

CHAPTER 1910. ACTIONS FOR SUPPORT

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GENERAL

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Source

The provisions of these Rules 1910.1—1910.31 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625, unless otherwise noted.

Rule 1910.1. Scope. Definitions.

(a) Except as provided by subdivision (b), the rules of this chapter govern all civil actions or proceedings brought in the court of common pleas to enforce a duty of support, or an obligation to pay alimony pendente lite.

Official Note: A duty of support is imposed by the following statutes: 23 Pa.C.S.A. § 4321 and Section 3 of the Support Law of June 24, 1937, P. L. 2045, 62 P. S. § 1973 (repealed) now Act 43-2005, July 7, 2005, P. L. 196. The procedure under the rules of this chapter implements Chapter 43 of Part V of the Domestic Relations Code, Title 23 of the Consolidated Statutes, 23 Pa.C.S.A. § 4301 et seq., relating to support proceedings. The procedure under these rules provides an alternative to the intrastate and interstate procedures under Parts VIII and VIII-A of the Domestic Relations Code, 23 Pa.C.S.A. §§ 7101 et seq. and 8101 et seq. For alimony and alimony pendente lite, see Sections 3701 and 3702 of the Divorce Code, 23 Pa.C.S.A. §§ 3701, 3702.

Official Note: Long arm jurisdiction is available in support actions brought pursuant to these rules per 23 Pa.C.S.A. § 4342(c).

(b) The rules of this chapter shall not govern

(1) an action or proceeding for support based upon a contract or agreement which provides that it may not be enforced by an action in accordance with these rules,

(2) an application for a temporary order of support and other relief pursuant to the Protection from Abuse Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S. § 6101 et seq. or

(3) an action for support of an indigent brought pursuant to Chapter 46 of the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq.

Official Note: Where a contract or agreement provides that it cannot be enforced in accordance with the rules, actions upon a contract or agreement for support are to be heard by the court and not a conference officer or hearing officer under Rules 1910.11 or 1910.12. However, such actions should be expedited and given preference in court listings.

(c) As used in this chapter, unless the context of a rule indicates otherwise, the following terms shall have the following meanings:

“Conference officer,” the person who conducts an office conference pursuant to Rule 1910.11.

“Hearing officer,” the person who conducts a hearing on the record and makes recommendations to the court pursuant to Rule 1910.12.

“Overdue support,” the amount of delinquent support equal to or greater than one month’s support obligation which accrues after entry or modification of a support order as the result of obligor’s nonpayment of that order.

“Past due support,” the amount of support which accrues prior to entry or modification of a support order as the result of retroactivity of that order. When nonpayment of the order causes overdue support to accrue, any and all amounts of past due support owing under the order shall convert immediately to overdue support and remain as such until paid in full.

“Suspend,” eliminate the effect of a support order for a period of time.

“Terminate,” end not only the support order, but the support obligation as well.

“Trier of fact,” the judge, hearing officer, or conference officer who makes factual determinations.

“Vacate,” declare a particular support order null and void, as if it were never entered.

Explanatory Comment—1994

Nothing in this rule should be interpreted to eliminate the distinctions between spousal support and alimony pendente lite which are established by case law.

Alimony pendente lite must be distinguished from permanent alimony for purposes of this rule. The rule applies only to alimony pendente lite. The procedure for obtaining permanent alimony is governed by Section 3702 of the Divorce Code, 23 Pa.C.S.A. § 3702, and Rules of Civil Procedure 1920.1 et seq. Agreements for alimony approved by the court in connection with actions for divorce under Section 3701 of the Divorce Code are deemed to be court orders enforceable under Section 3703 of the Code.

Section 3105(a) of the Divorce Code provides that all agreements relating to matters under the code, whether or not merged or incorporated into the decree, are to be treated as orders for purposes of enforcement unless the agreement provides otherwise. Subdivision (b)(1) is amended to conform to the statute.

There is considerable diversity in the terminology used throughout the rules, and in the various counties, to describe the individuals who conduct conferences and hearings pursuant to the support rules. The addition of subdivision (c) to the rules standardizes terminology and eliminates the confusion which results from individual counties using inconsistent terms to refer to persons performing the same function. All references in the rules to conference or hearing officers have been amended to conform to the terminology set forth in subdivision (c).

In an effort to further standardize the terminology used in support matters, the additional terms are defined.

Explanatory Comment—2000

Act 1998-127 technically amended Act 1997-58 to define and differentiate between past due and overdue support to clarify that only overdue support constitutes a lien by operation of law against the obligor's real or personal property. 23 Pa.C.S.A. § 4302 now defines overdue support as "support which is delinquent under a payment schedule established by the court." Past due support is defined as "support included in an order of support which has not been paid."

The definitions of past due and overdue support in this rule do not substantively change the legislative definitions. They merely elaborate on them in terms which are more familiar and helpful to the bench and bar. Specifically, past due support consists of the purely retroactive arrearages which accumulate between the date of the filing of the complaint or petition for modification and the date of the hearing and entry of the initial or modified support order. Overdue support refers to the delinquent arrearages which accrue after entry of the order due to the obligor's failure to pay support pursuant to the order.

These definitions are important for determining the remedies available for collecting support arrearages. Pursuant to 23 Pa.C.S.A. § 4352(d), only overdue support (delinquent arrearages) constitutes a lien by operation of law against the obligor's property. Conversely, past due support (retroactive arrears) does not operate as a lien against this property as long as the obligor remains current on the support order.

Rule 1910.20 extends this legislative distinction between overdue and past due support to the following remedies available to collect support: (1) consumer agency reporting under 23 Pa.C.S.A. § 4303; (2) suspension of licenses under 23 Pa.C.S.A. § 4355; and (3) the full range of new collection remedies under 23 Pa.C.S.A. § 4305(b)(10). Accordingly, these remedies are available only to collect overdue support. They are not available to collect past due support as long as the obligor remains current on the order. If, however, the obligor subsequently defaults on the support order, Rule 1910.20(c) provides that any past due support still owing under the order immediately becomes overdue support subject to the full range of collection remedies. It remains overdue support until collected in full.

Pursuant to Rule 1910.20(c), all overdue support, including past due support which has converted to overdue support, remains subject to Act 58 remedies until paid in full. Any repayment plan subsequently agreed to by the parties, or ordered by the court pursuant to a contempt proceeding (including any arrearage component), does not preclude the use of these remedies for collecting overdue support more quickly, whenever feasible.

In cases involving past due support only, the obligee is not entirely without remedy in the event that additional income or assets of the obligor are discovered after the hearing which would enable collection of past due support more quickly. In these cases, identification of those income sources or assets provides a basis for modification pursuant to Rule 1910.19. Modification includes increasing the rate of repayment on past due support and, if appropriate, ordering that the past due support be paid in full. In these cases, the obligee may also petition the court for special relief pursuant to Rule 1910.26 to have the income or assets frozen and seized pending the petition for modification in order to secure payment of past due support.

Explanatory Comment—2007

Act 43-2005, July 7, 2005, P. L. 196, repealed the Act of June 24, 1937 (P. L. 2045, No. 397), known as The Support Law and added Chapter 46 to the Domestic Relations Code, 23 Pa.C.S.A. § 4601 et seq. Section 4 of Act 43-2005 states that the addition of Chapter 46 is a continuation of the Act of June 24, 1937 (P. L. 2045, No. 397). Chapter 46 addresses the responsibility of certain family members to maintain indigent relatives, whether or not the indigent person is a public charge. New subdivision (b)(3) clarifies that the support rules and guidelines do not apply to actions brought under Chapter 46 of the Domestic Relations Code.

Source

The provisions of this Rule 1910.1 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended April 15, 1994, effective July 1, 1994, 24 Pa.B. 2296; amended December 8, 1994, effective July 1, 1995, 24 Pa.B.

6399; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended February 2, 2007, effective February 3, 2007, 37 Pa.B. 522. Immediately preceding text appears at serial pages (324674) and (293831).

Rule 1910.2. Venue. Transfer of Action.

- (a) An action may be brought in
- (1) the county in which the defendant resides, or
 - (2) the county in which the defendant is regularly employed, or
 - (3) the county in which the plaintiff resides and that county is the county in which the last marital domicile was located and in which the plaintiff has continued to reside.
 - (4) the county in which the child resides if the relief sought includes child support.

Official Note: If an action for support is brought in the county in which the plaintiff resides but that county is not the county in which the last family domicile was located and in which the plaintiff has continued to reside, the action shall proceed in accordance with the Revised Uniform Reciprocal Enforcement of Support Act (1968), 23 Pa.C.S. § 4501 et seq. if the defendant is outside the Commonwealth, or in accordance with 23 Pa.C.S. § 4533 which provides for intrastate application of RUESA if the defendant is within the Commonwealth, and not in accordance with these Rules.

- (b) Where jurisdiction is acquired over the defendant pursuant to the long arm statute, 23 Pa.C.S. § 4342(c), the action may be brought in the county where the plaintiff resides.

Official Note: 23 Pa.C.S. § 7201 sets forth the specific bases for long arm jurisdiction over a non-resident defendant.

- (c) If, at the time of the filing of the action, there is a divorce or custody action pending between the parties in an appropriate court in another county, the court upon good cause shown may transfer the support action to that county.

- (d) For the convenience of the parties and witnesses the court may transfer an action to the appropriate court of any other county where the action could have been brought at the time of transfer.

Official Note: The standards for transfer of an action for the convenience of parties and witnesses are the same as the standards under Rule 1006(d).

- (e) A support order may be enforced in accordance with the Uniform Interstate Family Support Act, 23 Pa.C.S. § 7101 et seq., if the defendant resides outside the Commonwealth, or in accordance with the Intrastate Family Support Act, 23 Pa.C.S. § 8101 et seq., if the defendant resides in another county within the Commonwealth.

Source

The provisions of this Rule 1910.2 amended June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended December 8, 1994, effective July 1, 1995, 24 Pa.B. 6399; amended December 18, 1998, effective January 1, 1999, 29 Pa.B. 16; amended October 31, 2002, effective immediately, 32 Pa.B. 5632. Immediately preceding text appears at serial pages (267729) to (267730).

1910-4.1

Rule 1910.2-1. Procedures Pursuant to the Intrastate Family Support Act.

(a) The court in the county in which the complaint for support is filed shall retain and process the case for so long as all of the following conditions are met:

- (1) there is proper venue pursuant to Rule 1910.2;
- (2) the defendant-obligor's mailing address is known;
- (3) sufficient information is known about the defendant-obligor's employment to enable the court to issue an earnings subpoena; and
- (4) the obligee consents.

Official Note: A support action should be maintained in the county in which the obligee and/or the child(ren) reside and should not involve a second county unless the county of residence is unable to obtain service on the defendant-obligor or obtain information regarding the defendant-obligor's employment. However, the obligee is permitted to request that the case proceed under the Intrastate Family Support Act (IFSA) in accordance with 23 Pa.C.S. § 8103.

If the venue requirements are met, the court in the obligee's county of residence should attempt to retain the case if there already is an order in that county against the same defendant-obligor in this or another child/spousal support case or if the defendant-obligor is incarcerated.

(b) If courts in two or more counties must be involved in the establishment and enforcement of an obligation for support:

- (1) the case must proceed pursuant to the Intrastate Family Support Act; and

- (2) venue shall follow the defendant-obligor in order to maintain the availability of statutory enforcement remedies.
- (c) A support order shall not be registered in another county unless:
- (1) requested by the obligee, or
 - (2) necessary to maintain an order for support, to obtain payment of the support obligation or to consolidate multiple cases involving the same defendant-obligor.
- (d) Only one support order shall be charging against a defendant-obligor for the same spouse and/or child(ren) at one time.

Source

The provisions of this Rule 1910.2-1 adopted October 31, 2002, effective immediately, 32 Pa.B. 5632.

Rule 1910.3. Parties.

An action shall be brought

- (a) by a person, including a minor parent or a minor spouse, to whom a duty of support is owing, or
- (b) on behalf of a minor child by a person having custody of the child, without appointment as guardian ad litem, or
- (c) on behalf of a minor child by a person caring for the child regardless of whether a court order has been issued granting that person custody of the child, or
- (d) by a public body or private agency having an interest in the case, maintenance or assistance of a person to whom a duty of support is owing, or
- (e) by a parent, guardian or public or private agency on behalf of an unemancipated child over eighteen years of age to whom a duty of support is owing.

Source

The provisions of this Rule 1910.3 amended March 2, 2000, effective immediately, 30 Pa.B. 1646; amended October 30, 2001, effective immediately, 21 Pa.B. 6273. Immediately preceding text appears at serial page (267731).

Rule 1910.4. Commencement of Action. Fee.

- (a) An action shall be commenced by filing a complaint with the domestic relations section of the court of common pleas.

Official Note: For the form of the complaint, see Rule 1910.27(a).

Section 961 of the Judicial Code, 42 Pa.C.S. § 961, provides that each court of common pleas shall have a domestic relations section.

- (b) No filing fee shall be required in advance.

Source

The provisions of this Rule 1910.4 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (265459).

Rule 1910.5. Complaint. Order of Court.

- (a) The complaint shall be substantially in the form provided by Rule 1910.27(a).

(b) The complaint shall not contain a notice to defend or be endorsed with a notice to plead.

Official Note: Neither Rule 1018.1 nor Rule 1361 applies to a complaint in an action for support.

(c) An order shall be attached at the front of the complaint directing the defendant to appear before an officer for a conference at the time and place directed by the court. The order shall be substantially in the form provided by Rule 1910.27(b).

Official Note: For service of original process in support matters, see Rule 1930.4.

Source

The provisions of this Rule 1910.5 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (265459).

Rule 1910.6. Notification.

Parties to a support action and their attorneys shall be provided notice of all proceedings in which support obligations might be established or modified. Notice must be provided at least 20 days prior to the proceeding. The parties and their attorneys shall also be provided with a copy of any order issued in the support action within 14 days after issuance of the order. If there is no activity in a support action for a period of three years, the domestic relations section shall send a notice to each of the parties' attorneys advising each attorney that his or her appearance in the support action shall be deemed to be withdrawn unless the attorney objects within thirty (30) days of the date the notice is mailed to the attorney. An attorney representing a party in a support action shall not be deemed to be representing that party in any other action, nor shall a withdrawal of appearance in a support action be deemed to be a withdrawal of appearance for the party in any other proceeding.

Source

The provisions of this Rule 1910.6 rescinded June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended October 2, 1995, effective January 1, 1996, 25 Pa.B. 4518; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended October 30, 2001, effective immediately, 31 Pa.B. 6273. Immediately preceding text appears at serial page (267732).

Rule 1910.7. No Pleading by Defendant Required. Question of Jurisdiction or Venue or Statute of Limitations in Paternity.

(a) No pleading by the defendant shall be required, but if defendant elects to file a pleading, the domestic relations office conference required by the order of court shall not be delayed.

(b) If defendant raises a question of jurisdiction or venue or in paternity cases the defense of the statute of limitations, the court shall promptly dispose of the question and may, in an appropriate case, stay the domestic relations office conference.

Rule 1910.8. [Rescinded].

Official Note: The provisions in this Rule now appear in Rule 1910.2(a) through (f).

Source

The provisions of this Rule 1910.8 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded December 18, 1998, effective January 1, 1999, 29 Pa.B. 16. Immediately preceding text appears at serial page (231363).

Rule 1910.9. Discovery.

(a) Except as provided in Rule 1910.11(j) and Rule 1910.12(c), there shall be no discovery in an action for support unless authorized by special order of court.

Official Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(b) Where a party is employed, the court shall ascertain the party’s earnings and may enter an order directing the employer to furnish earnings information to the court as provided by Rule 1910.28.

Source

The provisions of this Rule 1910.9 amended May 5, 1997, effective July 1, 1997, 27 Pa.B. 2532; amended March 2, 2000, effective immediately, 30 Pa.B. 1646; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (265460).

Rule 1910.10. Alternative Hearing Procedures.

(a) The action shall proceed as prescribed by Rule 1910.11 unless the court by local rule adopts the alternative hearing procedure of Rule 1910.12.

(b) The president judge or the administrative judge of Family Division of each county shall certify that all support proceedings in that county are conducted in accordance with either Rule 1910.11 or Rule 1910.12. The certification shall be filed with the Domestic Relations Procedural Rules Committee, and shall be substantially in the following form:

I hereby certify that _____ County conducts its support proceedings in accordance with Rule _____ .

(PRESIDENT JUDGE) (ADMINISTRATIVE JUDGE)

Official Note: Pursuant to Rule 1910.10, the following counties have certified to the Domestic Relations Procedural Rules Committee that their support proceedings are conducted in accordance with the rule specified below.

Adams	1910.11
Allegheny	1910.12
Armstrong	1910.12
Beaver	1910.11
Bedford	1910.11
Berks	1910.12
Blair	1910.11
Bradford	1910.12
Bucks	1910.11
Butler	1910.11
Cambria	1910.12
Cameron	1910.11
Carbon	1910.12

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Centre	1910.11
Chester	1910.12
Clarion	1910.12
Clearfield	1910.11
Clinton	1910.11
Columbia	1910.12
Crawford	1910.11
Cumberland	1910.12
Dauphin	1910.11
Delaware	1910.11
Elk	1910.12
Erie	1910.11
Fayette	1910.11
Forest	1910.12
Franklin	1910.11
Fulton	1910.11
Greene	1910.11
Huntingdon	1910.11
Indiana	1910.12
Jefferson	1910.11
Juniata	1910.11
Lackawanna	1910.12
Lancaster	1910.11
Lawrence	1910.11
Lebanon	1910.12
Lehigh	1910.12
Luzerne	1910.12
Lycoming	1910.12
McKean	1910.12
Mercer	1910.11
Mifflin	1910.11
Monroe	1910.12
Montgomery	1910.11
Montour	1910.12
Northampton	1910.11
Northumberland	1910.11
Perry	1910.11
Philadelphia	1910.12
Pike	1910.11
Potter	1910.11
Schuylkill	1910.12
Snyder	1910.11
Somerset	1910.12
Sullivan	1910.11
Susquehanna	1910.12
Tioga	1910.12
Union	1910.11
Venango	1910.12
Warren	1910.12
Washington	1910.12

Wayne	1910.11
Westmoreland	1910.12
Wyoming	1910.11
York	1910.11

Source

The provisions of this Rule 1910.10 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended September 5, 1995, effective January 1, 1996, 25 Pa.B. 4097; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended October 8, 2002, effective immediately, 32 Pa.B. 5262; amended July 30, 2003, effective immediately, 33 Pa.B. 4072. Immediately preceding text appears at serial pages (293835) to (293837).

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

(a)(1) The office conference shall be conducted by a conference officer.

(2) A conference officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, permanent hearing officer or permanent or standing master employed by the same judicial district.

Official Note: Conference officers preside at office conferences under Rule 1910.11. Hearing officers preside at hearings under Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by Rule 1920.51.

(b) If the defendant fails to appear at the conference before the officer as directed by the court, the conference may proceed without the defendant.

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their Income and Expense Statements in the forms required by Rule 1910.27(c), completed as set forth below.

(1) For cases which can be determined according to the guideline formula, the Income Statement must be completed and the Expense Statement at Rule 1910.27(c)(2)(A) should be completed if a party is claiming unusual needs and unusual fixed expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks apportionment of expenses pursuant to Rule 1910.16-6. In a support case that can be decided according to the guidelines, even if the support claim is raised in a divorce complaint, no expense form is needed unless a party claims unusual needs or unusual fixed expenses or seeks apportionment of expenses pursuant to Rule 1910.16-6. However, in the divorce action, the Expense Statement at Rule 1910.27(c)(2)(B) may be required.

(2) For cases which are decided according to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), the Income Statement and the Expense Statement at Rule 1910.27(c)(2)(B) must be completed.

(d) The conference officer may make a recommendation to the parties of an amount of support which is calculated in accordance with the guidelines. If an agreement for support is reached at the conference, the officer shall prepare a written order substantially in the form set forth in Rule 1910.27(e) and in confor-

mity 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.

(e) At the conclusion of the conference or promptly thereafter, the conference officer shall prepare a conference summary and furnish copies to the court and to both parties. The conference summary shall state:

- (1) the facts upon which the parties agree;
- (2) the contentions of the parties with respect to facts upon which they disagree; and
- (3) the conference officer's recommendation; if any, of
 - (i) the amount of support and by and for whom the support shall be paid; and
 - (ii) the effective date of any order.

(f) If an agreement for support is not reached at the conference, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). Each party shall be provided, either in person at the time of the conference or by mail, with a copy of the interim order and written notice that any party may, within twenty days after the date of receipt or the date of the mailing of the interim order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.

(g) A demand for a hearing before the court shall not stay the interim order entered under subdivision (f) unless the court so directs.

(h) If no party demands a hearing before the court within the twenty day period, the interim order shall constitute a final order.

(i) If a demand is filed, there shall be a hearing de novo before the court. The domestic relations section shall schedule the hearing and give notice to the parties. The court shall hear the case and enter a final order substantially in the form set forth in Rule 1910.27(e) within sixty days from the date of the written demand for hearing.

(j)(1) Promptly after receipt of the notice of the scheduled hearing, a party may move the court for a separate listing where:

- (i) there are complex questions of law, fact or both; or
- (ii) the hearing will be protracted; or
- (iii) the orderly administration of justice requires that the hearing be listed separately.

(2) If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.

Official Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(k) No motion for post-trial relief may be filed to the final order of support.

Explanatory Comment—1994

The domestic relations office conference provided by Rule 1910.11 constitutes the heart of the support procedure. There are two primary advantages to the inclusion of a conference. First, in many cases the parties will agree upon an amount of support and a final order will be prepared, to be entered

by the court, thus dispensing with a judicial hearing. Second, those cases which do go to hearing can proceed more quickly because the necessary factual information has already been gathered by the conference officer.

Subdivision (a)(2) prohibits certain officers of the court from practicing family law before fellow officers of the same court. These officers are the conference officer who is an attorney (Rule 1910.11), the hearing officer (Rule 1910.12), and the standing or permanent master who is employed by the court (Rule 1920.51). The amendments are not intended to apply to the attorney who is appointed occasionally to act as a master in a divorce action.

Subdivision (e)(3) makes clear that even if the parties agree on an amount of support, the conference officer is still empowered to recommend to the court that the agreement be disapproved. This provision is intended to protect the destitute spouse who might out of desperation agree to an amount of support that is unreasonably low or which would in effect bargain away the rights of the children. The officer's disapproval of the agreement serves to prevent an inadequate order being entered unwittingly by the court.

The provision for an interim order in subdivision (f) serves two purposes. First, it ensures that the obligee will receive needed support for the period during which the judicial determination is sought. Second, it eliminates the motive of delay in seeking a judicial determination.

Because the guidelines are income driven, the trier of fact has little need for the expense information required in the Income and Expense Statement. Therefore in guideline cases, the rule no longer requires that expense information be provided. If a party feels that there are expenses so extraordinary that they merit consideration by the trier of fact, that party is free to provide the information. In cases decided according to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), living expenses are properly considered, and therefore must be presented on the Income and Expense Statement.

Explanatory Comment—1995

Rule 1910.11(e) is amended to eliminate the need for a party to request a copy of the conference summary.

Because the court is required to enter a guideline order on the basis of the conference officer's recommendation, there is no need for (g)(2), which provided for a hearing before the court where an order was not entered within five days of the conference. It is eliminated accordingly.

Pursuant to subdivision (g), support payments are due and owing under the interim order which continues in effect until the court enters a final order after the hearing de novo. The provision for an interim order serves two purposes. First, it ensures that the obligee will receive needed support for the period during which the judicial determination is sought. Second, it eliminates the motive of delay in seeking a judicial determination. Therefore, the plaintiff and the dependent children are not prejudiced by allowing the court sixty days, rather than the original forty-five, in which to enter its final order.

