

**Domestic  
Relations  
Procedural  
Rules  
Committee**

**2001 Membership:**

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**Legal Authorization:**

Pa. Constitution, Article V, § 10(c)  
42 Pa. C.S., § 1722(a)

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## History/Background

Began as a seven-member section of the Civil Procedural Rules Committee in 1984 and established as its own committee by order of the Supreme Court on June 30, 1987, the Domestic Relations Procedural Rules Committee strives to simplify family law practice. It does this by recommending new rules or amendments to the existing procedural rules relating to paternity, support, custody, divorce and protection from abuse. It reviews new legislation and court decisions to ensure that the rules conform with developments in the law as well as the realities of domestic relations practice. It is the goal of the committee to promote statewide uniformity of practice, to streamline procedure and to encourage the expeditious disposition of family law matters.

The Domestic Relations Procedural Rules Committee currently has as members three judges, six attorneys and one district court administrator. Members are appointed by the Supreme Court to three-year terms, and each member may serve two consecutive terms.

## 2001 Activities

The committee met four times in 2001 as follows:

February	Ephrata (Lancaster County)
May	Erwinna (Bucks County)
September	Pittsburgh
November	Harrisburg

Invited guests to the meetings included representatives of the Department of Public Welfare and the Domestic Relations Association of Pennsylvania as well as judges, masters and family law practitioners.

Beginning in 1989 all states were required to establish uniform statewide guidelines for child support. Pursuant to state and federal law, the Commonwealth must review these guidelines every four years. Included in the

review is research into available economic data relating to household expenditures, in particular the costs of raising a child. The four-year review of the guidelines was assigned to the Domestic Relations Procedural Rules Committee.

The last review was completed in 1999 and resulted in a sweeping revision of the support guidelines. Thereafter, the committee has continued to review and refine the guidelines.

In 2001 the committee prepared for the next mandated review, which will begin in 2002.

The committee strives to maintain open channels of communication with those who work with or are affected by the rules it proposes, including judges, lawyers, court administrators, domestic relations section personnel, the Department of Public Welfare and the public. Throughout 2001 committee members and staff spoke at conferences and seminars to inform lawyers, court personnel and others of recent and proposed changes in the procedural rules related to family law matters. Staff also attended meetings of the Pennsylvania Bar Association Family Law Section and the Domestic Relations Association of Pennsylvania.

## 2001 Recommendations

The following recommendations were promulgated or pending either with the Supreme Court or the committee in 2001. In general numbers are assigned in the order in which each recommendation is submitted for publication. A chart listing the statuses of the recommendations is set forth in Table 3.9.1 on page 75.

**Recommendation 54: Rule 1910.16-4(c) -- Application of the Formula, Spousal Support/APL in Split Custody Cases and Termination on Death.** Amended to provide that the formula for support cases in which the parties share custody of their children equally or nearly equally cannot be used unless the obligor is the

parent with the higher income and that a parent with less income cannot be ordered to pay support to the other. Subdivision (d) provides that when each parent has custody of a child and the obligee's income is 10% or less of the parties' combined income, then in calculating spousal support or alimony *pendente lite*, the court must deduct from the obligor's income both the support owed for the non-custodial child as well as the direct support to the custodial child (calculated as if the child were not living with the obligor). Subdivision (f) provides that spousal support and alimony *pendente lite* orders terminate on the death of the payee to insure alimony tax treatment.

**Rule 1910.6(a) -- Subsidized Child Care.** Amendment to clarify that the amount of child care expenses to be apportioned between the parties is the full amount, not the subsidized amount. The trier of fact, however, can deviate if the resulting amount of support would be overly burdensome to the obligor.

**Rule 1930.6 -- Civil Action for Paternity.** New rule to provide a means of establishing paternity in a separate action, not as part of a support or custody action. 23 Pa. C.S. § 4343 states that "a putative father may not be prohibited from initiating a civil action to establish paternity."

Promulgated June 5, 2001, effective immediately.

**Recommendation 55:** Proposed new **family court rules** to establish and streamline family court practice. Published for comment in late 2000, in 2001 the committee reviewed the comments received and considered revisions to the proposal.

**Recommendation 56: Rule 1910.3(a) -- Parties.** Amendment to permit a minor parent to bring a support action.

**Rule 1910.6 -- Notification.** Amendment to require that attorneys as well as the

parties receive notification of all support proceedings and orders entered.

**Rule 1910.16-2(f) -- Child Dependency Exemption.** New rule to allow the court, "as justice and fairness require," to award the federal child dependency exemption to the non-custodial parent, or to either parent in cases of equally shared custody, and to order the other parent to execute the necessary waiver.

