

**Rule 131. Location of Proceedings Before Issuing Authority.**

(A) An issuing authority within the magisterial district for which he or she is elected or appointed shall have jurisdiction and authority to receive complaints, issue warrants, hold preliminary arraignments, set and receive bail, issue commitments to jail, and hold hearings and summary trials.

(1) Except as provided in paragraph (A)(2), all preliminary arraignments shall be held in the issuing authority's established office, a night court, or some other facility within the Commonwealth designated by the president judge, ~~or the president judge's designee.~~

(2) Preliminary arraignments may be conducted using advanced communication technology pursuant to Rule 540. The preliminary arraignment in these cases may be conducted from any site within the Commonwealth, ~~designated by the president judge, or the president judge's designee.~~

(3) All hearings and summary trials before the issuing authority shall be held publicly at the issuing authority's established ~~office~~ court. For reasons of emergency, security, size, or in the interests of justice, the president judge, ~~or the president judge's designee,~~ may order that a hearing or hearings, or a trial or trials, be held in another more suitable location within the judicial district. "Interests of justice" refers to the necessity of assigning a judge to another court when the judge of that court is temporarily unable to meet his duties, due to, for example, illness, leave, or recusal. The relocation shall be only as long as necessary for the judge to schedule and hear the affected case or cases according to the time limits of the rules of procedure, or, in the case of emergency, until the affected court facility is operational.

(4) The issuing authority may receive complaints, issue warrants, set and receive bail, and issue commitments to jail from any location within the judicial district, or from an advanced communication technology site within the Commonwealth.

(B) When local conditions require, the president judge may establish procedures for preliminary hearings or summary trials, in all cases or in certain classes of cases, to be held at a central place or places within the judicial district at certain specified times. The procedures established shall provide either for the transfer of the case or the transfer of the issuing authority to the designated central place as the needs of justice and efficient administration require.

(1) The president judge shall not assign a magisterial district judge to hear cases arising from outside the magisterial district judge's electoral district.

(2) The president judge shall petition the Supreme Court for such relocation of proceedings at a central place or places.

(3) The petition procedure is as follows:

a. Petition.

The president judge shall submit to the Supreme Court a petition for such relocation of proceedings. The petition shall state the reasons therefor and

include all data, if any, relied upon and a proposed local rule governing the operation and administration of the relocated proceedings.

b. Distribution.

The petition shall be distributed to the Minor Court Rules Committee and to the Legislative Reference Bureau. The Committee shall send the petition to the Administrative Office. The Administrative Office shall record the petition.

c. Notification.

The Bureau shall publish the petition in the Pennsylvania Bulletin. The publication notification shall contain a statement to the effect that comments regarding the petition are invited and should be sent directly to the Committee within a specified period.

b. Comments.

There shall be a public comment period. Comments shall be sent directly to the Committee. The Committee shall accept comment for the period specified in the publication notice. The comment period shall not be less than 90 days. Immediately upon submission, comments shall be available to the public for review.

c. Objections.

Following the close of the comment period, there shall be an objection period. Objections shall be sent directly to the Committee. The Committee shall accept objections within a specified period. The objection period shall not be less than 90 days. Any resident of the county, including magisterial district judges, may make an objection to the petition.

d. Hearing.

Upon objection, there shall be a public hearing. The Committee shall conduct the hearing. The Committee shall give notice thereof to all interested parties. The notice period shall not be less than 30 days. In the hearing, an objector may call witnesses and present evidence. The Committee shall make and maintain a stenographic record of the hearing.

e. Committee Review.

The Committee shall review the record, including the petition, the comments, the objection or objections, and the transcript of the hearing. The Committee shall make recommendations regarding the petition and send the aforementioned materials, including the recommendations, to the Supreme Court.

e. Final Disposition.

The Pennsylvania Supreme Court shall have final approval or denial authority over the petition and may in its discretion take any action in the best interest of justice or efficient administration of the courts.

f. Publication.

