

2005 Membership:

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Staff:

Patricia A. Miles, Esq., *Counsel*
Terri Lynn Metil, *Administrative Assistant*

- * Term as chair expired 9-30-05
- ** Appointed chair effective 10-1-05
- + Appointed vice chair effective 10-1-05

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

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2005 Activities

The committee met four times in 2005 as follows:

| | |
|----------|-------------------|
| March | Pittsburgh |
| May | Montgomery County |
| August | State College |
| November | Fayette County |

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 2005 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.

2005 Recommendations

The following recommendations were promulgated or pending with either the Supreme Court or the committee in 2005.

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 9-25-05, effective 1-27-06.

Recommendation 71. Amendments as follows:

- **Rule 1910.16-4. When the Custodial Parent Owes Spousal Support.** Clarifies the offset between child and spousal support when custodial parents owe spousal support to non-custodial parents.
- **Rule 1910.16-6(b) Health Insurance Premiums.** Amendments to make the rule regarding apportionment of health insurance premiums consistent with the Court's opinion in *Maher v. Maher*. Apportionment is required only of those portions of the premium that cover parties or children to whom a duty of support is owed.

- **Rule 1910.17. Retroactivity of Modified Support Orders.** Amendments to clarify the issue of retroactivity of support orders. The rule now includes reference to 23 Pa.C.S.A., § 4352(e) and permits retroactivity to a date before the date the petition was filed if the petitioner was unable to file a petition for modification because of a disability, the misrepresentation of another party or another compelling reason and if the petitioner, when no longer precluded, promptly filed a petition.

Promulgated 5-17-05, effective immediately.

Recommendation 72. Technical amendments changing references from “district justice” to “magisterial district judge.” Promulgated 5-9-05, effective immediately.

Recommendation 73. Proposed amendments to Rules 1910.11, 1910.12, 1915.4-2, 1920.55-2 and 1920.55-3 to clarify the time for calculating the ten-day period for seeking **review of support, custody and divorce conference or masters’ orders.** While some masters and hearing and conference officers give the parties copies of temporary or interim orders before they leave the hearing or conference, other such orders are mailed at a later date. The proposed language would have made the rules consistent, having the ten days start either on the date

counsel or the parties receive the order or the date the order is mailed, whichever comes first. Comments on the recommendation, however, suggested that ten days was not sufficient notice and that practice in at least one county is to add an extra three days to the time period when the order is mailed. In order to address those concerns, to promote statewide uniformity and to be consistent with the general civil pleading rules (Pa. R.C.P. 1026), the recommendation was amended to increase the time from ten to 20 days to request a *de novo* hearing or to file exceptions in support, custody and divorce cases. Pending with committee.

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. This recommendation was made at the behest of the Department of Public Welfare’s Bureau of Child Support Enforcement. Pending with committee.

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