

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

PUBLICATION REPORT

RECOMMENDATION 158

The Domestic Relations Procedural Rules Committee (Committee) is proposing an amendment to Pa.R.C.P. Nos. 1920.42, 1920.51, 1920.72 and 1920.73. The impetus for the amendments was the enactment Act 24 of 2016, which amended the Divorce Code by adding 23 Pa.C.S. § 3301(c)(2), which provides for a presumption of consent to the divorce when there is an allegation that a party is the victim of a personal injury crime, as set forth in 23 Pa.C.S. § 3103, that was committed by that party's spouse. The Act amended other correlative statutes in the Divorce Code, as well.

The familiar procedures of obtaining a § 3301(d) divorce are incorporated into the process of establishing the presumption in § 3301(c)(2) by means of an affidavit, which requires the spouse to aver his or her status of victim of a personal injury crime and that their spouse had been convicted of that personal injury crime. The convicted spouse may oppose the establishment of the presumption by completing and filing a counter-affidavit. In the event the convicted spouse opposes the establishment of the presumption, the court may either schedule a hearing on the establishment of the presumption or appoint a master to do so. The current rule does not permit the appointment of a master to determine grounds under § 3301(c); however, as part of the complete revision of Pa.R.C.P. No. 1920.42, a master may be appointed for a determination of the presumption under § 3301(c)(2).

As noted, as part of this recommendation, the Committee completely rewrote Pa.R.C.P. No. 1920.42. The current rule is difficult to follow and including additional procedures for § 3301(c)(2) into the current rule would have furthered the problem.

To accommodate § 3301(c)(2) divorces, the Committee added forms, including Affidavit to Establish Presumption of Consent, Counter-Affidavit under § 3301(c)(2), Notice of Intention to Request Entry of § 3301(c)(2) Divorce Decree, and amended and reformatted the Praeceptum to Transmit Record.