Explanatory Comment—2006

The time for filing a written demand for a hearing before the court has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

The amendments reflect the separated Income Statement and Expense Statements in Rule 1910.27(c).

Source

The provisions of this Rule 1910.11 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 29, 1989, effective October 15, 1989, 19 Pa.B. 4451; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended September 8, 1995, effective January 1, 1996, 25 Pa.B. 4095; amended May 5, 1997, effective July 1, 1997, 27 Pa.B. 2532; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended August 8, 2006, effective immediately, 36 Pa.B.

4709; amended November 8, 2006, effective February 6, 2007, 36 Pa.B. 7113; amended October 30, 2007, effective immediately, 37 Pa.B. 5976. Immediately preceding text appears at serial pages (324675) to (324677).

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).

(b)(1) At the conclusion of a conference attended by both parties, if an agreement for support has not been reached, and the conference and hearing are not scheduled on the same day, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e), and the parties shall be given notice of the date, time and place of a hearing. A record hearing shall be conducted by a hearing officer who must be a lawyer.

(2) If the defendant, having been properly served, fails to attend the conference, the court shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). Within twenty days after the date of receipt or the date of mailing of the interim order, whichever occurs first, either party may demand a hearing before a hearing officer. If no hearing is requested, the order shall become final.

(3) A hearing officer employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district.

Official Note: Conference officers preside at office conferences under Rule 1910.11. Hearing officers preside at hearings under Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by Rule 1920.51.

(c)(1) Except as provided in subdivision (c)(2), promptly after conclusion of the conference, a party may move the court for a separate listing of the hearing where:

- (i) there are complex questions of law, fact or both; or
- (ii) the hearing will be protracted; or
- (iii) the orderly administration of justice requires that the hearing be listed separately.

(2) Where the conference and hearing are scheduled on the same day, all requests for separate listing must be presented to the court at least seven days prior to the scheduled court date.

(3) If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.

Official Note: The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(d) The hearing officer shall receive evidence, hear argument and file with the court a report containing a recommendation with respect to the entry of an order of support. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order substantially in the form set forth in Rule 1910.27(e) stating:

- (1) the amount of support calculated in accordance with the guidelines;

- (2) by and for whom it shall be paid; and
- (3) the effective date of the order.

A copy of the report shall be furnished to all parties at the conclusion of the hearing.

(e) The court, without hearing the parties, shall enter an interim order consistent with the proposed order of the hearing officer. Each party shall be provided, either in person at the time of the hearing or by mail, with a copy of the interim order and written notice that any party may, within twenty days after the date of

receipt or the date of mailing of the order, whichever occurs first, file with the domestic relations section written exceptions to the report of the hearing officer and interim order.

Official Note: Objections to the entry of an interim order consistent with the proposed order may be addressed pursuant to Rule 1910.26.

(f) Within twenty days after the date of receipt or the date of mailing of the report by the hearing officer, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of facts, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty days of the date of service of the original exceptions.

(g) If no exceptions are filed within the twenty-day period, the interim order shall constitute a final order.

(h) If exceptions are filed, the interim order shall continue in effect. The court shall hear argument on the exceptions and enter an appropriate final order substantially in the form set forth in Rule 1910.27(e) within sixty days from the date of the filing of exceptions to the interim order. No motion for post-trial relief may be filed to the final order.

Explanatory Comment—1995

Language is added to subdivision (b) to acknowledge that the conference and hearing can be held on the same day, and to provide for the immediate entry of an interim order in judicial districts where the hearing occurs at a later date. New subdivision (b)(2) permits entry of a guideline order after a conference which the defendant, though properly served, fails to attend. New subdivision (c)(2) is intended to prevent delays in the hearing of complex cases by requiring that requests for separate listing be made at least seven days in advance where the conference and hearing are scheduled on the same day.

In addition, the phrase “record hearing” in subdivision (a) replaces the reference to a “steno-graphic record” in recognition of the variety of means available to create a reliable record of support proceedings.

Amended subdivision (e) allows an interim order to be entered and served on the parties at the conclusion of the hearing, rather than after the expiration of the exceptions period as was true under the old rule. In addition, the amended subdivision requires that the interim order include language advising the parties of their right to file exceptions within ten days of the date of the order.

Support payments are due and owing under the interim order which continues in effect until the court enters a final order after considering the parties’ exceptions. Therefore, extension of the deadline for entering the final order by fifteen days does not prejudice the persons dependent upon payment of the support.

Explanatory Comment—2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

Source

The provisions of this Rule 1910.12 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended March 23, 1987, effective July 1, 1987, 17 Pa.B. 1499; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 29, 1989, effective October 15, 1989, 19 Pa.B. 4451; corrected October 27, 1989, effective October 15, 1989, 19 Pa.B. 4603; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended September 28, 1995, effective January 1, 1996, 25 Pa.B. 4095; amended May 5, 1997, effective July 1, 1997, 27 Pa.B. 2532; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended August 8, 2006, effective immediately, 36 Pa.B. 4709. Immediately preceding text appears at serial pages (267735) to (267737).

Rule 1910.13. [Rescinded].**Source**

The provisions of this Rule 1910.13 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949. Immediately preceding text appears at serial page (177461).

Rule 1910.13-1. Failure or Refusal to Appear Pursuant to Order of Court. Bench Warrant.

(a) If a party fails to appear at a conference and/or hearing as directed by order of court, the court may issue a bench warrant for the arrest of the party if it finds

- (1) following a hearing on the record that the party had actual notice that the party was ordered to attend the conference and/or hearing, or
- (2) upon the affidavit of a hearing officer or conference officer that
 - (i) the order of court scheduling the conference and/or hearing was served by ordinary mail with the return address of the domestic relations section appearing thereon, that the mail was not returned to the domestic relations section within fifteen days after mailing, and that, at a date after the order of court was mailed, the United States Postal Service has verified that mail for the party was being delivered at the address to which the court order was mailed; or
 - (ii) the party signed a receipt indicating acceptance of a copy of the court order; or
 - (iii) an employee of the court handed a copy of the order to the party; or
 - (iv) a competent adult handed a copy of the court order to the party, and filed an affidavit of service.

Official Note: See Rule 76 for the definition of “competent adult.”

(b) The request for a bench warrant shall be made by the domestic relations office within sixty days following the party’s failure to appear. The request shall be in the form provided by Rule 1910.13-2(b), and shall include the hearing officer or conference officer’s certification that the party has not appeared for any domestic relations matter involving the same parties since the date the party failed to appear.

(c) Upon appearance in court by a party on the matter underlying the bench warrant, the bench warrant shall be vacated forthwith and the notice shall be given to all computer networks into which the bench warrant has been entered.

(d) When a bench warrant is executed, the case is to proceed in accordance with the following procedures.

(1) When an individual is arrested pursuant to a bench warrant, he or she shall be taken without unnecessary delay for a hearing on the bench warrant. The hearing shall be conducted by the judicial officer who issued the bench warrant, or, another judicial officer designated by the president judge or by the president judge's designee to conduct bench warrant hearings. As used in this rule, "judicial officer" is limited to the common pleas court judge who issued the bench warrant, or common pleas court judge designated by the president judge or by the president judge's designee to conduct bench warrant hearings.

(2) In the discretion of the judicial officer, the bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.

(3) When the individual is arrested in the county of issuance, and the bench warrant hearing cannot be conducted promptly after the arrest, the individual shall be lodged in the county jail pending the hearing. The authority in charge of the county jail promptly shall notify the sheriff's office and the director of the domestic relations section that the individual is being held pursuant to the bench warrant.

(4) When the individual is arrested outside the county of issuance, the authority in charge of the county jail in the arresting county promptly shall notify the proper authorities in the county of issuance that the individual is being held pursuant to the bench warrant.

(5) The bench warrant hearing shall be conducted without unnecessary delay after the individual is lodged in the jail of the county of issuance of that bench warrant. The individual shall not be detained without a hearing on the bench warrant longer than 72 hours, or the close of the next business day if the 72 hours expires on a non-business day.

(6) At the conclusion of the bench warrant hearing following the disposition of the matter, the judicial officer immediately shall vacate the bench warrant.

(7) If a bench warrant hearing is not held within the time limits in paragraph (d)(5), the bench warrant shall expire by operation of law.

Explanatory Comment—1994

In 1988, Section 4342 of the Domestic Relations Code, 23 Pa.C.S. § 4342, was amended to require establishment of procedures for expedited contempt in support. Those procedures are set forth in new Rules 1910.13-1, 1910.13-2, and 1910.21-1 through 1910.21-7.

Former Rule 1910.13 provided for the issuance of a bench warrant for failure of a person to obey a court order other than an order for support. It is replaced with new Rule 1910.13-1 which sets forth detailed procedures for the issuance of a bench warrant, and new Rule 1910.13-2 which provides the associated forms. The new rules apply only to a party who fails to appear at a support conference or hearing as directed by an order of court.

An individual arrested pursuant to a bench warrant can be incarcerated for a period not to exceed seventy-two hours prior to hearing as set forth in new Rule 1910.13-1(d). Under the old rules, if the court was unavailable at the time of arrest, the individual could not be held. Therefore, law enforcement officials were unable to execute bench warrants in the evenings or on weekends, when their efforts were most likely to be successful. By limiting the possible period of incarceration to seventy-two hours, new Rule 1910.13-1(d) balances the need to bring parties before the court with the desire

to avoid lengthy pre-hearing detention. Bail can be set by the court where appropriate, providing additional protection for the respondent.

Explanatory Comment—1999

The rules of civil procedure governing service of original process and other legal papers have used the term “competent adult.” In certain circumstances, the term has been used with the restrictive language “who is not a party to the action.”

The Supreme Court of Pennsylvania has amended Definition Rule 76 by adding the following definition: “‘competent adult’ means an individual eighteen years of age or older who is neither a party to the action nor an employee or a relative of a party.” In view of this new definition, the rules of civil procedure which used the term “competent adult who is not a party to the action” have been amended by deleting as unnecessary the restrictive language “who is not a party to the action.” These rules using the term “competent adult” will be governed by the new definition. The rules which used the term “competent adult” without the restrictive language have been amended by deleting the word “competent,” thus continuing to permit service by an adult without further restriction.

Explanatory Comment—2006

Beginning in 2006, bench warrants issued for failure to obey a court order to appear in a support matter will be available through the Judicial Network (“JNET”) system. JNET expands the capacity of law enforcement officers throughout the commonwealth to be informed of outstanding bench warrants issued by both the criminal and civil courts. The Supreme Court of Pennsylvania has promulgated new Pa.R.Crim.P. 150, effective August 1, 2006, which sets forth the procedure related to criminal bench warrants. The amendments to Rules 1910.13-1 and 1910.13-2 track the new criminal procedural rule so that bench warrant procedures will be uniform throughout the commonwealth. For additional information see the Criminal Procedural Rules Committee’s Final Report explaining new Pa.R.Crim.P. 150, published with the promulgation order at 36 Pa.B. 184 (January 14, 2006).

Source

The provisions of this Rule 1910.13-1 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended November 8, 2006, effective February 6, 2007, 36 Pa.B. 7110. Immediately preceding text appears at serial pages (322433) to (322434)

Rule 1910.13-2. Form of Request for Bench Warrant and Supporting Affidavit. Form of Bench Warrant.

(a) Request for a bench warrant pursuant to Rule 1910.13-1 shall be in substantially the following form and shall be attached to the Bench Warrant form set forth in subdivision (b) of this rule:

[CAPTION]

REQUEST FOR BENCH WARRANT AND
SUPPORTING AFFIDAVIT

1. _____ did not appear for a conference and/or hearing in the Court of Common Pleas of _____ County on the ____ day of _____, 20____, which was scheduled by an order of court compelling this person’s appearance, a copy of which is attached to this request.

2. The party received the order of court scheduling the conference and/or hearing in the following manner:

(a) The order of court (i) was served upon the party by ordinary mail with the return address of the court thereon; (ii) the mail was not returned to the court within fifteen (15) days after mailing; and (iii) at a date after the order of court was mailed, the United States Postal Service has verified that mail for the party was being delivered at the address to which the court order was mailed.

(b) The party signed a receipt indicating acceptance of the court order.

1910-14.2

DESCRIPTIVE INFORMATION

Social Security # _____ Sex _____
D.O.B. _____ Age _____ Height _____
Weight _____ Race _____ Eyes _____
Hair _____
Distinguishing features (scars, tattoos, facial hair, disability, etc.) _____

Alias _____
Telephone # _____

You are further commanded that if the court is unavailable, the party may be held in the County Jail until the court is opened for business, at which time the party shall be promptly conveyed and delivered into the custody of the court at

_____, _____,
(address) (city)

Pennsylvania, for hearing.

The authority in charge of the county jail shall notify the sheriff's office and the director of the domestic relations section forthwith that the party is being held pursuant to the bench warrant.

Under no circumstances may the party be held in the county jail of the county that issued this bench warrant for more than 72 hours or the close of the next business day if the 72 hours expires on a non-business day. See Pa.R.Crim.P 150(A)(5).

Bail in this matter shall be set as follows:

- No bail.
Bail to be set in the amount of _____.

Official Note: Standards for setting bail are set forth in Rule of Criminal Procedure 525.

BY THE COURT: _____

JUDGE

Explanatory Comment—2005

Act 207-2004 amended numerous titles of the Pennsylvania Consolidated Statutes changing the title of "district justice" to "magisterial district judge." The amendments to Rule 1910.13-2 reflect the change in title.

Source

The provisions of this Rule 1910.13-2 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended May 9, 2005, effective immediately, 35 Pa.B. 2994; amended November 6, 2006, effective February 6, 2007, 36 Pa.B. 7110. Immediately preceding text appears at serial pages (311801) to (311803).

Rule 1910.14. Defendant Leaving Jurisdiction. Security.

At any stage of the proceeding, upon affidavit that the defendant is about to leave the jurisdiction, the court may issue appropriate process directing that the defendant be brought before the court at such time as the court may direct. At that time the court may direct that the defendant give security, with one or more sureties, to appear when directed by the court or to comply with any order of court.

Rule 1910.15. Paternity.

(a) *Acknowledgment of Paternity.* If the action seeks support for a child born out of wedlock and the alleged father is named as defendant, the defendant may acknowledge paternity in a verified writing. The conference officer shall advise the parties that pursuant to Section 5103(d) of Title 23 of the Pennsylvania Consolidated Statutes an acknowledgment constitutes conclusive evidence of defendant's paternity without further judicial ratification in any action to establish support. Upon defendant's execution of the written acknowledgment, the action shall proceed as in other actions for support.

(b) *Genetic Testing.* If the defendant appears but does not execute an acknowledgment of paternity at the conference:

(1) The court shall enter an order directing the parties to appear for genetic testing. The order must advise the defendant that his failure to appear for the testing will result in entry of an order finding that he is the father of the child. The order must also advise the plaintiff that her failure to appear for testing may result in sanctions, including entry of an order dismissing the paternity action without prejudice.

(2) The conference officer shall advise and provide written notice to the parties that they may enter into a written stipulation whereby both agree to submit to genetic testing for the purpose of resolving finally the issue of paternity. If the test results indicate a 99% or higher probability of paternity, the defendant shall be stipulated to be the biological father of the child and the case referred for a child support conference. If the test results indicate an exclusion, the action shall be dismissed. The written stipulation constitutes a waiver of the right to a hearing on the genetic testing or trial on the issue of paternity.

(3) The conference officer shall advise and provide written notice to the parties that if they do not enter into a written stipulation and the test results do not indicate an exclusion, there will be a hearing regarding genetic testing or trial before a judge without a jury on the issue of paternity in accordance with the procedures set forth in subdivision (d) of this Rule.

(c) *Estoppel and Presumption of Paternity.* If either party or the court raises the issue of estoppel or the issue of whether the presumption of paternity is applicable, the court shall dispose promptly of the issue and may stay the order for genetic testing until the issue is resolved.

(d) *Post-Testing Procedures.*

(1) The results of the genetic tests shall be provided in writing to counsel for the parties or, if unrepresented, to the parties themselves.

(2) If the results of the genetic tests resolve the issue of paternity pursuant to the stipulation of the parties, a paternity order shall be entered and served on the parties. If the defendant is excluded, the action shall be dismissed. If the defendant is stipulated to be the biological father, the action shall proceed as in other actions for support.

(3) If the results of the genetic tests do not resolve the issue of paternity pursuant to the stipulation of the parties, but the test results indicate a 99% or more probability of paternity, the court shall issue a rule against the defendant to show cause why an order should not be entered finding him to be the father.

The rule shall advise the defendant that pursuant to 23 Pa.C.S. § 4343 his defense is limited to a showing by clear and convincing evidence that the results of the genetic tests are not reliable. The rule shall direct that an answer be filed within 20 days after service of the rule on the defendant. The answer shall state the material facts which constitute this defense. Any allegation of fact which does not appear of record must be verified.

If an answer is not timely filed, the court shall enter an order finding paternity and refer the action to conference and hearing as in other actions for support. If an answer is filed raising a disputed issue of material fact relating to the reliability of the genetic testing, the case shall be listed promptly for expedited hearing before a judge. The burden of proof at the hearing is on the defendant and is limited to proof by clear and convincing evidence that the results of the genetic tests are not reliable.

(4) If the results of the genetic tests do not resolve the issue of paternity and the test results indicate less than a 99% probability of paternity, the case shall be promptly listed for expedited trial before a judge.

(5) If, after a hearing or trial, the decision is for the defendant on the issue of paternity, a final order shall be entered by the court dismissing the action as to the child. If the decision is against the defendant on the issue of paternity, an interlocutory order shall be entered by the court finding paternity. The court may enter an interim order for child support at that time and shall refer the action to conference and hearing as in other actions for support.

(e) *Failure to Appear.* If defendant fails to appear as ordered for a conference, hearing or trial, or for genetic tests, the court shall, upon proof of service on the defendant, enter an order establishing paternity. The court may also enter an interim order for child support at that time and shall refer the action to conference and hearing as in other actions for support.

(f) *Appeal of Paternity Order.* An order establishing paternity is not an appealable order. The issue of paternity may be included in an appeal from the final order of child support.

Source

The provisions of this Rule 1910.15 adopted April 23, 1981, effective July 22, 1981, 11 Pa.B. 1625; amended October 19, 1983, effective January 1, 1984, 13 Pa.B. 3629; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1941 and 1953; amended March 24, 1997, effective July 1, 1997, 27 Pa.B. 1549; amended May 21, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (256279) to (256280).

Rule 1910.16. Support Order. Allocation.

(a) In an order awarding child support and spousal support, the court may on its own motion or upon the motion of either party

(1) Make an unallocated award in favor of the spouse and one or more children, or

(2) State the amount of support allocable to the spouse and the amount allocable to each child.

1910-14.6

ACTIONS FOR SUPPORT

231 Rule 1910.16

Official Note: See 23 Pa.C.S. § 4348(d) for additional matters which must be specified in an order of support if arrearages exist when the order is entered.

(b) An unallocated order in favor of the spouse and one or more children shall be a final order as to all claims covered in the order. No motion for post-trial relief may be filed to the final order.

1910-14.7

(324687) No. 387 Feb. 07

Official Note: The procedure relating to Motions for Reconsideration is set forth in Rule 1930.2.

Source

The provisions of this Rule 1910.16 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 29, 1989, effective October 1, 1989, 19 Pa.B. 4450; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1941. Immediately preceding text appears at serial page (177462).

Rule 1910.16-1. Amount of Support. Support Guidelines.

(a) *Applicability of the Support Guidelines.*

(1) Except as set forth in subdivision (2) below, the support guidelines set forth the amount of support which a spouse or parent should pay on the basis of both parties' net monthly incomes as defined in Rule 1910.16-2 and the number of persons being supported.

(2) In actions in which the plaintiff is a public body or private agency pursuant to Rule 1910.3, the amount of the order shall be calculated under the guidelines based upon each obligor's net monthly income as defined in Rule 1910.16-2, with the public or private entity's income as zero. In such cases, each parent shall be treated as a separate obligor and a parent's obligation will be based upon his or her own monthly net income without regard to the income of the other parent.

(i) The amount of basic child support owed to other children not in placement shall be deducted from each parent's net income before calculating support for the child or children in placement, including the amount of direct support the guidelines assume will be provided by the custodial parent.

Example 1. Mother and Father have three children and do not live in the same household. Mother has primary custody of two children and net income of \$1,500 per month. Father's net monthly income is \$3,000. The parties' third child is in foster care placement. Pursuant to the schedule at Rule 1910.16-3, the basic child support amount for the two children with Mother is \$1,216. As Father's income is 67% of the parties' combined monthly net income, his basic support obligation to Mother is \$815 per month. The guidelines assume that Mother will provide \$401 per month in direct expenditures to the two children in her home. The agency/obligee brings an action against each parent for the support of the child in placement. Father/obligor's income will be \$2,185 for purposes of this calculation (\$3,000 net less \$815 in support for the children with Mother). Because the agency/obligee's income is zero, Father's support for the child in placement will be 100% of the schedule amount of basic support for one child at the \$2,185 income level, or

\$545 per month. Mother/obligor's income will be \$1,099 for purposes of this calculation (\$1,500 net less \$401 in direct support to the children in her custody). Her support obligation will be 100% of the schedule amount for one child at that income level, or \$284 per month.

Example 2. Mother and Father have two children in placement. Father owes child support of \$500 per month for two children of a former marriage. At the same income levels as above, Father's income for determining his obligation to the children in placement would be \$2,500 (\$3,000 less \$500 support for two children of prior marriage). His obligation to the agency would be \$853 per month (100% of the schedule amount for two children at the \$2,500 per month income level). Mother's income would not be diminished as she owes no other child support. She would owe \$544 for the children in placement (100% of the schedule amount for two children at the \$1,500 income level).

(ii) If the parents reside in the same household, their respective obligations to the children who remain in the household and are not in placement shall be calculated according to the guidelines, with the parent having the higher income as the obligor, and that amount shall be deducted from the parents' net monthly incomes for purposes of calculating support for the child(ren) in placement.

Example 3. Mother and Father have four children, two of whom are in placement. Mother's net monthly income is \$4,000 and Father's is \$2,000. The basic support amount for the two children in the home is \$1,359, according to the schedule at Rule 1910.16-3. As Mother's income is 67% of the parties' combined net monthly incomes, her share would be \$911, and Father's 33% share would be \$448. Mother's income for purposes of calculating support for the two children in placement would be \$3,089 (\$4,000 less \$911). She would pay 100% of the basic child support at that income level, or \$1,029, for the children in placement. Father's income would be \$1,552 (\$2,000 less \$448) and his obligation to the children in placement would be \$560.

(iii) In the event that the combined amount the parents are required to pay exceeds the cost of placement, the trier of fact shall deviate to reduce each parent's obligation in proportion to his or her share of the combined obligation.

(3) The support of a spouse or child is a priority obligation so that a party is expected to meet this obligation by adjusting his or her other expenditures.

(b) *Amount of Support.* The amount of support (child support, spousal support or alimony pendente lite) to be awarded pursuant to the procedures under Rules 1910.11 and 1910.12 shall be determined in accordance with the support guidelines which consist of the guidelines expressed as the child support schedule set forth in Rule 1910.16-3, the formula set forth in Rule 1910.16-4 and the operation of the guidelines as set forth in these rules.

(c) *Spousal Support and Alimony Pendente Lite.* Orders for spousal support and alimony pendente lite shall not be in effect simultaneously.

