the juvenile’s information is current prior to the release of the juvenile from a placement facility;**
- f) in filling out a form prescribed by the Pennsylvania State Police each time a sexual offender is arrested, recommitted to a placement facility, or refuses to provide information pursuant to paragraph (A)(13)(d); and**
- g) by notifying the chief juvenile probation officer when a juvenile refuses to provide the information as required;**

**14) provide information for juveniles adjudicated delinquent for acts of sexual violence and assist the chief juvenile probation officer:**

- a) in notifying and aiding the State Sexual Offenders Assessment Board (SOAB), concerning any juvenile who is in a placement facility, as a result of having been adjudicated delinquent for an act(s) of sexual violence, ninety days prior to the juvenile’s twentieth birthday:**
  - i) of the status of the juvenile;**
  - ii) by specifying where the juvenile is presently committed; and**

**iii) in obtaining information required by SOAB pursuant to 42 Pa.C.S. §§ 6358(B) and 9799.24 (C) & (H);**

- b) by informing any adjudicated juvenile who are designated as a “sexually violent delinquent child” of the duty to register as a sexual offender;**
- c) by requiring the juvenile to sign a form acknowledging such duty;**
- d) in collecting information to forward to the Pennsylvania State Police for inclusion in the Registry;**
- e) by ensuring the juvenile’s information is current prior to the release of a “sexually violent delinquent child” from involuntary treatment facility if the juvenile is under the juvenile court’s supervision;**
- f) in filling out a form prescribed by the Pennsylvania State Police each time a sexual offender is arrested, recommitted to an inpatient facility, or refuses to provide information pursuant to paragraph (A)(14)(d) if the juvenile is under the juvenile court’s supervision; and**
- g) by notifying the chief juvenile probation officer when a juvenile refuses to provide the information as required; and**

15[3]) perform any other functions as designated by the court.

\* \* \*

COMMENT

\* \* \*

Pursuant to paragraph (A)(13), a juvenile probation officer may perform any other function designated by the court to carry out the purposes of the Juvenile Act.

**Paragraphs (A)(13)(a) - (g) & (A)(14)(a)-(g) were added in 2011- after the adoption of the Act of December 11, 2011 (P.L. 446, No. 111), as amended by the Act of July 5, 2012 (P.L. 880, No. 91), bringing Pennsylvania into compliance with the Federal Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248, 120 Stat. 597), particularly the Sexual Offender Registration and Notification Act. There are several requirements placed upon the chief juvenile probation officer by these statutory amendments. This rule requires juvenile probation officers to notify and assist the chief juvenile probation officer in carrying out his or her obligations.**

**Juvenile probation officers are to notify all juveniles who are classified as “juvenile offenders” and/or “sexually violent delinquent children”, as defined by 42 Pa.C.S. §§ 6402 & 9799.12, about the duty to register and provide information as a sexual offender. “Juvenile offenders” are designated by the court pursuant to Rule 512(D)(8). The juvenile probation officer is to ensure the juvenile signs a form acknowledging this duty. See paragraphs (A)(13)(b)&(c) & (A)(14)(b)&(c).**

**Pursuant to 42 Pa.C.S. § 9799.16(B)&(C), the juvenile is to provide specific information to the Pennsylvania State Police to be included in the Registry. It is the duty of the chief juvenile probation officer to: 1) inform the juvenile of the juvenile’s duty to register; 2) require the juvenile to read and sign a form stating that the duty to register has been explained and the juvenile understands the registration requirements; and 3) collect the information required under 42 Pa.C.S. §**

9799.16(B)&(C) and forward the information to the Pennsylvania State Police for inclusion in the Registry. See 42 Pa.C.S. § 9799.20. Paragraphs (A)(13)(d) & (A)(14)(d) ensures the juvenile probation officer assists the chief juvenile probation officer in forwarding this information to the Pennsylvania State Police.

Under 42 Pa.C.S. § 9799.33(A)(2), the chief juvenile probation officer is to notify the Pennsylvania State Police each time a sexual offender is arrested or recommitted to a placement facility if the juvenile is under the court's supervision. The juvenile probation officer is to assist the chief juvenile probation officer in fulfilling this duty. See paragraphs (A)(13)(f) & (A)(14)(f).

Pursuant to paragraphs (A)(14)(e)&(f), the juvenile probation officer is to ensure the juvenile's information is current prior to release of a "sexually violent delinquent child" from involuntary treatment facility and fill out a form prescribed by the Pennsylvania State Police each time a sexual offender is arrested, recommitted to an inpatient facility, or refuses to provide information pursuant to paragraph (A)(14)(d) if the juvenile is still under the juvenile court's supervision. In most instances, juvenile court supervision will be terminated prior to these occurrences.

