

SECTION 6.00 CORRECTING DATA ERRORS

- A. A party to a case, or the party's attorney, seeking to correct a data error in an electronic case record shall submit a written request for correction to the court in which the record was filed.
- B. A request to correct an alleged error contained in an electronic case record of the Supreme Court, Superior Court or Commonwealth Court shall be submitted to the prothonotary of the proper appellate court.
- C. A request to correct an alleged error contained in an electronic case record of the Court of Common Pleas, Philadelphia Municipal Court or a Magisterial District Court shall be submitted and processed as set forth below.
 - 1. The request shall be made on a form designed and published by the Administrative Office of Pennsylvania Courts.
 - 2. The request shall be submitted to the clerk of courts if the alleged error appears in an electronic case record of the Court of Common Pleas or Philadelphia Municipal Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.
 - 3. The request shall be submitted to the Magisterial District Court if the alleged error appears in an electronic case record of the Magisterial District Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.
 - 4. The requestor shall set forth on the request form with specificity the information that is alleged to be in error and shall provide sufficient facts including supporting documentation that corroborates the requestor's contention that the information in question is in error.
 - 5. Within 10 business days of receipt of a request, the clerk of courts or Magisterial District Court shall respond in writing to the requestor, all parties to the case, and the Administrative Office of Pennsylvania Courts, in one of the following manners:
 - a. the request does not contain sufficient information and facts to adequately determine what information is alleged to be error; accordingly, the request form is being returned to the requestor; and no further action will be taken on this matter unless the requestor resubmits the request with additional information and facts.
 - b. the request does not concern an electronic case record that is covered by this policy; accordingly, the request form is being returned to the requestor; no further action will be taken on this matter.

- c. it has been determined that an error does exist in the electronic case record and that the information in question has been corrected.
 - d. it has been determined that an error does not exist in the electronic case record.
 - e. the request has been received and an additional period not exceeding 30 business days is necessary to complete the review of this matter.
6. A requestor has the right to seek review of a final decision under subsection 5(a)-(d) rendered by a clerk of courts or a Magisterial District Court within 10 business days of notification of that decision.
- a. The request for review shall be submitted to the District Court Administrator on a form that is designed and published by the Administrative Office of Pennsylvania Courts.
 - b. If the request for review concerns a Magisterial District Court's decision, it shall be reviewed by the judge assigned by the President Judge.
 - c. If the request for review concerns a clerk of courts' decision, it shall be reviewed by the judge who presided over the case from which the electronic case record alleged to be in error was derived.

COMMENTARY

An important aspect of transparent electronic case records and personal privacy/security is the quality of the information in the court record. The information in UJS electronic case records should be complete and accurate, otherwise incorrect information about a party to a case or court proceeding could be disseminated. The Committee recognizes that electronic case records are as susceptible to errors and omissions as any other public record, particularly when considered in view of the widespread Internet use and access, and agreed procedures for correcting these errors should be incorporated into this policy.

The power of the court to correct errors in its own records is inherent.²³³ "Equity enjoys flexibility to correct court errors that would produce unfair results."²³⁴ Therefore, the Committee opines that the authority for a court to correct errors in its own records is inherent and does not arise from the Criminal History Record Information Act (CHRIA).²³⁵ Although, the Committee does not interpret CHRIA as being applicable to the correction of court records,²³⁶ the

²³³ E.g. Jackson v. Hendrick, 746 A.2d 574 (Pa. 2000).

²³⁴ *Id.* at 577.

²³⁵ 18 Pa.C.S. § 9101 – 9183.

²³⁶ The Committee notes that it is unclear the extent, if any, to which CHRIA is applicable to court records. Specifically, 18 Pa.C.S. Section 9103 provides that CHRIA is applicable to "person within this Commonwealth and to any agency of the

Committee consulted the correction of error section of CHRIA in drafting this section of the policy,²³⁷ specifically with regard to the safeguards that are found in CHRIA related to the time limitations for action and appeals. CHRIA permits a criminal justice agency 60 days to review a challenge to the accuracy of its record. The Committee believes the time for a decision concerning an alleged error in a court record should be limited in this section of the policy to a maximum of 40 business days. CHRIA also permits the challenger who believes the agency decision is in error to file an appeal. Similarly, in this policy, Subsection 6 permits a requestor who believes the decision is erroneous to seek administrative review as well.

Subsection 6 provides an individual who asserts that an electronic case record is in error an administrative process by which that allegation can be reviewed and resolved. This administrative review process is modeled after the review process set forth in CHRIA and is in addition to any other remedies provided by law. It is important to note the review provided for in Subsection 6 by the Court of Common Pleas is administrative in nature.

The Committee also took note of corrective procedures that other states, including Arizona,²³⁸ Colorado,²³⁹ Kansas,²⁴⁰ Minnesota,²⁴¹ and Wisconsin²⁴² as well as the CCJ/COSCA Guidelines,²⁴³ establish in their policies and/or court rules (enacted or proposed).

