

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PENNSYLVANIA COMMISSION ON SENTENCING [204 PA. CODE CH. 303]

[Correction]

Adoption of Sentencing Guidelines

Errors appeared in the adoption of the Sentencing Guidelines published at 27 Pa.B. 1252, 1268, 1281 and 1282 (March 15, 1997). In § 303.15 (relating to offense listing), the Offense Titles for 18 Pa.C.S. §§ 4105(c)(1)(iv), 4107(a.1)(1)(i) and 4107(a.1)(3)(i) were printed incorrectly. In § 303.17 (relating to DWE/Possessed Matrix), some of the lines in the "Prior Record Score" were printed incorrectly. In § 303.18 (relating to DWE/Used Matrix), some of the lines in the "Prior Record Score" were printed incorrectly and a ">" symbol was incorrectly printed.

The correct version of these sections appears in Annex A, with ellipses referring to the existing text of the Guidelines.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS PART VIII. CRIMINAL SENTENCING CHAPTER 303. SENTENCING GUIDELINES

§ 303.15. Offense Listing.

CRIMES CODE OFFENSES

18 Pa.C.S. §	OFFENSE TITLE	STATUTORY CLASS	§ 303.3 OFFENSE GRAVITY SCORE	§ 303.7 PRIOR RECORD POINTS
	* * * * *			
4105 (c)(1)(iv)	Bad Checks (\$1,000 <\$75,000)	M1	3	m
	* * * * *			
4107 (a.1)(1)(i)	Deceptive or Fraudulent Business Practices (> \$2,000)	F3	5	1
	* * * * *			
4107 (a.1)(3)(i)	Deceptive or Fraudulent Business Practices (> \$2,000; victim 60 yrs.+)	F2	7	2
	* * * * *			

§ 303.17. DWE/Possessed Matrix

Prior Record Score

Level	OGS	Deadly Weapon	0	1	2	3	4	5	RFEL	REVOC	AGG/MIT
Level 5	14	Possessed	81-240	93-240	105-240	129-240	177-240	201-240	213-240	240	+/-12
	13	Possessed	69-87	75-93	81-99	87-105	93-111	105-123	117-135	240	+/-12
	12	Possessed	57-75	63-81	69-87	75-93	81-99	93-111	105-123	120	+/-12
	11	Possessed	45-63	51-69	57-75	63-81	69-87	81-99	93-111	120	+/-12
	10	Possessed	31-45	39-51	45-57	51-63	57-69	69-81	81-93	120	+/-12
Level 4	9	Possessed	21-33	27-39	33-45	39-51	45-57	57-69	69-81	120	+/-12
	8	Possessed	15-22	18-24	21-27	24-30	27-33	33-39	46-58	NA	+/-9
	7	Possessed	12-20	15-22	18-24	21-27	24-30	30-36	41-51	NA	+/-6
Level 3	6	Possessed	9-18	12-20	16-22	18-24	21-27	27-33	33-46	NA	+/-6
	5	Possessed	6-15	7-18	9-20	12-22	15-22	18-24	30-42	NA	+/-3
	4	Possessed	3-6	3-12	3-<15	6-17	9-19	12-19	24-33	NA	+/-3
	3	Possessed	3-4	3-9	3-12	3-<15	6-17	9-19	15-21	NA	+/-3
	2	Possessed	3-3	3-5	3-6	3-7	3-9	4-12	9-<15	NA	+/-3
	1	Possessed	3-3	3-4	3-5	3-6	3-7	3-9	6-9	NA	+/-3

