

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1910, 1920 AND 1930]

Amendments to Rules Relating to Paternity and Enforcement of Child Support; No. 334; Civil Procedural Rules Doc. No. 5

Order

Per Curiam:

And Now, this May 31, 2000, the Pennsylvania Rules of Civil Procedure are amended as follows:

I. Rules 1910.22, 1910.23-1, 1910.23-2, 1910.24, 1910.25, 1910.28, 1910.29, 1910.30 and 1910.31 are rescinded.

II. New Rules 1910.6, 1910.21, 1910.22, 1910.23, 1910.24, 1910.26 and 1910.29 are promulgated as follows hereto.

III. Rules 1910.1, 1910.4, 1910.5, 1910.9, 1910.11, 1910.12, 1910.15, 1910.17, 1910.19, 1910.20, 1910.50, 1920.31, 1920.52, 1930.2 and 1930.3 are amended as follows hereto.

IV. Rules 1910.21-1 through 1910.21-7 are renumbered respectively as rules 1910.25 through 1910.25-6 and amended as follows hereto.

V. Rules 1910.26 and 1910.27 are renumbered respectively as Rules 1910.27 and 1910.28.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2000.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.1. Scope. **Definitions.**

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

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“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.

* * * * *

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. § 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 filing of the complaint or petition for modification and the date of 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. § 4352(d), only overdue support (delinquent arrearages) constitutes a lien by operation of law against obligor’s property. Conversely, past due support (retroactive arrearages) 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 additional remedies available to collect support: (1) consumer agency reporting under 23 Pa.C.S. § 4303; (2) suspension of licenses under 23 Pa.C.S. § 4355; and (3) the full range of new collection remedies under 23 Pa.C.S. § 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 the past due support.

Rule 1910.4 Commencement of Action. Fee.

(a) * * *

Official Note: For the form of the complaint, see [Rule 1910.26(a)] Rule 1910.27(a).

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Rule 1910.5. Complaint. Order of Court.

(a) The complaint shall be substantially in the form provided by [Rule 1910.26(a)] Rule 1910.27(a).

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(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 prescribed by [Rule 1910.26(b)] Rule 1910.27(b).

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

Explanatory Comment—1981

The rules provide for several forms of documents, the first of which is the complaint set forth in [Rule 1910.26(a)] Rule 1910.27(a). An order will be attached to the front of the complaint, the form of which is provided by [Rule 1910.26(b)] Rule 1910.27(b). [Rule 1910.26(b)] Rule 1910.27(b) provides that no notice to defend or notice to plead is required, as usually appears on a complaint in an action at law or in equity. Local practice may vary as to whether preprinted forms of the complaint will be used and how necessary details of the order are obtained and filled in.

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Rule 1910.6. [[Rescinded]] Notification.

Parties to a support action 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 shall also be provided with a copy of any order issued in the support action within 14 days after issuance of the order.

Explanatory Comment—2000

Rule 1910.6 implements 23 Pa.C.S. § 4352(b)(2) to require that parties to a support action be notified in advance of all support and modification proceedings and that they be furnished with a copy of any order entered in those proceedings within 14 days of issuance of the order.

Rule 1910.9. Discovery.

* * * * *

(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 1910.27] Rule 1910.28.

Explanatory Comment—1997

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Subdivision (b) authorizes the court to obtain earnings and health insurance information from the employer of either party to a support action, using the forms provided in [Rule 1910.27] Rule 1910.28.

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

* * * * *

(c) At the conference, the parties shall furnish to the [conference] 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 form required by [Rule 1910.26(c)] Rule 1910.27(c), completed as set forth below.

(1) For cases which can be determined according to the guideline [grids or] formula, the income and expense statement need show only income and extraordinary expenses.

* * * * *

(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 1910.26(e)] Rule 1910.27(e) and in conformity with the agreement for signature by the parties and submission to the court together with the officer's recommendation for approval or disapproval. The court may enter the order in accordance with the agreement without hearing the parties.

* * * * *

(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 1910.26(e)] Rule 1910.27(e). The order shall state that any party may within ten days after the mailing of a copy of the order file a written demand with the domestic relations section for a hearing before the court.

* * * * *

(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 1910.26(e)] Rule 1910.27(e) within sixty days from the date of the written demand for hearing.

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

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(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 1910.26(e)**] **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 dependant, 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 1910.26(e)**] **Rule 1910.27(e)**. Within ten days after the date of the order, either party may demand a hearing before a hearing officer. If no hearing is requested, the order shall become final.

* * * * *

(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 1910.26(e)**] **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.

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(h) If exceptions are filed, the interim order shall continue in effect. The court shall hear argument on the exceptions and enter a final order substantially in the form set forth in [**Rule 1910.26(e)**] **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.

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 [**substantially in the form provided by Rule 1910.28(a)**]. 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. [**In that event**] Upon defendant's execution of the written acknowledgment, 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) [**Genetic Testing.** If the [**alleged father**] defendant appears but does not execute an acknowledgment of paternity at the conference[,]:

(1) The court shall enter an order [**substantially in the form required by Rule 1910.28(c)**] 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 [**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. The parties shall be provided with the form set forth in Rule 1910.28(b);**] 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 court shall make available to the parties a stipulation substantially in the form required by Rule 1910.28(d)**]. 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.

