

RULE **[59] 409**. GUILTY PLEAS.

[(a)] (A) A defendant may plead guilty by:

- (1) notifying the issuing authority in writing of the plea and forwarding to the issuing authority an amount equal to the fine and costs specified in the citation; or
- (2) appearing before the issuing authority for the entry of the plea and imposition of sentence when the fine and costs are not specified in the citation.

[(b)] (B) When the defendant pleads guilty pursuant to paragraph **[(a)] (A)**(1):

- (1) The defendant must sign the guilty plea acknowledging that the plea is entered voluntarily and understandingly.
- (2) The issuing authority may issue a warrant for the arrest of the defendant as provided in Rules **[75 and 76] 430 and 431** if the amount forwarded with the plea is less than the amount of fine and costs specified in the citation.

[(c)] (C) When the defendant is required to personally appear before the issuing authority to plead guilty pursuant to paragraph **[(a)] (A)**(2), the issuing authority shall:

- (1) advise the defendant of the right to counsel when there is a likelihood of imprisonment and give the defendant, upon request, a reasonable opportunity to secure counsel;
- (2) determine by inquiring of the defendant that the plea is voluntarily and understandingly entered;
- (3) have the defendant sign the plea form with a representation that the plea is entered voluntarily and understandingly;
- (4) impose sentence; and
- (5) provide for installment payments when a defendant who is sentenced to pay fine and costs is without the financial means immediately to pay the fine and costs.

COMMENT: [Paragraph (a) of this rule is derived from previous Rules 52A2.(b)(ii) and 54. Paragraph (b) of this rule is derived from previous Rule 65(e). Paragraph (c) of this rule is derived from previous Rule 56.]

Nothing in this rule is intended to require that an issuing authority should proceed as provided in paragraph **[(c)] (C)** when the defendant returns the written guilty plea and fine and costs in person to the issuing authority's office pursuant to paragraphs **[(a)] (A)**(1) and (b). The issuing authority's staff should record receipt of the plea and monies in the same manner as those received by mail.

For procedure upon default in payment of fine or costs, see Rule **[85] 456**.

For appeal procedures in summary cases, see Rules **[86] 460, 461, and 462**.

For procedures regarding arrest warrants, see Rules **[75 and 76] 430 and 431**.

With regard to the defendant's right to counsel and waiver of counsel, see Rules **[316 and 318] 121 and 122**.

NOTE: Previous Rule 59 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule **[75] 430**. Present Rule 59 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; amended May 28, 1987, effective July 1, 1987; amended January 31, 1991, effective July 1, 1991 **[.] ; renumbered Rule 409 and amended March 1, 2000, effective April 1, 2001.**

* * * * *

COMMITTEE EXPLANATORY REPORTS:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at Pa.B. (_____, 2000).