

PROPOSED RULES

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

SUPREME COURT OF PENNSYLVANIA DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

RECOMMENDATION 113

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 August 29, 2011** directed to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 6200
P.O. Box 62635
Harrisburg, PA 17106-2635
Fax: 717 231-9531
E-mail: domesticrules@pacourts.us

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 113

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

* * *

(d) **(1)** The conference officer **[may] shall** make a recommendation to the parties of an amount of support which is calculated in accordance with the guidelines.

(2) Except as set forth in this subdivision, in all cases, even where the parties have reached an agreement, the parties must provide income information to the domestic relations section so that a guidelines calculation can be performed. However, if both parties are represented by counsel and the parties knowingly waive their right to receive or to pay a guideline amount, income information need not be provided if the parties have reached an agreement and object to providing income information.

(3) If an agreement for support is reached at the conference, **based on either the statewide guidelines or an amount stipulated by counsel for each party,** the officer shall prepare a written order substantially in the form set forth in Rule 1910.27(e) and in conformity with the agreement for signature by the parties and submission to the court together with the officer's recommendation for approval or disapproval. The court may enter the order in accordance with the agreement without hearing the parties.

* * *

Explanatory Comment--2011

The rule has been amended to require that income information be provided in all cases, unless both parties are represented in reaching an agreement and object to providing income information, so that a guidelines calculation can be performed. The guidelines create a rebuttable presumption that the amount calculated pursuant to them is the correct amount, so there should be a calculation in every case. If parties are going to waive their right to receive or to pay an order reflecting the guideline amount, they should know what that amount is so that they can enter an agreement knowingly. If both parties are represented by counsel, it is assumed that their entry into the agreement for an amount other than a guidelines amount is knowing as it is counsels' responsibility to advise the parties. In addition, part of the mandatory quadrennial review of the support guidelines mandates a study of the number of cases in which the support amount

ordered varies from the amount that would result from a guidelines calculation. Federal regulations presume that if a large percentage of cases vary from the guideline amount, then the guidelines are not uniform statewide.

* * *

Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.

(a) There shall be an office conference as provided by Rule 1910.11(a) through (d). **The provisions of Rule 1910.11(d)(2) regarding income information apply in cases proceeding pursuant to Rule 1910.12.**

* * *