

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

RECOMMENDATION 139

PUBLICATION REPORT

In early 2014, the Domestic Relations Procedural Rules Committee invited the family law bench and bar to comment on how the custody rules that became effective the previous year were working in practice. Approximately 10 comments were received and reviewed by the committee. Recommendation 139 includes suggestions the committee received in response to its outreach.

The issues raised in the responses were varied, and many were specific to the application of the rules and statute in different counties. The committee also could not address many concerns because they involved statutory provisions, particularly those governing criminal record/abuse history and relocation.

The proposal would require that the criminal record/abuse history verification form be filed with any complaint, counterclaim, modification or contempt petition or any custody count in a divorce complaint or counterclaim. It further provides for sanctions if a party fails to file the verification.

A legal assistance agency requested that the committee address the rights of a minor parent to seek custody of his or her child. They recounted cases in which the courts awarded custody of the child to a grandparent or the parent/child's guardian, because the parent was a minor. The committee adopted their recommended language allowing an unemancipated minor parent to commence, defend or maintain a custody action without the requirement of a guardian.

The committee also adopted a suggestion that custody evaluations in child custody cases not be provided to the court before trial to avoid the possibility of a court's adopting an evaluator's view without the benefit of the evaluator's testimony. This is consistent with the Pennsylvania Rules of Evidence. As to relocation, several comments suggested that the committee propose to refine the definition of "relocation," but the committee declined to do so as the definition is statutory. However, for consistency, the full statutory definition is used in this recommendation. That language defines "relocation" as a change in the child's residence "which significantly impairs the ability of a nonrelocating party to exercise custodial rights."

In light of the recent federal court decision striking down the commonwealth's ban on same-sex marriage, it was noted that the terms "mother" and "father" are included in the custody complaint form. This recommendation proposes to amend the

form and replace those terms with “parent.” Other minor proposed amendments are simply for clarity and consistency of language.