

## PROPOSED RULES

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### AMENDMENTS TO THE RULES OF CIVIL PROCEDURE RELATING TO DOMESTIC RELATIONS MATTERS

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

#### RECOMMENDATION 111

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than **Monday May 23, 2011** directed to:

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Deleted material is **bold** and **[bracketed]**. New material is **bold** and underlined.

*By the Domestic Relations Procedural Rules Committee*

Carol A. Behers, Esquire  
*Chair*

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

**RECOMMENDATION 111**

**Rule 1910.19. Support. Modification. Termination. Guidelines as Substantial Change in Circumstances. Overpayments.**

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(e) **[Within one year of] Six months prior to** the date a child who is the subject of a child support order reaches eighteen (18) years of age, the domestic relations section shall issue an emancipation inquiry and notice to the obligee, with a copy to the obligor, seeking the following information:

- (1) confirmation of the child's date of birth, date of graduation or withdrawal from high school;
- (2) whether the child has left the obligee's household and, if so, the date of departure;
- (3) the existence of any agreement between the parties requiring payments for the benefit of the child after the child has reached age eighteen (18) or graduated from high school; and
- (4) any special needs of the child which may be a basis for continuing support for that child beyond the child's eighteenth birthday or graduation from high school, whichever is last to occur.

The notice shall advise the obligee that if the inquiry is not returned within thirty (30) days of mailing or if there is no agreement or the child does not have any special needs, the charging order may be modified or terminated by the court. **In order to avoid overpayment, [W] w**hen no other children are subjects of the child support order and the obligee either does not return the emancipation inquiry within thirty (30) days of its mailing or does not assert grounds for continuing support for the child, then the **[court] domestic relations section** shall **[have the authority to]** administratively terminate the child support charging order without further proceedings **[at any time on or after] on** the last to occur of the date the last child reaches age eighteen (18) or graduates from high school. Termination of the charging order shall not affect any arrears accrued through the date of termination. The court shall have the authority to enter an order requiring the obligor to pay on arrears in an amount equal to the amount of the charging order until all arrears are paid.

If the order applies to another child or children and/or the obligee asserts that there is an agreement between the parties or that a child has special needs requiring continued support, then the domestic relations section **[may] shall** schedule a conference **prior to the child's attaining age 18 or graduating from high school** to determine if the charging order should be modified.

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**(g) Overpayments.**

**(1) If there is an overpayment and a charging order remains in effect, the domestic relations section shall reduce the charging order by 20% or an amount sufficient to retire the overpayment by the time the charging order is terminated unless the court determines it would create an undue hardship to the obligee.**

**(2) If there is an overpayment and there is no charging order in effect, within one year of the termination of the charging order, the former obligor may file a petition with the domestic relations section seeking recovery of the overpayment. A copy shall be served upon the former obligee as original process. The domestic relations section shall schedule a conference on the petition, which shall be conducted consistent with the rules governing support actions. The domestic relations section shall have the authority to enter an order against the former obligee for the amount of the overpayment in a monthly amount to be determined by the trier of fact after consideration of the former obligee's ability to pay.**