

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.Civ.P. 1930.3

The Domestic Relations Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P. 1930.3 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **January 4, 2022**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Domestic Relations Procedural Rules
Committee

Jennifer P. Bierly, Esq.
Chair

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

RULE PROPOSAL 186

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing to the Supreme Court of Pennsylvania an amendment to Pennsylvania Rule of Civil Procedure 1930.3 – Testimony by Electronic Means. The current rule expands 23 Pa.C.S. § 4342(j), which permits electronic testimony in support actions, to include authority for electronic testimony in all domestic relations actions. However, the current rule provides the court with the authority on a case-by-case basis by indicating for good cause shown. The proposed rulemaking is in response to a rulemaking request regarding the use of Advance Communication Technology (ACT) in “family court” proceedings.

In July 2021, the Committee received a report prepared by the Administrative Office of Pennsylvania Courts and the Pennsylvania Conference of State Trial Judges concerning the “continued use” of ACT. The courts have used ACT extensively during the response to the COVID pandemic. As the use of ACT in domestic relations actions is governed by procedural rule, the report made the following overall recommendation, “[t]he Task Force examined Family Court matters generally, and concluded that ACT should be authorized to the greatest extent possible in Family Court matters, with only limited exceptions.” *Remote Proceedings Task Force: Continued Use of Advanced Communication Technology (ACT) Following the Termination of Judicial Emergencies*, at p. 12 (June 2021). The Task Force’s report identified specific proceedings in which it believed ACT appropriate and proposed rescinding Pa.R.Civ.P. 1930.3 upon adoption of a new ACT rule.

The Committee’s proposed amendment provides judicial districts with the general authority to use ACT in all domestic relations proceedings, e.g., support, custody, divorce, protection from abuse (PFA), protection of victims of sexual violence or intimidation (PVSVI), with some exceptions. Excepted from ACT are contempt hearings and PFA and PVSVI final hearings. A judicial district may further limit ACT’s use by local rule. Despite the Task Force suggesting the rescission of Pa.R.Civ.P. 1930.3, the proposal maintains the rule but replaces the rule text and commentary in its entirety.

The proposed rule defines ACT “as any communication technology providing for two-way simultaneous communication of image and sound.” As defined, ACT would not permit the use of telephone testimony. However, as 23 Pa.C.S. § 4342(j) authorizes the use of telephone testimony by a party or witness in a support action, the proposed rule

includes a provision for retaining telephone testimony in support actions, but only when the party or witness cannot appear in person and does not have the capability or the ability to use ACT.

The Committee invites all comments, concerns, and suggestions.

Rule 1930.3. [Testimony by Electronic Means]Advanced Communication Technology.

***** The following text replaces the current rule text and commentary in their entirety *****

(a) **Definition.** “Advanced Communication Technology” shall mean any communication technology providing for two-way simultaneous communication of image and sound.

(b) **General Rule.** Except for the proceedings set forth in subdivision (c), a court may conduct a proceeding using Advanced Communication Technology in accordance with procedures established by local rule.

(c) **Exceptions.**

- (1) A court shall not use Advanced Communication Technology for the following proceedings:
 - (i) **Protection from Abuse.** A final hearing as provided by 23 Pa.C.S. § 6107(a).
 - (ii) **Protection of Victims of Sexual Violence or Intimidation.** A final hearing as provided by 42 Pa.C.S. § 62A06(a).
 - (iii) **Contempt Hearing.** In a proceeding in which the court may incarcerate a party following a finding of contempt.
- (2) A judicial district may exclude additional proceedings by local rule.

(d) **Support Action.**

- (1) This rule does not preclude a court from utilizing telephone testimony as authorized by 23 Pa.C.S. § 4342(j) in a support action as set forth in subdivision (d)(2).
- (2) The party or witness may only testify by telephone when the party or witness:
 - (i) cannot appear at the proceeding in person; and
 - (ii) does not have access to or the capability to utilize Advanced Communication Technology.