(d) *Rebuttable Presumption.* If it has been determined that there is an obligation to pay support, there shall be a rebuttable presumption that the amount of the award determined from the guidelines is the correct amount of support to be awarded. The support guidelines are a rebuttable presumption and must be applied taking into consideration the special needs and obligations of the parties. The trier of fact must consider the factors set forth in Rule 1910.16-5. The presumption shall be rebutted if the trier of fact makes a written finding, or a specific finding on the record, that an award in the amount determined from the guidelines would be unjust or inappropriate.

(e) *Guidelines Review.* The guidelines shall be reviewed at least once every four years to insure that application results in the determination of appropriate amounts of support.

Explanatory Comment—2005

Introduction. Pennsylvania law requires that child and spousal support be awarded pursuant to a statewide guideline. 23 Pa.C.S. § 4322(a). That statute further provides that the guideline shall be “established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly.” *Id.*

Pursuant to federal law, The Family Support Act of 1988 (P. L. 100-485, 102 Stat. 2343 (1988), 42 U.S.C. § 667(a), statewide support guidelines must “be reviewed at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.” Federal regulations, 45 CFR 302.56, further require that such reviews include an assessment of the most recent economic data on child-rearing costs and a review of data from case files to assure that deviations from the guidelines are limited. The Pennsylvania statute also requires a review of the support guidelines every four years. 23 Pa.C.S.A. § 4322(a).

The Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania began the mandated review process in early 2003. The committee was assisted in its work by Jane Venohr, Ph.D., an economist with Policy Studies, Inc., under contract with the Pennsylvania Department of Public Welfare. As a result of the review, the committee recommended to the Supreme Court several amendments to the statewide guidelines.

A. *Income Shares Model.* Pennsylvania’s child support guidelines are based upon the Income Shares Model. That model was developed under the Child Support Guidelines Project funded by the U.S. Office of Child Support Enforcement and administered by the National Center for State Courts. The Guidelines Project Advisory Group recommended the Income Shares Model for state guidelines. At present, 33 states use the Income Shares Model as a basis for their child support guidelines.

The Income Shares Model is based upon the concept that the child of separated, divorced or never-married parents should receive the same proportion of parental income that she or he would have received if the parents lived together. A number of authoritative economic studies provide estimates

of the average amount of household expenditures for children in intact households. These studies show that the proportion of household spending devoted to children is directly related to the level of household income and to the number of the children. The basic support amounts reflected in the schedule in Rule 1910.16-3 represent average marginal expenditures on children for food, housing, transportation, clothing and other miscellaneous items that are needed by children and provided by their parents, including the first \$250 of unreimbursed medical expenses incurred annually per child.

1. *Economic Measures.* The support schedule in Rule 1910.16-3 is based upon child-rearing expenditures measured by David M. Betson, Ph.D., Professor of Economics, University of Notre Dame. Dr. Betson's measurements were developed for the U.S. Department of Health and Human Services for the explicit purpose of assisting states with the development and revision of child support guidelines. Dr. Betson's research was also used in developing the prior schedule, effective in April 1999. In 2001, Dr. Betson updated his estimates using data from the 1996-98 Consumer Expenditure Survey conducted by the U.S. Bureau of Labor Statistics. In the current schedule, those figures were converted to 2003 price levels using the Consumer Price Index.

2. *Source of Data.* The estimates used to develop the schedule are based upon national data. The specific sources of the data are the periodic Consumer Expenditure Surveys. Those national surveys are used because they are the most detailed available source of data on household expenditures. The depth and quality of this information is simply not available at the state level and would be prohibitively costly to gather. However, according to the 2000 Census conducted by the U.S. Census Bureau, the median Pennsylvania family income in 1999 was \$49,184, while the national median family income was \$50,046. Thus, using national data continues to be appropriate.

The U. S. Department of Agriculture's Center for Nutrition Policy and Promotion ("CNPP") also develops economic estimates for the major categories of child-rearing expenditures. Although the committee reviewed these estimates, it is not aware of any state that relies upon the CNPP estimates as a basis for its child support schedule.

B. *Statutory Considerations.* The Pennsylvania statute, 23 Pa.C.S.A. § 4322(a), provides:

Child and spousal support shall be awarded pursuant to a Statewide guideline as established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly. The guideline shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guideline shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention. The guideline so developed shall be reviewed at least once every four years.

1. *Reasonable Needs and Reasonable Ability to Provide Support.* The guidelines make financial support of a child a primary obligation and assume that parties with similar net incomes will have similar reasonable and necessary expenses. After the basic needs of the parents have been met, the child's needs shall receive priority. The guidelines assume that if the obligor's net income is at the poverty level, he or she is barely able to provide for his or her own basic needs. In those cases, therefore, the entry of a minimal order may be appropriate after considering the party's living expenses. In some cases, it may not be appropriate to enter a support order at all. In most cases, however, a party's living expenses are not relevant in determining his or her support obligation. Rather, as the statute requires, the obligation is based upon the reasonable needs of a dependent spouse or child and the reasonable ability of the obligor to pay.

2. *Net Income.* The guidelines use the net incomes of the parties and are based on the assumption that a child's reasonable needs increase as the combined net income of the child's parents increases. Each parent is required to contribute a share of the child's reasonable needs in proportion to that parent's share of the combined net income. The custodial parent makes these contributions through direct

expenditures for food, shelter, clothing, transportation and other reasonable needs. The non-custodial parent makes contributions through periodic support payments to the custodial parent. Rule 1910.16-2(d) has been amended to clarify the provisions relating to fluctuating income and earning capacity.

3. *Allowable Deviations.* The guidelines are designed to treat similarly situated parents, spouses and children in the same manner. However, when there are unavoidable differences, deviations must be made from the guidelines. Failure to deviate from these guidelines by considering a party's actual expenditures where there are special needs and special circumstances constitutes a misapplication of the guidelines.

C. *Child Support Schedule.* The child support schedule in Rule 1910.16-3 has been amended to reflect updated economic data, as required by federal and state law, to ensure that children continue to receive adequate levels of support. At some income levels the presumptive amount of support has increased from the previous schedule, and at some income levels it has decreased. The economic data support the revised schedule. The support amounts in the schedule have been expanded to apply to a combined net monthly income of \$20,000 and remain statistically valid.

D. *Self-Support Reserve ("SSR").* The amended schedule also incorporates an increase in the "Self-Support Reserve" or "SSR" from \$550 per month to \$748 per month, the 2003 federal poverty level for one person. Formerly designated as the "Computed Allowance Minimum" or "CAM," the Self-Support Reserve, as it is termed in most other states' guidelines, is intended to assure that low-income obligors retain sufficient income to meet their own basic needs, as well as to maintain the incentive to continue employment. The SSR is built into the schedule in Rule 1910.16-3 and adjusts the basic support obligation to prevent the obligor's net income from falling below \$748 per month. Because the schedule in Rule 1910.16-3 applies to child support only, Rule 1910.16-2(e)(1)(B) provides for a similar adjustment in spousal support and alimony pendente lite cases to assure that the obligor retains a minimum of \$748 per month.

E. *Shared Custody.* Prior to the amendments effective in April of 1999, there was no formula or procedure for deviating from the basic support guidelines when custody was shared equally or the non-custodial parent has substantial partial custody. Prior to 1999, the guidelines provided that the obligor's support obligation should be reduced only if he or she spent "an unusual amount of time with the children."

As part of the review process that resulted in the 1999 amendments, the committee considered the practices of several other jurisdictions and ultimately selected a method which gave some recognition to the shift in child-related expenditures that occurs when the obligor spends a substantial amount of time with the children. While recognizing that it was not a perfect solution to the problem of establishing support obligations in the context of substantial or shared custody, it was preferable to the diverse offset methods which had been developed by local courts. Its chief advantage was that it provided statewide uniformity and avoided a sharp reduction in the obligation at certain thresholds. These amendments do not change that rule.

F. *Child Care Expenses.* Rule 1910.16-6(a) has been amended to provide that child care expenses incurred by both parties shall be apportioned between the parties in recognition of the fact that a non-custodial parent may also incur such expenses during his or her custodial periods with the children.

G. *Other Amendments.* All of the examples in the guidelines have been updated to reflect the changes to the basic child support schedule. Prior explanatory comments have been deleted or revised and incorporated into new comments.

Source

The provisions of this Rule 1910.16-1 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000; effective immediately, 30 Pa.B. 5837; amended August 20, 2003, effective immediately, 33 Pa.B. 4435; amended September 27,

2005, effective 4 months from date of this order, 35 Pa.B. 5643. Immediately preceding text appears at serial pages (299373) to (299374) and (308277).

Rule 1910.16-2. Support Guidelines. Calculation of Net Income.

Generally, the amount of support to be awarded is based upon the parties' monthly net income.

(a) *Monthly Gross Income.* Monthly gross income is ordinarily based upon at least a six-month average of all of a party's income. The term "income" is defined by the support law, 23 Pa.C.S.A. § 4302, and includes income from any source. The statute lists many types of income including, but not limited to:

- (1) wages, salaries, bonuses, fees and commissions;
- (2) net income from business or dealings in property;
- (3) interest, rents, royalties, and dividends;
- (4) pensions and all forms of retirement;
- (5) income from an interest in an estate or trust;
- (6) Social Security disability benefits, Social Security retirement benefits, temporary and permanent disability benefits, workers' compensation and unemployment compensation;
- (7) alimony if, in the discretion of the trier of fact, inclusion of part or all of it is appropriate; and

Official Note: Since the reasons for ordering payment of alimony vary, the appropriateness of including it in the recipient's gross income must also vary. For example, if the obligor is paying \$1,000 per month in alimony for the express purpose of financing obligee's college education, it would be inappropriate to consider that alimony as income from which the obligee could provide child support. However, if alimony is intended to finance the obligee's general living expenses, inclusion of the alimony as income is appropriate.

(8) other entitlements to money or lump sum awards, without regard to source, including lottery winnings, income tax refunds, insurance compensation or settlements; awards and verdicts; and any form of payment due to and collectible by an individual regardless of source.

Official Note: The trial court has discretion to determine the most appropriate method for imputing lump-sum awards as income for purposes of establishing or modifying the party's support obligation. These awards may be annualized or they may be averaged over a shorter or longer period of time depending on the circumstances of the case. They may also be escrowed in an amount sufficient to secure the support obligation during that period of time.

Income tax refunds should not be included as income to the extent they were already factored into the party's actual tax obligation for purposes of arriving at his or her net income.

(b) *Treatment of Public Assistance, SSI Benefits and Social Security Payments to a Child Due to a Parent's Death, Disability or Retirement.*

(1) Neither public assistance nor Supplemental Security Income (SSI) benefits shall be counted as income for purposes of determining support.

(2) If a child for whom support is sought is receiving Social Security benefits as a result of a parent's retirement, death or disability, the benefits the child receives shall be added to the combined monthly net incomes of the obligor and the obligee to calculate the income available for support on the vertical axis of the basic child support schedule set forth in Rule 1910.16-3. The presumptive amount of support as set forth on the schedule at the combined income of the obligee, obligor and child's benefits shall then be reduced by the amount of the child's benefits before apportioning the remaining support obligation between the parties pursuant to Rule 1910.16-4. For purposes of determining the support obligation of a surviving parent when the child is receiving benefits as the result of the other parent's death, the income of a non-parent obligee who is caring for a child but has no support obligation to that child shall include only those funds the obligee is receiving on behalf of the child.

Example 1. If the obligor has net income of \$1,200 per month; the obligee has net monthly income of \$800; and the child receives Social Security derivative benefits of \$300 per month as a result of either the obligor's or obligee's retirement or disability, then the total combined monthly net income is \$2,300. Using the schedule at Rule 1910.16-3 for one child, the amount of support is \$568 per month. From that amount, subtract the amount the child is receiving in Social Security derivative benefits (\$568 minus \$300 equals \$268). Then, apply the formula at Rule 1910.16-4 to apportion the remaining child support amount of \$268 between the obligor and the obligee in proportion to their respective incomes. The obligor's \$1,200 net income per month is 60% of the total of the obligor's and the obligee's combined net monthly income. Thus, the obligor's support obligation would be 60% of \$268, or \$161, per month.

Example 2. Two children live with Grandmother who receives \$400 per month in Social Security death benefits for the children as a result of their father's death. Grandmother also receives \$500 per month from a trust established by Father for the benefit of the children. Grandmother is employed and earns \$2,000 net per month. Grandmother seeks support from the children's mother, who earns \$1,500 net per month. For purposes of calculating Mother's support obligation, Grandmother's income will be \$500, the amount she receives on behalf of the children from the trust. Therefore, the obligee's and the obligor's combined net monthly incomes total \$2,000. Add to that the \$400 in Social Security benefits Grandmother receives for the children to find the basic child support amount in Rule 1910.16-3. The basic support amount at the \$2,400 income level for two children is \$820. Subtracting from that amount the \$400 in Social Security derivative benefits Grandmother receives for the children, results in a basic support amount of \$420 to be apportioned between the parties.

As Mother's income is 75% of the parties' combined income of \$2,000, her support obligation to Grandmother is \$315 per month.

Official Note: Care must be taken to distinguish Social Security from Supplemental Security Income (SSI) benefits. Social Security benefits are income pursuant to subdivision (a) of this rule.

(c) *Monthly Net Income.*

(1) Unless otherwise provided in these Rules, the court shall deduct only the following items from monthly gross income to arrive at net income:

- (A) federal, state, and local income taxes;
- (B) F.I.C.A. payments and non-voluntary retirement payments;
- (C) union dues; and
- (D) alimony paid to the other party.

(2) In computing a spousal support or alimony pendente lite obligation, the court shall deduct from the obligor's monthly net income all of his or her child support obligations and any amounts of spousal support, alimony pendente lite or alimony being paid to former spouses.

(d) *Reduced or Fluctuating Income.*

(1) *Voluntary Reduction of Income.* When either party voluntarily assumes a lower paying job, quits a job, leaves employment, changes occupations or changes employment status to pursue an education, or is fired for cause, there generally will be no effect on the support obligation.

(2) *Involuntary Reduction of, and Fluctuations in, Income.* No adjustments in support payments will be made for normal fluctuations in earnings. However, appropriate adjustments will be made for substantial continuing involuntary decreases in income, including but not limited to the result of illness, lay-off, termination, job elimination or some other employment situation over which the party has no control.

(3) *Seasonal Employees.* Support orders for seasonal employees, such as construction workers, shall ordinarily be based upon a yearly average.

(4) *Earning Capacity.* Ordinarily, either party to a support action who willfully fails to obtain appropriate employment will be considered to have an income equal to the party's earning capacity. Age, education, training, health, work experience, earnings history and child care responsibilities are factors which shall be considered in determining earning capacity.

(e) *Net Income Affecting Application of the Child Support Guidelines.*

(1) *Low Income Cases.*

(A) When the obligor's monthly net income and corresponding number of children fall into the shaded area of the schedule set forth in Rule 1910.16-3, the basic child support obligation shall be calculated using the obligor's income only. For example, where the obligor has monthly net

income of \$850, the presumptive amount of support for three children is \$94 per month. This amount is determined directly from the schedule in Rule 1910.16-3.

(B) In computing a basic spousal support or alimony pendente lite obligation, the presumptive amount of support shall not reduce the obligor's net income below \$748 per month. For example, if the obligor earns \$800 per month and the obligee earns \$300 per month, the formula in Part IV of Rule 1910.16-4 would result in a support obligation of \$200 per month. Since this amount leaves the obligor with only \$600 per month, it must be adjusted so that the obligor retains at least \$748 per month. The presumptive minimum amount of spousal support, therefore, is \$52 per month in this case.

(C) When the obligor's monthly net income is \$748 or less, the court may award support only after consideration of the obligor's actual living expenses.

(2) *High Income Child Support Cases.* When the parties' combined net income exceeds \$20,000 per month, child support shall be calculated pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984). The presumptive minimum amount of child support shall be the obligor's percentage share of the highest amount of support which can be derived from the schedule for the appropriate number of children and using the parties' actual combined income to determine the obligor's percentage share of this amount. The court may award an additional amount of child support based on the parties' combined income and the factors set forth in *Melzer*. The *Melzer* analysis in high income child support cases shall be applied to all of the parties' income, not just to the amount of income exceeding \$20,000 per month. In a *Melzer* analysis case, the presumptive minimum remains applicable.

For example, where the obligor and the obligee have monthly net incomes of \$17,000 and \$4,000 respectively, the presumptive minimum amount of child support for three children is calculated as follows: using the formula in Rule 1910.16-4, determine the parties' percentage shares of income based on their actual combined income—81% and 19% respectively of \$21,000. Using the schedule in Rule 1910.16-3, find the highest possible combined child support obligation for three children—\$3,018. The obligor's percentage share of the combined obligation is 81% of \$3,018, or \$2,445. This is the presumptive minimum amount of child support that he or she must pay for three children. Since this amount is derived from the schedule in Rule 1910.16-3, which is limited to combined household income of \$20,000, the court may award an additional amount of support based on the factors set forth in *Melzer*.

(f) *Dependency Tax Exemption.* In order to maximize the total income available to the parties and children, the court may, as justice and fairness require, award the federal child dependency tax exemption to the non-custodial parent, or to either parent in cases of equally shared custody, and order the other party to execute the waiver required by the Internal Revenue Code, 26 U.S.C.A. § 152(e). The tax consequences resulting from an award of the child dependency exemption must be considered in calculating each party's income available for support.

Explanatory Comment—2005

Subdivision (a) addresses gross income for purposes of calculating the support obligation by reference to the statutory definition at 23 Pa.C.S.A. § 4322. Subdivision (b) provides for the treatment of public assistance, SSI benefits and Social Security derivative benefits.

Subdivision (c) sets forth the exclusive list of the deductions that may be taken from gross income in arriving at a party's net income. When the cost of health insurance premiums is treated as an additional expense subject to allocation between the parties under Rule 1910.16-6, it is not deductible from gross income. However, part or all of the cost of health insurance premiums may be deducted from the obligor's gross income pursuant to Rule 1910.16-6(b) in cases in which the obligor is paying the premiums and the obligee has no income or minimal income. Subdivision (c) relates to awards of spousal support or alimony pendente lite when there are multiple families. In these cases, a party's net income must be reduced to account for his or her child support obligations, as well as any pre-existing spousal support, alimony pendente lite or alimony obligations being paid to former spouses who are not the subject of the support action.

Subdivision (d) has been amended to clarify the distinction between voluntary and involuntary changes in income. Since the payment of support is a priority, subsection (1) reflects current case law which, for example, holds that a party's decision to forego current employment in order to further his or her education should be treated no differently than a decision to change jobs or occupations which results in a lower income. *Kersey v. Jefferson*, 791 A.2d 419 (Pa. Super. Ct. 2002); *Grimes v. Grimes*, 596 A.2d 240 (Pa. Super. Ct. 1991).

Subdivision (e) has been amended to reflect the updated schedule in Rule 1910.16-3 and the increase in the Self-Support Reserve ("SSR"), formerly referred to as the Computed Allowance Minimum ("CAM"). The schedule now applies to all cases in which the parties' combined net monthly income is \$20,000 or less. The upper income limit of the prior schedule was only \$15,000. The amount of support at each income level of the schedule also has changed, so the examples in Rule 1910.16-2 were revised to be consistent with the new support amounts.

The SSR is intended to assure that obligors with low incomes retain sufficient income to meet their basic needs and to maintain the incentive to continue employment. When the obligor's net monthly income or earning capacity falls into the shaded area of the schedule, the basic child support obligation can be derived directly from the schedule in Rule 1910.16-3. There is no need to use the formula in Rule 1910.16-4 to calculate the obligor's support obligation because the SSR keeps the amount of the obligation the same regardless of the obligee's income. The obligee's income may be a relevant factor, however, in determining whether to deviate from the basic guideline obligation pursuant to Rule 1910.16-5 and in considering whether to require the obligor to contribute to any additional expenses under Rule 1910.16-6.

Since the schedule in Rule 1910.16-3 sets forth basic child support only, subdivision (e)(1)(B) is necessary to reflect the operation of the SSR in spousal support and alimony pendente lite cases. It adjusts the basic guideline obligation, which would otherwise be calculated under the formula in Rule 1910.16-4, so that the obligor's income does not fall below the SSR amount in these cases.

Previously, the CAM required that the obligor retain at least \$550 per month. The SSR now requires that the obligor retain income of at least \$748 per month, an amount equal to the 2003 federal poverty level for one person. When the obligor's monthly net income is less than \$748, subsection (e)(1)(C) provides that the court must consider the parties' actual living expenses before awarding support. The guidelines assume that at this income level the obligor is barely able to meet basic personal needs. In these cases, therefore, entry of a minimal order may be appropriate. In some cases, it may not be appropriate to order support at all.

The schedule at Rule 1910.16-3 sets forth the presumptive amount of basic child support to be awarded. If the circumstances warrant, the court may deviate from that amount under Rule 1910.16-5 and may also consider a party's contribution to additional expenses, which are typically added to the basic amount of support under Rule 1910.16-6. If, for example, the obligor earns only \$800 per month but is living with his or her parents, or has remarried and is living with a fully-employed spouse, the court may consider an upward deviation under Rule 1910.16-5(b)(3) and/or may order the party to contribute to the additional expenses under Rule 1910.16-6. Consistent with the goals of the SSR, however, the court should ensure that the overall support obligation leaves the obligor with sufficient income to meet basic personal needs and to maintain the incentive to continue working so that support can be paid.

Subdivision (e) also reflects the limited application of *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), to cases in which the guidelines cannot be used to establish the child support obligation because the parties' combined income exceeds \$20,000 per month. The court must establish a presumptive minimum amount of child support using the guidelines to arrive at that amount. The formula for calculating the presumptive minimum amount provides that the parties' percentage shares should be calculated using their actual combined income rather than the theoretical combined income of only \$20,000. In considering whether to award an additional amount of child support, the court must apply the factors set forth in *Melzer* to all of the parties' combined income, not just the amount over \$20,000 per month. It would be improper to apply the formula in Rule 1910.16-4 to the amount of the parties' combined income which exceeds \$20,000 per month and award the obligor's percentage share as additional support. Additional support, if any, may be more or less than the percentage share and must be determined, therefore, in accordance with the factors set forth in *Melzer*. The presumptive minimum shall apply even if the *Melzer* analysis results in a lower amount.

Source

The provisions of this Rule 1910.16-2 adopted September 29, 1989, effective September 30, 1989, 19 Pa.B. 4151; rescinded and replaced January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended November 9, 2004, effective immediately, 34 Pa.B. 6315; amended September 27, 2005, effective four months from date of this order, 35 Pa.B. 5643. Immediately preceding text appears at serial pages (308227) to (308231) and (308233).

Rule 1910.16-3. Support Guidelines. Basic Child Support Schedule.

The following schedule sets forth the amounts spent on children in intact families by combined income and number of children. Combined income is on the vertical axis of the schedule and number of children is on the horizontal axis of the schedule. This schedule is used to find the basic child support obligation. Unless otherwise provided in these rules, the obligor's share of the basic support obligation shall be computed using the formula set forth in Part I of Rule 1910.16-4.

