

INTRODUCTION

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt amendments to Rules 1201, 1202, 1203, 1204, 1205, 1206, 1207 and 1208, and the Official Notes to Rules 1209, 1210 and 1211 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 and underlined; deletions are bold and bracketed.

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 January 30, 2015.

December 2, 2014

BY THE MINOR COURT RULES COMMITTEE:

Bradley K. Moss, Chair

**Pamela S. Walker
Counsel**

REPORT

Proposed Amendments to Rules 1201, 1202, 1203, 1204, 1205, 1206, 1207 and 1208, and the Official Notes to Rules 1209, 1210 and 1211 of the Pennsylvania Rules of Civil Procedure before Magisterial District Judges

PROTECTIVE ORDERS FOR VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION

I. Introduction

The Minor Court Rules Committee (“Committee”) is proposing amendments to the rules of procedure governing actions for protective orders in magisterial district courts. The goal of these rule changes is to establish procedures for protective orders sought for victims of sexual violence or intimidation, as provided for in recent legislation.

The Committee became aware of recently adopted legislation that permits a victim of sexual violence or intimidation to petition a court for protection from a defendant, similar to a domestic abuse victim. Act 25 of 2014, P.L. 365, No. 25, 42 Pa.C.S. §§ 62A01-62A20, provides for emergency protective orders for victims of sexual violence and intimidation, in much the same manner as the existing emergency protection from abuse orders. The new law takes effect July 1, 2015.

After comparing the provisions of Act 25 of 2014 with the Protection from Abuse Act, 23 Pa.C.S. §§ 6101-6118, as well as current Rules 1201-1211, the Committee drafted proposed amendments to the rules to incorporate the new protective order provisions within the existing rules. In summary, the changes incorporate definitions pertinent to the new provisions, update statutory references, and use gender neutral language.

II. Proposed Rule Changes

- Proposed Rule 1201 establishes that the Chapter 1200 rules apply to actions for emergency relief under the Protection from Abuse Act, as well as the new protective orders for victims of sexual violence and intimidation.
- Proposed Rule 1202 sets forth relevant definitions for all actions under Chapter 1200.
- Proposed Rule 1203 permits hearing officers to grant relief in actions brought under 42 Pa.C.S. § 62A09.
- Proposed Rule 1204 adds the location where sexual violence or intimidation occurred for establishing venue, as well as clarifying in the Official Note that Rule 1204B, providing for exclusive possession of a residence, only applies in actions brought under the Protection from Abuse Act.

- Proposed Rule 1205 adds references to sexual violence or intimidation, and updates statutory references.
- Proposed Rule 1206 adds references to sexual violence or intimidation, and updates statutory references. It also adds a reference to advising victims of the existence of rape crisis centers in the county, as required by the new legislation. Finally, the Committee proposes deleting part of the Official Note regarding the petition form, as the Committee did not consider it to be helpful.
- In proposed Rule 1207, the Committee reworked the provision regarding nondisclosure of addresses to more closely mirror the statutory requirements. Proposed Rule 1207 also updates statutory references. The Committee also proposes adding a sentence to the Official Note to indicate that the nondisclosure of addresses is not intended to preclude a magisterial district judge from determining that venue is proper pursuant to Rule 1204.
- Proposed Rule 1208 adds references to sexual violence or intimidation, and updates statutory references.
- The Committee proposes amending the Official Note to Rules 1209, 1210 and 1211 to update the statutory references.