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* Term expired 3-1-03

** Appointed chair effective 3-1-03

+ Appointed vice chair effective 3-1-03

Staff:

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

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

2003 Activities

The committee met four times in 2003 as follows:

February	Hershey
May	Pittsburgh
August	Allentown
November	Farmington

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 2003 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, the Domestic Relations Section Director's Conference and the Domestic Relations Association of Pennsylvania Conference.

2003 Recommendations

The following recommendations were promulgated or pending with either the Supreme Court or the committee in 2003. A chart listing the statuses of the recommendations is set forth in Table 3.9.1 on page 68.

Recommendation 61: Has two provisions:

Rule 1910.16-5 (b) (8)--Spousal Support/Alimony Pendente Lite. Clarifies that the court may deviate in the duration as well as the amount of spousal support/alimony *pendente lite* awards based upon the length of the marriage.

Rule 1910.16-6 (c) -- Unreimbursed Medical Expenses. Deletes the phrase "predictable and recurring" in relation to unreimbursed medical expenses that may be apportioned between the parties.

Promulgated 9-24-03, effective immediately.

Recommendation 63: Affects Rule 1910.16-1, originally published as part of Recommendation 61, setting forth a procedure for **calculating support** when a child is in foster care or institutional placement. The new rule treats each parent as a separate obligor and requires calculation of support for all children of the obligors with that sum being deducted from the obligors' incomes for purposes of determining support for the child in placement. Promulgated 8-20-03, effective immediately.

Recommendation 64: Proposes new Rule 1930.7 dealing with the **right to counsel** in civil contempt proceedings that might lead to incarceration. Submitted to the Court 6-24-03; tabled by the Court for further consideration.

Recommendation 65: Technical amendments submitted to the Court without publication.

Note to Rule 1910.10 -- Support Procedure. Reflects Lehigh County's change in support procedure.

Rule 1910.16-6(b)(2) -- Health Insurance Premium. New language inserted to clarify that the portion of a health insurance premium that covers the party providing the insurance is to be allocated between the parties, but the portion of the premium attributable to non-parties or children not subjects of the support order is not.

Rule 1920.46 -- Forms. Eliminates the requirement of filing a vital statistics form as the form is no longer required by the Pennsylvania Department of Health pursuant to the 2001 amendments to 35 P.S., §450.602.

Promulgated 6-30-03, effective immediately.

Recommendation 66: Proposed changes as follows:

Rule 1910.16-2(b) -- Benefits. Would treat Social Security death benefits the same as

retirement and disability benefits and clarify the obligations of third parties.

Rule 1910.16-6(a) -- Federal Child Care Tax Credit. Rather than including specific figures and percentages as in the current rule, the proposed revision refers to the tax code such that any future changes in the tax law regarding the credit would be reflected automatically.

Rule 1910.16-6(e) -- Mortgage Adjustment. Would limit application of the mortgage contribution to the time period before an equitable distribution order is entered, overruling *Isralsky v. Isralsky*, 824 A.2d 1178 (Pa. Super. 2003), to the extent it is inconsistent.

Submitted to the Court 12-3-03.

Recommendation 67 -- Support Guidelines Review (Rules 1910.16-1 through 1910.16-7). 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.

Recommendation 67 includes the following provisions:

Rule 1910.16-3 -- Child Support Schedule. Amendments to reflect updated economic data to ensure that children continue to receive adequate levels of support. In addition, the support amounts in the schedule would apply

to parties with a combined net monthly income of \$20,000, rather than the current \$15,000. The amended schedule also would incorporate an increase in the Self Support Reserve* from \$550 per month to \$748 per month.

*Formerly designated as the Computed Allowance Minimum or CAM, the Self Support Reserve 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.

Rule 1910.16-4 -- Reductions in Support for Shared Parenting Time. Proposed adoption of a model similar to the one that has been used in Arizona for several years. Because the basic child support schedule at Pa.R.C.P. 1910.16-3 is based upon studies of expenditures on children in intact households, no consideration is made of the costs the obligor assumes when he/she exercises visitation or partial or shared custody. This amendment assumes that no reduction will be made in the basic amount of support if the obligor spends less than four days per year with the child. Incremental reductions would be made when the obligor is with the child four or more days per year.

The proposal also includes a new method of calculating support when more than one child is involved and the children follow different custodial schedules.

Rule 1910.16-6 -- Child Care. Proposed amendment to apportion between the parties the cost of child care incurred by both parties during their custodial time with the child.

Published for comment 12-03.

Recommendation 68. Technical amendments submitted to the Court without publication to change the **notices regarding legal counsel** in domestic relations matters to be consistent with the notices in other civil matters. (Supreme Court *per curiam* order dated June 10, 2003, promulgates amendments recommended by the

Civil Procedural Rules Committee, revising all notices regarding legal counsel in the general civil rules.) Submitted 9-5-03.

of the child support guidelines and finalize its recommendation to the Court. The committee also will continue to monitor legislation, practice and procedure and make recommendations that may facilitate the practice of family law in the Commonwealth. AOPC

Plans for 2004

The Domestic Relations Procedural Rules Committee will continue its work on the review

Status of Recommendations		
Recommendation	Subject	Status
61	Spousal support/alimony <i>pendente lite</i> and unreimbursed medical expenses	Promulgated 9-24-03, effective immediately
63	Setting forth a procedure for calculating support when a child is in foster care or institutional placement	Promulgated 8-20-03, effective immediately
64	New Rule 1930.7 dealing with the right to counsel in civil contempt proceedings that might lead to incarceration	Submitted to the Court 6-24-03; tabled by Court for further consideration
65	Technical amendments regarding support procedure, health insurance premiums and vital statistics forms	Promulgated 6-30-03, effective immediately
66	Various child support amendments related to social security death benefits, federal child care tax credit and mortgage adjustments	Submitted to the Court 12-3-03
67	Various amendments related to determination of child support amounts	Published for comment 12-03
68	Technical amendments related to notices regarding legal counsel	Submitted to the Court 9-5-03

Chart 3.9.1