§ 303.18. DWE/Used Matrix

Prior Record Score

Level	OGS	Deadly Weapon	0	1	2	3	4	5	RFEL	REVOC	AGG/MIT
Level 5	14	Used	90-240	102-240	114-240	138-240	186-240	210-240	222-240	240	+/-12
	13	Used	78-96	84-102	90-108	96-114	102-120	114-132	126-144	240	+/-12
	12	Used	66-84	72-90	78-96	84-102	90-108	102-120	114-132	120	+/-12
	11	Used	54-72	60-78	66-84	72-90	78-96	90-108	102-120	120	+/-12
	10	Used	40-54	48-60	54-66	60-72	66-78	78-90	90-102	120	+/-12
	9	Used	30-42	36-48	42-54	48-60	54-66	66-78	78-90	120	+/-12
Level 4	8	Used	21-28	24-30	27-33	30-36	33-39	39-45	52-64	NA	+/-9
	7	Used	18-26	21-28	24-30	27-33	30-36	36-42	47-57	NA	+/-6
	6	Used	15-24	18-26	21-28	24-30	27-33	33-39	39-52	NA	+/-6
Level 3	5	Used	12-21	13-24	15-26	18-28	21-28	24-30	36-48	NA	+/-3
	4	Used	6-9	6-15	6-<18	9-20	12-22	15-22	27-36	NA	+/-3
	3	Used	6-7	6-12	6-15	6-<18	9-20	12-22	18-24	NA	+/-3
	2	Used	6-6	6-8	6-9	6-10	6-12	7-15	12-<18	NA	+/-3
	1	Used	6-6	6-7	6-8	6-9	6-10	6-12	9-12	NA	+/-3

[Pa.B. Doc. No. 97-400. Filed for public inspection March 14, 1997, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Amendment of the Rules Providing for Expedited Proceedings in Paternity; No. 276; Doc. No. 5

Order

Per Curiam:

And Now, this 24th day of March, 1997, Pennsylvania Rules of Civil Procedure 1910.15, 1910.26, and 1910.28 are amended as follows.

This order shall be processed in accordance with Pennsylvania Rule of Judicial Administration 103(b) and shall be effective July 1, 1997.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.15. Paternity.

(a) If the action seeks support for a child born out of wedlock and the [reputed] alleged father is named as defendant, the defendant may acknowledge paternity in a verified writing substantially in the form provided by Rule 1910.28(a). In that event the action shall proceed as in other actions for support.

(b) If defendant fails to appear as ordered for a conference, hearing or trial, or for genetic tests, the court shall enter an order establishing paternity, and the matter shall proceed as in other actions for support.

(c) If the [reputed] alleged father appears but does not execute an acknowledgement of paternity at the conference, [the conference officer shall terminate the conference. The]

(1) the conference officer shall advise the parties that there will be a trial without jury on the issue of paternity unless within ten days after the conference either party demands a trial by jury [as provided by Rule 1910.28(b)]. The parties shall be provided with the form set forth in Rule 1910.28(b);

(2) the court shall enter an order substantially in the form required by Rule 1910.28(c) directing the parties to appear for genetic testing; and

(3) the court shall make available to the parties a stipulation substantially in the form required by Rule 1910.28(d).

[Official Note: See Section 6131 of the Judicial Code, 23 Pa.C.S. § 5104 et seq., for the Uniform Act on Blood Tests to Determine Paternity.

(c) No motion for post trial relief may be filed to the final order, or with regard to the issue of paternity, except as provided in Rule 1930.2.

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

(d) If either party raises a question of estoppel, the court shall dispose promptly of the question and may stay the order for genetic testing.

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

(f)(1) If the results of the genetic tests resolve the issue of paternity pursuant to the stipulation of the parties, a paternity order substantially in the form set forth in Rule 1910.28(e) shall be entered and served on the parties.

(i) If the defendant is excluded, the action shall be dismissed;

(ii) If the defendant is stipulated to be the biological father, the action shall proceed as in other actions for support.

(2) If the results of the genetic tests do not resolve the issue of paternity pursuant to the stipulation of the parties, the case shall be listed promptly for expedited trial.

[(d)] (g)(1) If the verdict or decision is for the defendant on the issue of paternity, [unless a post trial motion is filed and sustained,] a final order shall be entered[, on praecipe or] by the court, dismissing the action as to the child[; or]

(2) If the verdict or decision is against the defendant on the issue of paternity, [unless a post trial motion is filed and sustained,] an interlocutory order shall be entered[, on praecipe or] by the court, finding paternity.

[(e)] (h) After an interlocutory order is entered finding that the defendant is the father of the child, the court shall either refer the case to a conference as in other actions for support or as expeditiously as possible hold a hearing [on the issue of the amount of support] and [shall] enter a final order of support.

[(f) The interlocutory order of paternity is not an appealable order but any issue of paternity raised in a post trial motion may be included in an appeal from a final order of support.]