Paragraphs (A)(13)(g) & (A)(14)(g) require the juvenile probation officer to notify the chief juvenile probation officer if the juvenile refuses to provide this information. Pursuant to 42 Pa.C.S. 9799.22(D), the chief juvenile probation officer is to notify the Pennsylvania State Police of such violation. The juvenile will then be charged with a violation of 18 Pa.C.S. § 4915.1(relating to failure to comply with registration of sexual offenders requirements).

Ninety days prior to the twentieth birthday of a juvenile who was adjudicated delinquent for an act(s) of sexual violence and who remains in a placement facility upon attaining twenty years of age, as specified in 42 Pa.C.S. § 6358(A), a probation officer is to notify SOAB about the status of the juvenile, where the juvenile is presently placed, and is to assist SOAB in obtaining access to any information, including the juvenile's official court record and juvenile probation file, required by SOAB to perform an assessment. See 42 Pa.C.S. §§ 6358(B) & 9799.24(H). The juvenile probation office is to cooperate with SOAB when an assessment is ordered. See 42 Pa.C.S. § 9799.24(C). See paragraph (A)(14)(a).

See, e.g. Com. v. Knoble, 42 A.3d 976 (Pa. 2012) for participation in sexual history therapeutic polygraph examination for sexual offender treatment if a condition of probation.

\* \* \*

**RULE 302. INTER-COUNTY TRANSFER**

\* \* \*

**D. “Juvenile offenders.” Upon an adjudication of delinquency, the court shall:**

- 1) classify the out-of-county juvenile as a “juvenile offender” pursuant to Rule 409(D); and**
- 2) order the “juvenile offender” to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B) if:**
  - a) the adjudication of delinquency occurs in any county other than the juvenile’s county of residence; and**
  - b) the court intends to transfer the juvenile’s case for disposition to the juvenile’s county of residence under this rule and 42 Pa.C.S. § 6321(C).**
- 3) the following two conditions have been met:**

**COMMENT**

\* \* \*

**See Rule 800 for partial suspension of 42 Pa.C.S. § 9799.23(A).**

**RULE 407. ADMISSIONS**

\* \* \*

C. **Written admission colloquy.** If a juvenile is making an admission, the colloquy shall be:

- 1) in writing;
- 2) reviewed and completed with the juvenile by an attorney;
- 3) submitted to and reviewed by the court; **[and]**
- 4) substantially in the following form:

\* \* \*

**5) and; if the juvenile is admitting to a sexual offense for which the juvenile shall register as a “juvenile offender” or “sexually violent delinquent child,” an addendum to the admissions form shall be in substantially the following form:**

*(THIS IS AN ENTIRELY NEW PROPOSED FORM)*  
**ADDENDUM TO ADMISSIONS FORM**

**SEXUAL OFFENDER REGISTRATION AND/OR ACT 21 COLLOQUY**

<b>In re</b>	<b>:</b>	<b>Docket #</b>
_____		
<b>(Juvenile)</b>	<b>:</b>	
	<b>:</b>	<b>Delinquent Act(s):</b>
_____	<b>:</b>	

**INTRODUCTION**

This supplemental colloquy\* should be used in conjunction and submitted with the written admission colloquy form as mandated by Pa.R.J.C.P. 407.

\*It is recommended that this colloquy be placed on the record in open court.

**If Part A of this colloquy is applicable, both Parts A and B must be completed.  
If Part A does not apply, complete Part B only.**

**PART A**

**Sexual Offender Registration - 14 yrs. or older\***

\*Age at time of commission of delinquent act

**SORNA CASES**

I committed at least one of the following delinquent act(s) on or after my fourteenth birthday; AND

If I am adjudicated delinquent by the court for any of these acts,

I understand that I must register as a “juvenile offender” for the rest of my life.

