

Rule 140. Bench Warrants for Failure to Appear at Hearings.

[A.](a) Issuance of [warrant] Warrant.

- (1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.
- (2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

[B.](b) Entry of [warrant information] Warrant Information. Upon being notified by the court, the juvenile probation officer or other court designee shall enter or request that a law enforcement officer enter the bench warrant in all appropriate registries.

[C.](c) Juvenile.

- (1) **[Where to take the juvenile] Appearance of Juvenile. Detention.**

[a)](i) When a juvenile is taken into custody pursuant to a bench warrant, the juvenile shall **[be taken] appear**, without unnecessary delay, **[to] before** the judge who issued the warrant, or a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

[b)](ii) If the juvenile **[is not brought] does not appear** before a judge or juvenile court hearing officer, the juvenile shall be released unless:

[i)](A) the warrant specifically orders detention of the juvenile;
or

[ii)](B) there are circumstances learned at the time of the surrender or apprehension that warrant detention of the juvenile.

[c)](iii) If a juvenile is detained, **pending a hearing pursuant to subdivision (c)(2)**, the juvenile shall be detained in a detention facility or other facility **either** designated in the bench warrant **[by the judge] or directed by the court at the time the juvenile is taken into custody [pending a hearing]**.

- (2) **Prompt [hearing] Hearing.**

[a)](i) If a juvenile is detained, the juvenile shall **[be brought]** **appear** before the judge who issued the warrant, a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants, or an out-of-county judge or juvenile court hearing officer pursuant to **[paragraph (C)(4)]** **subdivision (c)(4)** within **[seventy-two]** **72** hours.

[b)](ii) If the juvenile **[is not brought]** **does not appear** before a judge or juvenile court hearing officer within this time, the juvenile shall be released.

(3) **Notification of [guardian] Guardian.** If a juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

(4) **Out-of-[county custody] County Custody.**

[a)](i) If a juvenile is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

[b)](ii) Arrangements to transport the juvenile shall be made immediately.

[c)](iii) If transportation cannot be arranged immediately, then the juvenile shall **[be taken]** **appear**, without unnecessary delay, **[to]** **before** a judge or juvenile court hearing officer of the county where the juvenile is found.

[d)](iv) The judge or juvenile court hearing officer **[will]** **shall** identify the juvenile as the subject of the warrant, decide whether detention is warranted, and order or recommend that arrangements be made to transport the juvenile to the county of issuance.

(5) **Time [requirements] Requirements.** The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

[D.](d) Witnesses.

(1) **[Where to take the witness] Appearance of Witness.**

[a)](i) When a witness is taken into custody pursuant to a bench warrant, the witness shall **[be taken]** **appear**, without unnecessary delay, **[to]** **before** the judge who issued the

warrant, or a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

[b)](ii) If the witness **[is not brought] does not appear** before a judge or juvenile court hearing officer, the witness shall be released unless the warrant specifically orders detention of the witness.

[c)](iii) A motion for detention as a witness may be filed **[anytime] at any time** before or after the issuance of a bench warrant. The judge may order or the juvenile court hearing officer may recommend detention of the witness pending a hearing.

[(1)A] Minor. If a detained witness is a minor, the witness shall be detained in a detention facility.

[(2)B] Adult. If a detained witness is an adult, the witness shall be detained at the county jail.

(2) **Prompt ~~[hearing]~~ Hearing.**

[a)](i) If a witness is detained pursuant to **[paragraph (D)(1)(c)] subdivision (d)(1)(iii)** or **[brought back] transported** to the county of issuance pursuant to **[paragraph (D)(4)(f)] subdivision (d)(4)(vi)**, the witness shall **[be brought] appear** before the judge or juvenile court hearing officer by the next business day.

[b)](ii) If the witness **[is not brought] does not appear** before a judge or juvenile court hearing officer within this time, the witness shall be released.

(3) **Notification of ~~[guardian]~~ Guardian.** If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

(4) **Out-of-~~[county custody]~~ County Custody.**

[a)](i) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

[b)](ii) The witness shall **[be taken] appear**, without unnecessary delay and within the next business day, **[to] before** a judge or

juvenile court hearing officer of the county where the witness is found.

[c)](iii) The judge or juvenile court hearing officer will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order or recommend that arrangements be made to transport the witness to the county of issuance.

[d)](iv) Arrangements to transport the witness shall be made immediately.

[e)](v) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

[i)](A) Minor. If the witness is a minor, the witness may be detained in an out-of-county detention facility.

