

RULE 151. ASSIGNMENT OF COUNSEL

[A. General.] All juveniles are presumed indigent. If a juvenile appears at any hearing without counsel [does not enter an appearance for the juvenile], the court shall [inform the juvenile of the right to] appoint counsel for the juvenile prior to the commencement of the hearing.[any proceeding. In any case, the court shall assign counsel for the juvenile if the juvenile is without financial resources or otherwise unable to employ counsel.]

[B. Time.

- 1) If the juvenile is detained and is without counsel and the requirements of paragraph (A) are met, the court shall assign counsel prior to the detention hearing.**
- 2) If the juvenile is not detained and is without counsel and the requirements of paragraph (A) are met, the court shall assign counsel prior to the adjudicatory hearing.]**

COMMENT

Although this rule contemplates a presumption of indigency which may be rebutted, the guardian's income and resources are not to be utilized. There is an inherent risk that the legal protections afforded juveniles could be eroded by making legal representation dependent upon the limited financial resources of their guardians, particularly where guardians have an income just above the poverty guidelines. Additionally, the unwillingness of guardians to expend their resources should not determine the juvenile's opportunity to have counsel. There is also a risk that the attorneys hired by guardians might rely upon the guardians for decision making in a case rather than upon the juvenile as the law requires. The juvenile is the client.

Generally pursuant to this rule, the court is to assign counsel in every case in which the juvenile has appeared without counsel. However, the court may give the juvenile a reasonable opportunity to retain a private attorney of the juvenile's choosing if the juvenile so desires.

Counsel may be present at an intake **[hearing] conference** or participate in the decision to place the juvenile on informal adjustment with the probation office.

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Official Note:

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Amended May 16, 2011, effective July 1, 2011.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 151 published with the Court's Order at 41 Pa.B. -(-).

RULE 362. REQUIREMENTS OF THE SUMMONS

The summons shall:

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- 3) instruct the juvenile **[about] of** the juvenile's right to **retain private counsel or be appointed** counsel[, and if the juvenile is without financial resources or otherwise unable to employ counsel, the right to assigned counsel];

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Official Note:

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Amended May 16, 2011, effective July 1, 2011.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 362 published with the Court's Order at 41 Pa.B. -(-).

RULE 512. DISPOSITIONAL HEARING

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COMMENT

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Pursuant to paragraph (C), the court is to advise the juvenile of his or her appellate rights orally in the courtroom on the record. The court is to explain the right to **retain private counsel or be** appointed counsel for an appeal if a juvenile is without counsel[, **and without the financial resources or otherwise unable to employ counsel.**] See 42 Pa.C.S. § 6337; see also Rule 150(B) for duration of counsel and Rule 151 for assignment of counsel.

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Official Note:

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Amended May 16, 2011, effective July 1, 2011.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 512 published with the Court's Order at 41 Pa.B. -(-).