*See 42 Pa.C.S. §§ 9799.12 and 9799.17.*

Check all that apply:

<input type="checkbox"/> Rape, 18 Pa.C.S. §3121	<input type="checkbox"/> Attempt	<input type="checkbox"/> Solicitation	<input type="checkbox"/> Conspiracy
<input type="checkbox"/> Involuntary Deviate Sexual Intercourse, 18 Pa.C.S. §3123	<input type="checkbox"/> Attempt	<input type="checkbox"/> Solicitation	<input type="checkbox"/> Conspiracy
<input type="checkbox"/> Aggravated Indecent Assault, 18 Pa.C.S. §3125	<input type="checkbox"/> Attempt	<input type="checkbox"/> Solicitation	<input type="checkbox"/> Conspiracy

**General Information:**

- 1) My birthday is \_\_\_\_\_. (MM/DD/YYYY)
- 2) The delinquent act(s) was committed on \_\_\_\_\_. (MM/DD/YYYY).
- 3) I was at least fourteen (14) years old at the time of the commission of the delinquent act(s) designated as an offense of a “juvenile offender” enumerated above.  
Yes No

*See 42 Pa.C.S. § 9799.12 (Definition of “juvenile offender”)*

- 4) My home state is \_\_\_\_\_.

If I am not a resident of Pennsylvania, I understand the provisions of this colloquy are applicable at the time of the adjudication of delinquency and my home state may have additional requirements not presented in this colloquy. \_\_\_\_\_ initials

**Understanding of Registration Requirements**

- 5) I understand that I must give the juvenile probation office specific information and have my photograph taken before I am released from a placement facility or when I am placed on probation. \_\_\_\_\_ initials

*See 42 Pa.C.S. §§ 6352(A)(2)-(3), 9799.15 (Period of registration), 9799.16 (Registry), and 9799.19 (Initial Registration).*

- 6) I understand “registration” means that I will be required to appear at a location approved by the Pennsylvania State Police (PSP) periodically to give my name and certain information about me which can be seen by other people. \_\_\_\_\_

initials

- 7) I understand that I am required to appear at a PSP site to provide and verify specific information and be photographed every three months for the rest of my life unless I am a transient juvenile offender as provided in paragraph (9).  
\_\_\_\_\_ initials

*See 42 Pa. C.S. §§ 9799.15, 9799.16(B), and 9799.25.*

- 8) I understand that if I change my name, telephone number, email address, move my residence, change employment or student status, have transportation changes, or any other changes in my personal status as required by 42 Pa.C.S. § 9799.15(G), I am required to appear at a PSP site within three business days of the change to provide current information. \_\_\_\_\_ initials

*See 42 Pa. C.S. § 9799.15(G).*

- 9) I understand that I am a transient juvenile offender if I do not have a permanent home but live in a temporary place in Pennsylvania and that I must appear in person every month at a PSP site to provide or verify specific information and to be photographed until I establish a residence. \_\_\_\_\_ initials

*See 42 Pa.C.S. §§ 9799.15(h) (Relating to transient juvenile offenders) and 9799.16(B) (Registry information).*

- 10) I understand that I will be included on a statewide registry of sexual offenders which means other people will be able to see certain information about me.  
\_\_\_\_\_ initials

*See 42 Pa.C.S. § 9799.16 (Registry).*

- 11) I understand that after 25 years of compliance, I am eligible to petition the court to have my registration terminated if I have not been convicted of any new crimes.  
\_\_\_\_\_ initials

*See 42 Pa.C.S. § 9799.17 (Termination of period of registration for juvenile offenders)*

- 12) I understand that the failure of the court to provide notice to me of all the registration requirements does not relieve me from registering. \_\_\_\_\_ initials

*See 42 Pa. C.S. § 9799.25(D).*

### **Failure to Register is a new crime**

- 13) I understand that I may be charged with a new offense which is a felony if I knowingly fail to:

a) register with the PSP as required (felony of the second degree);

\_\_\_\_\_ initials

- b) verify my address or be photographed as required (felony of the second degree); or \_\_\_\_\_ initials
- c) provide accurate information when registering (felony of the first degree). \_\_\_\_\_ initials

*See* 18 Pa.C.S. § 4915.1, 42 Pa.C.S. §§ 9799.15 (relating to period of registration), 9799.19 (relating to initial registration), or 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police).

### **Consequences of Failure to Register**

- 14) I understand that I may be arrested for failure to meet any of the registration requirements. \_\_\_\_\_ initials

*See* 18 Pa.C.S. § 4915.1.

- 15) If prosecuted as an adult, I understand that if I am found to have failed to meet the registration requirements and convicted, the court is required to send me to jail for at least three years if I violate 18 Pa.C.S. § 4915.1(A)(1)&(2) and five years if I violate 18 Pa.C.S. § 4915.1(A)(3). \_\_\_\_\_ initials

*See* 42 Pa.C.S. § 9718.4.