[ii)](B) Adult. If the witness is an adult, the witness may be detained in an out-of-county jail.

[f)](vi) If detention is ordered, the witness shall be **[brought back] transported** to the county of issuance within **[seventy-two] 72** hours from the execution of the warrant.

[g)](vii) If the time requirements of this **[paragraph] subdivision** are not met, the witness shall be released.

[E)](e) Advanced Communication Technology. A court may utilize advanced communication technology pursuant to Rule 129 for **the appearance of** a juvenile or a witness unless good cause is shown otherwise.

[F)](f) Return [& execution] and Execution of [the warrant] Warrant for [juveniles] Juveniles and [witnesses] Witnesses.

- (1) The bench warrant shall be executed without unnecessary delay.
- (2) The bench warrant shall be returned to the judge who issued the warrant, or to the judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

- (3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.
- (4) Upon the return of the warrant, the judge shall vacate the bench warrant.
- (5) Once the warrant is vacated, the juvenile probation officer or other court designee shall remove or request that a law enforcement officer remove the bench warrant in all appropriate registries.

Comment: 42 Pa.C.S. § 6335(c) was suspended to the extent it is inconsistent with this rule. See Pa.R.J.C.P. 800(2).

Pursuant to **[paragraph (A)] subdivision (a)**, the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

[Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the juvenile or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant.]

The fact that the juvenile or witness did not attend a hearing is not sufficient evidence, alone, for a bench warrant. A judge may issue a bench warrant if the judge finds that a subpoenaed or summoned person failed to appear, and sufficient notice was given.

This rule[, however,] does not prohibit **[probation] the juvenile probation office** from recommending detention for a juvenile. **[The normal rules of procedure in these rules are to be followed if a juvenile is detained. See Chapter Two, Part D.] For procedures if a juvenile is detained under those circumstances, see Pa.R.J.C.P. 240-243.**

Pursuant to **[paragraph (C), the] subdivision (c)**, a “juvenile” is the subject of the delinquency proceedings. **[When] if** a witness is a child, the witness is referred to as a “minor.” **[This distinction is made to differentiate between children who are alleged delinquents and children who are witnesses. See paragraph (C) for alleged delinquents and paragraph (D) for witnesses. See also Rule 120 for definition of “juvenile” and “minor.”] A juvenile is subject to subdivision (c) and a minor**

witness is subject to subdivision (d). See also Pa.R.J.C.P. 120 (defining “juvenile” and “minor”).

Pursuant to **[paragraph (C)(1)(a)] subdivision (c)(1)(i)**, the juvenile is to **[be taken]** immediately **[to] appear before** the judge who issued the bench warrant, or a judge or juvenile court hearing officer designated by the President Judge of that county to hear bench warrants. This provision allows the judge or juvenile court hearing officer the discretion to postpone a hearing, for example, the adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the juvenile. If taken into custody on the same day, the juvenile is to **[be brought]** immediately **appear** before the court for the hearing. However, pursuant to **[paragraph (C)(1)(b)] subdivision (c)(1)(ii)**, if a bench warrant specifically provides that the juvenile may be detained in a detention facility, or there are circumstances apparent at the time of the surrender or apprehension that merit detention of the juvenile, the juvenile may be detained without having to **[be brought] appear** before the judge or juvenile court hearing officer until a hearing within **[seventy-two] 72** hours under **[paragraph (C)(2)(a)] subdivision (c)(2)(i)**. The juvenile is not to languish in a detention facility. **[Pursuant to this paragraph, if] If** a hearing is not held promptly, the juvenile is to be released. **[See paragraph (C)(2)(b).]**

Subdivision (c)(1)(iii) is intended to permit, as an option, the warrant to contain contact information so the court can designate where the juvenile should be taken after the juvenile is apprehended. The information allows the arresting officer to contact the court or the court’s designee to ascertain where the juvenile should be detained based on current availability within facilities.

At the **[seventy-two] 72**-hour hearing, the judge or juvenile court hearing officer may determine that the juvenile willfully failed to appear and may continue the detention of the juvenile until the rescheduled hearing. If the juvenile is detained, the rescheduled hearing is governed by the time requirements provided elsewhere in these rules. See **[Rules] Pa.R.J.C.P.** 240, 391, 404, 510, and 605.

Under **[paragraphs (C)(2) and (C)(4)] subdivisions (c)(2) and (c)(4)**, a juvenile taken into custody pursuant to a bench warrant is to have a hearing within **[seventy-two] 72** hours regardless of where the juvenile is found. See **[Rule] Pa.R.J.C.P.** 240(C).

