

**SUPREME COURT OF PENNSYLVANIA  
CRIMINAL PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Adoption of Pa.R.Crim.P. 579.1**

The Criminal Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.Crim.P. 579.1 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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Criminal Procedural Rules Committees  
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Pennsylvania Judicial Center  
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All communications in reference to the proposal should be received by **June 12, 2025**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Criminal Procedural Rules Committee,

David R. Crowley, Esq., Chair

**Rule 579.1. Notice to Attorney General. Constitutionality of Statute.**

- (a) **Notice.** In any criminal proceeding prosecuted by the district attorney in which an Act of Assembly is alleged to be unconstitutional as written or as applied, the district attorney shall:
  - (1) promptly give written notice thereof to the Attorney General of Pennsylvania in a form designated by the Attorney General together with a copy of the motion or other portion of the record raising the issue; and
  - (2) shall file proof of the giving of the notice.
- (b) **Intervention.** The Attorney General may intervene as a party or may be heard without the necessity of intervention.
- (c) **Effect on Proceeding.** The court, in its discretion, may stay the proceedings pending the giving of the notice and a reasonable opportunity to the Attorney General to respond thereto. If the circumstances of the case require, the court may proceed without prior notice in which event notice shall be given as soon as possible; or the court may proceed without waiting for action by the Attorney General in response to a notice.

**Comment:** The Attorney General may direct the manner of notice for the purpose of expediting and facilitating receipt of the notice.

For notice requirements when on appeal, see Pa.R.A.P. 521 (Notice to Attorney General of Challenge to Constitutionality of Statute).

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**PUBLICATION REPORT**

**Proposed Adoption of Pa.R.Crim.P. 579.1**

The Criminal Procedural Rules Committee is considering proposing to the Supreme Court the adoption of Pa.R.Crim.P. 579.1 governing notice to the Attorney General of Pennsylvania in criminal proceedings.

The Committee, in conjunction with the Appellate Court Procedural Rules Committee, has prepared proposals regarding procedures for the notification of the Office of Attorney General in criminal proceedings when the constitutionality of a statute is at issue. See, e.g., 71 P.S. § 732-204(a)(3) (“It shall be the duty of the Attorney General to uphold and defend the constitutionality of all statutes so as to prevent their suspension or abrogation in the absence of a controlling decision by a court of competent jurisdiction.”).

Proposed Pa.R.Crim.P. 579.1 is derived largely from Pa.R.Civ.P. 235. Subdivision (a) would require the district attorney to provide notice to the Attorney General if a statute is alleged to be unconstitutional. The subdivision does not explicitly state that the district attorney must provide notice of a defendant’s challenge; rather, the rule is focused on the subject matter of the proceeding regardless of which party raises the challenge.

Unlike Pa.R.Civ.P. 235’s requirement that notice be given via registered mail, the Committee proposes in subdivision (a)(1) that the Attorney General be permitted to designate a form for giving notice. The Comment also indicates that the Attorney General may direct the manner of notice.

Additionally, Pa.R.Civ.P. 235 does not differentiate between “as applied” or “as written” challenges. The Committee believed that proposed Pa.R.Crim.P 579.1(a) should explicitly state both bases so the necessity of giving notice prior to the close of the record would be evident.

Subdivision (c) is intended to provide a remedy when notice has not been given. The Committee discussed whether a district attorney’s untimely notice, or absolute failure to provide notice, to the Attorney General of a defendant’s constitutional challenge to a statute would foreclose the defendant from raising that issue before the trial court. Further, the Committee discussed whether the defendant could provide notice to the Attorney General if the district attorney did not. Ultimately, the Committee concluded that these were substantive matters to be decided by the courts rather than the procedural rules because there is likely an aspect of prejudice to be considered on a case-by-case basis.

The Committee invites all comments, concerns, and suggestions.