

PROPOSED RULES

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

SUPREME COURT OF PENNSYLVANIA DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

RECOMMENDATION 121

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, February 1, 2013** 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 S. Mills McCarthy, *Chair*

SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

RECOMMENDATION 121

Rule 1915.3-1. Withdrawal of Pleading. Discontinuance of Action.

(a) Withdrawal of Pleading. A custody pleading cannot be withdrawn after the issuance of a scheduling order or notice of conference regarding claims made in the pleading except

(1) by leave of court after notice to the non-moving party, or

(2) by written agreement of the parties.

(b) Discontinuance of a Custody Action.

(1) A custody action may be discontinued by praecipe only upon a verified statement by the moving party that the complaint has not been served.

(2) A custody action cannot be discontinued after the complaint has been served except

(A) by leave of court after notice to the non-moving party, or

(B) by written agreement of the parties.

Rule 1915.4. Prompt Disposition of Custody Cases.

* * *

(b) **Listing Trials Before the Court.** Depending upon the procedure in the judicial district, within 180 days of the filing of the complaint either the court shall automatically enter an order scheduling a trial before a judge or a party shall file a praecipe, motion or request for trial, except as otherwise provided in this subdivision. If it is not the practice of the court to automatically schedule trials and neither party files a praecipe, motion or request for trial within 180 days of filing of the pleading, the court shall dismiss the matter unless the moving party has been granted an extension for good cause shown, **or the court finds that dismissal is not in the best interests of the child. [which] The** extension shall not exceed 60 days beyond the 180 day limit. A further reasonable extension may be granted by the court upon agreement of the parties or when the court finds, on the record, compelling circumstances for a further reasonable extension. **Prior to dismissal, the court shall notify the parties of an**

intent to dismiss the case unless an objection is filed within 20 days of the date of the notice.

* * *