I understand that if I am under eighteen years old, petitioned with a felony delinquent act, and prosecuted in juvenile court for failing to meet the registration requirements, I would be subject to the provisions of the Juvenile Act which could include transfer to adult court or placement in a juvenile placement facility.  
\_\_\_\_\_ initials

*See* 42 Pa.C.S. §§ 6352 and 6355.

**Part B**  
**Juvenile who may be Subject to Civil Commitment for Involuntary Treatment**

**CIVIL COMMITMENT CASES**

I committed at least one of the following delinquent act(s); AND

If I am adjudicated delinquent by the court; AND

If I am in a placement facility upon attaining the age of twenty,

I understand that I may be civilly committed for involuntary inpatient treatment at a facility as a “sexually violent delinquent child.”

*See 42 Pa.C.S. § 6401 et seq.*

Check all that apply:

<input type="checkbox"/> Rape, 18 Pa.C.S. §3121	<input type="checkbox"/> Sexual Assault, 18 Pa.C.S. §3124.1
<input type="checkbox"/> Involuntary Deviate Sexual Intercourse, 18 Pa.C.S. §3123	<input type="checkbox"/> Indecent Assault, 18 Pa.C.S. §3126
<input type="checkbox"/> Aggravated Indecent Assault, 18 Pa.C.S. §3125	<input type="checkbox"/> Incest, 18 Pa.C.S. §4302

- 1) I understand that if I am in a placement facility upon attaining the age of twenty (20), the State Sexual Offenders Assessment Board (SOAB) will conduct an assessment to determine if I have a mental abnormality or personality disorder which results in serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence. \_\_\_\_\_ initials

*See 42 Pa.C.S. § 6358.*

- 2) I understand that if the SOAB concludes that I am in need of involuntary inpatient treatment, the court will conduct a dispositional review hearing. \_\_\_\_\_ initials

*See 42 Pa.C.S. § 6358.*

- 3) I understand that if the court, at the dispositional review hearing, finds there is a *prima facie* case that I am in need of involuntary commitment pursuant to 42 Pa.C.S. § 6401 *et seq.*, the court will direct the county solicitor or a designee to file a petition to commence involuntary commitment proceedings. \_\_\_\_\_ initials

*See 42 Pa.C.S. § 6358.*

- 4) I understand that if a petition has been filed to commence involuntary commitment proceedings, the court will conduct a hearing to determine if I have serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence. \_\_\_\_\_ initials

*See* 42 Pa.C.S. § 6403.

- 5) I understand that if, at a hearing pursuant to 42 Pa.C.S. § 6401 *et seq.*, the court determines that I have serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence, I will be committed to an involuntary inpatient facility. \_\_\_\_\_ initials

*See* 42 Pa.C.S. § 6403.

- 6) I understand that I must give the juvenile probation office specific information and have my photograph taken at the time of commitment to an involuntary inpatient center. \_\_\_\_\_ initials

*See* 42 Pa.C.S. §§ 9799.15 (Period of registration), 9799.16 (Registry), and 9799.19 (Initial Registration).

- 7) I understand that once committed to an involuntary inpatient facility, my case will be reviewed every year and I will not be released until it is determined that I no longer have serious difficulty controlling my sexually violent behavior that makes me likely to engage in an act of sexual violence. \_\_\_\_\_ initials

*See* 42 Pa.C.S. § 6404.

- 8) I understand that if I am released from the inpatient facility, I will be transferred for involuntary outpatient treatment and subject to registration requirements listed in Part B, paragraphs (12) - (22). \_\_\_\_\_ initials

*See* 42 Pa.C.S. § 6404.1.

- 9) I understand that my involuntary outpatient treatment will be reviewed by the court each year. \_\_\_\_\_ initials

*See* 42 Pa.C.S. § 6404.2.

- 10) I understand that if I am released from outpatient treatment, I must attend at least monthly counseling sessions and follow other requirements for the rest of my life, including the registration requirements listed in Part B, paragraphs (12) - (22), as conditions of my release. \_\_\_\_\_ initials

*See* 42 Pa.C.S. §§ 6404.1 & 6404.2.

- 11) I understand that if I fail to meet any of the required conditions of my treatment plan, including registration, or the court determines I am having serious difficulty controlling sexually violent behavior, I will be sent back to an involuntary inpatient facility. \_\_\_\_\_ initials

*See* 18 Pa.C.S. § 4915.1 & 42 Pa.C.S. § 6404.2.