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
0-800	50	50	50	50	50	50
850	92	93	94	95	96	97
900	137	138	140	141	143	144
950	182	184	186	188	190	192
1000	227	229	232	234	237	239
1050	271	275	278	281	284	287
1100	284	320	324	327	331	334
1150	296	366	370	374	378	382
1200	309	411	416	420	425	429
1250	322	455	462	467	472	477
1300	335	472	508	513	519	524
1350	348	490	554	560	566	572
1400	360	508	589	606	613	619
1450	373	526	610	653	660	667
1500	386	544	630	699	707	714

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
1550	397	560	648	723	754	762
1600	409	575	666	743	801	809
1650	421	591	684	763	839	857
1700	432	607	702	783	861	904
1750	444	623	720	803	883	952
1800	455	638	738	822	905	984
1850	467	654	756	842	927	1008
1900	479	670	773	862	949	1032
1950	490	685	790	881	969	1055
2000	501	700	807	900	990	1077
2050	512	715	824	918	1010	1099
2100	523	729	840	937	1031	1121
2150	534	744	857	955	1051	1143
2200	545	759	873	974	1071	1166
2250	557	774	890	992	1092	1188

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
2300	568	789	907	1011	1112	1210
2350	579	804	924	1030	1133	1233
2400	591	820	942	1051	1156	1257
2450	603	837	961	1071	1179	1282
2500	615	853	979	1092	1201	1307
2550	626	869	998	1113	1224	1332
2600	638	886	1017	1134	1247	1357
2650	650	902	1035	1154	1270	1381
2700	662	918	1054	1175	1292	1406
2750	674	935	1072	1196	1315	1431
2800	684	949	1088	1213	1335	1452
2850	694	962	1103	1230	1353	1472
2900	704	976	1118	1246	1371	1492
2950	714	989	1133	1263	1389	1511
3000	724	1003	1147	1279	1407	1531

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
3050	734	1016	1162	1296	1425	1551
3100	744	1029	1177	1312	1443	1570
3150	754	1043	1192	1329	1461	1590
3200	763	1054	1204	1342	1477	1607
3250	767	1059	1207	1346	1481	1611
3300	772	1063	1211	1350	1485	1616
3350	776	1068	1214	1354	1489	1620
3400	781	1072	1218	1358	1494	1625
3450	785	1077	1221	1362	1498	1630
3500	790	1081	1225	1365	1502	1634
3550	794	1086	1228	1369	1506	1639
3600	798	1090	1231	1373	1510	1643
3650	804	1096	1237	1380	1518	1651
3700	809	1103	1245	1388	1526	1661
3750	815	1110	1252	1396	1535	1670

1910-29

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
3800	820	1117	1259	1403	1544	1680
3850	826	1123	1266	1411	1552	1689
3900	831	1130	1273	1419	1561	1699
3950	837	1137	1280	1427	1570	1708
4000	843	1144	1287	1435	1579	1717
4050	848	1151	1294	1443	1587	1727
4100	854	1158	1302	1452	1597	1738
4150	860	1165	1310	1461	1607	1748
4200	866	1173	1318	1469	1616	1759
4250	872	1180	1326	1478	1626	1769
4300	878	1187	1334	1487	1636	1780
4350	884	1194	1341	1496	1645	1790
4400	890	1202	1349	1504	1655	1800
4450	896	1209	1357	1513	1665	1811
4500	902	1216	1365	1522	1674	1821

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
4550	908	1224	1373	1531	1684	1832
4600	914	1231	1381	1539	1693	1842
4650	920	1238	1389	1548	1703	1853
4700	924	1243	1394	1554	1709	1860
4750	925	1245	1395	1555	1711	1861
4800	927	1246	1396	1557	1713	1863
4850	928	1248	1398	1558	1714	1865
4900	930	1249	1399	1560	1716	1867
4950	931	1251	1400	1561	1717	1869
5000	933	1253	1402	1563	1719	1870
5050	934	1254	1403	1564	1721	1872
5100	936	1256	1404	1566	1722	1874
5150	937	1257	1406	1567	1724	1876
5200	939	1259	1407	1569	1726	1877
5250	940	1261	1408	1570	1727	1879

1910-31

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
5300	942	1262	1410	1572	1729	1881
5350	943	1264	1411	1573	1731	1883
5400	945	1265	1412	1575	1732	1885
5450	946	1267	1414	1576	1734	1886
5500	948	1268	1415	1578	1735	1888
5550	952	1273	1420	1583	1742	1895
5600	959	1283	1431	1595	1755	1909
5650	966	1292	1441	1607	1768	1923
5700	973	1302	1452	1619	1780	1937
5750	980	1312	1462	1630	1793	1951
5800	988	1321	1473	1642	1806	1965
5850	995	1331	1483	1654	1819	1979
5900	1002	1340	1494	1666	1832	1993
5950	1009	1350	1504	1677	1845	2007
6000	1016	1359	1515	1689	1858	2021

1910-32

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
6050	1023	1369	1525	1701	1871	2035
6100	1030	1379	1536	1712	1884	2049
6150	1038	1388	1546	1724	1897	2063
6200	1045	1398	1557	1736	1909	2077
6250	1052	1407	1567	1748	1922	2092
6300	1059	1417	1578	1759	1935	2106
6350	1066	1426	1588	1771	1948	2120
6400	1072	1435	1597	1781	1959	2132
6450	1077	1441	1604	1788	1967	2140
6500	1082	1447	1610	1796	1975	2149
6550	1087	1454	1617	1803	1983	2158
6600	1092	1460	1624	1810	1991	2167
6650	1097	1466	1630	1818	1999	2175
6700	1102	1473	1637	1825	2008	2184
6750	1107	1479	1643	1832	2016	2193

1910-33

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
6800	1112	1485	1650	1840	2024	2202
6850	1117	1491	1657	1847	2032	2211
6900	1122	1498	1663	1854	2040	2219
6950	1127	1504	1670	1862	2048	2228
7000	1132	1510	1676	1869	2056	2237
7050	1137	1517	1683	1876	2064	2246
7100	1142	1523	1690	1884	2072	2255
7150	1147	1529	1696	1891	2080	2263
7200	1152	1536	1703	1898	2088	2272
7250	1157	1542	1709	1906	2096	2281
7300	1162	1548	1716	1913	2104	2290
7350	1167	1555	1722	1921	2113	2298
7400	1172	1561	1729	1928	2121	2307
7450	1177	1567	1736	1935	2129	2316
7500	1182	1573	1742	1943	2137	2325

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
7550	1187	1580	1749	1950	2145	2334
7600	1192	1586	1755	1957	2153	2342
7650	1197	1592	1762	1965	2161	2351
7700	1202	1598	1768	1971	2169	2359
7750	1206	1604	1774	1978	2176	2367
7800	1210	1609	1780	1985	2183	2375
7850	1214	1615	1786	1992	2191	2384
7900	1219	1620	1792	1998	2198	2392
7950	1223	1626	1798	2005	2206	2400
8000	1227	1631	1804	2012	2213	2408
8050	1231	1637	1810	2019	2220	2416
8100	1235	1642	1816	2025	2228	2424
8150	1240	1648	1822	2032	2235	2432
8200	1244	1653	1828	2039	2243	2440
8250	1248	1659	1835	2045	2250	2448

1910-35

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
8300	1252	1664	1841	2052	2257	2456
8350	1257	1670	1847	2059	2265	2464
8400	1261	1675	1853	2066	2272	2472
8450	1265	1681	1859	2072	2280	2480
8500	1269	1686	1865	2079	2287	2488
8550	1273	1692	1871	2086	2295	2496
8600	1278	1697	1877	2093	2302	2504
8650	1282	1703	1883	2099	2309	2513
8700	1286	1708	1889	2106	2317	2521
8750	1290	1714	1895	2113	2324	2529
8800	1295	1719	1901	2120	2332	2537
8850	1299	1725	1907	2126	2339	2545
8900	1303	1730	1913	2133	2346	2553
8950	1307	1736	1919	2140	2354	2561
9000	1311	1741	1925	2147	2361	2569

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
9050	1316	1747	1931	2153	2369	2577
9100	1320	1752	1937	2160	2376	2585
9150	1324	1758	1943	2167	2383	2593
9200	1328	1763	1949	2173	2391	2601
9250	1333	1769	1955	2180	2398	2609
9300	1337	1775	1961	2187	2406	2617
9350	1341	1780	1967	2194	2413	2625
9400	1345	1786	1973	2200	2420	2633
9450	1349	1791	1980	2207	2428	2642
9500	1354	1797	1986	2214	2435	2650
9550	1358	1802	1992	2221	2443	2658
9600	1362	1807	1996	2226	2449	2664
9650	1365	1811	2001	2231	2454	2670
9700	1369	1815	2005	2235	2459	2675
9750	1372	1819	2009	2240	2464	2681

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
9800	1376	1823	2013	2244	2469	2686
9850	1379	1827	2017	2249	2474	2692
9900	1383	1832	2021	2253	2479	2697
9950	1386	1836	2025	2258	2484	2702
10000	1390	1840	2029	2263	2489	2708
10050	1393	1844	2033	2267	2494	2713
10100	1397	1848	2037	2272	2499	2719
10150	1400	1852	2042	2276	2504	2724
10200	1404	1856	2046	2281	2509	2730
10250	1407	1860	2050	2285	2514	2735
10300	1411	1865	2054	2290	2519	2741
10350	1414	1869	2058	2295	2524	2746
10400	1418	1873	2062	2299	2529	2752
10450	1421	1877	2066	2304	2534	2757
10500	1425	1881	2070	2308	2539	2763

1910-38

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
10550	1428	1885	2074	2313	2544	2768
10600	1432	1889	2078	2317	2549	2774
10650	1435	1894	2083	2322	2554	2779
10700	1439	1898	2087	2327	2559	2784
10750	1442	1902	2091	2331	2564	2790
10800	1446	1906	2095	2336	2569	2795
10850	1449	1910	2099	2340	2574	2801
10900	1453	1914	2103	2345	2579	2806
10950	1456	1918	2107	2349	2584	2812
11000	1460	1922	2111	2354	2589	2817
11050	1464	1927	2115	2359	2594	2823
11100	1467	1931	2119	2363	2599	2828
11150	1471	1935	2124	2368	2604	2834
11200	1474	1939	2128	2372	2610	2839
11250	1478	1943	2132	2377	2615	2845

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
11300	1481	1947	2136	2381	2620	2850
11350	1485	1951	2140	2386	2625	2856
11400	1488	1956	2144	2391	2630	2861
11450	1492	1960	2148	2395	2635	2866
11500	1495	1964	2152	2400	2640	2872
11550	1499	1968	2156	2404	2645	2877
11600	1502	1972	2160	2409	2650	2883
11650	1506	1976	2164	2413	2655	2888
11700	1509	1980	2169	2418	2660	2894
11750	1513	1984	2173	2423	2665	2899
11800	1516	1989	2177	2427	2670	2905
11850	1520	1993	2181	2432	2675	2910
11900	1523	1997	2185	2436	2680	2916
11950	1527	2001	2189	2441	2685	2921
12000	1530	2005	2193	2445	2690	2927

1910-40

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
12050	1534	2009	2197	2450	2695	2932
12100	1537	2013	2201	2455	2700	2938
12150	1541	2018	2205	2459	2705	2943
12200	1544	2022	2210	2464	2710	2948
12250	1548	2026	2214	2468	2715	2954
12300	1551	2030	2218	2473	2720	2959
12350	1555	2034	2222	2477	2725	2965
12400	1558	2038	2226	2482	2730	2970
12450	1562	2042	2230	2486	2735	2976
12500	1565	2046	2234	2491	2740	2981
12550	1569	2051	2238	2496	2745	2987
12600	1572	2055	2242	2500	2750	2992
12650	1576	2059	2246	2505	2755	2998
12700	1579	2063	2251	2509	2760	3003
12750	1583	2067	2255	2514	2765	3009

1910-41

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
12800	1586	2071	2259	2518	2770	3014
12850	1590	2075	2263	2523	2775	3020
12900	1593	2080	2267	2528	2780	3025
12950	1597	2084	2271	2532	2785	3030
13000	1600	2088	2275	2537	2790	3036
13050	1604	2092	2279	2541	2795	3041
13100	1607	2096	2283	2546	2800	3047
13150	1611	2100	2287	2550	2805	3052
13200	1614	2104	2291	2555	2811	3058
13250	1618	2108	2296	2560	2816	3063
13300	1622	2113	2300	2564	2821	3069
13350	1625	2117	2304	2569	2826	3074
13400	1629	2121	2308	2573	2831	3080
13450	1632	2125	2312	2578	2836	3085
13500	1636	2129	2316	2582	2841	3091

1910-42

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
13550	1639	2133	2320	2587	2846	3096
13600	1643	2137	2324	2592	2851	3102
13650	1646	2142	2328	2596	2856	3107
13700	1650	2146	2332	2601	2861	3113
13750	1653	2150	2337	2605	2866	3118
13800	1657	2154	2341	2610	2871	3123
13850	1660	2158	2345	2614	2876	3129
13900	1664	2162	2349	2619	2881	3134
13950	1667	2166	2353	2624	2886	3140
14000	1671	2170	2357	2628	2891	3145
14050	1674	2175	2361	2633	2896	3151
14100	1678	2179	2365	2637	2901	3156
14150	1681	2183	2369	2642	2906	3162
14200	1685	2187	2373	2646	2911	3167
14250	1688	2191	2378	2651	2916	3173

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
14300	1692	2195	2382	2656	2921	3178
14350	1695	2199	2386	2660	2926	3184
14400	1699	2203	2390	2665	2931	3189
14450	1702	2208	2394	2669	2936	3195
14500	1706	2212	2398	2674	2941	3200
14550	1709	2216	2402	2678	2946	3205
14600	1713	2220	2406	2683	2951	3211
14650	1716	2224	2410	2687	2956	3216
14700	1720	2228	2414	2692	2961	3222
14750	1723	2232	2418	2697	2966	3227
14800	1727	2237	2423	2701	2971	3233
14850	1730	2241	2427	2706	2976	3238
14900	1734	2245	2431	2710	2981	3244
14950	1737	2249	2435	2715	2986	3249
15000	1741	2253	2439	2719	2991	3255

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
15050	1806	2319	2493	2780	3058	3327
15100	1811	2325	2498	2785	3064	3334
15150	1816	2330	2503	2791	3071	3341
15200	1821	2336	2509	2797	3077	3348
15250	1826	2342	2514	2803	3084	3355
15300	1831	2347	2519	2809	3090	3362
15350	1836	2353	2525	2815	3097	3369
15400	1841	2359	2530	2821	3103	3376
15450	1846	2364	2535	2827	3110	3383
15500	1851	2370	2541	2833	3116	3390
15550	1856	2375	2546	2839	3123	3397
15600	1861	2381	2551	2845	3129	3404
15650	1866	2387	2557	2851	3136	3411
15700	1871	2392	2562	2856	3142	3419
15750	1876	2398	2567	2862	3149	3426

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
15800	1881	2404	2572	2868	3155	3433
15850	1886	2409	2578	2874	3162	3440
15900	1891	2415	2583	2880	3168	3447
15950	1896	2420	2588	2886	3175	3454
16000	1901	2426	2594	2892	3181	3461
16050	1906	2432	2599	2898	3188	3468
16100	1911	2437	2604	2904	3194	3475
16150	1916	2443	2610	2910	3201	3482
16200	1921	2449	2615	2916	3207	3489
16250	1926	2454	2620	2921	3214	3496
16300	1931	2460	2625	2927	3220	3503
16350	1936	2466	2631	2933	3227	3511
16400	1941	2471	2636	2939	3233	3518
16450	1946	2477	2641	2945	3240	3525
16500	1951	2482	2647	2951	3246	3532

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
16550	1956	2488	2652	2957	3253	3539
16600	1961	2494	2657	2963	3259	3546
16650	1966	2499	2663	2969	3266	3553
16700	1971	2505	2668	2975	3272	3560
16750	1976	2511	2673	2981	3279	3567
16800	1981	2516	2678	2986	3285	3574
16850	1986	2522	2684	2992	3292	3581
16900	1991	2527	2689	2998	3298	3588
16950	1996	2533	2694	3004	3305	3595
17000	2001	2539	2700	3010	3311	3603
17050	2006	2544	2705	3016	3318	3610
17100	2011	2550	2710	3022	3324	3617
17150	2016	2556	2716	3028	3331	3624
17200	2021	2561	2721	3034	3337	3631
17250	2026	2567	2726	3040	3344	3638

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
17300	2031	2572	2731	3046	3350	3645
17350	2036	2578	2737	3052	3357	3652
17400	2041	2584	2742	3057	3363	3659
17450	2046	2589	2747	3063	3370	3666
17500	2051	2595	2753	3069	3376	3673
17550	2056	2601	2758	3075	3383	3680
17600	2061	2606	2763	3081	3389	3687
17650	2066	2612	2769	3087	3396	3694
17700	2071	2618	2774	3093	3402	3702
17750	2076	2623	2779	3099	3409	3709
17800	2081	2629	2784	3105	3415	3716
17850	2086	2634	2790	3111	3422	3723
17900	2091	2640	2795	3117	3428	3730
17950	2096	2646	2800	3122	3435	3737
18000	2101	2651	2806	3128	3441	3744

<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
18050	2106	2657	2811	3134	3448	3751
18100	2111	2663	2816	3140	3454	3758
18150	2116	2668	2822	3146	3461	3765
18200	2121	2674	2827	3152	3467	3772
18250	2126	2679	2832	3158	3474	3779
18300	2131	2685	2838	3164	3480	3786
18350	2136	2691	2843	3170	3487	3794
18400	2141	2696	2848	3176	3493	3801
18450	2146	2702	2853	3182	3500	3808
18500	2151	2708	2859	3187	3506	3815
18550	2156	2713	2864	3193	3513	3822
18600	2161	2719	2869	3199	3519	3829
18650	2166	2725	2875	3205	3526	3836
18700	2171	2730	2880	3211	3532	3843
18750	2176	2736	2885	3217	3539	3850

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<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
18800	2181	2741	2891	3223	3545	3857
18850	2186	2747	2896	3229	3552	3864
18900	2191	2753	2901	3235	3558	3871
18950	2196	2758	2906	3241	3565	3878
19000	2201	2764	2912	3247	3571	3886
19050	2206	2770	2917	3253	3578	3893
19100	2211	2775	2922	3258	3584	3900
19150	2216	2781	2928	3264	3591	3907
19200	2221	2786	2933	3270	3597	3914
19250	2226	2792	2938	3276	3604	3921
19300	2231	2798	2944	3282	3610	3928
19350	2236	2803	2949	3288	3617	3935
19400	2241	2809	2954	3294	3623	3942
19450	2246	2815	2959	3300	3630	3949
19500	2251	2820	2965	3306	3636	3956

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<i>Monthly Basic Child Support Schedule</i>						
<i>COMBINED ADJUSTED NET INCOME</i>	<i>ONE CHILD</i>	<i>TWO CHILDREN</i>	<i>THREE CHILDREN</i>	<i>FOUR CHILDREN</i>	<i>FIVE CHILDREN</i>	<i>SIX CHILDREN</i>
19550	2256	2826	2970	3312	3643	3963
19600	2261	2831	2975	3318	3649	3970
19650	2266	2837	2981	3323	3656	3977
19700	2271	2843	2986	3329	3662	3985
19750	2276	2848	2991	3335	3669	3992
19800	2281	2854	2997	3341	3675	3999
19850	2286	2860	3002	3347	3682	4006
19900	2291	2865	3007	3353	3688	4013
19950	2296	2871	3012	3359	3695	4020
20000	2301	2877	3018	3365	3701	4027

Source

The provisions of this Rule 1910.16-3 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended October 25, 1989, effective October 25, 1989, 19 Pa.B. 4861; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended July 15, 1994, effective September 1, 1994, 24 Pa.B. 3802; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa. B. 5643. Immediately preceding text appears at serial pages (308233) to (308234), (251729) to (251744) and (270817) to (270818).

Explanatory Comment—2005

The schedule has been amended to reflect updated economic data. See Explanatory Comment—2005 following Rule 1910.16-1.

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.

(a) The following formula shall be used to calculate the obligor's share of the basic guideline child support, spousal support and/or alimony pendente lite obligation:

PART I. BASIC CHILD SUPPORT

	<i>OBLIGOR</i>	<i>OBLIGEE</i>
1. Total Gross Income Per Pay Period	_____	_____
2. Less Deductions	(_____)	(_____)
3. Net Income	_____	_____
4. Conversion to Monthly Amount (if pay period is other than monthly)	_____	_____
5. Combined Total Monthly Net Income		_____
6. Plus Child's Monthly Social Security, Death, Retirement or Disability Derivative Benefit, if any. (See Rule 1910.16-2(b)(2))	+	_____
7. Adjusted Combined Monthly Net Income		_____
8. PRELIMINARY BASIC CHILD SUPPORT OBLIGATION (determined from schedule at Rule 1910.16-3 based on number of children and line 7 adjusted combined monthly net income)		_____
9. Less Child's Monthly Social Security Derivative Benefit	(_____)	

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10. BASIC CHILD SUPPORT OBLIGATION _____

11. Net Income Expressed as a Percentage Share of Income (divide line 4 by line 5 and multiply by 100) _____% _____%

12. Each Parent's Monthly Share of the Basic Child Support Obligation (multiply line 10 and 11) _____

PART II. SUBSTANTIAL or SHARED PHYSICAL CUSTODY ADJUSTMENT, IF APPLICABLE (See subdivision (c) of this rule)

13. a. Percentage of Time Spent with Children (divide number of overnights with obligor by 365 and multiply by 100) _____%

b. Subtract 30% (_____)

c. Obligor's Adjusted Percentage Share of the Basic Monthly Support Obligation (subtract line 13b from line 11) _____

d. Obligor's Adjusted Share of the Basic Monthly Support Obligation (multiply line 13c and line 10) _____

e. Further adjustment, if necessary under subdivision (c)(2) of this rule _____

PART III. ADDITIONAL EXPENSES (See Rule 1910.16-6)

14. a. Obligor's Share of Child Care Expenses _____

b. Obligor's Share of Health Insurance Premium (if the obligee is paying the premium) _____

c. Less Obligees Share of the Health Insurance Premium (if the obligor is paying the premium) (_____)

d. Obligor's Share of Unreimbursed Medical Expenses _____

e. Other Additional Expenses _____

f. Total Additional Expenses _____

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15. OBLIGOR'S TOTAL MONTHLY SUPPORT OBLIGATION (add line 12 (or 13(d or e) (if applicable) and line 14f) _____
- PART IV. SPOUSAL SUPPORT OR APL*
- With Dependent Children*
16. Obligor's Monthly Net Income (line 4) _____
17. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations, if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2)) (_____)
18. Less Obligees's Monthly Net Income (Line 4) (_____)
19. Difference _____
20. Less Obligor's Total Monthly Child Support Obligation Without Part II Substantial or Shared Custody Adjustment (Obligor's line 12 plus line 14f) (_____)
21. Difference _____
22. Multiply by 30% _____ x _____ .30
23. AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL _____
- Without Dependent Children*
24. Obligor's Monthly Net Income (line 4) _____
25. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations, if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2)) (_____)
26. Less Obligees's Monthly Net Income (Line 4) (_____)
27. Difference _____
28. Multiply by 40% _____ x _____ .40
29. PRELIMINARY AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL _____
30. Adjustments for Other Expenses (see Rule 1910.16-6) _____
31. TOTAL AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL _____

(b) *Order For More Than Six Children.* When there are more than six children who are the subject of a single order, the child support obligation shall be calculated as follows. First, determine the appropriate amount of support for six children under the guidelines. Using the same income figures, subtract the sup-

port amount for five children from the amount for six children. Multiply the difference by the number of children in excess of six and add the resulting amount to the guideline amount for six children.

(c) *Substantial or Shared Physical Custody.*

(1) When the children spend 40% or more of their time during the year with the obligor, a rebuttable presumption arises that the obligor is entitled to a reduction in the basic support obligation to reflect this time. Except as provided in subsections (2) and (3) below, the reduction shall be calculated pursuant to the formula set forth in Part II of subdivision (a) of this rule. For purposes of this provision, the time spent with the children shall be determined by the number of overnights they spend during the year with the obligor.