Any rules adopted by the Supreme Court shall be filed in the Office of the Prothonotary of the Supreme Court and in the Administrative Office.

After an order adopting a rule has been filed with the Prothonotary of the Supreme Court, the Prothonotary shall forward a certified copy of the order and rule to:

i. The publisher of the official version of Supreme Court decisions and opinions who shall cause it to be printed in the first available volume of the State Reports.

ii. The prothonotaries or clerks of all courts which may be affected thereby, and thereupon the order and the rule shall be published by such prothonotaries or clerks in the same manner as local rules adopted by such courts.

iii. The Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

iv. The Administrative Office.

### **Comment**

The 2002 amendments to paragraph (A) divided the paragraph into subparagraphs to more clearly distinguish between the locations for the different types of proceedings and business that an issuing authority conducts.

Paragraph (A)(3) permits the president judge, or the president judge's designee, to order that a hearing or hearings be held in a location that is different from the issuing authority's established office. Nothing in this rule is intended to preclude the president judge, or the president judge's designee, from issuing a standing order for a change in location. For example, this might be done when a state correctional institution is located in the judicial district and the president judge determines that, for security reasons, all preliminary hearings of the state correctional institution's inmates will be conducted at that prison.

See Rule 540 and Comment for the procedures governing the use of advanced communication technology in preliminary arraignments.

See Rule 130 concerning the venue when proceedings are conducted by using advanced communication technology.

Paragraph (B) of this rule is intended to facilitate compliance with the requirement that defendants be represented by counsel at the preliminary hearing. *Coleman v. Alabama*, 399 U. S. 1 (1970).

Paragraph (A)(4) permits issuing authorities to perform their official duties from an advanced communication technology site within the Commonwealth. The site may be located outside the magisterial district or judicial district where the issuing authority presides.

This rule allows the president judge of a judicial district the discretion to determine what classes of cases require centralized preliminary hearings or summary trials, and requires the president judge, or the president judge's designee, to establish a schedule of central places within the Commonwealth to conduct such hearings or summary trials, and the hours for the hearings or trials at the central locations.

Ideally, this rule should minimize the inconvenience to defense counsel and the attorney for the Commonwealth by eliminating the necessity of travel at various unpredictable times to many different locations throughout the judicial district for the purpose of attending preliminary hearings or summary trials. Finally, this rule allows preliminary hearings or summary trials for jailed defendants to be held at a location close to the place of detention.

Paragraph (A)(3) was amended to clarify the term "interests of justice."

The term "interests of justice" as used in Paragraph (A)(3) refers to the necessity of assigning a judge to another court when the judge of that court is temporarily unable to meet his duties, due to, for example, illness, leave, or disqualification.

In the alternative, the case may be transferred to another judge, or, if there are many cases, to more than one judge. It is transfer which is preferred, as it enables the substitute judge or judges to continue to run his own court or their own courts.

Court administrators shall not act as "designees" in such matters. The president judge shall consult the affected judge or judges, who may, in their discretion, elect either relocation or transfer.

Paragraph (B) was amended to ensure adherence to the constitutional provisions regarding jurisdiction of magisterial district judges.

It is provided by the Pennsylvania Constitution that there shall be a Supreme Court, a Superior Court, a Commonwealth Court, courts of common pleas, and magisterial district courts. PA. CONST., ART. V, §§ 2-7. Only the General Assembly may establish additional courts or divisions of existing courts, as needed, or abolish any statutory court or division thereof. PA. CONST., ART. V, § 10(c).

The Constitution provides that magisterial district judges shall be elected by the electors of the respective districts in which they are to serve, PA. CONST., ART. V, § 13(a), that the General Assembly shall determine the jurisdiction of any court, PA. CONST., ART. V, § 10(c), and that a judge may hear cases from outside his district only on a temporary basis. PA. CONST., ART. V, §§ 10(a), 12(a).