- 12) I understand “registration” means that I will be required to appear at a location

approved by the Pennsylvania State Police (PSP) periodically to give my name and certain information about me that can be seen by other people. \_\_\_\_\_ initials

- 13) I understand that I am required to appear at a PSP site to provide and verify specific information and be photographed every three months for the rest of my life unless I am a transient as provided in paragraph (15). \_\_\_\_\_ initials

*See 42 Pa. C.S. §§ 9799.15, 9799.16(B), and 9799.25.*

- 14) I understand that if I change my name, telephone number, email address, move my residence, change employment or student status, have transportation changes, or any other changes in my personal status that are required by 42 Pa.C.S. § 9799.15(G), I am required to appear at a PSP site within three business days of the change to provide current information. \_\_\_\_\_ initials

*See 42 Pa. C.S. § 9799.15(G).*

- 15) I understand that I am a transient if I do not have a permanent home but live in a temporary place in Pennsylvania and that I must appear in person every month at a PSP site to provide or verify specific information and to be photographed until I establish a residence. \_\_\_\_\_ initials

*See 42 Pa.C.S. §§ 9799.15(H) (Relating to transient juvenile offenders) and 9799.16(B) (Registry information).*

- 16) I understand that information about me will be included on a statewide registry of sexual offenders which means other people will be able to see certain information about me on a public internet web-site maintained by the PSP. \_\_\_\_\_ initials

*See 42 Pa.C.S. § 9799.16 (Registry).*

- 17) I understand that the failure of the court to provide notice to me of all the registration requirements does not relieve me from registering. \_\_\_\_\_ initials

*See 42 Pa. C.S. § 9799.25(D).*

### **Failure to Register or attend outpatient counseling is a new crime**

- 18) I understand that I may be charged with a new offense which is a felony if I knowingly fail to:
- a) register with the Pennsylvania State Police as required (felony of the second degree); \_\_\_\_\_ initials
  - b) verify my address or be photographed as required (felony of the second degree); or \_\_\_\_\_ initials

c) provide accurate information when registering (felony of the first degree). \_\_\_\_\_ initials

*See* 18 Pa.C.S. § 4915.1, 42 Pa.C.S. §§ 9799.15 (relating to period of registration), 9799.19 (relating to initial registration), or 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police).

19) I understand that I may be charged with a new offense which is a misdemeanor of the first degree if I fail to attend outpatient counseling. \_\_\_\_\_ initials

*See* 18 Pa. C.S. § 4915.1.

### **Consequences of Failure to Register**

20) I understand that I may be arrested for failure to meet any of the registration or counseling requirements. \_\_\_\_\_ initials

*See* 18 Pa.C.S. § 4915.1.

21) I understand that if I am found to have failed to meet the registration requirements and convicted, the court is required to send me to jail for at least three years if I violate 18 Pa.C.S. § 4915.1(A)(1)&(2) and five years if I violate 18 Pa.C.S. § 4915.1(A)(3). \_\_\_\_\_ initials

*See* 42 Pa.C.S. § 9718.4.

22) I understand that if I am found to have failed to attend counseling sessions, I may also be recommitted to an involuntary inpatient facility or prosecuted for a new offense. \_\_\_\_\_ initials

*See* 18 Pa.C.S. § 4915.1 & 42 Pa.C.S. § 9799.36.

### **Lawyer's Representation and Opportunity to Speak with Guardian**

23) Are you okay with what your lawyer did for you and how he or she explained everything? Yes No

24) Did you talk with your parent or guardian about the lifetime implications of being adjudicated for the enumerated delinquent act(s)? Yes No

I have read this form or someone has read this form to me.

- Parts A and B have been completed.**
- Part B only has been completed.**

I understand the form and which sections apply to me. The signature below and initials on each page of this form are mine.

---

JUVENILE

---

DATE

I, \_\_\_\_\_, lawyer for the juvenile, have reviewed this form with my client. My client has told me and I believe that he or she understands this form. I have completed the following sections with my client and explained the applicability of these sections to him or her.

- Parts A and B have been completed.**
- Part B only has been completed.**

---

LAWYER FOR JUVENILE

---

DATE

**COMMENT**

\* \* \*

The admission colloquy **and the addendum for sexual offense cases** can be downloaded from the Supreme Court's webpage at <http://www.pacourts.us/T/BoardsCommittees/JuvenileCourtProcedural/>. The **[admission] forms are [is]** also available in Spanish.

The Pennsylvania Juvenile Collateral Consequences checklist is also available on the Supreme Court's webpage.

