

**IN THE COURT OF COMMON PLEAS
OF CLARION COUNTY, PENNSYLVANIA**

IN RE: ORDER CREATING LOCAL RULES :
OF CRIMINAL PROCEDURE 524, 527 :
AND 530 : NO. 1148 CD 2016

ORDER

AND NOW, October 5, 2016, IT IS HEREBY ORDERED:

1. Local Rules of Criminal Procedure 524 Types of Release on Bail – Supervised Bail, 527 Nonmonetary Conditions of Release on Bail, and 530 Bail Agency, of the Court of Common Pleas of Clarion County, are established to be effective as of December 1, 2016.

2. The Clarion County Court Administrator is directed to:

A. File one certified copy of these newly created Local Rules with the Administrative Office of Pennsylvania Courts.

B. Publish a copy of the newly created local rule on Clarion County Court website at <http://www.co.clarion.pa.us/government/courts.html>.

C. Electronically submit a Word file of the newly created Local Rules and this Order to the Legislative Reference Bureau by email to bulletin@palrb.us and submit by regular mail two (2) certified copies of the newly created Local Rules and this Order to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

D. Provide the Clarion County Clerk of Courts with the newly created Local Rules, which shall be available for public inspection and copying. The Clarion County Clerk of Courts shall maintain a complete up to date set of the Clarion County Local Criminal Rules of Court effective May 1, 2010 and all amendments to those Rules.

E. Update the Local Criminal Rules of Court published on the County of Clarion website within thirty days of publication of the new rules in the Pennsylvania Bulletin.

F. Provide information to each member of the local bar regarding where the updated Local Rules can be found.

BY THE COURT,

S/James G. Arner

P.J.

L.R. Crim. P. 524 Types of Release on Bail – Supervised Bail

(C) (6) Pursuant to local rules and Pa.R.Crim.P. 524, 527 and 530, a magisterial district judge may, in addition to setting regular bail, authorize supervised bail and impose conditions in accordance with L.R.Crim. P. 527 and 530. Supervised bail shall be an alternative to regular bail

and shall continue until revoked, rescinded or modified.

The following terms and conditions shall apply to supervised bail:

- (a.) The magisterial district judge shall set regular bail.
- (b.) Supervised bail shall have the effect of suspending the need for posting regular bail so long as the defendant complies with the conditions of supervised bail and so long as supervised bail remains in effect.
- (c.) Unless regular bail has also been revoked, the defendant shall have the right to post it when supervised bail has been revoked or rescinded.
- (d.) In order to be eligible for supervised bail, the defendant must complete and sign an Application for Bail Supervision, which includes an acknowledgment that he or she understands and consents to the conditions of supervised bail, including conditions relating to rescission, revocation and modification of such bail.
- (e.) A representative of the Adult Probation Office has authority to approve or deny the Application and to recommend certain conditions of supervised bail. If it is approved, the District Attorney will have authority to approve or disapprove the Application and to recommend certain additional conditions. The Defendant is required to accept all the conditions in order to be considered for the program.
- (f.) The District Attorney will present the completed Application to a magisterial district judge at the time scheduled for a preliminary hearing, and the judge will issue an Order either approving or disapproving the Application. If the Adult Probation Office or the District Attorney has denied the defendant's application, a magisterial district judge shall not grant supervised bail.
- (g.) Any Clarion County Probation officer who has reasonable cause to believe that a defendant has violated or is violating any condition of supervised bail shall have authority to declare supervised bail rescinded and to arrest the defendant with or without a warrant.
- (h.) Upon rescission and arrest, the defendant shall be committed to jail, subject to the right to post regular bail.
- (i.) The Application for Bail Supervision form and any other required forms required will be approved and adopted by order of the Court of Common Pleas of Clarion County in accordance with L.R.Crim. P. 527 and 530.

L.R. Crim. P. 527 Nonmonetary Conditions of Release on Bail

(C) A supervised bail program is established. The supervised bail program shall be administered on the following terms and conditions, with the criteria for participation as follows:

(1.) The Defendant must submit an Application For Bail Supervision

(2.) If the Adult Probation Office has rejected a defendant's Application for supervised bail, a magisterial district judge shall not grant supervised bail.

(3.) In entertaining an Application for supervised bail, a magisterial district judge shall consider the recommendation of the District Attorney.

(4.) The defendant must complete an acceptable drug and alcohol Assessment.

(D.) A defendant is ineligible for supervised bail if:

(1.) The committal offense is one of the felony offenses or Vehicle Code offenses listed specifically in an order of this court or is an attempt, solicitation or conspiracy to commit such offense,

(2.) He or she has a prior conviction of any of the felony offenses of the Vehicle Code offenses listed specifically in the order of this court, or a prior conviction of an attempt, solicitation or conspiracy to commit such offense, or of an out of state equivalent offense.

(3.) The defendant has a pending detainer, bench warrant, or notice of violation of probation or parole for which a detainer has been issued.

(4.) The defendant is not a resident of Clarion County.

(5.) Consideration may be given to other factors, including:

a. Any aggravating or mitigating circumstances regarding the committal offense which may bear upon the likelihood of conviction and possible penalty.

b. Prior criminal history involving crimes of violence, escape or flight, or false identification.

c. The defendant's ties to the community, his or her family, employment status and history, and current residence and history of residence.

- d. The defendant's reputation and character, mental health and drug or alcohol abuse issues.
- e. Any other factors relevant to whether the defendant will appear as required and comply with the conditions of bail.
- f. The defendant's history regarding appearance when required in connection with previous bail opportunities.

