

SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.Civ.P. 1910.4 and Adoption of Pa.R.Civ.P. 1960-1965

On December 31, 2025, the Supreme Court amended Pennsylvania Rule of Civil Procedure 1910.4 and adopted Pennsylvania Rules of Civil Procedure 1960-1965 governing family law arbitration pursuant to the Uniform Family Law Arbitration Act, 42 Pa.C.S. §§ 7371-7398. The Domestic Relations Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

The Uniform Family Law Arbitration Act, 42 Pa.C.S. §§ 7371-7398, became effective on July 8, 2024. The Act establishes the permissibility, parameters, conditions, and process for arbitration of “family law disputes.” See 42 Pa.C.S. §§ 7373 (defining Act’s scope) and 7372 (defining “family law dispute”). While the concept of arbitration is an agreement between the parties to resolve disputes privately and promptly, the Act does involve the court in limited aspects. The court’s involvement is generally limited to issues regarding arbitrability, compulsion of arbitration, specific irregularities involving the arbitration process, confirmation of an arbitration award, and enforcement of an award.

Initially, the Committee proposed a set of rules, Pa.R.Civ.P. 1960-1964, to provide procedures for seeking the court’s involvement. The rules were intended to be general in nature so as not to overreach into the arbitration process or restate portions of the Act. The Committee consulted Pa.R.Civ.P. 1326-1331, which govern arbitration in consumer credit transactions.

As stated in the Comment to Pa.R.Civ.P. 1960, the burden would be on the reader to consult the Act. Pa.R.Civ.P. 1961, concerning forum, would instruct a party where to seek judicial action. See 42 Pa.C.S. § 7377(a). Pa.R.Civ.P. 1962 would govern petitions for judicial relief not otherwise specified by the rules. The rule would also incorporate by reference the requirements of Pa.R.Civ.P. 1964(a)-(d). All petitions would be required to contain a rule-based notice to the other party. See also Pa.R.Civ.P. 1330, 1331.

Pa.R.Civ.P. 1963 would govern petitions to compel arbitration. The rule was based, in part, on Pa.R.Civ.P. 1329. See also 42 Pa.C.S. §§ 7377(b) (compulsion), 7321.8(a) (refusal to arbitrate). Pa.R.Civ.P. 1964 would govern petitions for confirming, amending, correcting, or vacating an arbitration award. Pa.R.Civ.P. 1964(d)(1) would require the specific citation of the Act in support of the relief sought. This requirement was intended for

the petition to notify the court about the specific part of the Act relied upon for the relief sought.

The Committee published the proposed rules for comment. See 54 Pa.B. 3785 (July 6, 2024). Two comments were received.

The first commenter offered two suggestions. The first suggestion was to add “enforce” to the title of Pa.R.Civ.P. 1964 and to add “enforce” to subdivision (a). The commenter contended this revision would make Pa.R.Civ.P. 1964 more harmonious with the Comment to Pa.R.Civ.P. 1962, which states: “..., and clarifying, modifying, or *enforcing* a confirmed award or consolidating separate arbitrations.” (emphasis added).

A starting point in addressing this suggestion was to recognize that whether an arbitration award is unconfirmed or confirmed dictates the procedure. An unconfirmed award can be confirmed, corrected, amended, or vacated by the court. See 42 Pa.C.S. §§ 7386 (confirming an award), 7388 (correcting or confirming an unconfirmed award), and 7389 (vacating, amending, or confirming an unconfirmed award).

Once an award is confirmed, it may be clarified, modified, or enforced. The Act provides the means to clarify, modify, or enforce a confirmed award. Regarding clarification and modification, the parties can have those issues arbitrated or proceed through the court. See 42 Pa.C.S. §§ 7390, 7392. For clarification by the court, the matter proceeds as a declaratory judgment action. See *id.* § 7390(2). For modification by the court, the matter proceeds pursuant to Title 23 and the Pennsylvania Rules of Procedure applicable to family court matters. See *id.* § 7392(2)(ii). And, for enforcement, the Act states that a confirmed award should be enforced like any other order of court. See *id.* § 7393(a).