Example. Where the obligor and the obligee have monthly net incomes of \$5,000 and \$2,300 respectively, their combined child support obligation is \$1,548 for two children. Using the income shares formula in Part I, the obligor's share of this obligation is 68%, or \$1,053. If the children spend 40% of their time with the obligor, the formula in Part II applies to reduce his or her percentage share of the combined support obligation to 58%, or \$898. If the children spend 45% of their time with the obligor, his or her percentage share of the combined obligation is reduced to 53%, or \$820. If the children spend equal time with both parents, the obligor's percentage share is reduced to 48%, or \$743.

(2) Without regard to which parent initiated the support action, when the children spend equal time with both parents, the Part II formula cannot be applied unless the obligor is the parent with the higher income. In no event shall an order be entered requiring the parent with the lower income to pay basic child support to the parent with the higher income. However, nothing in this subdivision shall prevent the entry of an order requiring the parent with less income to contribute to additional expenses pursuant to Rule 1910.16-6. Pursuant to either party's initiating a support action, the trier of fact may enter an order against either party based upon the evidence presented without regard to which party initiated the action. If application of the formula in Part II results in the obligee receiving a larger share of the parties' combined income in cases in which the parties share custody equally, then the court shall adjust the support obligation so that the combined income is allocated equally between the two households.

Example 1. Mother and Father have monthly net incomes of \$3,000 and \$2,700 respectively. Mother has filed for support for the parties' two children with whom they share time equally. Pursuant to the Basic Child Support Schedule at Rule 1910.16-3, the support amount for two children at their parents' combined net income level is \$1,302 per month. Mother's share is 53% of that amount, or \$690. Father's share is 47%, or \$612. Application of subdivisions a. and b. of the

Part II formula results in a 20% reduction in support when each parent spends 50% of the time with the children. Because the parties share custody equally, Mother cannot be the obligee for purposes of the Part II calculation because she has the higher income of the two parents. In these circumstances, although Mother initiated the support action, she would become the obligor even if Father has not filed for support. Father cannot be an obligor in the Part II calculations nor can the amount of support Mother is obligated to pay to Father be offset by calculating Father's adjusted amount of support under Part II because a support order cannot be entered against the parent with the lesser income. Using Mother as the obligor, her adjusted percentage share of the basic support amount is 33% ($53\% - 20\% = 33\%$). Her adjusted share of the basic support amount is \$430 (33% of \$1,302). However, instead of \$430 per month, Mother's support obligation would be adjusted to \$150 per month to allocate the parties' combined income equally between the two households. This is the presumptive amount of basic support payable to Father under these circumstances.

Example 2. Where the obligor and the obligee have monthly net incomes of \$3,000 and \$2,500 respectively, their combined child support obligation for two children is \$1,268. The obligor's share of this obligation is 55%, or \$697. If the children spend equal time with both parents, the formula in Part II results in a support obligation of \$444 payable to the obligee. Since this amount gives the obligee \$2,944 of the combined income, and leaves the obligor with only \$2,556 of the combined income, the obligor's support obligation must be adjusted to \$250 to equalize the combined income between the parties' households. This is the presumptive amount of basic support payable to the obligee under these circumstances.

(3) This subdivision shall not apply when the obligor's income falls within the shaded area of the schedule in Rule 1910.16-3 or when the obligee's income is 10% or less of the parties' combined income.

(d) *Divided or Split Physical Custody.*

(1) When calculating a child support obligation, and one or more of the children reside with each party, the court shall offset the parties' respective child support obligations and award the net difference to the obligee as child support. For example, if the parties have three children, one of whom resides with Father and two of whom reside with Mother, and their net monthly incomes are \$1,500 and \$800 respectively, Father's child support obligation is calculated as follows. Using the formula with the schedule in Rule 1910.16-3 for two children, Father's support obligation for the two children living with Mother is \$513. Using the formula with the schedule in Rule 1910.16-3 for one child, Mother's support obligation for the child living with Father is \$199.

Subtracting \$199 from \$513 produces a net basic support amount of \$314 payable to Mother as child support.

(2) When calculating a combined child support and spousal or alimony pendente lite obligation, and one or more children reside with each party, the court shall, except as set forth in subdivision (3) below, offset the obligor's spousal and child support obligation with the obligee's child support obligation and award the net difference to the obligee as spousal and child support.

(3) When one or more of the children resides with each party and the obligee's net income is 10% or less of the parties' combined net monthly income, then, in calculating the spousal support or alimony pendente lite obligation, the court shall deduct from the obligor's income both the support owed for the child or children residing with the obligee, as well as the direct support the obligor provides to the child or children living with the obligor, calculated in accordance with the guidelines as if the child or children were not living with the obligor.

(e) *Support Obligations When Custodial Parent Owes Spousal Support.*

Where children are residing with the spouse obligated to pay spousal support or alimony pendente lite (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support the children, the guideline amount of spousal support or alimony pendente lite shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support or alimony pendente lite, and awarding the net difference either to the non-custodial parent as spousal support/alimony pendente lite or to the custodial parent as child support as the circumstances warrant.

The following example uses the formula to show the steps followed to determine the amount of the non-custodial parent's support obligation to the children and the effect of that obligation upon the custodial parent's spousal support obligation. The example assumes that the parties have two children and the non-custodial parent's net monthly income is \$1,000 and the custodial parent's net monthly income is \$2,600. First, determine the spousal support obligation of the custodial parent to the non-custodial parent based upon their net incomes from the formula for spousal support without dependent children, i.e., \$640. Second, recompute the net income of the parties assuming the payment of the spousal support so that \$640 is deducted from the custodial parent's net income, now \$1,960, and added to the non-custodial parent's net income, now \$1,640. Third, determine the child support obligation of the non-custodial parent for two children, i.e., \$501. Fourth, determine the recomputed support obligation of the custodial parent to the non-custodial parent by subtracting the non-custodial parent's child support obligation from Step 3 (\$501) from the original support obligation determined in Step 1 (\$640). The recomputed spousal support is \$139.

(f) *Allocation. Consequences.*

(1) An order awarding both spousal and child support may be unallocated or state the amount of support allocable to the spouse and the amount allocable

to each child. However, the formula provided by these rules assumes that an order will be unallocated. Therefore, if the order is to be allocated, the formula set forth in this rule shall be utilized to determine the amount of support allocable to the spouse. If allocation of an order utilizing the formula would be inequitable, the court shall make an appropriate adjustment. Also, if an order is to be allocated, an adjustment shall be made to the award giving consideration to the federal income tax consequences of an allocated order as may be appropriate under the circumstances. No consideration of federal income tax consequences shall be applied if the order is unallocated or the order for the spousal support or alimony pendente lite only.

Official Note: The 2005 amendment supersedes *Diament v. Diament*, 816 A.2d 256 (Pa. Super. Ct. 2003), to the extent that it held that the tax savings from payments for the benefit of a spouse alone or from an unallocated order for the benefit of a spouse and child must be considered in determining the obligor's available net income for support purposes. Rule 1910.16-4(f)(1) states that the guidelines formula assumes that the order will be unallocated. The tax consequences of an order for a spouse alone or an unallocated order for the benefit of a spouse and child have already been built into the formula.

(2) When the parties are in higher income brackets, the income tax considerations are likely to be a more significant factor in determining an award of support. A support award for a spouse and children is taxable to the obligee while an award for the children only is not. Consequently, in certain situations an award only for the children will be more favorable to the obligee than an award to the spouse and children. In this situation, the trier of fact should utilize the guidelines which result in the greatest benefit to the obligee.

When the obligee's net income is equal to or greater than the obligor's net income, the guideline amount for spouse and children is identical to the guideline amount for children only. Therefore, in cases involving support for spouse and children, whenever the obligee's net income is equal to or greater than the obligor's net income, the guideline amount indicated shall be attributed to child support only.

(3) Unallocated charging orders for child and spousal support, or child support and alimony pendente lite, shall terminate upon the death of the payee spouse or payee ex-spouse.

(4) In the event that the obligor defaults on an unallocated order, the court shall allocate the order for collection of child support pursuant to the Internal Revenue Service income tax refund intercept program or for registration and enforcement of the order in another jurisdiction under the Uniform Interstate Family Support Act, 23 Pa.C.S.A. § 7101 et seq. The court shall provide notice of allocation to the parties.

Official Note: This provision is necessary to comply with various state and federal laws relating to the enforcement of child support. It is not intended to affect the tax consequences of an unallocated order.

Explanatory Comment—2005

Rule 1910.16-4(a) sets forth the income shares formula used to establish the support obligation. Subdivision (b) provides the method for calculating support for seven or more children as the basic support schedule in Rule 1910.16-3 sets forth the presumptive amount of support for only up to six children.

Subdivision (c) sets forth the method for calculating the presumptive amount of support in cases where the children spend 40% or more of their time during the year with the obligor. When there is equal time sharing, subsection (2) reduces the support obligation further so that the obligor does not pay more than is necessary to equalize the parties' combined income between the two households. Subsection (3) expressly excludes SSR cases from application of this rule. Since the SSR already reduces support to a minimal level, no further reduction should be given for the amount of time spent with the children.

Subdivision (d) relates to the calculation of support in divided or split custody cases. It retains the existing method for offsetting the parties' respective support obligations when one or more of the children resides with each party.

Subdivision (e) governs spousal support obligations when the custodial parent owes spousal support. It has not been amended, other than to update the example to be consistent with the new schedule at Rule 1910.16-3.

In subdivision (f), the guidelines continue to presume that the order will be unallocated for tax purposes. However, new language has been added to subsection (f)(1), and a new Note has been inserted, to clarify that an obligor's tax savings from payment of a spousal support order or an unallocated order for a spouse and child should not be considered in calculating the obligor's available net income for support purposes. Subsection (3) is intended to insure alimony tax treatment of unallocated orders pursuant to § 71 of the Internal Revenue Code. Rule 1910.19(d) provides that all spousal support and alimony pendente lite orders terminate upon the death of the payee. Termination of a charging order does not affect arrears existing at that time. Subsection (4) provides for administrative allocation of the order in two instances: 1) when the obligor defaults on the order and it becomes necessary to collect support by intercepting any income tax refunds that may be due and payable to obligor; and 2) when the obligor defaults and the order must be registered in another state under the Uniform Interstate Family Support Act (UIFSA). As the Note indicates, this administrative allocation is not intended to affect the tax consequences of the unallocated order.

Source

The provisions of this Rule 1910.16-4 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; corrected February 5, 1999, effective April 1, 1999, 29 Pa.B. 645; amended March 2, 2000, effective immediately, 30 Pa.B. 1646; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended June 5, 2001, effective immediately, 31 Pa.B. 3306; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended September 24, 2002, effective immediately, 32 Pa.B. 5044; amended November 9, 2004, effective immediately, 34 Pa.B. 6315; amended May 17, 2005, effective immediately, 35 Pa.B. 3216 and 3900; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643. Immediately preceding text appears at serial pages (308235) to (308236), (292873) to (292874), (311807) to (311808) and (312381).

1910-52.7

(314455) No. 373 Dec. 05

Rule 1910.16-5. Support Guidelines. Deviation.

(a) *Deviation.* If the amount of support deviates from the amount of support determined by the guidelines, the trier of fact shall specify, in writing, the guideline amount of support, and the reasons for, and findings of fact justifying, the amount of the deviation.

Official Note: The deviation applies to the amount of the support obligation and not to the amount of income.

(b) *Factors.* In deciding whether to deviate from the amount of support determined by the guidelines, the trier of fact shall consider:

- (1) unusual needs and unusual fixed obligations;
- (2) other support obligations of the parties;
- (3) other income in the household;
- (4) ages of the children;
- (5) assets of the parties;
- (6) medical expenses not covered by insurance;
- (7) standard of living of the parties and their children;
- (8) in a spousal support or alimony pendente lite case, the period of time during which the parties lived together from the date of marriage to the date of final separation; and
- (9) other relevant and appropriate factors, including the best interests of the child or children.

(c) *Duration.* In determining the duration of an award for spousal support or alimony pendente lite, the trier of fact shall consider the period of time during which the parties lived together from the date of marriage to the date of final separation.

Explanatory Comment—2005

Rule 1910.16-5 sets forth the factors for deviation from the presumptive amount of support. Subdivision (c) and subsection (b)(8) permit the court to consider the length of the marriage in determining the amount and duration of a spousal support or alimony pendente lite award. The primary purpose of these provisions is to prevent the unfairness that arises in a short-term marriage when the obligor is required to pay support over a substantially longer period of time than the parties were married and there is little or no opportunity for credit for these payments at the time of equitable distribution.

Source

The provisions of this Rule 1910.16-5 adopted September 6, 1989, effective September 30, 1989, 19 Pa.B. 4151; amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended November 4, 1993, effective January 1, 1994, 23 Pa.B. 5527; amended July 15, 1994, effective September 1, 1994, 24 Pa.B. 3802; amended August 3, 1995, effective January 1, 1996, 25 Pa.B. 3338; amended December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended September 24, 2003, effective immediately, 33 Pa.B. 5075; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643. Immediately preceding text appears at serial pages (312381) to (312382).

1910-52.8

Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation. Allocation of Additional Expenses.

Additional expenses permitted pursuant to this Rule 1910.16-6 may be allocated between the parties even if the parties' incomes do not justify an order of basic support.

(a) *Child care expenses.* Reasonable child care expenses paid by either parent, if necessary to maintain employment or appropriate education in pursuit of income, shall be allocated between the parties in proportion to their net incomes and added to his and her basic support obligation. When a parent is receiving a child care subsidy through the Department of Public Welfare, the expenses to be allocated between the parties shall be the full unsubsidized cost of the child care, not just the amount actually paid by the parent receiving the subsidy. However, if allocation of the unsubsidized amount would result in a support order that is overly burdensome to the obligor, deviation pursuant to Rule 1910.16-5 may be warranted.

Example. Mother has primary custody of the parties' two children and Father has partial custody. Mother's monthly net income is \$2,000 and Father's is \$3,500. At their combined income level of \$5,500, the basic monthly child support from the schedule in Rule 1910.16-3 is \$1,268 for two children. As Father's income is 64% of the parties' combined income, his share is \$812. Mother incurs child care expenses of \$400 per month and Father incurs \$100 of such expenses each month. The total amount of child care expenses, \$500, will be apportioned between the parties, with Father paying 64%, or \$320. As he is already paying \$100 for child care while the children are in his partial custody, he would pay the remaining \$220 to Mother for a total child support obligation of \$1,032 ($\$812 + \$220 = \$1,032$).

(1) Except as provided in subsection (2), the total child care expenses shall be reduced to reflect the amount of the federal child care tax credit available to the eligible parent, whether or not the credit is actually claimed by that parent, up to the maximum annual cost allowable under the Internal Revenue Code.

(2) The federal child care tax credit shall not be used to reduce the child care expenses subject to allocation between the parties if the eligible parent is not qualified to receive the credit.

Official Note: A child care subsidy provided by the Department of Public Welfare should not be used to reduce the child care expenses subject to allocation between the parties to the extent that the obligor has the financial resources to contribute to the actual costs of child care. Nor is it appropriate to order the obligee to seek a child care subsidy in order to reduce the obligor's share of child care expenses if the obligor has the financial ability to contribute to those expenses. While public policy requires that parents, rather than taxpayers, pay for their children's child care when they are able to do so, allocation of the full unsubsidized cost of child care may result in a support order that is overly burdensome to the obligor. In those circumstances, in addition to considering deviation to relieve the burden on the obligor, the trier of fact

also has the discretion to determine whether or not to include in the order other adjustments under Rule 1910.16-6, such as a mortgage contribution, which are not mandatory. No adjustment to the basic support amount shall be permitted if such would cause the obligor's remaining net monthly income to fall below the Self-Support Reserve of \$748. Implicit in the rule requiring apportionment of the unsubsidized cost of child care is recognition of the duty of the subsidy recipient to report any additional income pursuant to Department of Public Welfare regulations so that adjustments can be made to entitlements accordingly.

(b) *Health Insurance Premiums.*

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party and/or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it, as long as a statutory duty of support is owed to the party who is paying the premium. If health insurance coverage for a child who is the subject of the support proceeding is being provided and paid for by a third party resident of the household, the cost shall be allocated between the parties in proportion to their net incomes. If the obligor is paying the premium, then the obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then the obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

(2) When the health insurance covers a party to whom no statutory duty of support is owed or other persons who are not parties to the support action or children who are not the subjects of the support action, the portion of the premium attributable to them must be excluded from allocation. In the event this portion is not known or cannot be verified, it shall be calculated as follows. First, determine the cost per person by dividing the total cost of the premium by the number of persons covered under the policy. Second, multiply the cost per person by the number of persons who are not owed a statutory duty of support, or are not parties to, or the subject of the support action. The resulting amount is excluded from allocation.

Example 1. If the parties are separated, but not divorced, and Husband pays \$200 per month toward the cost of a health insurance policy provided through his employer which covers himself, Wife, the parties' child, and two additional children from a previous marriage, the portion of the premium attributable to the additional two children, if not otherwise verifiable or known with reasonable ease and certainty, is calculated by dividing \$200 by five persons and then multiplying the resulting amount of \$40 per person by the two additional children, for a total \$80 to be excluded from allocation. Deduct this amount from the total cost of the premium to arrive at the portion of the premium to be allocated between the parties—\$120. Since Husband is paying the premium, and spouses have a statutory duty to support one another pursuant to 23 Pa.C.S.A. § 4321, Wife's percentage share of the \$120 is deducted from Husband's support obligation. If Wife had been providing the coverage, then Husband's percentage share would be added to his basic support obligation.

Example 2. If the parties are divorced and Father pays \$200 per month toward the cost of a health insurance policy provided through his employer which covers himself, the parties' child and two addi-

tional children from a previous marriage, the portion of the premium attributable to Father and the two additional children will not be allocated between the parties. Thus, using the same calculations in Example 1, the amount of the premium attributable to Father and the two other children is \$150 (\$200 premium divided among four covered persons equals \$50 per person multiplied by three) and that amount is deducted from the total cost of the premium, leaving \$50 ($\$200 - \$150 = \50) to be allocated between the parties.

(3) Pursuant to 23 Pa.C.S.A. § 4326(a), in every support proceeding, the court must ascertain each parent's ability to provide medical support for the parties' children and the support "order shall include a requirement for medical support to be provided by either or both parents, provided that such medical support is accessible to the children."

(i) The non-custodial parent bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to an obligor shall be defined as an amount that does not exceed 5% of the obligor's net monthly income and, when added to the amount of basic child support plus additional expenses the obligor is ordered pay, does not exceed 50% of the obligor's net monthly income.

(ii) Unless health care coverage for the parties' children is provided by the obligee or a third party, the court shall issue the National Medical Support Notice required by 23 Pa.C.S.A. § 4326(d.1) to the obligor's employer in response to notification that the obligor is employed. The notice shall direct the employer to enroll the children of the obligor who are the subject of the support proceeding if the coverage is available at a reasonable cost to the obligor. However, the notice shall direct that enrollment shall not occur earlier than 25 days from the date of the National Medical Support Notice to allow the obligor time to object. Concurrent with the issuance of the National Medical Support Notice, the court shall provide notice to the obligor setting forth the process to object to the enrollment based upon unreasonable cost, mistake of fact or availability of alternative health care coverage for the children. If there is more than one employer-provided health care coverage option, the obligor shall select the plan, subject to the obligee's right to seek a court order designating a different option.

(iii) Absent the availability of health care coverage to the obligor for the parties' children at a reasonable cost, the court shall order the obligee to provide health care coverage for the children if it is available at a reasonable cost. "Reasonable cost" to the obligee shall be defined as an amount not to exceed 5% of the obligee's net monthly income.

(iv) If health care coverage is not available to either party at a reasonable cost, the court may order the custodial parent to apply for government-sponsored coverage, such as the Children's Health Insurance Program ("CHIP"), with any co-premium or other cost apportioned between the parties in proportion to their respective net monthly incomes.

(v) Within thirty days after the entry of the support order, the party ordered to provide health care coverage shall provide written proof to the other party that medical insurance has been obtained, including insurance cards and all other materials set forth in the form order in Rule 1910.27(e).

There shall be a continuing obligation to provide the other party and the court with proof of any changes in coverage.

(vi) The court shall give preference to health care coverage that is readily accessible to the child, as defined by geographic coverage area, access to local treatment providers or other relevant factors.

Official Note: The maximum amount of any attachment for child and medical support is set forth by the federal Consumer Credit Protection Act (Public Law 90-321, Section 303(b); 15 U.S.C. § 1601 et seq.).

(4) In cases in which the obligor is paying the cost of health insurance coverage and the obligee has no income or minimal income such that the obligor will bear 90% or more of the proportional share of the cost of the health insurance premiums, the trier of fact may, as fairness requires, deduct part or all of the cost of the premiums actually paid by the obligor to provide coverage for the other party or the children from the obligor's gross income to determine net income for support purposes. If such a deduction is taken from the obligor's gross income, then the allocation of premium costs as set forth in (b)(1) above shall not be applied.

Official Note: Subdivision (b) of this rule does not apply to Medical Assistance. See 23 Pa.C.S.A. § 4326(l). The 2005 amendments to Rule 1910.16-6(b)(1) and (2) clarify that the portion of the insurance premium covering the party carrying the insurance cannot be allocated between the parties if there is no statutory duty of support owed to that party by the other party. See *Maher v. Maher*, 575 Pa. 181, 835 A.2d 1281 (2003) and 23 Pa.C.S.A. § 4321.

(c) *Unreimbursed Medical Expenses.* Unreimbursed medical expenses of the obligee or the children shall be allocated between the parties in proportion to their respective net incomes. Notwithstanding the prior sentence, there shall be no apportionment of unreimbursed medical expenses incurred by a party who is not owed a statutory duty of support by the other party. The court may direct that the obligor's share be added to his or her basic support obligation, or paid directly to the obligee or to the health care provider.

(1) For purposes of this subdivision, medical expenses are annual unreimbursed medical expenses in excess of \$250 per person. Medical expenses include insurance co-payments and deductibles and all expenses incurred for reasonably necessary medical services and supplies, including but not limited to surgical, dental and optical services, and orthodontia. Medical expenses do not include cosmetic, chiropractic, psychiatric, psychological or other services unless specifically directed in the order of court.

Official Note: While cosmetic, chiropractic, psychiatric, psychological or other expenses are not required to be apportioned between the parties, the court may apportion such expenses that it determines to be reasonable and appropriate under the circumstances.

(2) An annual limitation may be imposed when the burden on the obligor would otherwise be excessive.

(3) Annual expenses pursuant to this subdivision (c), shall be calculated on a calendar year basis. In the year in which the initial support order is entered, the \$250 threshold shall be pro-rated. Documentation of unreimbursed medical expenses that either party seeks to have allocated between the parties shall be

provided to the other party not later than March 31 of the year following the calendar year in which the final bill was received by the party seeking allocation. Allocation of unreimbursed medical expenses for which documentation is not timely provided shall be within the discretion of the court.

Official Note: If the trier of fact determines that the obligee acted reasonably in obtaining services which were not specifically set forth in the order of support, payment for such services may be ordered retroactively.

(d) *Private School Tuition. Summer Camp. Other Needs.* The support schedule does not take into consideration expenditures for private school tuition or other needs of a child which are not specifically addressed by the guidelines. If the court determines that one or more such needs are reasonable, the expense thereof shall be allocated between the parties in proportion to their net incomes. The obligor's share may be added to his or her basic support obligation.