Pursuant to **[paragraph (C)(4)] subdivision (c)(4)**, the juvenile may be detained out-of-county until transportation arrangements can be made.

[Pursuant to paragraph (C)(5), the time requirements of all other rules are to apply to juveniles who are detained. See, e.g., Rules 240, 391, 404, 510, and 605.]

Pursuant to **[paragraph (D)(1)(a), the] subdivision (d)(1)(i)**, a witness is to **[be taken]** immediately **[to] appear before** the judge who issued the bench warrant or a judge or juvenile court hearing officer designated by the President Judge of that county to hear bench warrants. This provision allows the judge or juvenile court hearing officer

the discretion to postpone a hearing, for example, an adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the witness. The witness is to **[be brought]** immediately **appear** before the court for the hearing. However, pursuant to **[paragraph (D)(1)(b)] subdivision (d)(1)(ii)**, if the judge or juvenile court hearing officer is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to **[paragraph (D)(1)(c)] subdivision (d)(1)(iii)**, a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to **[paragraph (D)(2)] subdivision (d)(2)** is to be held by the next business day or the witness is to be released. **[See paragraph (D)(2)(b).]**

At the hearing pursuant to **[paragraph (D)(2)(a)] subdivision (d)(2)(i)**, the judge or juvenile court hearing officer may determine that the witness willfully failed to appear and find or recommend that the witness is in contempt of court, or that the witness is in need of protective custody. If the judge or juvenile court hearing officer has made one of these findings, the judge may continue the detention of the witness until the rescheduled hearing. The judge or juvenile court hearing officer should schedule the hearing as soon as possible. In any event, if the witness is detained, the rescheduled hearing must be conducted by the specific time requirements provided elsewhere in these rules. See **[Rules] Pa.R.J.C.P.** 240, 391, 404, 510, and 605.

Pursuant to **[paragraph (D)(4)(b)] subdivision (d)(4)(ii)**, a witness is to **[be brought]** **appear** before an out-of-county judge or juvenile court hearing officer by the next business day unless the witness can **[be brought]** **appear** before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within **[seventy-two] 72** hours of the execution of the bench warrant, the witness is to **[be brought]** **appear** before the court by the next business day. **[See paragraph (D)(4)(f).]**

[Pursuant to paragraph (F)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge or juvenile court hearing officer designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. See paragraph (F)(3).]

[Pursuant to paragraph (F)(4), the bench warrant is to be vacated after the return of the warrant is executed.] “Vacated,” as used in subdivision (f)(4), [is to denote] denotes that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

[Pursuant to paragraph (F)(5), once the warrant is vacated, the juvenile probation officer, other court designee, or law enforcement officer is to remove the warrant from all appropriate registries so] The intent of subdivision (f)(5) is to prevent the juvenile **[is not] from being taken into custody on the same warrant if the juvenile is released.**

[See] See 42 Pa.C.S. § 4132 for punishment of contempt for juveniles and witnesses.

If there is a bench warrant issued, juvenile court hearing officers may hear cases in which the petition alleges only misdemeanors. See **[Rule] Pa.R.J.C.P.** 187(A)(2) and **[(3)] (A)(3)**. The purpose of the hearing for juveniles pursuant to **[paragraph (C)(2)(a)] subdivision (c)(2)(i)** or the hearing for witnesses pursuant to **[paragraph (D)(2)(a)] subdivision (d)(2)(i)** is to determine if the juvenile or witness willfully failed to appear and if continued detention is necessary.

Pursuant to Rule 191, the juvenile court hearing officer is to submit his or her findings and recommendation to the court. In bench warrant cases, the juvenile court hearing officer should immediately take his or her recommendation to the judge so the judge can make the final determination of whether the juvenile or witness should be released. See **[Rule] Pa.R.J.C.P.** 191(D).

If the findings and recommendation are not taken immediately to the judge, the juvenile court hearing officer is to submit the recommendation within one business day. See **[Rule] Pa.R.J.C.P.** 191(C).

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Committee Explanatory Reports: Final Report explaining the provisions of Rule 140 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008). Final Report explaining the amendments to Rule 140 with the Court's Order at 39 Pa.B. 6029 (October 17, 2009). Final Report explaining the amendments to Rule 140 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011). Final Report explaining the amendments to Rule 140 with the Court's Order at 41 Pa.B. 5355 (October 8, 2011). Final Report explaining the amendments to Rule 140 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017). Final Report explaining the amendments to Rule 140 published with the Court's Order at 48 Pa.B. 2939 (May 19, 2018).]

