

RULE 5:20. Complaint; Process

5:20-1. Complaint

- **Made, How>**The complaint in juvenile delinquency actions shall be captioned "The State of New Jersey in the Interest of _____", shall be made on oath and in the form prescribed by the Administrative Director of Court and shall include:
 - **(1) The name, address and date of birth of the juvenile;**
 - **(2)** The names and addresses of the juvenile's parents or guardian or custodian;
 - **(3)** The date, time, place and nature of the conduct alleged as the basis of the complaint; a citation of the law or ordinance allegedly violated by the juvenile, but error in citation shall not be grounds for dismissal if the juvenile has not been misled thereby to the juvenile's prejudice;
 - **(4)** The signature of the complainant, who may be any person having knowledge of the facts alleged to constitute delinquency or who is informed of such facts and has reason to believe they are true; and
 - **(5)** Where practicable, a statement of the names and addresses of all other persons having knowledge of relevant facts concerning the acts alleged in the complaint, but failure to include this statement shall not be grounds for dismissal of the complaint.
- **(b) Filing and Service.** The complaint shall be filed with the clerk of the court who shall promptly refer it to court intake services and the county prosecutor. A copy of the complaint shall be served with the summons or, whenever practicable, at the time of the execution of the warrant.
- **(c) Court Intake Services Referral.** Every complaint alleging juvenile delinquency shall be reviewed by court intake services in the manner provided by law for recommendation as to whether the complaint should be dismissed, diverted or referred for further court action. Where the complaint alleges conduct which, if committed by an adult, would constitute a crime as defined by N.J.S. 2C:1-4a or a repetitive disorderly persons offense as defined by N.J.S. 2A:4A-22(h), the matter shall not be diverted by the court unless the prosecutor consents thereto.
- **(d) Amendment.** The court may amend the complaint to correct an error in form or the description of the offense intended to be charged or to charge a lesser included offense provided that the amendment does not charge another or different offense from that alleged and the defendant will not be prejudiced thereby in the defense on the merits.
- **(e) Consolidation.** If two or more complaints are filed alleging separate acts constituting delinquency, hearing of the several complaints may be consolidated and a single disposition made of the combined causes.

Note: Source-R.R.. (1969) 5:8-1(a), (b), (c), and (d); R. (1969) 5:9-3(a) and (b). Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (a)(3) and (d) amended July 13, 1994 to be effective September 1, 1994.

5:20-2. Summons

- **(a) Issuance.** If it appears from the complaint that there is probable cause to believe that a juvenile is delinquent and after review of the complaint by the court intake service it recommends court action, a summons shall issue to the juvenile and the juvenile's parents, guardians or custodian.
- **(b) Form.** The summons shall be signed by the judge, or by the clerk of the court if authorized by the judge and shall have affixed thereto a copy of the complaint. It shall set forth the name of the juvenile and the names of the parents, guardian, or custodian of the juvenile; shall command the juvenile and the juvenile's parents, guardian, or custodian to appear before the court at a stated time and place; shall advise that the juvenile and the juvenile's parents, guardian, or custodian have the right to be

represented by counsel at every stage of the proceeding and that if unable to afford counsel, upon application to the court counsel will be assigned if in the opinion of the court the proceedings may result in the institutional commitment of the juvenile or other consequences of magnitude; and shall advise the juvenile and the juvenile's parents that all witnesses reasonably necessary for the defense of the juvenile will be subpoenaed by the court on request. In lieu of summons the judge may issue a warrant if the nature of the case requires the immediate custody of the juvenile. The warrant shall be substantially in the same form as the summons except that it shall command that the person or persons named therein be taken into custody and placed in detention or shelter care, or brought before the court.

- **(c) Service.** The summons shall be served in the manner provided by R. 4:4-4 upon the juvenile and the juvenile's parents or either of them, or the juvenile's guardian or custodian, or by mailing it to their last known address.

Note: Source-R.R.. (1969) 5:8-4(a)(b)(c); 5:8-5(a)(b). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraphs (a), (b) and (c) amended July 13, 1994 to be effective September 1, 1994.

5:20-3. Warrant

- **(a) When Issued.** In lieu of summons the judge may issue a warrant if the nature of the case requires the immediate custody of the juvenile. A warrant may also issue if any person or persons fail to appear as required by summons.
- **(b) Execution.** The warrant shall be executed in accordance with R. 3:3-3(c), and upon execution the procedures of R. 5:21, to the extent applicable, shall govern.

Note: Source-R.R.. (1969) 5:8-5(a) and (c). Adopted December 20, 1983, to be effective December 31, 1983.

5:20-4. Necessary Parties

The parents, guardians or other person having custody, control and supervision over the juvenile shall be necessary parties to every proceeding in all juvenile delinquency actions.

Note: Source-R.R.. (1969) 5:8-8. Adopted December 20, 1983, to be effective December 31, 1983.