(i) An order establishing paternity is not an appealable order. Any issue of paternity may be included in an appeal from the final order of support. If paternity is tried before a jury, and only then, all issues of paternity raised on appeal must first be raised in timely post-trial motions in accordance with Rule of Civil Procedure 227.1.

Rule 1910.26. Form of Complaint. Order. Income and Expense Statement. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification.

* * * * *

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

(Caption)

ORDER OF COURT

You, _____, defendant, are ordered to appear at _____ before _____, a conference officer of the Domestic Relations Section, on the _____ day of _____, 19____, at _____ .M., for a conference, after which the conference 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 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.

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.

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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU MAY GET LEGAL HELP.

(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.

* * * * *

Rule 1910.28. Forms Relating to Establishment of Paternity. Waiver of Trial.

(a) The acknowledgement of paternity and waiver of trial [referred] to which reference is made in Rule 1910.15(a) shall be substantially in the following form:

ACKNOWLEDGMENT OF PATERNITY

WAIVER OF TRIAL

I, _____, do hereby acknowledge that I am the (Defendant) of the child _____, born _____ in _____. This child _____ (Date) _____ (City, County, State) was born to _____ of _____. (Name of Mother) (City, State)

I have been advised of and do hereby waive my rights to (1) [a trial on the issue of paternity which must be proven by a preponderance of the evidence and (2) an attorney to represent me on the issue of paternity both at the trial thereon and in this action for support] genetic tests on the issue of paternity, (2) a trial on the issue of paternity and (3) an attorney to represent me on the issue of paternity.

Conference Officer

Defendant

Attorney for Defendant

I verify that the statements made in this acknowledgement and waiver 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.

Defendant

AND NOW, this _____ day of _____, 19____, on recommendation of the conference officer named above, the acknowledgement of paternity and waiver of trial are accepted.

By the Court,

J.

(b) The notice of the right to trial on the issue of paternity [**and the demand for jury trial referred**] to which reference is made in Rule 1910.15 [(b)] (c)(1) shall be substantially in the following form:

(Caption)

NOTICE OF RIGHT TO TRIAL ON ISSUE OF PATERNITY

The defendant has not acknowledged paternity of the child _____, born on _____, (Date)

[19____,] in _____ to _____ (City, State) (Mother)

[**The parties**] You are hereby advised of [**their respective**] your rights to (1) a trial on the issue of paternity and (2) an attorney to represent [**them**] you on the issue of paternity and in any support proceedings. **If the court determines that you are indigent, and you request it, an attorney will be provided to represent you on the issue of paternity only.** The trial shall be without jury unless either [**party**] you or the other party demand a trial by jury in writing within ten days from the date of this notice [**on the separate form attached hereto**].

Date: _____ Conference Officer

I acknowledge receipt of a copy of this notice this _____ day of _____, 19____.

(Plaintiff) (Defendant)

[(Caption)

DEMAND FOR JURY TRIAL

I hereby demand a trial by jury on the issue of paternity.

Date: _____ (Plaintiff) (Defendant)]

(c) The Order to Appear for Genetic Testing to which reference is made in Rule 1910.15(c)(2) shall be substantially in the following form:

(Caption)

ORDER TO APPEAR FOR GENETIC TESTING

The defendant has not acknowledged paternity of the child _____, born on _____, (Date)

in _____ to _____ (City, State) (Mother)

The parties and the child are ordered to appear for genetic testing on _____, 19____, at _____ o'clock ____ m. at _____ and to stay until excused.

If the defendant fails to appear for genetic testing as ordered, the court will enter an order finding

that defendant is the father of the child. If the plaintiff fails to appear or fails to make the child available for testing as ordered, the court may enter an order dismissing the paternity action without prejudice.

By the Court,

J.

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 who have been ordered to appear for genetic testing, please contact our office. All arrangements must be made at least 72 hours prior to the scheduled genetic tests. You must appear for the genetic testing.

(d) The stipulation to which reference is made in Rule 1910.15(c)(3) shall be substantially in the following form:

(Caption)

STIPULATION

The parties hereby agree to submit to genetic tests for the purpose of resolving finally the issue of paternity in this case. The parties further agree that if the test results indicate a probability of paternity 99% or higher, the defendant shall be stipulated to be the biological father of the minor child and the case shall be set promptly for a child support conference. If the test results indicate an exclusion, the action shall be dismissed.