(E.) Process of Application and Approval or Denial.

(1.) Defendant shall complete and sign an Application for Supervised Bail.

(2.) Adult Probation Officer shall interview a defendant at the jail and assist the defendant in completing the Application. If an attorney who has entered an appearance on behalf of a defendant does not want the Adult Probation Office to interview his or her client for the supervised bail program, the attorney shall notify the Adult Probation Office immediately.

(3.) Prior to a preliminary hearing, a defendant or an attorney who has entered his or her appearance on behalf of the defendant may submit an Application for Bail Supervision to the Adult Probation Office for processing.

(4.) The representative of the Adult Probation Office who obtains information from a defendant shall advise the defendant, both orally and in writing, that anything said to the representative may be used against the defendant. Information obtained from or concerning the defendant by the Adult Probation Office shall be disclosed only to the defendant, counsel for the defendant, the issuing authority or judge setting bail, the attorney for the Commonwealth, and the department preparing a presentence report regarding the defendant. This information shall not be disclosed or used except for purposes relating to the defendant's bail, a presentence report, in a prosecution based on the falsity of the information, or for impeachment purposes as permitted by law.

(5.) The Adult Probation Office may summarily reject an Application:

- a. if it is incomplete,

- b. if the defendant fails to cooperate fully in the application process,
or
- c. if the defendant provides false information during the application process.

(6.) To ensure that no disqualifying factors are present, the Adult Probation Office shall review:

- a. the Application,
- b. the current charges, and
- c. the defendant's prior criminal record.

(7.) If a disqualifying factor is present, the Adult Probation Office shall discontinue processing and deny the Application.

(8.) If no disqualifying factors are present, the Adult Probation Office shall either:

- a. Reject the Application and if the Application is rejected by the Adult Probation Office, a magisterial district judge shall not enter the defendant into the supervised bail program.

OR

- b. Approve the Application and:
 - i. complete the Adult Probation part of the form and list all appropriate conditions of supervised bail program which the defendant will be required to meet,
 - ii. forward the completed Application to the District Attorney for consideration,
 - iii. refer the defendant to the Armstrong, Indiana, Clarion Drug and Alcohol Commission or its designee for evaluation,
 - iv. conduct a urine drug screen at the Clarion County Jail and report the results to the defendant's attorney, or to the defendant if self-represented, to the District Attorney, and to the magisterial district judge who will be presiding at Central Court when the defendant's preliminary hearing is scheduled.

(9.) A defendant may not petition the Court of Common Pleas for bail modification

regarding rejection of an Application, but a defendant may petition the Court for modification of regular bail after the preliminary hearing.

(10.) District Attorney.

- a. Upon receipt of an Application for Supervised Bail, the District Attorney shall complete the District Attorney's Recommendation part of the form.
- b. At the time of the preliminary hearing, the District Attorney shall deliver the Application to a representative of the Adult Probation Office to obtain the signed consent of the defendant to all of the conditions recommended by the Probation Office and District Attorney.
- c. The completed and signed Application and a proposed Order shall be presented at Central Court to the presiding magisterial district judge.

(11.) Central Court.

- a. A magisterial district judge who presides at Central Court at the time of the defendant's preliminary hearing may issue an Order, granting admission to the supervised bail program at the time the defendant appears for a preliminary hearing. A magisterial district judge shall not grant entry to the program prior to that time.
- b. A magisterial district judge shall not specially schedule a defendant's preliminary hearing to accelerate a defendant's entry into the supervised bail program.
- c. Upon receipt of an Application for Supervised Bail, that has been approved by the Adult Probation Office and a completed drug and alcohol assessment, the magisterial district judge shall conduct a hearing at Central Court to consider the Application.
- d. The waiver or non-waiver of a preliminary hearing by the defendant shall not be considered by the magisterial district judge in deciding the Application.

- e. The magisterial district judge shall not grant entry to the supervised bail program unless the defendant has produced a clean drug screen, except for marijuana¹, prior to the preliminary hearing.

- f. At the hearing, the magisterial district judge shall:
 - i. review the completed Application for Supervised Bail,
 - ii. consider the recommendation of the District Attorney, and
 - iii. permit the defendant, his or her attorney, the District Attorney, and the Adult Probation representative to be heard.

- g. At the conclusion of the hearing, the magisterial district judge shall either grant or deny the Application. If the magisterial district judge grants the Application, he or she shall issue an Order which provides that,
 - i. The defendant shall comply with all the conditions requested by the Adult Probation Office and the District Attorney,
 - ii. regular bail set by the issuing authority shall be suspended while the defendant participates in the supervised bail program, but shall be reinstated should the defendant be expelled from the program,
 - iii. the defendant shall cooperate with Armstrong, Indiana, Clarion Drug and Alcohol Commission or their designee and comply with all treatment recommendations and case management requirements, and
 - iv. when inpatient treatment is recommended, the jail shall release the defendant directly to the recommended treatment facility when a bed is available.

- h. If a defendant is an otherwise acceptable candidate for supervised bail, the magisterial district judge may grant continuances of the

¹ Marijuana will not be a disqualifying factor as marijuana will test positive in a urine screen for up to thirty days, and would disqualify a large number of applicants. APO will be obligated to conduct continuing drug screens and Defendants who continue to test positive to marijuana more than 30 days after entry may be expelled from the Supervised Bail Program.

preliminary hearing to allow the defendant time to produce an acceptable drug screen.

L.R. Crim. P. 530 - Bail Agency

(D) For purposes of administering the supervised bail program, the Clarion County Adult Probation Office is designated as the bail agency for this court.