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, alimony pendente lite and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award. If the obligor is occupying the marital residence and the mortgage payment exceeds 25% of the obligor's monthly net income (less any amount of spousal support, alimony pendente lite or child support the obligor is paying), the court may make an appropriate downward adjustment in the obligor's support obligation. For purposes of this subdivision, the term "mortgage" shall include first mortgages, real estate taxes and homeowners' insurance and may include any subsequent mortgages, home equity loans and any other obligations incurred during the marriage which are secured by the marital residence.

Explanatory Comment—2005

Rule 1910.16-6 governs the treatment of additional expenses that warrant an adjustment to the basic support obligation.

Subdivision (a) relates to child care expenses. Subdivision (a) has been amended to require that child care expenses incurred by either party are to be allocated between the parties in proportion to their respective net incomes. Subsection (a)(1), relating to the federal child care tax credit, was amended in 2004 to reflect recent amendments to the Internal Revenue Code. 26 U.S.C.A. § 21. By referring to the tax code in general, rather than incorporating current code provisions in the rule, any further amendments will be incorporated into the support calculation. Since the tax credit may be taken only against taxes owed, it cannot be used when the eligible parent does not incur sufficient tax liability to fully realize the credit. For this reason, subsection (2) provides that no adjustment to the total child care expenses may be made if the eligible parent does not qualify to receive the credit.

Subdivision (b) addresses health insurance premiums. The cost of the premiums is generally treated as an additional expense to be allocated between the parties in proportion to their net incomes. Sub-

section (1) of the rule permits allocation of the entire premium, including the portion of the premium covering the party carrying the insurance, when the insurance benefits the other party and/or the children. Subsection (2) clarifies that, in calculating the amount of the health care premium to be allocated between the parties, subdivision (b)(1) requires the inclusion of that portion of the health insurance premium covering the party who is paying the premium, so long as there is a statutory duty of support owed to that party, but not the portion of the premium attributable to non-parties and children who are not the subjects of the support order. Subsection (2) provides for proration of the premium when the health insurance covers other persons who are not subject to the support action or owed a statutory duty of support. Subdivision (b) also permits an alternative method for dealing with the cost of health insurance premiums in certain circumstances. While, in general, the cost of the premiums will be treated as an additional expense to be allocated between the parties in proportion to their net incomes, in cases in which the obligee has no income or minimal income, subsection (4) authorizes the trier of fact to reduce the obligor's gross income for support purposes by some or all of the amount of the health insurance premiums. This is to avoid the result under a prior rule in which the entire cost of health insurance would have been borne by the obligor, with no resulting reduction in the amount of support he or she would otherwise be required to pay under the support guidelines. The goal of this provision is to encourage and facilitate the maintenance of health insurance coverage for dependents by giving the obligor a financial incentive to maintain health insurance coverage.

Subdivision (c) deals with unreimbursed medical expenses. Since the first \$250 of medical expenses per year per child is built into the basic guideline amount in the child support schedule, only medical expenses in excess of \$250 per year per child are subject to allocation under this rule as an additional expense to be added to the basic support obligation. The same is true with respect to spousal support so that the obligee-spouse is expected to assume the first \$250 per year of these expenses and may seek contribution under this rule only for unreimbursed expenses which exceed \$250 per year. The definition of "medical expenses" includes insurance co-payments, deductibles and orthodontia and excludes chiropractic services.

Subdivision (d) governs apportionment of private school tuition, summer camp and other unusual needs not reflected in the basic guideline amounts of support. The rule presumes allocation in proportion to the parties' net incomes consistent with the treatment of the other additional expenses.

Subdivision (e) provides for the apportionment of mortgage expenses. It defines "mortgage" to include the real estate taxes and homeowners' insurance. While real estate taxes and homeowners' insurance must be included if the trier of fact applies the provisions of this subdivision, the inclusion of second mortgages, home equity loans and other obligations secured by the marital residence is within the discretion of the trier of fact based upon the circumstances of the case.

Explanatory Comment—2006

A new introductory sentence in Rule 1910.16-6 clarifies that additional expenses contemplated in the rule may be allocated between the parties even if the parties' respective incomes do not warrant an award of basic support. Thus, even if application of the formula at Rule 1910.16-4 results in a basic support obligation of zero, the court may enter a support order allocating between the parties any or all of the additional expenses addressed in this rule.

The amendment to subdivision (e) recognizes that the obligor may be occupying the marital residence and that, in particular circumstances, justice and fairness may warrant an adjustment in his or her support obligation.

Explanatory Comment—2008

Federal and state statutes require clarification to subdivision (b) to ensure that all court orders for support address the children's ongoing need for medical care. In those instances where the children's health care needs are paid by the state's medical assistance program, and eligibility for the Children's

Health Insurance Program (“CHIP”) is denied due to the minimal income of the custodial parent, the obligor remains required to enroll the parties’ children in health insurance that is, or may become, available that is reasonable in cost.

Government-sponsored health care plans represent a viable alternative to the often prohibitive cost of health insurance obtainable by a parent. Except for very low income children, every child is eligible for CHIP, for which the parent with primary physical custody must apply and which is based on that parent’s income. A custodial parent may apply for CHIP by telephone or on the Internet. While co-premiums or co-pays increase as the custodial parent’s income increases, such costs are generally modest and should be apportioned between the parties. Moreover, health care coverage obtained by the custodial parent generally yields more practical results, as the custodial parent resides in the geographic coverage area, enrollment cards are issued directly to the custodial parent, and claims may be submitted directly by the custodial parent.

Source

The provisions of this Rule 1910.16-6 adopted December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 27, 2000, effective immediately, 30 Pa.B. 5837; amended June 5, 2001, effective immediately, 31 Pa.B. 3306; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended October 31, 2002, effective immediately, 32 Pa.B. 5632; amended July 30, 2003, effective immediately, 33 Pa.B. 4073; amended September 24, 2003, effective immediately, 33 Pa.B. 5075; amended November 9, 2004, effective immediately, 34 Pa.B. 6315; amended May 17, 2005, effective immediately, 35 Pa.B. 3216 and 3900; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643; amended October 17, 2006, effective immediately, 36 Pa.B. 6632; amended August 13, 2008, effective October 12, 2008, 38 Pa.B. 4736. Immediately preceding text appears at serial pages (323347) to (323352).

Rule 1910.16-7. Support Guidelines. Awards of Child Support When There are Multiple Families.

(a) When the total of the obligor’s basic child support obligations equals fifty percent or less of his or her monthly net income, there will generally be no deviation from the guideline amount of support on the ground of the existence of a new family. For example, where the obligor requests a reduction of support for one child of the first marriage on the basis that there is a new child of the second intact marriage, and the relevant monthly net incomes are \$2,500 for the obligor, \$500 for the former spouse and \$1,300 for the current spouse, the request for a reduction will be denied because the total support obligation of \$1,142 (\$601 for the first child and \$541 for the second child) is less than half of the obligor’s monthly net income.

(b) When the total of the obligor’s basic support obligations exceeds fifty percent of his or her monthly net income, the court may consider a proportional reduction of these obligations. Since, however, the goal of the guidelines is to treat each child equitably, in no event should either a first or later family receive preference. Nor shall the court divide the guideline amount for all of the obligor’s children among the households in which those children live.

Example 1. The obligor is sued for support of an out of wedlock child. The obligor is already paying support for two children of the first marriage, and has an intact second marriage with one child. The

relevant monthly net incomes are \$1,500 for the obligor, \$1,100 for the former spouse, \$0 for the current spouse and \$1,500 for the parent of the new child. The guideline amounts for each family are \$514 for the two children of the first marriage, \$386 for the one child of the second marriage, and \$362 for the one child out of wedlock for a total support obligation of \$1,262. Since the total of these obligations exceeds fifty percent of the obligor's net monthly income of \$1,500 per month, the court may consider a proportional reduction of all of the orders.

Example 2. The obligor is sued for support of three children of a second marriage. There is already an order in effect for two children of the first marriage. The relevant monthly net incomes are \$1,000 for the obligor, \$0 for the first spouse and \$500 for the second spouse. The guideline amounts for each family are \$229 for the two children of the first marriage and \$422 for the three children of the second marriage for a total support obligation of \$651. Since this total obligation leaves the obligor with only \$349 on which to live, the order for the three children of the second family is too high. However, reducing the order for three children while leaving the existing order intact would give preference to the first family, contrary to the rule. Therefore, both orders must be reduced proportionally.

Example 3. The obligor is sued to establish orders for three children born out of wedlock. The net monthly incomes for the obligor and for each obligee is \$1,500. The court would determine that the guideline figure for each child is \$362 for a total obligation of \$1,086 for three children. It would be incorrect to determine the guideline amount for three children, in this case \$724, and then divide that amount among the three children.

(c) For purposes of this rule, the presumptive amount of the obligor's basic support obligation is calculated using only the basic guideline amounts of support, as determined from the formula in Rule 1910.16-4, and does not include any additional expenses that may be added to these amounts pursuant to Rule 1910.16-6. In calculating the presumptive amount of the obligor's basic support obligation, the court should ensure that obligor retains at least \$748 per month consistent with Rule 1910.16-2(e).

Example 1. Assume that the obligor is paying \$591 per month support for one child of the first marriage, plus an additional \$200 per month for child care expenses. The obligor requests a reduction in this support obligation on the basis that there is one new child of the second intact marriage. The relevant incomes are \$2,400 for the obligor and \$0 for both the former and current spouses. The obligor's request for a reduction should be denied because the total of the basic guideline obligations for both children is only \$1,182 (\$591 for each

child) and this amount does not exceed 50% of the obligor's net monthly income. No reduction should be given on the basis that the obligor's contribution to child care expenses for the first child results in an overall support obligation of \$1,382 which exceeds 50% of the obligor's net monthly income. Thus, the presumptive amount of basic support for the two children is still \$1,182 (\$591 for each child). The court must then consider the deviation factors under Rule 1910.16-5 and the parties' respective contributions to additional expenses under Rule 1910.16-6 in arriving at an appropriate amount of total support for each child.

Example 2. Assume that the obligor is paying \$227 per month support for one child of the first marriage. The obligor has one new child of the second intact marriage. The relevant incomes are \$1,000 for the obligor and \$0 for both the former and current spouses. No reduction should be given on the basis of the obligor's new child because the total of the basic guideline obligations for both children is only \$454 (\$227 for each child) and this amount does not exceed 50% of the obligor's net monthly income. Since, however, this amount leaves the obligor with only \$546 per month, the court should proportionally reduce the support obligations so that the obligor retains \$748 per month. Thus, the presumptive amount of basic support for the two children is \$252 (\$126 for each child). The court must then consider the deviation factors under Rule 1910.16-5 and the parties' respective contributions to additional expenses under Rule 1910.16-6 in arriving at an appropriate amount of total support for each child.

(d) When an obligor is subject to more than one order for child support, spousal support and/or alimony pendente lite, the priority for distribution of payments and/or collections for the obligor, without regard to the source of funds or method of collection, are as follows unless the court specifically orders a different distribution priority:

- (1) current child support.
- (2) medical, child care or other court-ordered child support-related expenses.
- (3) child support arrears.
- (4) current spousal support or alimony pendente lite.
- (5) spousal support or alimony pendente lite arrears.
- (6) court costs and fees.

Explanatory Comment—2005

Rule 1910.16-7 has been amended to reflect the updated schedule at Rule 1910.16-3 and the increase in the Self-Support Reserve ("SSR"), formerly the CAM, to \$748 per month. This rule sets forth the calculation of child support obligations in the context of multiple families. Awards of spousal support in this context are addressed in Rule 1910.16-2(c)(2).

1910-52.17

In determining whether the total support obligations exceed 50% of the obligor's net income to warrant a proportionate reduction of the child support orders, subdivision (c) clarifies that the total consists only of the basic amounts of child support, as derived from the income shares formula in Rule 1910.16-4, and does not include additional expenses that may be added to these basic amounts under Rule 1910.16-6. As the first example illustrates, no reduction should be given if the basic support obligations do not exceed 50% of the obligor's net monthly income even though his or her contribution to additional expenses may result in an overall obligation exceeding this percentage of income. As the second example illustrates, however, in low income cases it may be necessary to adjust the child support obligations proportionally even though they do not exceed 50% of the obligor's net income. This is consistent with the goals of the SSR to ensure that the obligor retains sufficient income to maintain the incentive to work so that he or she can support all of the children.

Subdivision (c) also emphasizes that the initial amounts which are calculated for purposes of determining whether a proportional reduction is warranted are only presumptive amounts of child support. They are subject to upward or downward adjustment under Rules 1910.16-5 and 1910.16-6 relating to deviation and additional child-related expenses which are typically added to the basic obligation. This is intended only to emphasize that the establishment of appropriate support obligations for children of different families involves the same considerations as the establishment of a support obligation for a child or children of a single family.

Subdivision (d) addresses the priority of the distribution of payments and collections. However, collections realized through the interception of federal tax returns by the Internal Revenue Service are subject to federal distribution priorities. See 45 CFR 303.72(h).

Explanatory Comment—2008

The order of priority of the distribution of payments is revised to reflect changes in federal law which presume that cash and medical-related child support are established and paid in that sequence, and that obligations to children take priority over spousal-only obligations. An unallocated order for child and spousal support has the same priority as a child support order.

Source

The provisions of this Rule 1910.16-7 adopted December 7, 1998, effective April 1, 1999, 28 Pa.B. 6162; amended October 30, 2001, effective immediately, 31 Pa.B. 6273; amended October 31, 2002, effective immediately, 32 Pa.B. 5632; amended September 27, 2005, effective 4 months from the date of this order, 35 Pa.B. 5643; amended August 13, 2008, effective October 12, 2008, 38 Pa.B. 4736. Immediately preceding text appears at serial pages (323352) to (323355).

Rule 1910.17. Support Order. Effective Date. Change of Circumstances. Copies of Order.

(a) An order of support shall be effective from the date of the filing of the complaint or petition for modification unless the order specifies otherwise. However, a modification of an existing support order may be retroactive to a date preceding the date of filing if the petitioner was precluded from filing a petition for modification by reason of a significant physical or mental disability, misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition.

1910-52.18

Official Note: The order must direct payment to be made payable to or payment to be made to the State Collection and Disbursement Unit for transmission to the obligee. See 23 Pa.C.S. § 4325.

Subdivision (a) was amended in 2005 to include the statutory provision at 23 Pa.C.S.A. § 4352(e) that authorizes the court to enter a modified order that is effective to a date prior to the date on which the petition for modification was filed in certain circumstances. To the effect that the holding in *Kelleher v. Bush*, 832 A.2d 483 (Pa. Super. Ct. 2003), is inconsistent, it is superseded. See 23 Pa.C.S.A. § 4352(e) for additional provisions.

Every order of support must contain an immediate or conditional order for the attachment of income. See Rule 1910.21.

(b) The order shall notify the obligee and the obligor that each is under a continuing obligation to inform the domestic relations section in writing or by personal appearance and all other parties in writing within seven days of any material change in circumstances relevant to the level of support or the administration of the support order, including, but not limited to, loss or change of income or employment and change of personal address or change of address of any child receiving support. The order shall also notify the parties that if a party willfully fails to inform the domestic relations section of the required information, the court may adjudge the party to be in contempt of court pursuant to Rules 1910.25 through 1910.25-6 and may order the party to be punished by one or more of the following: jail, fine or probation.

(c) A copy of the support order shall be provided to each party to the action and to the party's attorney, if any, pursuant to Rule 440.

Source

The provisions of this Rule 1910.17 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended November 22, 1994, effective January 1, 1995, 24 Pa.B. 6137; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended May 17, 2005, effective immediately, 35 Pa.B. 3216 and 3900. Immediately preceding text appears at serial pages (311814) to (311817).

Rule 1910.18. Support Order. Subsequent Proceedings.

(a) Subsequent proceedings to modify or terminate a support order pursuant to Rule 1910.19 shall be brought in the court which entered the order. If the action has been transferred pursuant to Rule 1910.2 following the entry of a support order, subsequent proceedings shall be brought in the court to which the action was transferred.

(b) Subsequent proceedings to enforce an order pursuant to Rule 1910.20 may be brought in the court which entered the support order or the court of a county to which the order has been transferred.

(c) Subdivision (a) shall not limit the right of the plaintiff to institute additional proceedings for support in any county of proper venue.

Source

The provisions of this Rule 1910.18 amended December 18, 1998, effective January 1, 1999, 29 Pa.B. 16. Immediately preceding text appears at serial page (200342).

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

(a) A petition for modification or termination of an existing support order shall specifically aver the material and substantial change in circumstances upon which the petition is based. A new guideline amount resulting from new or revised support guidelines may constitute a material and substantial change in circumstances. The existence of additional income, income sources or assets identified through automated methods or otherwise may also constitute a material and substantial change in circumstances.

(b) The procedure upon the petition shall be in accordance with Rule 1910.10 et seq.

(c) Pursuant to a petition for modification, the trier of fact may modify or terminate the existing support order in any appropriate manner based upon the evidence presented.

(d) All charging orders for spousal support and alimony pendente lite shall terminate upon the death of the payee spouse.

(e) Within one year of 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. When 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 shall have the authority to administratively terminate the child support charging order without further proceedings at any time on or after 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 schedule a conference to determine if the charging order should be modified.

(f) Upon notice to the obligee, with a copy to the obligor, explaining the basis for the proposed modification or termination, the court may modify or terminate a charging order for support and remit any arrears, all without prejudice, when it appears to the court that:

- (1) the order is no longer able to be enforced under state law; or
- (2) the obligor is unable to pay, has no known income or assets and there is no reasonable prospect that the obligor will be able to pay in the foreseeable future.

The notice shall advise the obligee to contact the domestic relations section within 60 days of the date of the mailing of the notice if the obligee wishes to contest the proposed modification or termination. If the obligee objects, the domestic relations section shall schedule a conference to provide the obligee the opportunity to contest the proposed action. If the obligee does not respond to the notice or object to the proposed action, the court shall have the authority to modify or terminate the order and remit any arrears, without prejudice.

Explanatory Comment—1993

Existence of Guidelines as Substantial Change in Circumstances. In its opinion in *Newman v. Newman*, 409 Pa. Super. Ct. 108, 597 A.2d 684 (Pa. Super. 1991), the Superior Court held that enactment of the guidelines does not constitute a substantial change in circumstance which could serve as the basis for modification of a support order. The amended rule allows the trier of fact to consider new or revised rules as a change in circumstances where the change in the guidelines, either by itself or in combination with other factors, is material and substantial.

Explanatory Comment—2000

The Pennsylvania Child Support Enforcement System (“PACSES”) is electronically linked to a variety of governmental and private agencies and institutions. This linkage enables PACSES to immediately locate and identify an obligor’s income, income sources and assets. Rule 1910.19 is amended to provide that their identification through these automated methods provides a basis for modifying both the current support obligation and the rate of repayment on either past due or overdue support. Identification through means other than PACSES continues to provide the same basis for modification.

While identification of income sources or assets provides a basis for modification, this rule is not intended to prevent a court from ordering that the income or assets be frozen and seized under Rule 1910.26 pending the hearing on the petition for modification. Such relief remains available under Rule 1910.26 governing appropriate interim or special relief. See Rule 1910.1 Explanatory Comment. Nor is this rule intended to affect the court’s ability to seize income or assets under Rule 1910.20 to secure an overdue support obligation.

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Explanatory Comment—2002

Although support orders do not terminate automatically, many obligors are unaware of the necessity of filing a petition to terminate a child support order when the child becomes emancipated. As a result, old orders have continued to charge long after the subject child has become an adult. New subdivision (e) is intended to address this problem by giving the obligee notice of a proposed modification or termination of the order and the opportunity to object. If no objection is made, or if the obligee fails to respond with a reason to continue the order, the rule gives the court the authority to terminate or modify the charging order, depending upon whether or not other children are covered under the order.

Explanatory Comment—2006

New subdivision (f) addresses an increasing multiplicity of circumstances in which the continued existence of a court-ordered obligation of support is inconsistent with rules or law. An obligor with no known assets whose sole source of income is Supplemental Security Income or cash assistance cannot be ordered to pay support under Rule 1910.16-2. Likewise, an obligor with no verifiable income or assets whose institutionalization, incarceration or long-term disability precludes the payment of support renders the support order unenforceable and uncollectible, diminishing the perception of the court as a source of redress and relief. Often, the obligor is unable or unaware of the need to file for a modification or termination, or the parties abandon the action. In those circumstances, the courts are charged with managing dockets with no viable outcomes. Both the rules and the federal guidelines for child support under Title IV-D of the Social Security Act provide for circumstances under which a support order shall not be entered or under which a child support case may be closed. Subdivision (f) expands the authority of the courts to respond to case management issues brought about by changes in circumstances of the parties of which the courts become aware through the expansion of automated interfaces and data exchanges.

Source

The provisions of this Rule 1910.19 amended January 27, 1993, effective immediately, 23 Pa.B. 701; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 5, 2001, effective immediately, 31 Pa.B. 3306; amended October 11, 2002, effective immediately, 32 Pa.B. 5263; amended May 19, 2006, effective immediately, 36 Pa.B. 2629. Immediately preceding text appears at serial pages (314466) and (293847).

Rule 1910.20. Support Order. Enforcement. General.

(a) A support order shall be enforced by income withholding as required by law in the manner provided by Rule 1910.21.

(b) Upon the obligor's failure to comply with a support order, the order may also be enforced by any one or all of the following remedies:

- (1) pursuant to Rule 1910.21, and without further hearing or prior notice to the obligor, increasing the amount of monthly support payments for payment of the overdue support at a rate to be determined by the court; withholding or seizing periodic or lump sum payments of income from a government agency, including unemployment compensation, social security, retirement or disability benefits and any other benefits; withholding or seizing periodic or lump sum payments of income from insurance carriers or privately-insured employers,

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including workers' compensation benefits; withholding or seizing judgments or settlements; and withholding or seizing public and private retirement funds in pay status;

- (2) pursuant to Rule 1910.22, imposing liens on real property;
- (3) pursuant to Rule 1910.23, attaching and seizing assets of the obligor held in financial institutions;
- (4) pursuant to Rule 1910.24, reducing and executing a judgment against the obligor;
- (5) pursuant to Rules 1910.25 through 1910.25-6, initiating contempt proceedings;
- (6) reporting the amount of overdue support to consumer reporting agencies in the manner prescribed by 23 Pa.C.S. § 4303;
- (7) when the obligor owes overdue support in an amount of three months or more, suspending occupational, commercial/driver's and recreational licenses in the manner prescribed by 23 Pa.C.S. § 4355.

These remedies are cumulative and not alternative.

(c) For purposes of this Rule, overdue support remains subject to the remedies set forth in subdivision (b) of this Rule until paid in full. Except as provided in 23 Pa.C.S. § 4355 for suspension of licenses, neither a repayment schedule subsequently agreed to by the parties nor an order of court establishing such a schedule precludes the use of these remedies for collecting overdue support more quickly, whenever feasible.

Source

The provisions of this Rule 1910.20 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended May 31, 2000, effective July 1, 2000, 20 Pa.B. 3155. Immediately preceding text appears at serial page (256281).

Rule 1910.21. Support Order. Enforcement. Withholding of Income.

(a) *Immediate Income Withholding.* Every order of court shall contain an immediate order for the withholding of income unless (1) there is no overdue support owing under the order and (2) either the court finds there is good cause not to require immediate income withholding or the parties agree in writing to an alternative arrangement.

(b) *Initiated Income Withholding.* If there is no immediate income withholding pursuant to subdivision (a), and nonpayment of the support order causes overdue support to accrue, the court shall enter an order for the immediate withholding of income.

(c) *Order for Withholding.* An order for income withholding must include a provision directing that no commutation or compromise and release of worker's compensation benefits, severance pay or any payment in lieu thereof shall be paid to the defendant until the order for withholding is dissolved by further order of court.