With this understanding, the Committee revised and reordered several of the proposed rules to track the progression of arbitration more closely. Pa.R.Civ.P. 1962 would now govern the compulsion of arbitration. Pa.R.Civ.P. 1963 would govern petitions for judicial relief prior to an arbitration award, e.g., termination of arbitration, selection of arbitrator, consolidation of separate arbitrations. Pa.R.Civ.P. 1964 would govern petitions related to an arbitration award, e.g., confirmation, correction, amendment, vacatur. Pa.R.Civ.P. 1965 would be added to the rules package to govern post-confirmation petitions, e.g., modification, enforcement.¹ This effort resolved the commenter’s first

¹ “Clarification” was not included in Pa.R.Civ.P. 1965 because, if clarification of a confirmed award is sought, the Act permits the parties to either arbitrate the matter or commence a declaratory judgment action pursuant to 42 Pa.C.S. § 7538 and Pa.R.Civ.P. 1601-1604. The Committee revised the Comment to Pa.R.Civ.P. 1965 to advise readers: “For clarification of a confirmed award, see 42 Pa.C.S. § 7390. An action for declaratory judgment should be filed in the family court.”

suggestion, as well as made the arrangement of the rules more aligned with the arrangement of the Act.

The commenter's second suggestion concerned Pa.R.Civ.P. 1964(b), which stated:

Docket Number. If the claim has been raised in a matter stayed pending arbitration, the petition shall be filed on that docket. Otherwise, the petition shall be filed as a new action.

The commenter contended that the Domestic Relations Sections, which are the filing offices for support matters, are designed to accept complaints for support and not petitions for judicial relief. Thus, the commenter recommended that an arbitration-related petition be preceded by a complaint for support. Thereafter, a conference/hearing would be scheduled, and the petition presented. The commenter further recommended the rule recognize that the parties can seek to stay the support matter prior to the conference/hearing.

Responding to commenter's suggestion, the Committee revised Pa.R.Civ.P. 1910.4 to add subdivision (e). That subdivision would require a party seeking the Domestic Relations Section's "collection" or enforcement of a confirmed arbitration award to file a support complaint if one has not already been filed.

The aspect of the commenter's suggestion referring to the scheduling of a conference/hearing in response to an arbitration-related petition begged the question of the extent to which front-end support procedures would apply to those petitions. The Committee believed that the petitions should be heard directly by a judge rather than flow through a conference or hearing officer procedure. While using those procedures tends to free a judge's calendar, it inserts delay in the process, which is antithetical to the purpose of arbitration. Moreover, when confirming an award in a child custody or child support matter, the court is required to find, *inter alia*, that it complies with Title 23 and is in the best interests of the child. See 42 Pa.C.S. § 7386(c)(1)-(c)(2). The Committee did not believe that a record needed to be developed through front-end procedures because the arbitrator is required to state the reasons for the award, as required by Title 23. See 42 Pa.C.S. § 7385(c). In sum, the award should speak for itself.

The only petitions that should be subject to the support front-end procedures are those to modify a confirmed award, provided modification is not subject to arbitration, and to enforce a confirmed award. In an abundance of caution, the Committee added a statement to the Comment to Pa.R.Civ.P. 1964 indicating that a petition to confirm, amend, correct, or vacate an arbitrator's award should be heard by a judge directly. The Committee did not believe there should be a rule-based prohibition on the use of front-end procedures.

Finally, prompted by the aspect of the commenter's suggestion referring to stays, the Committee explored the use of stays in arbitration matters. The Act does not provide for a stay, but the Revised Statutory Arbitration Act does:

(f) Stay of judicial proceedings. An action or proceeding allegedly involving an issue subject to arbitration shall be stayed if a court order to proceed with arbitration has been made or a motion for such an order has been made under this section. If the issue allegedly subject to arbitration is severable, the stay of the court action or proceeding may be made with respect to the severable issue only. If a motion for an order to proceed with arbitration is made in the action or proceeding and is granted, the court order to proceed with arbitration shall include a stay of the action or proceeding.

42 Pa.C.S. § 7321.8(f). The Committee believed the responsibility for seeking a stay of a court proceeding pending arbitration is the responsibility of the party or parties. The Committee added commentary to Pa.R.Civ.P. 1962 referencing 42 Pa.C.S. § 7321.8(f), together with an advisement in Pa.R.Civ.P. 1964 that a petition to confirm an award should also seek to lift the stay if an action was previously commenced in court and stayed.

The other commenter supported the proposal with several suggestions. First, the petition to compel arbitration in what is now renumbered Pa.R.Civ.P. 1962 should include an averment that the party seeking compulsion had previously sought to initiate arbitration through a notice to arbitrate provided to the other party pursuant to 42 Pa.C.S. § 7376. Second, a copy of the notice to arbitrate should be appended to the petition.