In considering the procedures for correcting errors, it is important to emphasize that this section does not provide a party who is dissatisfied with a court's decision, ruling or judgment a new avenue to appeal the same by merely alleging that there is an error in the court's decision, ruling or judgment. Rather, this section permits a party to "fix" information that appears in an

Commonwealth or its political subdivisions which collects, maintains, disseminates or receives criminal history record information." Clearly, the court is not an agency, political subdivision or a person of the Commonwealth. Moreover, Criminal History Record Information is defined in 18 Pa.C.S. Section 9102 as "does not include...information and records specified in section 9104 (relating to scope)." 18 Pa.C.S. Section 9014(a)(2) appears to reference "any documents, records, or indices prepared or maintained by or filed in any court of this Commonwealth, including but not limited to the minor judiciary." Moreover, Section 9104(b) provides that "court dockets...and information contained therein shall...for the purpose of this chapter, be considered public records." If one does contend that the correction procedures set forth in CHRIA are applicable to court records, it is important to note that the procedure provides that a person who wants to appeal a court's decision regarding an alleged error files that appeal with the Attorney General Office. Thus, the Attorney General Office, a part of the Executive Branch of Government, would be reviewing a decision issued by a Court of the Unified Judicial System. Such a procedure appears to raise some constitutional concerns.

²³⁷ See 18 Pa.C.S. § 9152.

²³⁸ *Report and Recommendation of the Ad Hoc Committee to Study Public Access to Electronic Records* dated March 2001 Sections (V)(8) and (VI)(8); ARIZ. SUP. CT. R. 123(g)(6) (this provision, and others related to public access, was adopted by Order of Arizona Supreme Court dated June 6, 2005 to be effective December 1, 2005; effective date postponed by Court's Order dated September 27, 2005 to permit effective and efficient implementation of the provisions).

²³⁹ Colo. CJD. 05-01 Section 9.00 provides for a process to change inaccurate information in a court record.

²⁴⁰ K.S.A. § 60-260 and Kansas Rules Relating to District Courts Rule 196(f).

²⁴¹ MN ST ACCESS TO REC RULE 7(5) (WEST 2006).

²⁴² Wisconsin Circuit Court Access (WCCA) Web site, "The information on a case is incorrect.

Could you correct the information?" at: <http://wcca.wicourts.gov/faqnav.xsl;jsessionid=8036D1470A038AB3CBB55B35613773C6.render4#Faql1> and "Who do I contact if I want clarification about information displayed on WCCA?" at :<http://wcca.wicourts.gov/faqnav.xsl;jsessionid=8036D1470A038AB3CBB55B35613773C6.render4#Faql18>

²⁴³ See CCJ/COSCA Guidelines, p. 69.

electronic case record which does not, for one reason or another, correctly set forth the facts contained in the official court record (paper case file).

It is anticipated that those reviewing these alleged errors shall compare the information set forth in the electronic case record against the official court record. If the information in the electronic case record and official court record is consistent, the request to correct the electronic case record should be denied. If the information is not consistent, the reviewer shall determine what, if any, corrections are needed to the electronic case record. Nonetheless, if the requestor believes that the official court record is in error, such an alleged error does not fall within the purview of this section. Rather, the current practices in place in the courts to resolve these errors should continue.

By way of example, the official court records of a case set forth that the defendant's name is "John Smith", however, the electronic case record provides that the defendant's name is "John Smyth". Obviously this was a clerical or data entry error. This type of error falls within the purview of this section. However, if for example, a party claims that he was convicted of the crime of simple assault, but the official court record sets forth that he was convicted of the crime of driving under the influence, this error does not fall within the purview of this section in that the requestor is alleging an error in the official court record.

This section does not preclude a court from accepting and responding to verbal or informal requests to correct a data error in an electronic case record. However, if a requestor wishes to enjoy the benefits of the relief and procedures set forth in this section, he/she must file a formal written request. This procedure is consistent with the RTKA which permits a governmental agency to accept and respond to verbal requests, but provides that "[i]n the event that the requestor wishes to pursue the relief and remedies provided for in this act, the requestor must initiate such relief with a written request."²⁴⁴

In Subsection A, a "party's attorney" means attorney of record.

In Subsection B, the Committee understands that the errors that may appear in appellate court records are different in nature and kind than those that appear at the lower courts. Specifically, most errors will concern the original records from the lower court that the appellate court is reviewing. Therefore, the Committee believes that appellate courts' current practices in resolving these errors should continue.

The term "clerk of courts" includes any office performing the duties of a clerk of courts, regardless of titles (i.e., Clerk of Quarter Sessions, Office of Judicial Support, Office of Judicial Records).

²⁴⁴ 65 P.S. § 66.2(b).