(d) *Service on Employer.*

(1) The order for income withholding shall be served upon the obligor's employer. The employer shall pay to the State Collection and Disbursement Unit the full amount set forth in the order and may deduct from the balance due the obligor an amount authorized by law for clerical work and expense involved in complying with the order. Upon termination of the obligor's employment, the employer shall notify the domestic relations section of the termination, the obligor's last known address, and the name and address of the obligor's new employer, if known.

(2) Upon willful failure to obey an order for income withholding, the employer, or an officer or employee of the employer, may be held in contempt and subject to other remedies provided by law.

Official Note: 23 Pa.C.S. § 4348(k)(1) provides that contempt is punishable by jail or fine. 23 Pa.C.S. § 4348(k)(2) provides that the employer is liable for any amount which the employer willfully fails to withhold or for any amount withheld but not forwarded to the domestic relations section. 23 Pa.C.S. § 4348(k)(3) provides that the court may attach funds or property of an employer.

(e) *Notice to Obligor. Objections.* A notice of entry of an order for income withholding shall be served on the obligor. The obligor may object to the order in writing or by personal appearance before the county domestic relations section within ten days after issuance of the notice. The grounds for an objection are limited to the following mistakes of fact: (i) no overdue support exists under the order or there is a mistake in the amount of overdue support; (ii) there is a mistake in the identity of the obligor; or (iii) the amount being withheld exceeds the maximum amount which may be withheld under the federal Consumer Credit Protection Act, 15 U.S.C. § 1673. If a mistake of fact has occurred, the order shall be modified accordingly.

(f) *Income Withholding When the Obligor Defaults on Support Order.*

(1) When an obligor is subject to an order for income withholding and payment is received from the employer within 15 days from the date upon which the obligor's obligation would be considered overdue (i.e. the date upon which delinquent support is equal to one month's support obligation), the payment shall be considered timely and any past due support shall not be converted to overdue support or subject to automated enforcement mechanisms.

(2) When nonpayment of the support order by the obligor causes overdue support to accrue, the court may increase the order for income withholding until the overdue support is paid in full. The court may also direct the employer to withhold any periodic or lump sum distributions of income which may be payable to the obligor in addition to regular income until further order of court.

(g) *Priority of Income Withholding.* If there are multiple support obligations in effect against the income of the obligor, the court shall allocate among the obligees the amount of income available for withholding, giving priority to cur-

rent child support, child support-related expenses and child support arrears to the limit provided by law and stating the priority of payment to the obligee.

(h) *Termination of Order for Income Withholding.* An order for income withholding shall continue until dissolved by the court as provided by law.

Official Note: Pursuant to 23 Pa.C.S. § 4348(h), an order for income withholding may be terminated when (1) the support obligation has terminated and the total arrears are paid; (2) the payee cannot be located and it becomes impossible to forward payments; or (3) the result would be unconscionable. The order may also be terminated administratively by the domestic relations section.

Explanatory Comment—2008

New subdivision 1910.21(f)(1) is intended to address circumstances in which an employer timely withholds income from an obligor pursuant to an income withholding order, but a delay occurs in receipt of the funds by the State Collection and Disbursement Unit. In those cases, it would be inappropriate to consider the obligor's payment as untimely and convert past due support to overdue support because an obligor subject to an income withholding order has no control over the timing of the transmission of the funds from the employer. This new rule addresses solely timing issues by providing a 15-day grace period. It does not apply to obligors who are not subject to an order for income withholding.

Source

The provisions of this Rule 1910.21 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended August 13, 2008, effective immediately, 38 Pa.B. 4735; amended August 13, 2008, effective October 12, 2008, 35 Pa.B. 4736. Immediately preceding text appears at serial pages (319383) to (319384) and (267747).

Rule 1910.21-1. [Renumbered].

Source

The provisions of this Rule 1910.21-1 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (256281) to (256283).

Rule 1910.21-2. [Renumbered].

Source

The provisions of this Rule 1910.21-2 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (200345).

Rule 1910.21-3. [Renumbered].

Source

The provisions of this Rule 1910.21-3 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (200345).

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Rule 1910.21-4. [Renumbered].

Source

The provisions of this Rule 1910.21-4 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200345) to (200346).

Rule 1910.21-5. [Renumbered].

Source

The provisions of this Rule 1910.21-5 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200346) and (256973).

Rule 1910.21-6. [Renumbered].

Source

The provisions of this Rule 1910.21-6 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (256973).

Rule 1910.21-7. [Renumbered].

Source

The provisions of this Rule 1910.21-7 adopted March 30, 1994, effective July 1, 1994, 24 Pa.B. 1949; renumbered May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (256974).

Rule 1910.22. Support Order. Enforcement. Liens Against Real Property.

(a) An overdue support obligation of this or any other state which is on record at the domestic relations section shall constitute a lien of record by operation of law against the obligor's real property located in Pennsylvania. When the overdue obligation arises in another state, it shall be transmitted to the Department of Public Welfare Central Registry. Upon receipt and verification of the amount owed, the Central Registry shall notify the appropriate domestic relations section which shall enter the amount owed in its records.

(b) A person seeking certification of a lien of record arising from overdue support owed by an obligor shall submit a written request for certification to the domestic relations section. The request must include the obligor's full name, date

of birth and social security number, if known. Within two business days, the domestic relations section shall provide written certification of the amount of overdue support owed as of the date of certification and shall enter the amount and date of certification on the docket.

Official Note: Rule 76 defines “person” as including a corporation, partnership and association as well as a natural person.

(c) The domestic relations section shall provide a copy of the written certification to the parties. Either party may object to the certification in writing or by personal appearance before the domestic relations section. The grounds for an objection are limited to the following: (1) no overdue support exists under the support order or there is a mistake in the certified amount of overdue support; (2) there is a mistake in the identity of the obligor; or (3) the lien cannot attach to the property as a matter of law. Pending a court’s disposition of the objection, the certification shall remain in full force and effect unless stayed by the court for good cause shown.

(d) Payment of the certified amount of overdue support shall constitute a satisfaction thereof and the domestic relations section shall record the amount of payment on the docket.

Source

The provisions of this Rule 1910.22 amended June 20, 1985, effective January 1, 1986, 15 Pa.B. 2452; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended September 26, 1990, effective immediately, 20 Pa.B. 5197; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended May 14, 1999, effective July 1, 1999, 29 Pa.B. 2767; amended June 14, 1999, effective September 1, 1999, 29 Pa.B. 3191; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (256974) and (260381) to (260382).

Rule 1910.23. Support Order. Enforcement. Attachment of Assets Held by Financial Institutions.

(a) Upon identification of an obligor’s assets held by a financial institution, the court shall, upon certification of the overdue support owed by the obligor, enter an immediate order prohibiting the release of those assets until further order of court. The order shall be served on the financial institution in the manner prescribed by Rules 400 through 406 governing service of original process or by registered mail, return receipt requested. Service by mail is complete upon the return of the registered mail receipt personally signed by the financial institution or other evidence of service satisfactory to the court. Service of the order on the financial institution shall attach the asset up to the amount of the overdue support until further order of court.

(b) The domestic relations section shall provide written notification of the attachment to the obligor. The obligor and any joint owner of the account who has been notified by the financial institution may object to the attachment in

writing or by personal appearance before the domestic relations section within 30 days after issuance of the notice. The grounds for an objection are limited to the following: (1) no overdue support exists under the support order or there is a mistake in the certified amount of overdue support; (2) there is a mistake in the identity of the obligor; or (3) the account is not subject to attachment as a matter of law.

(c) If no objection is made within 30 days after notice was issued, the court shall, upon proof that obligor was properly served with notice of the attachment, enter an order seizing the assets up to the amount of overdue support owed. The order shall be served on the financial institution and a copy of the order provided to both parties.

Source

The provisions of this Rule 1910.23 rescinded April 29, 1991, effective July 1, 1991, 21 Pa.B. 2335; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (260382).

Rule 1910.23-1. [Rescinded].

Source

The provisions of this Rule 1910.23-1 adopted April 29, 1991, effective July 1, 1991, 21 Pa.B. 2335; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (260382).

Rule 1910.23-2. [Rescinded].

Source

The provisions of this Rule 1910.23-2 adopted April 29, 1991, effective July 1, 1991, 21 Pa.B. 2335; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (260382) and (228795).

**Rule 1910.24. Support Order. Enforcement. Judgment for Arrearages.
Petition to Correct Judgment. Execution.**

(a) On and after the date it is due, overdue support shall constitute a judgment against the obligor as provided by law. The prothonotary shall enter the judgment of record upon the proper docket and in the judgment index either at the direction of the court or upon praecipe of a party or the domestic relations section. The judgment must be accompanied by a written certification showing that obligor owes overdue support pursuant to an order of court.

(b) A petition to correct the judgment shall be limited to the following grounds: (1) no overdue support exists under the support order or (2) there is a mistake in the amount of overdue support. The petition initially shall be determined before a conference officer or hearing officer in the same manner as an

original proceeding for support. Except as provided by order of court, the filing of a petition to correct a judgment shall not stay the proceedings.

Official Note: It is important to note that the petition to strike or open a judgment used in civil practice is not adopted here.

(c) The judgment may be enforced against the obligor's real or personal property as provided by Rules 3001 through 3011, governing transfer of judgments, and Rules 3101 through 3149, governing enforcement of judgments for the payment of money.

Official Note: See Section 8104 of the Judicial Code, 42 Pa.C.S., § 8104, which imposes a duty upon a judgment creditor who has received satisfaction of a judgment, upon written request and tender of the fee, to enter satisfaction in the office of the clerk of court (the prothonotary) in which the judgment is outstanding.

Source

The provisions of this Rule 1910.24 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (228795).

Rule 1910.25. Enforcement. Support Order. Civil Contempt. Petition. Service. No Answer Required.

(a) Upon failure to comply with an order of support, a petition for civil contempt

- (1) may be filed by the obligee at any time, or
- (2) shall be filed by the domestic relations section
 - (i) immediately upon the accrual of arrearages in any amount for fifteen days where it is known at the outset that income cannot be attached; or
 - (ii) immediately upon learning that an order for income withholding pursuant to Rule 1910.21 has been ineffective, or within twenty days of failure to comply with the order of support, whichever is earlier.

Official Note: Except as provided in 23 Pa.C.S. § 4355 relating to suspension of licenses, an order entered pursuant to a contempt proceeding which establishes a rate of repayment on overdue support does not preclude the use of other remedies under Title 23 or these Rules for collecting overdue support more quickly, whenever feasible.

(b) The petition shall begin with an order of court in substantially the following form:

[CAPTION]

ORDER OF COURT

Legal proceedings have been brought against you alleging that you have disobeyed an order of court for support.

- (1) If you wish to defend against the claim set forth in the following pages, you may, but are not required to, file in writing with the court your defenses or objections.

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(2) You, _____, Respondent, must appear in person
 in court on _____ at _____ (a.m./p.m.)
 (day and date)
 in (court) room _____,
 _____ (address)

IF YOU DO NOT APPEAR IN PERSON,
 THE COURT MAY
 ISSUE A WARRANT FOR YOUR ARREST
 AND YOU MAY BE COMMITTED TO JAIL.

(3) If the court finds that you have willfully failed to comply with its order
 for support, you may be found to be in contempt of court and committed to jail,
 fined or both.

BY THE COURT:

DATE OF
 ORDER: _____
 _____ Judge

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF
 YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE
 OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU
 WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CAN-
 NOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO
 PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT
 MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A
 REDUCED FEE OR NO FEE.

 (Name)

 (Address)

 (Telephone Number)

Official Note: Neither Rule 1018.1 (Notice to Defend) nor Rule 1361 (Notice to Plead)
 apply to a petition for enforcement of support.

(c) The petition shall aver the facts alleged to constitute the failure to comply
 with the support order. The petition shall set forth the amount of support arrear-
 ages, if any, as provided by the domestic relations section. Unless specially
 ordered by the court, no answer to the petition is required.

- (d) The petition shall be served upon the respondent
- (1) by ordinary mail with the return address of the domestic relations sec-
 tion appearing thereon; or
 - (2) by any form of mail which requires the respondent to sign a receipt; or

- (3) by a competent adult; or

Official Note: See Rule 76 for the definition of “competent adult.”

(4) pursuant to special order of court. A respondent who attends the conference and/or hearing in person shall be deemed to have been served.

(e) The court may issue a bench warrant as provided by Rule 1910.13-1 for failure of the respondent to appear.

Source

The provisions of this Rule 1910.25 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended March 18, 2004, effective June 16, 2004, 34 Pa.B. 1754. Immediately preceding text appears at serial pages (303061) to (303063).

Rule 1910.25-1. Civil Contempt. Hearing by Court. Conference by Officer.

(a) After service of the petition and order of court upon the respondent, there shall be (1) an office conference conducted by a conference officer, as provided by Rule 1910.25-2, or (2) an immediate hearing by the court, if permitted by the court.

(b) If, at any time during a contempt proceeding, including proceedings under Rules 1910.25-2, 1910.25-3 and 1910.25-4, the hearing officer or conference officer determines that the failure to comply with the support order is willful and there is present ability to comply, the petition for contempt shall be heard by the court for consideration of incarceration and other appropriate sanctions.

Official Note: The determination required by subdivision (b) shall be made by a conference officer in counties adopting the procedure of Rule 1910.25-3 (conference and hearing de novo) or by a hearing officer in counties adopting the alternative procedure of Rule 1910.25-4 (record hearing and exceptions).

Courts should strive to hear these cases promptly, on the same day if possible.

Source

The provisions of this Rule 1910.25-1 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155.

Rule 1910.25-2. Civil Contempt. Office Conference. Agreement. Alternative Procedures Upon Failure to Agree.

(a) The office conference shall be conducted by a conference officer.

(b) The conference officer may make a recommendation to the parties as to the disposition of the proceedings.

(c) If an agreement is reached at the conference, the conference officer shall prepare a written order in conformity with the agreement for signature by the parties and submission to the court. The court may enter the order in accordance with the agreement without hearing the parties.

(d) If an agreement is not reached, the procedure shall be as prescribed by Rule 1910.25-3 unless the court by local rule adopts the alternative procedure of Rule 1910.25-4.

Source

The provisions of this Rule 1910.25-2 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155.

Rule 1910.25-3. Civil Contempt. Conference Summary. Order. Hearing De Novo.

(a) If an agreement is not reached, the conference officer shall, at the conclusion of the conference or shortly thereafter, prepare a conference summary and furnish copies to the court and to all parties. The conference summary shall state:

- (1) the facts upon which the parties agree,
- (2) the contentions of the parties with respect to facts upon which they disagree, and
- (3) the conference officer's recommendation whether
 - (i) the respondent has willfully failed to comply with the order for support,
 - (ii) the respondent should be held in contempt, and
 - (iii) sanctions or purge conditions should be imposed against the respondent.

Official Note: The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule 1910.25-5(a).

(b) The court, without hearing the parties, may enter an appropriate order after consideration of the conference summary. Each party shall be provided with a copy of the order and written notice that any party may, within twenty days after the date of receipt or the date of the mailing of the order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.

(c) A demand for a hearing before the court shall stay the contempt order.

(d) If the court does not enter an order under Rule 1910.25-2(c) or subdivision (b) of this rule within five days of the conference, or if an order is entered and a demand for a hearing before the court is filed, there shall be a hearing de novo before the court. The domestic relations section shall schedule the hearing and give notice to the parties. The hearing de novo shall be held no later than seventy-five days after the date the petition for contempt was filed.

(e) The court shall not be precluded from conducting a hearing on the petition for contempt on the same day as the office conference.

Official Note: Every effort should be made to ensure that these cases are heard promptly, on the same day if possible.

Source

The provisions of this Rule 1910.25-3 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 11, 2007, effective immediately, 37 Pa.B. 2800. Immediately preceding text appears at serial pages (303572) and (267753).

Rule 1910.25-4. Civil Contempt. Alternative Procedure. Record Hearing. Report. Exceptions. Order.

(a) At the conclusion of the conference if an agreement has not been reached, the parties shall be given notice of the date, time, and place of a hearing if the conference and hearing have not been scheduled for the same date. The hearing on the record shall be conducted by a hearing officer who must be a lawyer.

Official Note: Every effort should be made to ensure that cases are heard promptly, on the same day if possible.

(b) The hearing officer shall receive evidence, hear argument and file with the court a report containing a proposed order. A copy of the report shall be furnished to all parties at the conclusion of the hearing. The report may be in narrative form and shall include the officer's recommendation with respect to the following matters, together with the reasons therefor:

- (1) whether the respondent has willfully failed to comply with the order for support,
- (2) whether the respondent should be held in contempt, and
- (3) whether sanctions or purge conditions should be imposed against the respondent.

Official Note: The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule 1910.25-5(a).

(c) Within twenty days after the conclusion of the hearing, any party may file exceptions to the report or any part thereof, to rulings on objections, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to the entry of the order, leave is granted to file exceptions raising those matters.

(d) If no exceptions are filed within the twenty-day period, the court shall review the report and, if approved, enter an order.

(e) If exceptions are filed, the court shall, no later than seventy-five days after the date the petition for contempt was filed, hear argument on the exceptions or hold a hearing de novo. The court shall enter an appropriate order.

Source

The provisions of this Rule 1910.25-4 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 11, 2007, effective immediately, 37 Pa.B. 2800. Immediately preceding text appears at serial pages (267753) to (267754).

Rule 1910.25-5. Civil Contempt. Contempt Order. Incarceration.

(a) No respondent may be incarcerated as a sanction for contempt without an evidentiary hearing before a judge.

(b) An order committing a respondent to jail for civil contempt of a support order shall specify the conditions the fulfillment of which will result in the release of the respondent.

Official Note: The time periods set forth in Rules 1910.25 through 1910.25-6 are for the benefit of the plaintiff, and not for the defendant. The goal is the prompt initiation of contempt proceedings because of the importance of ongoing support payments. The time periods in no way limit the right of either the domestic relations section or the plaintiff to proceed with a contempt action.

Source

The provisions of this Rule 1910.25-5 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 11, 2007, effective immediately, 37 Pa.B. 2800. Immediately preceding text appears at serial page (267754).

Rule 1910.25-6. Civil Contempt. No Post Trial Relief.

No motions for post trial relief shall be filed to any orders entered pursuant to Rules 1910.25 through 1910.25-6.

Source

The provisions of this Rule 1910.25-6 adopted May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155.

Rule 1910.25-7. Indirect Criminal Contempt. Incarceration.

In addition to any other remedy available to the court, the court may order the respondent to obtain employment with income that can be verified and is subject to income attachment. If the respondent willfully fails to comply with an order to obtain such employment, the court may commit the respondent to jail upon adjudication for indirect criminal contempt, provided the respondent is afforded all of the procedural safeguards available to criminal defendants.

Explanatory Comment—2007

Parental support of children is a fundamental requirement of law and public policy. Absent an inability to maintain employment or acquire other income or assets, sanction in the form of incarceration may be imposed by the court to compel compliance and provide an incentive to obey the law. The contempt process, which should be used as a last resort, is necessary to impose coercive sanctions upon those obligors whose circumstances provide no recourse to the court to compel payment or a good faith effort to comply. Appellate opinions have made it clear that an obligor who is in civil contempt cannot be incarcerated without the present ability to fulfill the conditions the court imposes for release. However, the courts also have noted that recalcitrant obligors may be imprisoned for indirect criminal contempt if afforded the proper procedural safeguards. See *Godfrey v. Godfrey*, 894 A.2d 776 (Pa. Super. 2006); *Hyle v. Hyle*, 868 A.2d 601 (Pa. Super. 2005).

Source

The provisions of this Rule 1910.25-7 adopted June 11, 2007, effective immediately, 37 Pa.B. 2800.

Rule 1910.26. Support Order. Enforcement. Stay of Proceedings. Special Relief.

(a) An action for support or a support order may be stayed only by a special order of court upon a showing of compelling circumstances following notice and hearing or upon agreement of the parties in writing.

(b) At any time after the filing of the complaint, the court may on application issue a preliminary or special injunction, appoint a temporary receiver, order the seizure of property, dispose of seized property or grant other appropriate interim or special relief.

Source

The provisions of this Rule 1910.26 amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (228795) to (228806).

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.

(a) The complaint in an action for support shall be substantially in the following form:

(Caption)

COMPLAINT FOR SUPPORT

1. Plaintiff resides at _____,
(Street) (City) (Zip Code)
_____ County. Plaintiff's Social Security Number is _____, and date of birth is _____.

2. Defendant resides at _____,
(Street) (City) (Zip Code)
_____ County. Defendant's Social Security Number is _____, and date of birth is _____.

3. (a) Plaintiff and Defendant were married on _____,
(Date)
at _____.
(City and State)

(b) Plaintiff and Defendant were separated on _____.
(Date)

(c) Plaintiff and Defendant were divorced on _____, at
(Date)

(City and State)

4. Plaintiff and Defendant are the parents of the following children:

(a) Born of the Marriage:

Name	Birth Date	Age	Residence
_____	_____	_____	_____

(b) Born out of Wedlock:

Name	Birth Date	Age	Residence
_____	_____	_____	_____

5. Plaintiff seeks support for the following persons: _____ .

6. (a) Plaintiff is (not) receiving public assistance in the amount of \$ _____ per _____ for the support of _____ .

(Name(s))

(b) Plaintiff is receiving additional income in the amount of \$ _____ from _____ .

7. A previous support order was entered against the defendant on _____ in an action at _____ in the amount of _____ (Court, term and docket number)

\$ _____ for the support of _____ . There are (no) arrearages in the (Name)

amount of \$ _____ .

The order has (not) been terminated.

8. Plaintiff last received support from the Defendant in the amount of \$ _____ on _____ .

(Date)

WHEREFORE, Plaintiff requests that an order be entered against Defendant and in favor of the Plaintiff and the aforementioned child(ren) for reasonable support and medical coverage.

I verify that the statements made in this Complaint and attached Income and Expense Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Plaintiff

NOTICE

Guidelines for child and spousal support, and for alimony pendente lite have been prepared by the Court of Common Pleas and are available for inspection in the office of Domestic Relations Section,

(Address)

(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.

THE APPROPRIATE COURT OFFICER MAY ENTER AN ORDER AGAINST EITHER PARTY BASED UPON THE EVIDENCE PRESENTED WITHOUT REGARD TO WHICH PARTY INITIATED THE SUPPORT ACTION.

Date of Order: _____

J.

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

(c) The Income and Expense Statements to be attached to the order shall be in substantially the following form:

(1) Income Statement. This form must be filled out in all cases.

_____ v. _____ No. _____

THIS FORM MUST BE FILLED OUT

(If you are self-employed or if you are salaried by a business of which you are owner in whole or in part, you must also fill out the Supplemental Income Statement which appears below.