The Act requires that notice to arbitrate be given in the manner specified in the arbitration agreement or, if there is no specified manner, then pursuant to 42 Pa.C.S. § 7321.3. See 42 Pa.C.S. § 7376. Notice pursuant to 42 Pa.C.S. § 7321.3 merely requires action reasonably necessary to inform the other party; it does not specifically require a writing for notice to be effective. See *id.* § 7321.3. The commenter's suggestion might imply that notice must be in writing for it to be attached to a petition. However, even with verbal notice, the giving of notice could be memorialized through an affidavit.

The Committee agreed that the notice should be attached to the petition as a means of satisfying the notice requirement of the Act. Arguably, a verified petition containing an allegation of providing notice should suffice but having an attachment to the petition would likely preclude the issue of notice being contested. And, if an attachment is required, the petition should include an allegation referencing the attachment. Accordingly, the Committee revised Pa.R.Civ.P. 1962(c) to include within a petition to compel arbitration an allegation that a notice to arbitrate had been provided to the other party and for the notice to be appended to the petition.

Second, the commenter suggested that the notice to file an answer in what is now numbered Pa.R.Civ.P. 1962(d) and Pa.R.Civ.P. 1964(e) should be similar insofar as the latter provided a warning to seek a lawyer and contained a reference on where to seek a lawyer, but the former did not. The Committee agreed to this suggestion and revised Pa.R.Civ.P. 1962(d).

Third, the commenter suggested that Pa.R.Civ.P. 1964(b) be revised to include “in conformity with Pa.R.Civ.P. 1961” to reinforce that petitions for judicial relief should be filed in the proper forum. The Committee agreed to make the revision.

Fourth, the commenter suggested that there be only one procedural vehicle to compel arbitration in Pa.R.Civ.P. 1962. As proposed, Pa.R.Civ.P. 1962 was intended to address the use of a petition to compel arbitration or, when a party seeks to compel arbitration after the other party has filed a complaint, the use of a preliminary objection.

This suggestion prompted the Committee to discuss the various methods to compel arbitration: 1) by petition if there is no underlying action; 2) by answer if the underlying action is a petition; and 3) by preliminary objection if the underlying action is a complaint. Upon review of the proposed rule, the Committee agreed that further clarification was warranted.

The merits of using an answer were debated. While the various rules intended to govern arbitration petitions would require “notices to plead,” other family court proceedings generally do not require a responsive pleading. See Pa.R.Civ.P. 1910.7(a); Pa.R.Civ.P. 1915.5(d); Pa.R.Civ.P. 1920.14(a). Therefore, if a petition were filed for an arbitrable matter, there would be no notice to the respondent to plead or even a rule-based requirement to file a responsive pleading.

The merits of using a preliminary objection to compel arbitration of an arbitrable matter raised in a complaint were debated. While Pa.R.Civ.P. 1028(a)(6) recognizes that an agreement to arbitrate may be raised by preliminary objection, the Committee believed the defendant is likely going to need to allege new facts outside of the complaint.

Rather than using multiple vehicles to seek the compulsion to arbitrate based on the procedural stage of a proceeding, the Committee agreed with the commenter that there should be only one vehicle to do so. The best single vehicle was believed to be a petition. Thus, if a party seeks to compel arbitration in response to the other party initiating a judicial action, the party would be required to plead over the initiating action with a petition. The Committee revised Pa.R.Civ.P. 1962(g) and the Comment accordingly.

With the revision of Pa.R.Civ.P. 1962(c) regarding the notice to arbitrate, the party would be required to give notice to arbitrate prior to pleading over with a petition to compel arbitration. While it might be argued that the petition to compel arbitration by itself serves

as sufficient notice, this requirement would allow the party initiating a judicial action to stay the action and to voluntarily proceed to arbitration rather than require further litigation.

The Committee observes that a party may wish to first file an action in court to definitively establish a commencement date, which can impact the amount and availability of relief if arbitration is not completed for whatever reason. Whether to first file an action in court may be a strategic decision. Accordingly, the Committee added the following commentary to Pa.R.Civ.P. 1962: "Nothing in this rule is intended to prevent the parties from filing an action in the appropriate court or otherwise preserving a claim."

Other post-publication revisions of a stylistic nature were made to the proposal.

The new rule and amendments become effective on April 1, 2026.