

INTRODUCTION

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt amendments to Rules 801-803, 805, 807-816, 818 and 820, adopt amendments to the Official Notes of Rules 804 and 806, and rescind Rule 817 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee’s considerations in formulating this proposal. The Committee’s Report should not be confused with the Committee’s Official Notes to the Rules. The Supreme Court does not adopt the Committee’s Official Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit written suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Pamela S. Walker, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9546
or email to: minorrules@pacourts.us

no later than September 12, 2014.

June 24, 2014

BY THE MINOR COURT RULES COMMITTEE:

Bradley K. Moss, Chair

Pamela S. Walker
Counsel

REPORT

Proposed Amendments to Rules 801-803, 805, 807-816, 818 and 820, Amendments to the Official Notes of Rules 804 and 806, and Rescission of Rule 817 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges

AMENDMENTS TO CHAPTER 800 RULES: MINORS AND INCAPACITATED PERSONS AS PARTIES

I. Introduction and Background

The Minor Court Rules Committee (the “Committee”) is proposing amendments to the Chapter 800 rules of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges (“Rules”). The Chapter 800 Rules address minors and “incompetents” as parties, and have been largely unchanged since the inception of the Rules.

The Committee received a suggestion that it examine the Chapter 800 Rules, and, specifically, examine the use of the terms “incompetent” and “incompetency”, in light of statutory changes that updated the terminology to “incapacitated persons” and “incapacity.” In doing so, the Committee noted numerous changes needed to update the Rules, including (1) revising the terminology, statutory citations and references to the Pennsylvania Rules of Civil Procedure, (2) making the Rules gender neutral, and (3) rescinding Rule 817, which is now obsolete due to definition changes in the relevant statutes.

In examining the relevant sections of the Probate, Estates and Fiduciaries Code, see 20 Pa.C.S. § 5501¹, the Committee determined that the term “incompetent” had long been abandoned in favor of the term “incapacitated person.” 20 Pa.C.S. § 5501. This terminology is also reflected in the Pennsylvania Rules of Civil Procedure. See Pa.R.C.P. No. 2051. Accordingly, the Committee proposes updating the Rules to change all references to “incompetent” and “incompetency” to “incapacitated person” and “incapacity”, respectively.

In reviewing the Chapter 800 Rules, the Committee also noted the outdated use of gender specific pronouns throughout the Rules (e.g., he, his and him). Thus, in keeping with a preference to make the Rules gender neutral, the Committee proposes updating the Chapter 800 Rules to use gender neutral pronouns, and remove gender specific language.

¹ Act of June 30, 1972, P.L. 508, No. 164, § 2, as amended, Act of April 16, 1992, P.L. 108, No. 24, § 6.

Finally, in light of the statutory changes referenced above, as well as changes to the Pennsylvania Rules of Civil Procedure, the Committee determined that updates to statutory citations and cross-references to the Pennsylvania Rules of Civil Procedure were necessary.

II. Proposed Rule Changes

The Committee proposes amendments to Rules 801-803, 805, 807-816, 818 and 820 to (1) change the terms “incompetent” and “incompetency” to “incapacitated person” and “incapacity”, (2) make the Rules gender neutral, and (3) update statutory references and cross-references to the Pennsylvania Rules of Civil Procedure. The Committee also proposes amending the Official Notes of Rules 804 and 806 to update cross-references.

Finally, the Committee proposes rescinding Rule 817 because the rule is no longer necessary due to a change to the statutory definition of an incapacitated person. By definition, an incapacitated person is an adult; thus, Rule 817, which addressed the situation where a party was “both an incompetent and a minor”, is no longer needed. See 20 Pa.C.S. § 5501.