INCOME STATEMENT OF

(Name)

(PACASES Number)

I verify that the statements made in this Income Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: _____

Plaintiff or Defendant

INCOME

Employer: _____

Address: _____

Type of Work: _____

Payroll Number: _____

Pay Period (weekly, biweekly, etc): _____

Gross Pay per Pay Period: \$ _____

Itemized Payroll Deductions:

Federal Withholding \$ _____

FICA _____

Local Wage Tax _____

State Income Tax _____

Mandatory Retirement _____

Union Dues _____

Health Insurance _____

Other (specify) _____

Net Pay per Pay Period: \$ _____

Other Income:

Week Month Year

(Fill in Appropriate Column)

Interest \$ _____ \$ _____ \$ _____

Dividends _____

Pension Distributions _____

Annuity _____

Social Security _____

Rents _____

Royalties _____

Unemployment Comp. _____

Workers Comp. _____

Employer Fringe Benefits _____

Other _____

Total \$ _____ \$ _____ \$ _____

TOTAL INCOME \$ _____

ACTIONS FOR SUPPORT

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PROPERTY OWNED

Description	Value	Ownership*		
		H	W	J
Checking accounts	\$ _____	_____	_____	_____
Savings accounts	_____	_____	_____	_____
Credit Union	_____	_____	_____	_____
Stocks/bonds	_____	_____	_____	_____
Real estate	_____	_____	_____	_____
Other	_____	_____	_____	_____
Total	\$ _____			

INSURANCE

Company	Policy No.	Coverage*		
		H	W	C
Hospital				
Blue Cross	_____	_____	_____	_____
Other	_____	_____	_____	_____
Medical				
Blue Shield	_____	_____	_____	_____
Other	_____	_____	_____	_____
Health/Accident	_____	_____	_____	_____
Disability Income	_____	_____	_____	_____
Dental	_____	_____	_____	_____
Other	_____	_____	_____	_____

*H=Husband; W=Wife; J=Joint; C=Child

SUPPLEMENTAL INCOME STATEMENT

(a) This form is to be filled out by a person (check one):

- (1) who operates a business or practices a profession, or
- (2) who is a member of a partnership or joint venture, or
- (3) who is a shareholder in and is salaried by a closed corporation or similar entity.

(b) Attach to this statement a copy of the following documents relating to the partnership, joint venture, business, profession, corporation or similar entity:

- (1) the most recent Federal Income Tax Return, and
- (2) the most recent Profit and Loss Statement.

(c) Name of business: _____
 Address and Telephone Number: _____

(d) Nature of business (check one)

- (1) partnership
- (2) joint venture
- (3) profession
- (4) closed corporation
- (5) other

(e) Name of accountant, controller or other person in charge of financial records:

(f) Annual income from business:

(1) How often is income received? _____

(2) Gross income per pay period: _____

(3) Net income per pay period: _____

(4) Specified deductions, if any: _____

(2) *Expense Statements.* An Expense Statement is not required in cases which can be determined pursuant to the guidelines unless a party avers unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. (See Rule 1910.11(c)(1)). Child support is calculated under the guidelines based upon the net incomes of the parties, with additional amounts ordered as necessary to provide for child care expenses, health insurance premiums, unreimbursed medical expenses, mortgage payments and other needs, contingent upon the obligor's ability to pay. The Expense Statement in subparagraph (A) below shall be utilized if a party is claiming that he or she has unusual needs and unusual fixed expenses that may warrant deviation or adjustment in a case determined under the guidelines. In cases which must be determined pursuant to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), because the parties' combined net monthly income exceeds \$20,000 per month, the parties must complete the Expense Statement in subparagraph (B) below.

(A) *Guidelines Expense Statement.* If the combined monthly net income of the parties is \$20,000 or less, it is not necessary to complete this form unless a party is claiming unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. At the conference, each party must provide receipts or other verification of expenses claimed on this statement. The Guidelines Expense Statement shall be substantially in the following form.

EXPENSE STATEMENT OF

_____ (Name)	_____ (PACSES Number)
<p>I verify that the statements made in this Expense Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.</p>	
<p>Date: _____</p>	
<p>Plaintiff or Defendant</p>	
	<p>Weekly Monthly Yearly</p> <p>(Fill in Appropriate Column)</p>
Mortgage (including real estate taxes and homeowner's insurance) or Rent	\$ _____ \$ _____ \$ _____
Health Insurance Premiums	_____
Unreimbursed Medical Expenses:	
Doctor	_____
Dentist	_____
Orthodontist	_____
Hospital	_____
Medicine	_____
Special Needs (glasses, braces, orthopedic devices, therapy)	_____
Child Care	_____
Private school	_____
Parochial school	_____
Loans/Debts	_____
Support of Other Dependents:	
Other child support	_____
Alimony payments	_____
Other: (Specify)	_____
Total	\$ _____ \$ _____ \$ _____

(B) *Melzer Expense Statement.* No later than five business days prior to the conference, the parties shall exchange this form, along with receipts or other verification of the expenses set forth on this form. Failure to comply with this provision may result in an appropriate order for sanctions and/or the entry of an interim order based upon the information provided.

EXPENSE STATEMENT OF

(Name)

(PACSES Number)

I verify that the statements made in this Expense Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: _____

Plaintiff or Defendant

EXPENSES	MONTHLY TOTAL	MONTHLY CHILDREN	MONTHLY PARENT
HOME			
Mortgage or Rent	_____	_____	_____
Maintenance	_____	_____	_____
Lawn Care	_____	_____	_____
2nd Mortgage	_____	_____	_____
UTILITIES			
Electric	_____	_____	_____
Gas	_____	_____	_____
Oil	_____	_____	_____
Telephone	_____	_____	_____
Cell Phone	_____	_____	_____
Water	_____	_____	_____
Sewer	_____	_____	_____
Cable TV	_____	_____	_____
Internet	_____	_____	_____
Trash/ Recycling	_____	_____	_____
TAXES			
Real Estate	_____	_____	_____
Personal Property	_____	_____	_____
INSURANCE			
Homeowners/ Renters	_____	_____	_____
Automobile	_____	_____	_____
Life	_____	_____	_____
Accident/Disability	_____	_____	_____
Excess Coverage	_____	_____	_____
Long-Term Care	_____	_____	_____

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EXPENSES	MONTHLY TOTAL	MONTHLY CHILDREN	MONTHLY PARENT
AUTOMOBILE			
Lease or Loan Payments	_____	_____	_____
Fuel	_____	_____	_____
Repairs	_____	_____	_____
Memberships	_____	_____	_____
MEDICAL			
Medical Insurance	_____	_____	_____
Doctor	_____	_____	_____
Dentist	_____	_____	_____
Hospital	_____	_____	_____
Medication	_____	_____	_____
Counseling/Therapy	_____	_____	_____
Orthodontist	_____	_____	_____
Special Needs (glasses, etc.)	_____	_____	_____
EDUCATION			
Tuition	_____	_____	_____
Tutoring	_____	_____	_____
Lessons	_____	_____	_____
Other	_____	_____	_____
PERSONAL			
Debt Service	_____	_____	_____
Clothing	_____	_____	_____
Groceries	_____	_____	_____
Haircare	_____	_____	_____
Memberships	_____	_____	_____
MISCELLANEOUS			
Child Care	_____	_____	_____
Household Help	_____	_____	_____
Summer Camp	_____	_____	_____
Papers/Books/Magazines	_____	_____	_____
Entertainment	_____	_____	_____
Pet Expenses	_____	_____	_____

EXPENSES	MONTHLY TOTAL	MONTHLY CHILDREN	MONTHLY PARENT
Vacations	_____	_____	_____
Gifts	_____	_____	_____
Legal Fees/Prof. Fees	_____	_____	_____
Charitable Contributions	_____	_____	_____
Children's Parties	_____	_____	_____
Children's Allowances	_____	_____	_____
Other Child Support	_____	_____	_____
Alimony Payments	_____	_____	_____
TOTAL MONTHLY EXPENSES	_____	_____	_____

(d) The form used to obtain information relating to health insurance coverage from a party shall be in substantially the following form:

(Caption)
**HEALTH INSURANCE COVERAGE INFORMATION
 REQUIRED BY THE COURT**

This form must be completed and returned to the domestic relations section.

**IF YOU FAIL TO PROVIDE THE INFORMATION REQUESTED, THE
 COURT MAY FIND THAT YOU ARE IN CONTEMPT OF COURT.**

Do you provide insurance coverage for the dependents named below? (Check each type of insurance which you provide).

Type of Coverage

Full Name SS #	Hospital- zation	Medical	Dental	Eye	Prescrip- tion	Other
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Note: Before forwarding the form to the party, the domestic relations section should fill in the names and Social Security numbers of the dependents about whom the information is sought.

Provide the following information for all types of insurance you maintain, whether or not any of the above-named dependents is covered at this time:

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Employee cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Employee cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Employee cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Employee cost of coverage for dependents: _____

If the above-named dependents are not currently covered by insurance, please state the earliest date coverage could be provided. _____

(e) The form of a support order shall be substantially as follows:

(Caption)
 (FINAL) (TEMPORARY) (MODIFIED)
 ORDER OF COURT

AND NOW, _____, based upon the Court's determination that Payee's monthly net income is \$ _____, and Payor's monthly net income is \$ _____, it is hereby ordered that the Payor pay to the Domestic Relations Section, Court of Common Pleas, _____ Dollars (\$ _____) a month payable (WEEKLY/BI-WEEKLY/SEMI-MONTHLY/MONTHLY) as follows: _____ . Arrears set at \$ _____ as of _____ are due in full IMMEDIATELY. Contempt proceedings, credit bureau reporting and tax refund offset certification will not be initiated, and judgment will not be entered, as long as payor pays \$ _____ on arrears on each payment date. Failure to make each payment on time and in full will cause all arrears to become subject to immediate collection by all of the means listed above.

For the support of: _____

Said money to be turned over by the domestic relations section to: _____

Payments must be made (STATE ACCEPTABLE FORMS OF PAYMENT). All checks and money orders must be made payable to (NAME OF ENTITY TO WHOM CHECKS SHOULD BE MADE PAYABLE) and mailed to (NAME OF OFFICE) at (MAILING ADDRESS). Each payment must bear your (FILE/CASE/FOLIO/DOMESTIC RELATIONS) number in order to be processed. Do not send cash by mail.

Unreimbursed medical expenses are to be paid _____ % by defendant and _____ % by plaintiff. (PLAINTIFF/DEFENDANT/NEITHER) to provide medical insurance coverage. Within 30 days after the entry of this order, the party ordered to provide medical insurance shall submit to the other party written proof that medical insurance coverage has been obtained or that application for coverage has been made. Proof of coverage shall consist, at a minimum, of: 1) the name of the health care coverage provider(s); 2) any applicable identification numbers; 3) any cards evidencing coverage; 4) the address to which claims should be made; 5) a description of any restrictions on usage, such as prior approval for hospital admissions, and the manner of obtaining approval; 6) a copy of the benefit booklet or coverage contract; 7) a description of all deductibles and co-payments; and 8) five copies of any claim forms.

IMPORTANT LEGAL NOTICE

PARTIES MUST WITHIN SEVEN DAYS INFORM THE DOMESTIC RELATIONS SECTION AND THE OTHER PARTIES, IN WRITING, OF ANY MATERIAL CHANGE IN CIRCUMSTANCES RELEVANT TO THE LEVEL OF SUPPORT OR THE ADMINISTRATION OF THE SUPPORT ORDER, INCLUDING, BUT NOT LIMITED TO, LOSS OR CHANGE OF INCOME OR EMPLOYMENT AND CHANGE OF PERSONAL ADDRESS OR CHANGE OF ADDRESS OF ANY CHILD RECEIVING SUPPORT. A PARTY WHO WILLFULLY FAILS TO REPORT A MATERIAL CHANGE IN CIRCUMSTANCE MAY BE ADJUDGED IN CONTEMPT OF COURT, AND MAY BE FINED OR IMPRISONED.

PENNSYLVANIA LAW PROVIDES THAT ALL SUPPORT ORDERS SHALL BE REVIEWED AT LEAST ONCE EVERY THREE (3) YEARS IF SUCH A REVIEW IS REQUESTED BY ONE OF THE PARTIES. IF YOU WISH TO REQUEST A REVIEW AND ADJUSTMENT OF YOUR ORDER, YOU MUST DO THE FOLLOWING: AN UNREPRESENTED PERSON WHO WANTS TO MODIFY (ADJUST) A SUPPORT ORDER SHOULD (insert instructions for local domestic relations section).

ALL CHARGING ORDERS FOR SPOUSAL SUPPORT AND ALIMONY PENDENTE LITE, INCLUDING UNALLOCATED ORDERS FOR CHILD AND SPOUSAL SUPPORT OR CHILD SUPPORT AND ALIMONY PENDENTE LITE, SHALL TERMINATE UPON THE DEATH OF THE PAYEE.

A MANDATORY INCOME ATTACHMENT WILL ISSUE UNLESS THE DEFENDANT IS NOT IN ARREARS IN PAYMENT IN AN AMOUNT EQUAL TO OR GREATER THAN ONE MONTH'S SUPPORT OBLIGATION AND (1) THE COURT FINDS THAT THERE IS GOOD CAUSE NOT TO REQUIRE IMMEDIATE INCOME WITHHOLDING; OR (2) A WRITTEN AGREEMENT IS REACHED BETWEEN THE PARTIES WHICH PROVIDES FOR AN ALTERNATE ARRANGEMENT.

DELINQUENT ARREARAGE BALANCES MAY BE REPORTED TO CREDIT AGENCIES. ON AND AFTER THE DATE IT IS DUE, EACH UNPAID SUPPORT PAYMENT SHALL CONSTITUTE A JUDGMENT AGAINST YOU.

IT IS FURTHER ORDERED that, upon payor's failure to comply with this order, payor may be arrested and brought before the Court for a Contempt hearing; payor's wages, salary, commissions, and/or income may be attached in accordance with law; this Order will be increased without further hearing to \$ _____ a month until all arrearages are paid in full. Payor is responsible for court costs and fees.

Copies delivered to parties _____ (INDICATE DATE DELIVERED).

Consented:

Plaintiff

Plaintiff's Attorney

Defendant

Defendant's Attorney

BY THE COURT:

J.

(f) A petition for modification of support shall be in substantially the following form:

(Caption)

PETITION FOR MODIFICATION OF AN EXISTING SUPPORT ORDER

1. The petition of _____ respectfully represents that on _____, 19_____, an Order of Court was entered for the support of _____. A true and correct copy of the order is attached to this petition.

2. Petitioner is entitled to _____ * of this Order because of the following material and substantial change(s) in circumstance: _____

*Fill in the relief sought, i.e. increase, decrease, modification, termination, suspension, vacation

WHEREFORE, Petitioner requests that the Court modify the existing order for support.

(Attorney for Petitioner)(Petitioner)

I verify that the statements made in this complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date

Petitioner

(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 and Expense Statement 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.

THE APPROPRIATE COURT OFFICER MAY MODIFY OR TERMINATE THE EXISTING ORDER IN ANY MANNER BASED UPON THE EVIDENCE PRESENTED.

Date of Order: _____ J.

YOU HAVE THE RIGHT TO A LAWYER, WHO MAY ATTEND THE CONFERENCE AND REPRESENT YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of _____ County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

Explanatory Comment—1994

The support complaint and Income and Expense Statements contain a verification which states that the documents are subject to the penalties of the Crimes Code relating to unsworn falsification to authorities. A notary public is not needed.

Explanatory Comment—2006

Rule 1910.27(c) is amended to separate income and expense information and to elicit the expense information relevant in cases that fall within the guidelines, as well as those that do not. In cases which can be determined under the guidelines, no expense information need be provided unless a party is claiming unusual needs and expenses that may warrant a deviation pursuant to Rule 1910.16-5 or an apportionment of expenses pursuant to Rule 1910.16-6. If a party is claiming such expenses, the form at subsection (c)(2)(A) should be submitted. A separate expense form for cases in which the parties' combined monthly net income exceeds \$20,000 is set forth at subsection (c)(2)(B).

Rule 1910.11(c) was amended, effective in March 1995, to provide that only income and extraordinary expenses need be shown on the Income and Expense Statement in cases which can be determined pursuant to the guidelines. The Explanatory Comment—1994 explained the rationale for the amendment.

Nevertheless, because space for both income and expense information was provided on the same form Income and Expense Statement, parties often needlessly expended time and effort to provide expense information that was not relevant at the conference. The amendments are intended to clarify and simplify the submission of expense information.

Source

The provisions of this Rule 1910.27 amended March 23, 1987, effective July 1, 1987, 17 Pa.B. 1499; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; amended December 2, 1994, effective March 1, 1995, 25 Pa.B. 6263; amended March 24, 1997, effective July 1, 1997, 27 Pa.B. 1549; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended June 5, 2001, effective immediately, 31 Pa.B. 3306;

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amended June 24, 2002, effective immediately, 32 Pa.B. 3389; amended March 18, 2004, effective June 16, 2004, 34 Pa.B. 1754; amended November 8, 2006, effective February 6, 2007, 36 Pa.B. 7113; amended August 13, 2008, effective October 12, 2008, 38 Pa.B. 4736. Immediately preceding text appears at serial pages (328355) to (328356) and (324691) to (324704).

**Rule 1910.28. Order for Earnings and Health Insurance Information.
Form of Earnings Report. Form of Health Insurance
Coverage Information.**

(a) The order for earnings and health insurance information shall be in substantially the following form:

(Caption)

**ORDER FOR EARNINGS REPORT, HEALTH
INSURANCE INFORMATION AND SUBPOENA**

TO: _____
TO: _____
TO: _____

AND NOW, this _____ day of _____, 20____, since it appears that _____ is employed by you, and it is necessary
Name of employee
that the Court obtain earnings and health insurance information relating to the above-named individual in order to adjudicate a matter of support, IT IS HEREBY ORDERED AND DECREED that you supply the Court with the information required by the enclosed Earnings Report and Health Insurance Coverage Report and file them with the Court within fifteen (15) days of the date of this order.

If you fail to supply the information required by this Order, a subpoena will issue requiring you to attend Court and bring the material with you, or other appropriate sanctions will be imposed by the Court.

BY THE COURT: _____
J.

(b) The employer shall file an Earnings Report substantially in the following form:

Employer: _____ *Re: Name* _____
_____ Social Security No. _____
Support Action No. _____

EARNINGS REPORT

To the Employer:

Furnish earnings information for the above-named employee for each pay period during the last six months. It is preferred that you attach a photocopy of your records containing the earnings information requested. Attach a copy of the employe's most recent W-2 Form.

Payroll Number: _____

Nature of Employment: _____

Payroll Period Ending	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Date of Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Gross Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Deductions	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Fed. Withholding	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Social Security	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Local Wage Tax	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
State Income Tax	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Retirement	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Savings Bonds	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Credit Union	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Life Insurance	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Health Insurance	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Other (Specify)	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Net Pay	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Hours Worked	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

I verify that the statements made in this Earning Report are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____ Signed _____
 by: _____ Position: _____

(c) The form which the employer uses to report health insurance coverage information shall be substantially as follows:

Official Note: the information requested in the following report may be provided by an employer on its own form, for example, as a computer print out.

(Caption)

HEALTH INSURANCE COVERAGE REPORT

This information must be completed and returned within 15 days. Failure to comply may result in issuance of a subpoena or other appropriate sanctions.

Employee's Name: _____
 Employee's Social Security #: _____

Does the employer make medical, dental, eye care, prescription or other insurance coverage available to the employee? Yes No

Name the dependents covered under the employee's insurance, and indicate which types of coverage they have through your company.

Full Name SS #	Type of Coverage					
	Hospital- ization	Medical	Dental	Eye	Prescrip- tion	Other
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ACTIONS FOR SUPPORT

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	Type of Coverage					
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Provide the information indicated for each type of insurance which is available to the employee, whether or not any of the above-named dependents are covered at this time:

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Cost of coverage for dependents: _____

Insurance company (provider): _____
 Group #: _____ Plan #: _____ Policy #: _____
 Effective coverage date: _____ Type of coverage: _____
 Cost of coverage for dependents: _____

If the above-named dependents are not currently covered by insurance, please state the earliest date coverage could be provided. _____

PLEASE PROVIDE FORMS NECESSARY TO ADD DEPENDENTS, AS THE EMPLOYEE MAY BE ORDERED TO PROVIDE COVERAGE FOR THEM.

I verify that the statements made in this Health Insurance Coverage information form are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____ Signature: _____
 Title: _____

Source

The provisions of this § 1910.28 amended March 23, 1987, effective July 1, 1987, 17 Pa.B. 1499; amended December 2, 1994, effective March 1, 1995, 25 Pa.B. 6263; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155; amended September 24, 2002, effective immediately, 32 Pa.B. 5044. Immediately preceding text appears at serial pages (290225) to (290226) and (267769).

Rule 1910.29. Conduct of Record Hearing. Evidence.

Except as provided in this 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 Rules of Evidence shall apply to determine the admissibility of the document into evidence.

Source

The provisions of this Rule 1910.29 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended December 2, 1994, effective March 1, 1995, 24 Pa.B. 6263; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (228813) to (228814) and (200369).

Rule 1910.30. [Rescinded].**Source**

The provisions of this Rule 1910.30 amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1953; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200369) to (200370).

Rule 1910.31. [Rescinded].**Source**

The provisions of this Rule 1910.31 amended April 23, 1985, effective July 1, 1985, 15 Pa.B. 1726; amended November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; rescinded May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial pages (200370) and (252117).

Rule 1910.49. Acts of Assembly Not Suspended.

The rules governing an action for support shall not be deemed to suspend or affect the following Acts or parts of Acts of Assembly:

- (1) Chapter 43 of Title 23 of the *Consolidated Statutes*, 23 Pa.C.S. § 4301 et seq., relating to support matters generally;
- (2) Chapter 45 of Title 23 of the *Consolidated Statutes*, 23 Pa.C.S. § 4501 et seq., except § 4533, known as the Revised Uniform Reciprocal Enforcement of Support Act (1968);

(3) Section 1 of the Act of June 11, 1913, P. L. 468, 48 P. S. § 133, relating to execution of a support order against real property owned by the entireties;

(4) Sections 1 to 5 of the Act of May 24, 1923, P. L. 446, 48 P. S. §§ 137—141, only insofar as the Act authorizes execution against real estate held by the entireties;

(5) The Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S. § 3507, insofar as it provides for tenancy in common of property held by the entireties after divorce; and

Official Note: See the Divorce Code as to equitable distribution of property in divorce actions.

(6) The Act of December 19, 1990, P. L. 1240, No. 206, 23 Pa.C.S. § 6101, known as the Protection from Abuse Act.

Official Note: The Protection from Abuse Act provides a procedure to obtain a temporary order of support in addition to other relief.

Source

The provisions of this Rule 1910.49 adopted November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended March 30, 1994, effective July 1, 1994, 24 Pa.B. 1943. Immediately preceding text appears at serial pages (142514) to (142515).

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:

(1) Section 3 of the Support Law of June 24, 1937, P. L. 2045, 62 P. S. § 1973, insofar as it provides a procedure to enforce the liability of relatives for the support of an indigent person; and

(2) Section 4 of Act 1996-20, 23 Pa.C.S. § 4342, insofar as it provides that long arm jurisdiction shall be used in preference to proceedings under Part VIII-A relating to intrastate family support actions;

(3) Act Nos. 1997-58 and 1998-127 insofar as they are inconsistent with Rule 1910.20 relating to the availability of remedies for collection of past due and overdue support;

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

(5) Section 4 of Act 1998-127, 23 Pa.C.S. § 4352(d), insofar as it is inconsistent with Rule 1910.22 providing that overdue support on public record at the domestic relations section constitutes a lien of record against all real property within the state of Pennsylvania which is owned by the obligor;

(6) Section 4 of Act 1998-127, 23 Pa.C.S. § 4352(d.1), only insofar as subsection (1) of that provision provided that the underlying support action shall either be pending at the county domestic relations section or shall be

forced by the county domestic relations section in order for a lien to arise against real property located in that county; and

(7) All Acts or parts of Acts of Assembly inconsistent with these rules to the extent of such inconsistency.

Source

The provisions of this Rule 1910.50 adopted November 7, 1988, effective January 1, 1989, 18 Pa.B. 5326; amended December 18, 1998, effective January 1, 1999, 29 Pa.B. 16; amended May 31, 2000, effective July 1, 2000, 30 Pa.B. 3155. Immediately preceding text appears at serial page (252118).

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