

## **Rule 1901.7. Decision. Post-trial relief.**

(a) The decision of the court may consist of only general findings of abuse but shall dispose of all claims for relief. The court's order shall be rendered substantially in the form set forth in Rule 1905(e).

(b) No motion for post-trial relief may be filed to the final order.

### **Official Note**

The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

### **Explanatory Comment--1977**

New Rules 1910, *et. seq.*, promulgated March 9, 1977 and effective fifteen (15) days after publication in the *Pennsylvania Bulletin*, implement the Protection From Abuse Act No. 218 of 1976 which became effective December 6, 1976.

The Act introduces a new civil remedy authorizing protective orders to bring about cessation of abuse of the plaintiff or minor children, which relief includes, *inter alia*, exclusion of the errant spouse from the household, the award of temporary custody and visitation rights with regard to minor children and support.

The Act also authorizes temporary *ex parte* orders when the exigency of the situation requires immediate relief before process can be served on a defendant.

Jurisdiction is also conferred on the **[District Justices]** magisterial district judges over the weekend if and when a judge of the court of common pleas is not available, but any temporary order of a **[District Justice]** magisterial district judge expires at the resumption of business of the common pleas court at the beginning of the week or within seventy-two (72) hours, whichever occurs first. The **[District Justice]** magisterial district judge is required immediately to certify his or her order to the common pleas court and the certification under the Act has the effect of commencing a proceeding in the common pleas court and invoking the other provisions of the Act.

Section 9 of the Act provides that all proceedings shall be in accordance with the Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

**[Because of the need for prompt implementation of the Act the Committee has addressed itself only to the minimum procedural provisions necessary to make the Act effective pending further study particularly its relationship to the Child Protection Act of 1975, 11 P.S. 2201, et seq., and other problems.**

These minimal provisional Rules include, in Rule 1901, the identification of the proceedings and definitions.

Rule 1902 provides for the commencement of the action by petition or by the filing of a certified order of a District Justice.

Rule 1903 provides for service of process in the same manner as in an action in equity.

Rule 1904 eliminates any defense pleadings. All matters are automatically at issue.

Rule 1905 provides that the decision and exceptions shall be governed by Rule 1038 which regulates trial in assumpsit without a jury

Because the exigency of the situation did not permit the Committee to follow its usual practice of submitting a Recommendation to the bench and bar for comments and suggestions prior to submission to the court, comments from the bench and bar after the rules are used in actual practice are invited.]

**Explanatory Comment--2005**

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of "district justice" to "magisterial district judge." The amendments to Rule 1901.7's Explanatory Comment--1977 reflect the change in title, make the comment gender-neutral and delete outdated material.

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**Rule 1910.13-2. Form of Request for Bench Warrant and Supporting Affidavit.  
Form of Bench Warrant.**

(a) Request for a bench warrant pursuant to Rule 1910.13-1 shall be in substantially the following form and shall be attached to the Bench Warrant form set forth in subdivision (b) of this rule:

[CAPTION]

REQUEST FOR BENCH WARRANT AND SUPPORTING AFFIDAVIT

1. \_\_\_\_\_ did not appear for a conference and/or hearing in the Court of Common Pleas of \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, [19]20\_\_\_\_, which was scheduled by an order of court compelling this person's appearance, a copy of which is attached to this request.

2. The party received the order of court scheduling the conference and/or hearing in the following manner:

(a) The order of court (i) was served upon the party by ordinary mail with the return address of the court thereon; (ii) the mail was not returned to the court within fifteen (15) days after mailing; and (iii) at a date after the order of court was mailed, the United States Postal Service has verified that mail for the party was being delivered at the address to which the court order was mailed.

(b) The party signed a receipt indicating acceptance of the court order.

(c) An employee of the court handed a copy of the court order to the party. The employee's affidavit of service is attached.

(d) A competent adult handed a copy of the court order to the party. The adult's affidavit of service is attached.

3.  This request for Bench Warrant is made within sixty days following the party's failure to appear for the conference and/or hearing; and

I have reviewed the records of the Court and the Domestic Relations Office concerning this case, and attest that the party has not appeared for any domestic relations matter involving the same parties since the date upon which the party failed to appear in violation of the attached order of court.

4. In my capacity as hearing officer or conference officer, I request that the attached Bench Warrant be issued against the party named on account of the party's failure to appear for a scheduled conference and/or hearing in violation of an order of court.

5. I recommend that bail in this matter be set as follows:

No bail.

Bail to be set in the amount of \_\_\_\_\_.

Bail to be determined by the **[district justice]** magisterial district judge.

*Note:* The following information should be supplied where the **[district justice]** magisterial district judge is given discretion in setting bail.

The records of the Domestic Relations Section show that:

- the party owes support arrearages in the amount of \$\_\_\_\_\_.
- the party has failed to appear for \_\_\_\_\_ hearings relating to this case.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

DATE: \_\_\_\_\_  
NAME/OFFICIAL TITLE

(b) The Bench Warrant entered by a court pursuant to Rule 1910.13-1 shall be in substantially the following form, and shall be attached to the Request for Bench Warrant form set forth in subdivision (a) of this rule:

[CAPTION]  
BENCH WARRANT

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, [199]20\_\_, the Sheriff of \_\_\_\_\_ County, or any constable, or police officer, or other law enforcement officer is hereby ordered to take \_\_\_\_\_, residing at \_\_\_\_\_, into custody for appearance before this Court.

This bench warrant is issued because it appears that the (plaintiff) (defendant) has failed to appear, after notice, before the court for a scheduled conference and/or hearing.

We command you, the arresting officer, forthwith to convey and deliver the party into the custody of the Court of Common Pleas of \_\_\_\_\_ County, at

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(city)

Pennsylvania, for a hearing.

DESCRIPTIVE INFORMATION

Social Security # \_\_\_\_\_ Sex \_\_\_\_\_ D.O.B. \_\_\_\_\_ Age \_\_\_\_\_  
Height \_\_\_\_\_ Weight \_\_\_\_\_ Race \_\_\_\_\_ Eyes \_\_\_\_\_ Hair \_\_\_\_\_  
Distinguishing features (scars, tattoos, facial hair, disability, etc.)  
\_\_\_\_\_

Alias \_\_\_\_\_  
Telephone # \_\_\_\_\_

You are further commanded that if the court is unavailable, the party may be held in the County Jail until the court is opened for business, at which time the party shall be promptly conveyed and delivered into the custody of the court at

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(city)

Pennsylvania, for hearing.

The authority in charge of the county jail shall notify the sheriff's office and the director of the domestic relations section forthwith that the party is being held pursuant to the bench warrant.

Under no circumstances may the party be held in the county jail for more than seventy-two hours prior to hearing.

Bail in this matter shall be set as follows:

- No bail.
- Bail to be set in the amount of \_\_\_\_\_.
- Bail to be determined by the **[district justice]** magisterial district judge.

Official Note

Standards for setting bail are set forth in Rule of Criminal Procedure 525.

BY THE COURT:

\_\_\_\_\_  
JUDGE

**Explanatory Comment--2005**

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of "district justice" to "magisterial district judge." The amendments to Rule 1910.13-2 reflect the change in title.

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