## RULE 409. ADJUDICATION OF DELINQUENCY

\* \* \*

**D. Out-of-County “Juvenile Offenders” Classification. The court shall classify an out-of-county juvenile as a “juvenile offender” if:**

- 1) the adjudication of delinquency was a result of an offense as defined by 42 Pa.C.S. § 9799.12;**
- 2) the court has adjudicated the juvenile delinquent pursuant to paragraph (A)(2)(a) and the case is being transferred pursuant to Rule 302.**

### COMMENT

\* \* \*

Pursuant to paragraph (A)(2)(b)(ii), a case reference number is to be included to help track this case. *See Comment* to Rule 170 for further description of a case reference number.

**Pursuant to paragraph (D), the court is to classify the out-of-county juvenile as a “juvenile offender” if the juvenile is found delinquent for a “juvenile offender” offense as defined by 42 Pa.C.S. § 9799.12. See 42 Pa.C.S. §§ 9799.19 (H) for out-of-county classification and 9799.23 for court’s notification and classification requirements.**

**See Rule 302 for procedures for out-of-county juvenile offenders. An out-of-county juvenile is defined in Rule 302(D)(3)(a)&(b).**

**See also Rule 800 for partial suspension of 42 Pa.C.S. § 9799.23(A).**

\* \* \*

## RULE 512. DISPOSITIONAL HEARING

\* \* \*

D. **Court's findings.** The court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 515. On the record in open court, the court shall state:

\* \* \*

- 6) any findings necessary to ensure the stability and appropriateness of the juvenile's education, and when appropriate, the court shall appoint an educational decision maker pursuant to Rule 147; **[and]**
- 7) any findings necessary to identify, monitor, and address the juvenile's needs concerning health care and disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed;
- 8) **If juvenile is adjudicated delinquent for any of the following offenses after turning fourteen years of age, the court shall classify the juvenile as a juvenile offender:**

- a) **rape, 18 Pa.C.S. § 3121;**
- b) **involuntary deviant sexual intercourse, 18 Pa.C.S. § 3123**
- c) **aggravated indecent assault, 18 Pa.C.S. § 3125; or**
- d) **attempt, solicitation, or conspiracy to the enumerated offenses in paragraph (8)(a)-(c).**

**E. Classification of juvenile offender. Upon classification of a juvenile as a "juvenile offender," the court shall:**

- 1) **explain to the juvenile that the juvenile has the following duties:**
  - a) **the duty to register pursuant to 42 Pa.C.S. § 9799.10 et seq.;**
  - b) **the duty to register in accordance with 42 Pa.C.S. § 9979.15 (Relating to Period of Registration), 9799.16 (Relating to Registry), 9799.19 (Relating to Initial Registration) and 9799.25 (Relating to Verification by Sexual Offenders and Pennsylvania State Police);**
  - c) **the duty to register with authorities in another jurisdiction within three business days pursuant to 42 Pa.C.S. 9799.23;**

**d) the duty to submit to fingerprints, palm prints, DNA sample, and photograph at the time of the disposition; and**

**2) fulfill the following duties of the court:**

**a) classify the juvenile as a “juvenile offender” if juvenile is found delinquent for an offense that is a “juvenile offender” offense as defined by 42 Pa.C.S. § 9799.12;**

**b) ensure the juvenile offender has signed the form stating that the duty to register has been explained; and**

**c) issue any orders to a juvenile offender requiring the juvenile to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B).**

COMMENT

\* \* \*

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a juvenile and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

**If the juvenile is classified by the court as a “juvenile offender.” as defined by 42 Pa.C.S. § 9799.12, pursuant to 42 Pa.C.S. § 9799.19(H), the judge is to order the juvenile to provide information required pursuant to 42 Pa.C.S. § 9799.16(B) to the chief juvenile probation officer at the time of disposition. See 42 Pa.C.S. § 9799.19(H)(1). Pursuant to 42 Pa.C.S. § 9799.20, the court is to: 1) inform the juvenile of the juvenile’s duty to register; 2) require the juvenile to read and sign a form stating that the duty to register has been explained and the at the juvenile understands the registration requirements; and 3) collect the information required under 42 Pa.C.S. § 9799.16(B)&(C) and forward the information to the Pennsylvania State Police for inclusion in the Registry. See 42 Pa.C.S. § 9799.20.**