I have been advised of and do hereby waive my rights to (1) a trial on the issue of paternity and (2) an attorney to represent me on the issue of paternity.

Plaintiff

Defendant

(e) The paternity order to which reference is made in Rule 1910.15(f) shall be substantially in the following form:

(Caption)

ORDER OF COURT

AND NOW, this ____ day of _____, 19____, in accordance with the stipulation of the parties, it is hereby ordered that

1) Defendant is the biological father of the child [NAME OF CHILD] born on [CHILD'S DATE OF BIRTH] to [CHILD'S MOTHER'S NAME] and the matter shall be set promptly for a support conference.

OR

2) Defendant is not the biological father of the child [NAME OF CHILD] born on [CHILD'S DATE OF BIRTH] to [CHILD'S MOTHER'S NAME] and this paternity action is dismissed.

By the Court,

J.

The existing explanatory comment pertaining to Rule 1910.15 is replaced by the following:

Explanatory Comment—Rule 1910.15

In accordance with Rule 1930.2(a), paternity cases tried by jury are the only domestic relations cases in which post-trial motions are permitted. Post-trial practice in these cases is governed by Rule of Civil Procedure 227.1.

23 Pa.C.S. § 4343(c)(2) provides that genetic test results which indicate a 99% or greater probability of paternity may be rebutted only by clear and convincing evidence that the results of the genetic tests are not reliable in that particular case.

The 1994 explanatory comment pertaining to Rule 1930.2 is amended as follows:

With the exception of paternity jury trials, all post-trial practice in domestic relations cases is abolished by the [proposed] rule.

* * * * *

[Pa.B. Doc. No. 97-470. Filed for public inspection March 28, 1997, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CRAWFORD COUNTY

Adoption of Civil Rule L1903.7: Civil Contempt; A.D. 1992-5

Order

And Now, March 14, 1997, it is ordered and directed that the Rule L1903.7 is hereby amended to read as follows:

Rule L1903.7. Civil Contempt.

A petition for civil contempt shall be filed by the plaintiff with the Prothonotary and then transmitted by the Prothonotary to the Court Administrator. The Court Administrator will set a time for hearing. The plaintiff shall arrange to have the petition and order setting the hearing served upon the defendant in any manner by which service of original process may be made in a domestic relations matter (Pa.R.C.P. 1930.4) or by mail in the manner prescribed by Pa.R.C.P. 403 and Pa.R.C.P. 1930.4(c). The order scheduling a hearing shall be in a form identical to Exhibit L1903.6-A.

This rule shall become effective thirty (30) days after publication in *The Pennsylvania Bulletin*, and shall apply to all civil proceedings pending at that time.

It is further ordered and directed that, in accordance with Pa.R.C.P. 239, seven (7) certified copies of this rule

shall be filed with the Administrative Office of Pennsylvania Courts; two (2) certified copies shall be forwarded to the Legislative Reference Bureau for publication in *The Pennsylvania Bulletin*; one (1) certified copy shall be filed with the Civil Procedural Rules Committee; and one (1) certified copy shall be filed with the Domestic Relations Rules Committee.

By the Court

GORDON R. MILLER,
President Judge

[Pa.B. Doc. No. 97-471. Filed for public inspection March 28, 1997, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

Current Schedule of Continuing Legal Education Courses Required for Reinstatement Under §§ 89.275 and 89.279 of the Disciplinary Board Rules

Disciplinary Board Rule § 89.279 provides that a formerly admitted attorney who has been disbarred or suspended for more than one year or who has been on inactive status for more than three years shall within one year preceding the filing of the petition for reinstatement take (and prior to hearing on the petition, complete) courses meeting the requirements of the current schedule published by the Office of the Secretary.

Evidence that a formerly admitted attorney has registered for and attended required courses and lectures or has viewed videotapes of them shall be considered in determining whether the formerly admitted attorney possesses the required competency and learning in law, but shall not be conclusive on the issue.

SCHEDULE

Every formerly admitted attorney who petitions for reinstatement under these rules shall take the following:

A minimum of thirty-six (36) hours of accredited PA CLE courses with a minimum twelve (12) of those hours in the area of Ethics.

Note: Accredited PA CLE courses taken for reinstatement may be used to meet CLE requirements once reinstated.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 97-472. Filed for public inspection March 28, 1997, 9:00 a.m.]