**Rule 1910.16-4 -- Formula.** Part IV of the formula at Rule 1910.16-4 was revised to accommodate the deduction, when calculating spousal support or alimony *pendente lite*, of any amounts the obligor is required to pay for children or former spouses who are not part of the current support action.

**Rule 1910.16-6(c) -- Unreimbursed Medical Expenses.** New subparagraph (4) clarifies that the year for calculating the \$250 deductible is a calendar year, with the deductible in the first year of the order to be prorated.

**Rule 1910.16-7 -- Child Support When There Are Multiple Families.** Technical amendments.

**Rule 1915.3 -- Commencement of Custody Actions.** The committee became aware that courts were being confronted with situations in which a man initiates a custody action but, in a subsequent support action, denies paternity. New subdivision (d) to Rule 1915.3 requires that a claim or acknowledgment of paternity be filed according to the statute and that a copy be attached to the custody complaint when a putative father initiates a custody action, the mother is unmarried and there is no legal or presumptive father.

Promulgated October 30, 2001, effective immediately.

**Recommendation 57: Rule 1910.13-1(d) and 1910.13-2(b) -- Bench Warrants.** The committee was asked by domestic relations personnel to propose expanding the time period for

holding a party who has been arrested pursuant to bench warrant in a support action. The rules provide that if a party fails to appear at a support conference or hearing as ordered by the court, assuming the party received proper notice, that party may be arrested pursuant to bench warrant and held in the county jail until the court is opened. The rules, however, currently place a 72-hour limit on the length of time a defendant can be held. If not brought before the court within that time period, the party must be released.

The 72-hour limit inhibits the ability to execute bench warrants on long holiday weekends when law enforcement has been particularly successful in executing such warrants. The committee seeks to balance the need to bring recalcitrant parties before the court with the desire to avoid prolonged pretrial incarceration, keeping in mind the resources of law enforcement and the courts. The committee, therefore, is proposing expansion of the time frame from 72 hours to five days.

**Rule 1910.16-2 -- Support Guidelines. Calculation of Net Income.** Currently, Rule 1910.16-2 simply recites types of income set forth in the support statute at 23 Pa. C.S. §4302. Based upon comments received and case law interpreting the rule, the committee decided that expansion and clarification of the definition of income for support purposes was needed.

**Rule 1910.19 -- Support Modification. Termination. Guidelines as Substantial Change in Circumstance.** The proposed amendments are intended to resolve problems surrounding the termination of support orders when a child turns 18 or graduates from high school. If the obligor does not file to terminate, the order continues to run and, if wage attached, the obligor cannot simply stop paying. The Department of Public Welfare (DPW) reports that the problem has resulted in thousands of old support orders continuing to run because

obligors do not know they are required to file to terminate. DPW requested this proposed rule authorizing the court to close certain cases administratively after due notice and the opportunity for the obligee to object. The proposed amendment establishes a procedure for notice to the parties and includes the requirement of a support conference if other unemancipated children are covered by the order, there is an agreement between the parties or a party asserts that a child has special needs requiring continued support.

**Rule 1930.4 -- Service of Original Process in Domestic Relations Matters.** Proposed amendments are intended to clarify the permissible means of service in protection from abuse cases and to provide for an alternative means of service upon authorization by the court.

Published for comment.

## Plans for 2002

The committee will begin its mandated review of the support guidelines as required by 23 Pa.C.S. §4322. The committee also will continue to develop rules to effectuate the goals of family court reform, which include eliminating fragmentation in the system and making family courts more accessible and user-friendly.

## Contact Person

Questions about the committee and its work may be directed to Patricia A. Miles, Esq.; Domestic Relations Procedural Rules Committee; 5035 Ritter Road, Suite 700; Mechanicsburg, PA 17055; telephone (717) 795-2037; fax (717) 795-2116; e-mail [patricia.miles@supreme.court.state.pa.us](mailto:patricia.miles@supreme.court.state.pa.us). AOPC

<b>Status of Recommendations</b>		
<b>Recommendation</b>	<b>Subject</b>	<b>Status</b>
54	Amendments to the support guidelines and new rules for initiating a civil paternity action outside the context of a support or custody case	Promulgated 6-5-01, effective immediately
55	Proposed new Family Court Rules to establish and streamline family court practice	Pending with committee
56	Various amendments and new rules related to support and custody matters	Promulgated 10-30-01, effective immediately
57	Various amendments related to bench warrants in support actions, support guidelines, support modification and service in protection from abuse	Published for comment

**Chart 3.9.1**