**Additionally, 42 Pa.C.S. § 9799.23(A) requires at the time of disposition, the court to: 1) specifically classify the juvenile as a “juvenile offender”; 2) ensure the sexual offender has signed the form stating that the duty to register has been explained; and 3) issue any orders to a juvenile offender requiring the juvenile to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B).**

**The court, at the time of disposition, also is to inform the ‘juvenile offender’ of the following duties: 1) the duty to register as a sexual offender pursuant to 42 Pa.C.S. § 9799.10 *et seq.*; 2) the duty of the sexual offender to register in accordance with 42 Pa.C.S. §§ 9979.15 (Relating to period of registration), 9799.16 (Relating to Registry), 9799.19 (Relating to Initial Registration) and 9799.25 (Relating to Verification by Sexual Offenders and Pennsylvania State Police); 3) the duty of the sexual offender to register with authorities in another jurisdiction within three business days of specific occurrences as described in 42 Pa.C.S. 9799.23(A)(3); and 4) the duty of the sexual offender to submit to fingerprints, palm prints, DNA Sample, and photograph at the time of the disposition in accordance with 42 Pa.C.S. § 9799.16(C). See 42 Pa.C.S. § 9799.23.**

**In inter-county transfer cases for “juvenile offenders,” the procedures differ. The court is to make the classification at the time of adjudication of delinquency. See Rule 302 and 800.**

\* \* \*

**RULE 614. SEXUALLY VIOLENT DELINQUENT CHILDREN.**

**A. Chief Juvenile Probation Officer's Duties. The Chief Juvenile Probation Officer shall:**

- 1) notify and aid SOAB concerning any juvenile, who is in a placement facility, as a result of having been adjudicated delinquent for an act(s) of sexual violence, ninety days prior to the juvenile's twentieth birthday:**
  - a) of the status of the juvenile;**
  - b) by specifying where the juvenile is presently committed; and**
  - c) in obtaining information required by SOAB pursuant to 42 Pa.C.S. §§ 6358(B) and 9799.24 (C) & (H);**
  
- 2) when applicable for a juvenile, who is adjudicated delinquent for an act(s) of sexual violence, explain to the juvenile that if the juvenile remains in placement upon turning twenty years of age:**
  - a) the SOAB will perform an assessment to determine if the juvenile has a mental abnormality or personality disorder which results in serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence;**
  - b) if the SOAB concludes that the juvenile is in need of involuntary inpatient treatment, the court will conduct a dispositional review hearing;**
  - c) if the court, at the dispositional review hearing, finds there is a prima facie case that the juvenile is in need of involuntary commitment pursuant to 42 Pa.C.S. § 6401 et seq., the court will direct the county solicitor or a designee to file a petition to commence involuntary commitment proceedings;**
  - d) if a petition has been filed to commence involuntary commitment proceedings, the court will conduct a hearing to determine if the juvenile has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence;**
  - e) if, at a hearing pursuant to 42 Pa.C.S. § 6401 et seq., the court determines that the juvenile has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence, the juvenile will be:**
    - i) committed to an involuntary inpatient facility; and**
    - ii) classified as a "sexually violent delinquent child;"**

- f) if the juvenile is classified as a “sexually violent delinquent child,” the juvenile must give the juvenile probation office specific information and have his or her photograph taken at the time of commitment to an involuntary inpatient center;
- g) if the juvenile is committed to an involuntary inpatient facility, the juvenile’s case will be reviewed every year and the juvenile will not be released until it is determined that the juvenile no longer has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act of sexual violence;
- h) if the juvenile is released from the inpatient facility, the juvenile will be transferred for involuntary outpatient treatment and subject to registration requirements, including:

  - i) the duty to register pursuant to 42 Pa.C.S. § 9799.10 *et seq.*;
  - ii) the duty to register in accordance with 42 Pa.C.S. § 9979.15 (Relating to period of registration), 9799.16 (Relating to Registry), 9799.19 (Relating to Initial Registration) and 9799.25 (Relating to Verification by Sexual Offenders and Pennsylvania State Police);
  - iii) the duty to register with authorities in another jurisdiction within three business days pursuant to 42 Pa.C.S. 9799.23;
  - iv) the duty to submit to fingerprints, palm prints, DNA sample, and photograph at the time of the disposition; and