It bears emphasizing that judges may hear cases from outside their district only on a temporary basis, in limited circumstances, when necessary because another judge is temporarily unable to meet his duties, due to, for example, illness, leave, or recusal. PA. CONST., ART. V, §§ 10(a), 12(a); 42 Pa.C.S. § 4122.

By Rule 131(B), the Supreme Court has provided that "when local conditions require, the president judge may establish procedures for preliminary hearings or summary trials, in all cases or in certain classes of cases, to be held at a central place or places within the judicial district at certain specified times."

Thus, under Paragraph (B), when a judicial district includes, for example, a state prison and there are substantial difficulties transporting state prison inmates to court, the president judge may assign each magisterial district judge to hear his court's inmate cases at the state prison, and he may establish standing procedures for transferring such cases.

It is well beyond the scope of Paragraph (B) and constitutionally impermissible, however, to assign a magisterial district judge to a "central court" to sit as a judge of other electoral districts, exercising jurisdiction over cases arising in not only his own electoral district but over cases arising in all electoral districts other than his own.

Only the General Assembly may amend the jurisdiction of magisterial district judges. PA. CONST., ART. V, § 10(c). Paragraph (B) cannot, and does not, do so. The creation of a central court does not authorize a president judge to assign a magisterial district judge to hear cases arising from outside his electoral district, and president judges shall not make such assignments.

Paragraph (B) was amended to include a procedure requiring examination of the effects of relocation, including inconvenience to the public.

It is important to continue to improve the administration of the courts as conditions change. This rule is intended to allow a thorough, studied examination of whether local conditions of a city or county require relocation of proceedings. In this examination, the judges running the magisterial district courts being discussed are the most informed of local conditions, and they are deserving of deference.

Ideally, the location should minimize inconvenience to the public. Long travel discourages the public from attending hearings, paying fines, or posting bail, may result in dispositional delays and increased litigation costs, and may hinder access to emergency relief, such as protection from abuse orders. Proximity to magisterial district courts "is an important ingredient in the public's ... trust in the judicial branch." Report of the Magisterial District Reestablishment Subcommittee Intergovernmental Task Force to Study the District Justice System, 2001.

Initially, Paragraph (B) of this rule was adopted to facilitate compliance with the requirement that defendants be represented by counsel at the preliminary hearing. *Coleman v. Alabama*, 399 U. S. 1 (1970). In the time since adoption, however, there has been a proliferation of block scheduling orders and magisterial district courts have seen defense counsel, including public defenders, appear on a regular basis.

This rule is not intended to reverse existing orders relocating magisterial district judge proceedings to a central court, and such existing orders shall remain in effect, although in some counties assignments must be modified to comply with the amendments.

In counties where central court orders exist, the magisterial district judges retain the right to petition the president judge for reversal of the order. If the petition is denied, they may petition the Supreme Court. In instances where the order is reversed, the magisterial district courts shall operate in accordance with the statewide unified rules of procedure. See Pa.R.Crim.P. 100-555.

#### Official Note

Formerly Rule 156, paragraph (a) adopted January 16, 1970, effective immediately; paragraph (a) amended and paragraph (b) adopted November 22, 1971, effective immediately; renumbered Rule 22 September 18, 1973, effective January 1, 1974; renumbered Rule 131 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2002, effective July 1, 2002; amended May

10, 2002, effective September 1, 2002; amended June 30, 2005, effective August 1, 2006.

*Committee Explanatory Reports:*

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).

Final Report explaining the March 12, 2002 amendments concerning centralized courts for summary trials published with the Court's Order at 32 Pa.B. 1630 (March 30, 2002).

Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Final Report explaining the June 30, 2005 deletion in paragraph (A) of "at all times" published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

**Source**

The provisions of this Rule 131 amended March 12, 2002, effective July 1, 2002, 32 Pa.B. 1630; amended May 10, 2002, effective September 1, 2002, 32 Pa.B. 2582; amended June 30, 2005, effective August 1, 2006, 35 Pa.B. 3901. Immediately preceding text appears at serial pages (304106) and (289073) to (289074).