§ 308.1. Rules of court for preliminary procedure. 1. Rules of court shall authorize and determine the circumstances under which the probation service may confer with any person seeking to have a juvenile delinquency petition filed, the potential respondent and other interested persons concerning the advisability of requesting that a petition be filed.

2. Except as provided in subdivisions three and four of this section, the probation service may, in accordance with rules of court, adjust suitable cases before a petition is filed. The inability of the respondent or his or her family to make restitution shall not be a factor in a decision to adjust a case or in a recommendation to the presentment agency pursuant to subdivision six of this section. Nothing in this section shall prohibit the probation service or the court from directing a respondent to obtain employment and to make restitution from the earnings from such employment. Nothing in this section shall prohibit the probation service or the court from directing an eligible person to complete an education reform program in accordance with section four hundred fifty-eight-l of the social services law.

3. The probation service shall not adjust a case in which the child has allegedly committed a designated felony act unless it has received the written approval of the court.

4. The probation service shall not adjust a case in which the child has allegedly committed a delinquent act which would be a crime defined in section 120.25, (reckless endangerment in the first degree), subdivision one of section 125.15, (manslaughter in the second degree), subdivisions one, two and three of section 130.25, (rape in the third degree), subdivision one of former section 130.40, subdivision one or two of section 130.65, (sexual abuse in the first degree), section 135.65, (coercion in the first degree), section 140.20, (burglary in the third degree), section 150.10, (arson in the third degree), section 160.05, (robbery in the third degree), subdivision two, three or four of section 265.02, (criminal possession of a weapon in the third degree), section 265.03, (criminal possession of a weapon in the second degree), or section 265.04, (criminal possession of a dangerous weapon in the

first degree) of the penal law where the child has previously had one or more adjustments of a case in which such child allegedly committed an act which would be a crime specified in this subdivision unless it has received written approval from the court and the appropriate presentment agency.

5. The fact that a child is detained prior to the filing of a petition shall not preclude the probation service from adjusting a case; upon adjusting such a case the probation service shall notify the detention facility to release the child.

6. The probation service shall not transmit or otherwise communicate to the presentment agency any statement made by the child to a probation officer. However, the probation service may make a recommendation regarding adjustment of the case to the presentment agency and provide such information, including any report made by the arresting officer and record of previous adjustments and arrests, as it shall deem relevant.

7. No statement made to the probation service prior to the filing of a petition may be admitted into evidence at a fact-finding hearing or, if the proceeding is transferred to a criminal court, at any time prior to a conviction.

8. The probation service shall consider the views of the complainant and the impact of the alleged act or acts of juvenile delinquency upon the complainant and upon the community in determining whether adjustment under this section would be suitable.

9. Efforts at adjustment pursuant to rules of court under this section may not extend for a period of more than three months without leave of the court, which may extend the period for an additional two months.

10. If a case is not adjusted by the probation service, such service shall notify the appropriate presentment agency of that fact within forty-eight hours or the next court day, whichever occurs later.

11. The probation service may not be authorized under this section to

compel any person to appear at any conference, produce any papers, or visit any place.

12. The probation service shall certify to the division of criminal justice services and to the appropriate police department or law enforcement agency whenever it adjusts a case in which the potential respondent's fingerprints were taken pursuant to section 306.1 in any manner other than the filing of a petition for juvenile delinquency for an act which, if committed by an adult, would constitute a felony, provided, however, in the case of a child twelve years of age, such certification shall be made only if the act would constitute a class A or B felony.

13. The provisions of this section shall not apply where the petition is an order of removal to the family court pursuant to article seven hundred twenty-five of the criminal procedure law against a juvenile offender as defined in subdivision eighteen of section 10.00 of the penal law.

14. Notwithstanding subdivisions three, four and thirteen of this section, the probation service may adjust a proceeding where the court has referred a case to the probation service in accordance with section 320.6 of this article in conjunction with or subsequent to the issuance of an order pursuant to subdivision one of section 345.1 of this article where such order does not include a fact-finding for an act which would constitute a juvenile offense, designated felony or offense listed in subdivision four of this section. Where a proceeding has been referred to the probation service in which an order issued pursuant to section 345.1 of this article consists solely of a violation as defined in subdivision three of section 10.00 of the penal law committed by a juvenile sixteen years of age or, commencing on October first, two thousand nineteen, seventeen years of age, the probation service shall adjust the matter unless good cause is shown and is documented in its records.