**B. Court’s duties. The court shall:**

- a) conduct a dispositional review hearing to determine if the juvenile is a “sexually violent delinquent child,” if after an assessment, SOAB has determined the juvenile is in need of involuntary inpatient treatment;
- b) order the solicitor or designee to file a petition to commence involuntary commitment proceedings if the court finds there is a *prima facie* case that the juvenile is in need of involuntary commitment pursuant to 42 Pa.C.S. § 6301 *et seq.*;
- c) conduct a hearing pursuant to 42 Pa.C.S. § 6301 *et seq.* and determine whether the juvenile has serious difficulty controlling sexually violent behavior that makes the juvenile likely to engage in an act(s) of sexual violence;
- d) classify the juvenile as a “sexually violent delinquent child” if the court determines the juvenile has serious difficulty controlling the juvenile’s

**sexually violent behavior that makes the juvenile likely to engage in an act(s) of sexual violence, as defined by 42 Pa.C.S. § 9799.12;**

**i) ensure the sexual offender has signed the form stating that the duty to register has been explained if the juvenile is classified as a “sexually violent delinquent child;” and**

**ii) issue any orders to a sexual offender requiring the juvenile to provide information to the chief juvenile probation officer as set forth in 42 Pa.C.S. § 9799.16(B) if the juvenile is classified as a “sexually violent delinquent child;” and**

**e) send a copy of any order to SOAB within ten days of the hearing**

**COMMENT**

**See 42 Pa.C.S. §§ 6358 and 9799.24 for assessments of delinquent children by the SOAB. See also 42 Pa.C.S. § 9799.23 for court notification.**

**CHAPTER 8  
SUSPENSIONS**

**RULE 800. SUSPENSIONS OF ACTS OF ASSEMBLY**

This rule provides for the suspension of the following Acts of Assembly that apply to delinquency proceedings only:

\* \* \*

- 13) The Act of December 20, 2011, P.L. 446, No. 111, § 18, 42 Pa.C.S. § 9799.23(A), which provides for classification of the “juvenile offender” at the time of disposition, is suspended only insofar as the Act is inconsistent with Rules 302 and 409, which require the classification of a “juvenile offender” for out-of-county cases at the time of the adjudication of delinquency.
- 14) The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6323(a)(2), which provides that a delinquent child may be referred for an informal adjustment by a juvenile probation officer, is suspended only insofar as the Act is inconsistent with Rule 312, which provides that only an *alleged* delinquent child may be referred for an informal adjustment because the filing of informal adjustment shall occur prior to the filing of a petition.
- ~~[14]~~15)Section 5720 of the Wiretapping and Electronic Surveillance Control Act, Act of October 4, 1978, P.L. 831, No. 164, 18 Pa.C.S. § 5720, is suspended as inconsistent with Rule 340 only insofar as the section may delay disclosure to a juvenile seeking discovery under Rule 340(B)(6); and Section 5721(b) of the Act, 18 Pa.C.S. § 5721(b), is suspended only insofar as the time frame for making a motion to suppress is concerned, as inconsistent with Rules 347 and 350.
- ~~[15]~~16)The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6340(c), which provides consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court, is suspended only insofar as the Act is inconsistent with the requirement of Rule 373 that a motion for early discharge is to be made to the court.
- ~~[16]~~17)The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides for a hearing within ten days of the juvenile’s detention unless the exceptions of (a)(1)&(2) or (f) are met, is suspended only insofar as the Act is inconsistent with Rule 391, which provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.
- ~~[17]~~18)The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6355(g), which provides the burden of establishing by a preponderance of evidence

that the public interest is served by the transfer of the case to criminal court *and* that a child is not amenable to treatment, supervision, or rehabilitation as a juvenile shall rest with the Commonwealth unless the exceptions of paragraphs (g)(1) and (2) apply, is suspended only insofar as the Act is inconsistent with Rule 394, which provides *only* the burden of establishing by a preponderance of evidence that the public interest is served by the transfer of the case to criminal court shall rest with the Commonwealth unless the exceptions of paragraph (g)(1) and (2) apply.

[18]19)The Act of July 9, 1976, P.L. 586, No. 142, § 2, 42 Pa.C.S. § 6353(a), which requires dispositional review hearings to be held at least every nine months when a juvenile is removed from the home, is suspended only insofar as it is inconsistent with the requirement of Rule 610, which requires dispositional review hearings to be held at least every six months.

#### COMMENT

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. *See also* Rule 102.

**The partial suspension of 42 Pa.C.S. § 9799.23(A) is due to the requirement of 42 Pa.C.S. § 9799.19(H), which requires the out-of-county juvenile to register at the time of the adjudication of delinquency. For the juvenile to register, it is first required that the juvenile be classified as a juvenile offender.**

\* \* \*