Rule 141. Bench Warrants for Absconders.

[A.](a) Issuance of [warrant] Warrant. The juvenile probation officer shall immediately notify the court upon notification or recognition that a juvenile has absconded from the supervision of the court. The court may issue a bench warrant for the juvenile.

[B.](b) Entry of [warrant information] Warrant Information. Upon being notified by the court, the juvenile probation officer or other court designee shall enter or request that a law enforcement officer enter the bench warrant in all appropriate registries.

[C.](c) [Where to take the juvenile] Detention. The juvenile shall be detained, pending a hearing pursuant to subdivision (d), in a detention facility or other facility either designated in the bench warrant [pending a hearing pursuant to paragraph (D)] or directed by the court at the time the juvenile is taken into custody. If the juvenile is taken into custody in a county other than the county of issuance, the juvenile shall be transported back to the county of issuance prior to the hearing pursuant to subdivision (d).

[D.](d) Prompt [hearing] Hearing.

- (1) The juvenile shall have a detention hearing within **[seventy-two] 72** hours of the placement in detention.
- (2) A court may utilize advanced communication technology pursuant to Rule 129 for the appearance of a juvenile or a witness unless good cause is shown otherwise.

[E.](e) Time [requirements] Requirements. The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

[F.](f) Notification of [guardian] Guardian. When the juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

[G.](g) Return [& execution of the warrant] and Execution of Warrant.

- (1) The bench warrant shall be executed without unnecessary delay.

- (2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.
- (3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.
- (4) Upon the return of the warrant, the judge shall vacate the bench warrant.
- (5) Once the warrant is vacated, the court shall order the probation officer or other court designee to remove or request that a law enforcement officer remove the warrant from all appropriate registries.

Comment: Pursuant to **[paragraph (A), when] subdivision (a), the court may issue a bench warrant if** a juvenile: 1) escapes from a placement facility, detention facility, shelter care facility, foster-care, or other court-ordered program or placement; 2) fails to report to juvenile probation; 3) cannot be located by juvenile probation; or 4) otherwise leaves the jurisdiction of the court**[, the court may issue a warrant for the juvenile].**

Pursuant to **[paragraph (B)] subdivision (b)**, the court is to notify the juvenile probation officer or another court designee to enter or request that a law enforcement officer enter the bench warrant in all appropriate registries, such as JNET, CLEAN, PCIC, and NCIC.

[Pursuant to paragraph (C), the juvenile is to be detained in a detention facility or any other facility designated in the bench warrant. If a juvenile is taken into custody pursuant to the bench warrant in a county other than the county of issuance, the juvenile is to be transported back to the county of issuance prior to the seventy-two-hour detention hearing mandated pursuant to paragraph (D)(1).]

Subdivision (c) is intended to permit, as an option, the warrant to contain contact information so the court can designate where the juvenile should be taken after the juvenile is apprehended. The information allows the arresting officer to contact the court or the court's designee to ascertain where the juvenile should be detained based on current availability within facilities.

Pursuant to **[paragraphs (D)(1) and (E)] subdivisions (d)(1) and (e)**, the time requirements of the Rules of Juvenile Court Procedure are to apply, including the **[seventy-two] 72-hour** detention hearing. See, e.g., **[Rules] Pa.R.J.C.P.** 240, 391, 404, 510, and 605.

[The arresting officer is to notify the juvenile's guardian of the arrest, the reasons for the arrest, and the juvenile's whereabouts under paragraph (F).]

[Pursuant to paragraph (G)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. See paragraph (G)(3).] The "judge" in subdivision (g)(3) is the judge who issued the warrant or the judge designated by the President Judge to hear warrants pursuant to subdivision (g)(2).

[Pursuant to paragraph (G)(4), the bench warrant is to be vacated after the return of the warrant is executed.] "Vacated," as used in subdivision (g)(4), [is to denote] denotes that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

[Pursuant to paragraph (G)(5), once the warrant is vacated, the juvenile probation officer or other court designee is to remove the warrant or request that a law enforcement officer remove the warrant from all appropriate registries so] The intent of subdivision (g)(5) is to prevent the juvenile [is not] from being taken into custody on the same warrant if the juvenile is released.

[Official Note: Rule 141 adopted September 30, 2009, effective January 1, 2010. Amended April 21, 2011, effective July 1, 2011.]

***Committee Explanatory Reports:* Final Report explaining the provisions of Rule 141 published with the Court's Order at 39 Pa.B. 6029 (October 17, 2009). Final Report explaining the amendments to Rule 141 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).]**