

PROPOSED RULES

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

SUPREME COURT OF PENNSYLVANIA DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

RECOMMENDATION 119

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 **Friday, August 10, 2012** 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 S. Mills McCarthy, *Chair*

SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
RECOMMENDATION 119

Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification.

* * *

(b) The order to be attached at the front of the complaint set forth in subdivision (a) shall be in substantially the following form:

(Caption)

ORDER OF COURT

You, _____, defendant, are ordered to appear at _____ before _____, a conference officer of the Domestic Relations Section, on the _____ day of _____, 20__, at _____.M., for a conference, after which the officer may recommend that an order for support be entered against you.

You are further ordered to bring to the conference

(1) a true copy of your most recent Federal Income Tax Return, including W-2s, as filed,

(2) your pay stubs for the preceding six months,

(3) the Income Statement and the appropriate Expense Statement, if required, attached to this order, completed as required by Rule 1910.11(c),

(4) verification of child care expenses, and

(5) proof of medical coverage which you may have, or may have available to you.

If you fail to appear for the conference or to bring the required documents, the court may issue a warrant for your arrest and/or enter an interim support order. If paternity is an issue, the court shall enter an order establishing paternity.

(6) If a physician has determined that a medical condition affects your ability to earn income you must obtain a Physician Verification Form from the domestic relations section, sign it, have it completed by your doctor, and bring it with you to the conference.

* * *

(g) The order to be attached at the front of the petition for modification set forth in subdivision (f) shall be in substantially the following form:

(Caption)

ORDER OF COURT

You, _____, Respondent, have been sued in Court to modify an existing support order. You are ordered to appear in person at _____ on _____ at

_____M., for a conference/ hearing and to remain until dismissed by the Court. If you fail to appear as provided in this Order, an Order for Modification may be entered against you.

You are further ordered to bring to the conference

(1) a true copy of your most recent Federal Income Tax Return, including W-2s, as filed,

(2) your pay stubs for the preceding six months,

(3) the Income **Statement** and **appropriate** Expense Statement, **if required**, attached to this order, completed as required by Rule 1910.11(c),

(4) verification of child care expenses, and

(5) proof of medical coverage which you may have, or may have available to you.

(6) If a physician has determined that a medical condition affects your ability to earn income, you must obtain a Physician Verification Form from the domestic relations section, sign it, have it completed by your doctor, and bring it with you to the conference.

* * *

Rule 1910.29. [Conduct of Record Hearing.] Evidence in Support Matters.

(a) Record Hearing. Except as provided in this [R]rule, the Pennsylvania Rules of Evidence shall be followed in all record hearings conducted in an action for

support. A verified petition, affidavit or document, and any document incorporated by reference therein which would not be excluded under the hearsay rule if given in person shall be admitted into evidence if (1) at least 20 days' written notice of the intention to offer them into evidence was given to the adverse party accompanied by a copy of each document to be offered; (2) the other party does not object to their admission into evidence; and (3) the evidence is offered under oath by the party or witness. An objection must be in writing and served on the proponent of the document within 10 days of the date of service of the notice of intention to offer the evidence. When an objection is properly made, the Pennsylvania Rules of Evidence shall apply to determine the admissibility of the document into evidence.

(b) Medical Evidence.

(1) Non-Record Proceeding. In a non-record hearing, if a physician has determined that a medical condition affects a party's ability to earn income and that party obtains a Physician Verification Form from the domestic relations section, has it completed by the party's physician and submits it at the conference, it may be considered by the conference officer. If a party is on Social Security disability or workers' compensation, the party shall submit copies of the disability or workers' compensation determination in lieu of the Physician Verification Form.

(2) Record Proceeding. If the matter proceeds to a record hearing and the party wishes to introduce the completed Physician Verification Form into evidence, he or she must serve the form on the other party not later than 20 days after the conference. The other party may file and serve an objection to the introduction of the form within 20 days of the mailing of the form. If there is no objection, the form may be admitted into evidence without the testimony of the physician. In the event that the record hearing is held sooner than 40 days after the conference, the trier of fact may provide appropriate relief, such as granting a continuance to the objecting party.

(3) The Physician Verification Form shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF _____ COUNTY

Member Name:

Docket Number:

PACSES Case Number:

Other State ID Number:

PHYSICIAN VERIFICATION FORM

TO BE COMPLETED BY THE TREATING PHYSICIAN

Physician's name: _____

Physician's license number _____

Nature of patient's sickness or injury:

Date of first treatment: _____

Date of most recent treatment: _____

Frequency of treatments: _____

Medication: _____

The patient has had a medical condition that affects his or her ability to earn income from: _____ **through** _____

If the patient is unable to work, when should the patient be able to return to work?
Will there be limitations?

Remarks: _____

Date: _____ **Signature of Treating Physician:** _____

Physician's address: _____

Physician's telephone number: _____

I authorize my physician to release the above information to the County Domestic Relations Section.

Patient's signature: _____ **Date:** _____

Explanatory Comment--2000

23 Pa.C.S. §4342(f) creates a hearsay exception in support actions to permit a verified petition, affidavit or document and a document incorporated by reference in any of them to be admitted into evidence if it would not otherwise be excluded as hearsay if given in person and it is admitted under oath by a party or witness to the support action. Rule 1910.29 requires that notice of the documents to be admitted be given to the other party prior to the hearing. It also sets forth the procedures for raising an objection to the admission of those documents.

If the requisite 20-day notice is given and there is no objection, the document must be admitted into evidence under this rule and 23 Pa.C.S. §4342(f). In the event an objection is timely made, the rules of evidence apply to determine the document's ultimate admissibility.

Rule 1910.29 is not intended to affect 23 Pa.C.S. §4342(g) and (h) relating to admissibility of payment records, billing statements and bills for genetic testing and prenatal and postnatal health care of the mother and child. Those documents are admissible into evidence without advance notice for the limited purposes which are expressly set forth in those statutory provisions.

* * *

Rule 1910.50. Suspension of Acts of Assembly.

The following Acts or parts of Acts of Assembly are suspended insofar as they apply to the practice and procedure in an action for support:

* * *

(4) Section 4 of Act 1997-58, 23 Pa.C.S. § 4342(f), insofar as it is inconsistent with Rule ~~[1910.26]~~ 1910.29 as it relates to record hearings in support actions;

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