

2006 Membership

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Legal Authorization

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

About the Committee

Begun 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 the rules conform with developments in the law as well as the realities of domestic relations practice.

Members are appointed to three-year terms, and each member may serve two consecutive terms.

Domestic

Relations

Procedural

Rules

Committee

5035 Ritter Road,
Suite 700
Mechanicsburg, PA 17055
(717) 795-2037
fax (717) 795-2175
e-mail patricia.miles@pacourts.us
[www.courts.state.pa.us/
Index/SupCtCmtes/
domesticrelations/
indexdomrel.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/domesticrelations/indexdomrel.asp)

2006 Activities

The committee met four times in 2006 as follows:

February	Hershey
May	Fogelsville
September	Pittsburgh
November	Philadelphia

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

The committee strives to maintain open channels of communication with those who work with or are affected by the rules it proposes. To this end, throughout 2006 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. These included the Pennsylvania Bar Association Family Law Section's summer and winter meetings, local bar association meetings, the Department of Public Welfare's Domestic Relations Directors Conference and the Domestic Relations Association of Pennsylvania Conference.

2006 Recommendations

The following recommendations were effective, promulgated or pending with either the Supreme Court or the committee in 2006:

Recommendation 67. Support Guidelines Review. Pursuant to both federal—Family Support Act of 1988 (P.L. 100-485, 102 Stat. 2343 (1988)), 42 U.S.C., §467(a)—and state—23 Pa. C.S., §4322(a)—law, statewide support guidelines must be reviewed at least once every four years to assure that appropriate child support amounts are being awarded. In addition, federal regulation 45 CFR 302.56 requires that

such reviews include an assessment of the most recent economic data on child-rearing costs and a review of data from case files to assure that deviations from the guidelines are limited.

The Domestic Relations Procedural Rules Committee began the mandated review process in early 2003, assisted by Jane Venohr, Ph.D., an economist with Policy Studies, Inc., under contract with the Pennsylvania Department of Public Welfare. Changes were made to the child support schedule as follows:

- the schedule reflects updated economic data
- support amounts apply to parties with a combined net monthly income of \$20,000, rather than the prior \$15,000
- the Self-Support Reserve (SSR) was increased from \$550 per month to \$748 per month. Formerly designated as the "Computed Allowance Minimum" or "CAM," the SSR is intended to assure that low-income obligors retain sufficient income to meet their own basic needs as well as to maintain the incentive to continue employment.

The amendments also apportion between the parties the cost of childcare incurred by both parties during their custodial time with the child.

Promulgated 9-27-05, effective 1-27-06.

Recommendation 73. Amendments to Rules 1910.11, 1910.12, 1915.4-2, 1920.55-2 and 1920.55-3 to expand the time for **filing exceptions or requests for de novo review** from ten to 20 days in support, custody and divorce matters. Promulgated 8-8-06, effective immediately.

Recommendation 74. Amendments to Rules 1910.16-2(b) and 1910.16-4 relating to treatment, for purposes of calculating support, of **Social Security derivative benefits** received by a child as a result of a parent's disability or retirement. Pending with committee.

Recommendation 75. Amendment to Rule 1910.19 to authorize the court to administratively close a **support case** and vacate arrears without prejudice when it appears to the court that an obligor is unable to pay and there is no means to enforce the order in the foreseeable future. Promulgated 5-19-06, effective immediately.

Recommendation 76. Amendments to the **Income and Expense Statement**, separating the income and expense portions of the form. The income form is required in all cases. A new short expense form is available for guidelines cases, but should only be used if a party seeks to have additional expenses (like child care or private school) apportioned between the parties or if a party believes his or her expenses would warrant a deviation under Rule 1910.16-5. Another new expense form is intended only for use when the parties' combined monthly net income is above \$20,000 and the case will proceed pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). This new form contains space for both the child's and the parent's expenses. Promulgated 11-8-06, effective 2-6-07.

Recommendation 77. Amendments to Rule 1910.16-6 to allow **allocation of additional expenses**, such as medical insurance, unreimbursed medical expenses, childcare and other costs enumerated in Rule 1910.16-6, even if the respective incomes of the parties do not justify an order for basic support. Promulgated 10-17-06, effective immediately.

Recommendation 78. New Rule 1930.7 to authorize **status conferences** in domestic relations matters. Promulgated 8-18-06, effective immediately.

Recommendation 79. Amendments necessitated by Act 66 of 2005, which amended the Protection from Abuse Act, particularly with regard to firearms. Promulgated 5-2-06, effective, 5-9-06, the same date that the Protection from Abuse Act amendments became effective.

Recommendation 80. Amendments to Rules 1910.13-1 and 1910.13-2 to make the **support bench warrant** rules consistent with the new criminal bench warrant rules that became effective in August 2006. The new comment incorporates committee's final report, which provides that in out-of-county bench warrant arrests, the 72-hour period begins from the time an individual is lodged in the jail of the issuing county and is extended to the next business day when the 72 hours expires on a non-business day. Promulgated 11-8-06, effective 2-6-07.

Recommendation 81. Amendment to Rule 1910.1 to provide that the rules do not apply in actions seeking support for an **indigent person** under Chapter 46 of the Domestic Relations Code. Pending with Court.

Recommendation 82. On May 2, 2006, the Supreme Court took the unusual step of promulgating Recommendation 79, proposed amendments to the rules governing **Protection from Abuse** actions, in the form in which they were published for comment, even though the comment period had not ended. It did so to assure that rules were in place to implement Act 66 of 2005 when it became effective on May 9, 2006. The committee continued to accept comments on Recommendation 79, and Recommendation 82 incorporates suggestions from those comments. Pending with Court.

Recommendation 83. Proposed amendments to the rule and form for the **appointment of an expert in custody matters** to clarify the responsibilities of the court, the parties and the expert. Pending with committee.

Recommendation 84. Proposed new Rule 1915.13-1 to require a material and substantial change in circumstances for a **modification of an existing custody order**, overruling the Supreme Court's holding in *Karis v. Karis*, 518 Pa. 601, 544 A.2d 1328 (1988). Pending with committee.

Recommendation 86. Amendments to 1) make the time periods for seeking *de novo* review or

filing exceptions in **support contempt cases** consistent with the new time frames in Recommendation 73; and 2) address concerns about the effect of recent Superior Court opinions on support enforcement by creating a new rule allowing the court to hold an obligor in indirect criminal contempt if he/she willfully fails to obey an order to obtain employment in a support matter. Pending with committee.

Recommendation 87. Amendment to Rule 1930.5 to permit **discovery** in complex custody cases. Pending with committee.

Looking Ahead to 2007

The committee will begin a new quadrennial review of the support guidelines in 2007. It will also continue to monitor legislation, practice and procedure and make recommendations that may facilitate the practice of family law in the commonwealth. **AOPC**