

Rule 1910.25-3. Civil Contempt. Conference Summary. Order. Hearing De Novo.

(a) If an agreement is not reached, the conference officer shall, at the conclusion of the conference or shortly thereafter, prepare a conference summary and furnish copies to the court and to all parties. The conference summary shall state:

- (1) the facts upon which the parties agree,
- (2) the contentions of the parties with respect to facts upon which they disagree, and
- (3) the conference officer's recommendation whether
 - (i) the respondent has willfully failed to comply with the order for support,
 - (ii) the respondent should be held in contempt, and
 - (iii) sanctions or purge conditions should be imposed against the respondent.

Note: The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule 1910.25-5(a).

(b) The court, without hearing the parties, may enter an appropriate order after consideration of the conference summary. **[The order shall state]** Each party shall be provided with a copy of the order and written notice that any party may, within **[ten]** twenty days after the date of receipt or the date of the mailing **[of a copy]** of the order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.

(c) A demand for a hearing before the court shall stay the contempt order.

(d) If the court does not enter an order under Rule 1910.25-2(c) or subdivision (b) of this rule within five days of the conference, or if an order is entered and a demand for a hearing before the court is filed, there shall be a hearing de novo before the court. The domestic relations section shall schedule the hearing and give notice to the parties. The hearing de novo shall be held no later than seventy-five days after the date the petition for contempt was filed.

(e) The court shall not be precluded from conducting a hearing on the petition for contempt on the same day as the office conference.

Note: Every effort should be made to ensure that these cases are heard promptly, on the same day if possible.

Rule 1910.25-4. Civil Contempt. Alternative Procedure. Record Hearing. Report. Exceptions. Order.

(a) At the conclusion of the conference if an agreement has not been reached, the parties shall be given notice of the date, time, and place of a hearing if the conference and hearing have not been scheduled for the same date. The hearing on the record shall be conducted by a hearing officer who must be a lawyer.

Note: Every effort should be made to ensure that cases are heard promptly, on the same day if possible.

(b) The hearing officer shall receive evidence, hear argument and file with the court a report containing a proposed order. A copy of the report shall be furnished to all parties at the conclusion of the hearing. The report may be in narrative form and shall include the officer's recommendation with respect to the following matters, together with the reasons therefor:

(1) whether the respondent has willfully failed to comply with the order for support,

(2) whether the respondent should be held in contempt, and

(3) whether sanctions or purge conditions should be imposed against the respondent.

Note: The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule 1910.25-5(a).

(c) Within **[ten] twenty** days after the conclusion of the hearing, any party may file exceptions to the report or any part thereof, to rulings on objections, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to the entry of the order, leave is granted to file exceptions raising those matters.

(d) If no exceptions are filed within the **[ten] twenty**-day period, the court shall review the report and, if approved, enter an order.

(e) If exceptions are filed, the court shall, no later than seventy-five days after the date the petition for contempt was filed, hear argument on the exceptions or hold a hearing de novo. The court shall enter an appropriate order.

Rule 1910.25-5. Civil Contempt. Contempt Order. Incarceration.

(a) No respondent may be incarcerated as a sanction for contempt without an evidentiary hearing before a judge.

(b) An order committing a respondent to jail for civil contempt of a support order shall specify the conditions the fulfillment of which will result in the release of the respondent.

Note: The time periods set forth in Rules 1910.25 through 1910.25-6 are for the benefit of the plaintiff, and not for the defendant. The goal is the prompt initiation of contempt proceedings because of the importance of ongoing support payments. The time periods in no way limit the right of either the domestic relations section or the plaintiff to proceed with a contempt action.

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Rule 1910.25-7. Indirect Criminal Contempt. Incarceration.

In addition to any other remedy available to the court, the court may order the respondent to obtain employment with income that can be verified and is subject to income attachment. If the respondent willfully fails to comply with an order to obtain such employment, the court may commit the respondent to jail upon adjudication for indirect criminal contempt, provided the respondent is afforded all of the procedural safeguards available to criminal defendants.

Explanatory Comment--2007

Parental support of children is a fundamental requirement of law and public policy. Absent an inability to maintain employment or acquire other income or assets, sanction in the form of incarceration may be imposed by the court to compel compliance and provide an incentive to obey the law. The contempt process, which should be used as a last resort, is necessary to impose coercive sanctions upon those obligors whose circumstances provide no recourse to the court to compel payment or a good faith effort to comply. Appellate opinions have made it clear that an obligor who is in civil contempt cannot be incarcerated without the present ability to fulfill the conditions the court imposes for release. However, the courts also have noted that recalcitrant obligors may be imprisoned for indirect criminal contempt if afforded the proper procedural safeguards. See *Godfrey v. Godfrey*, 894 A.2d 776 (Pa. Super. 2006); *Hyle v. Hyle*, 868 A.2d 601 (Pa. Super. 2005).