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

[(e)] (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.

[(f)(1)] (2) 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)] (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.

[(g) (1)] (5) If, after a hearing or trial, the [verdict or] 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. [(2)] If the [verdict or] 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.

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

[(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 and enter a final order of support.]

The 1997 Explanatory Comment to Rule 1910.15 is replaced by the following:

Explanatory Comment—2000

Rule 1910.15 is amended generally to reflect the elimination of jury trials in paternity actions. It has also been reorganized so that it more logically follows the six ways in which paternity may be established: 1) by voluntary acknowledgment under

subdivision (a); 2) in the absence of an acknowledgment, by stipulation of the parties to be bound by the genetic test results under subdivision (b); 3) by estoppel under subdivision (c); 4) by operation of law or presumption under subdivision (c); 5) by a hearing regarding the reliability of genetic testing or a trial before a judge on the issue of paternity upon receipt of the test results under subdivision (d); or 6) by failing to appear for the initial conference, genetic testing, trial or hearing, which results in entry of a default order establishing paternity under subdivision (e).

Subdivision (d)(3) is new. In cases where there is no voluntary acknowledgment or stipulation by the parties, but the genetic test results reveal a 99% or higher probability of paternity, the Rule establishes expedited hearing procedures for resolving paternity prior to a full evidentiary trial before a judge. These procedures borrow heavily from the rule to show cause procedures set forth in Rules 206.1 through 206.7 except that 1) the plaintiff is not required to petition the court to have the rule issued and 2) the court must issue the rule whenever the test results indicate a 99% or higher probability of paternity. The burden is on the defendant to return the rule by filing an answer within 20 days of service. Pursuant to 23 Pa.C.S. § 4343(c)(2), his defense is limited to showing by clear and convincing evidence that the test results are not reliable.

The standard forms which were formerly required by this Rule to be used in paternity actions have been rescinded in light of the statewide implementation of the Pennsylvania Child Support Enforcement System (PACES). All courts are now required to use the standard forms which appear on the PACES system to the extent they are consistent with the Rules of Civil Procedure.

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

(a) * * *

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

Every order for support must contain an immediate or conditional order for the attachment of income. See Rule [1910.22] 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 1910.21-1 through 1910.21-7] 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.

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Rule 1910.19. Support. Modification. Termination. Guidelines as Substantial Change of 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.**

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Explanatory Comment—1993

Existence of Guidelines as Substantial Change in Circumstance. In its opinion in *Newman v. Newman*, 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 a 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 circumstance 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.

Rule 1910.20. Support Order. Enforcement. General.

(a) A support order shall be enforced by income [attachment] withholding as required by law in the manner provided by Rule [1910.22] 1910.21. [A support order also may be enforced by contempt proceedings pursuant to Rules 1910.21—1 through 1910.21-7, execution upon a judgment for arrearages pursuant to Rules 1910.23-1 and 1910.23-2 and posting of bond.]

(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, 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.

The 1994 Explanatory Comment is replaced by the following:

Explanatory Comment—2000

Subdivision (a) continues to reflect the use of mandatory income withholding as the primary tool for enforcement of a support obligation. Withholding is applicable to all forms of income, not merely wages, as the term "income" is broadly defined in 23 Pa.C.S. § 4302. Rule 1910.21 prescribes the procedures for withholding income.

Subdivision (b) is new and reflects the availability of the new enforcement remedies set forth in Act 58-1997, 23 Pa.C.S. § 4305(b)(10). Consistent with the definitions of past due and overdue support, these remedies are restricted to cases involving overdue support, i.e., the delinquent support arrearages which accumulate as the result of non-payment of a support order. They may not be used to collect past due support more quickly so long as

the obligor remains current on all provisions of the support order, including repayment of past due support. If, however, the obligor subsequently defaults on the support order, subdivision (c) of this rule and the definitions in Rule 1910.1 make it clear that any past due support still owing under the order immediately converts to overdue support and remains overdue support subject to these remedies until collected in full.

Under the new enforcement rules, an obligor essentially has one opportunity to remain current on his or her support obligation so that Act 58 remedies will not apply to permit collection of the past due support arrearages more quickly than the rate at which he or she is repaying those arrearages under the support order. If, however, the obligor defaults in his or her payment of the order, Rule 1910.20 converts the past due support to overdue support and causes Act 58 remedies to become available to collect all of the overdue support until it is paid in full. It remains subject to these remedies until paid in full despite the existence of any later agreement by the parties or court order providing otherwise.

For example, assume a support order is entered requiring the obligor to pay \$100 per month in current support and an additional \$25 per month on past due support of \$400. So long as obligor remains current on the total monthly payment of \$125 per month, the past due support of \$400 does not operate as a lien on the obligor's real property. Nor will it be collected more quickly through the court's automatic increase of income withholding, seizure of lump-sum forms of income, attachment of the obligor's bank accounts, or reduction of the past due support to a judgment of record for levy and execution on obligor's property in accordance with these Rules. However, subsequent identification of additional income sources or assets provides a basis for increasing the support order under Rule 1910.19 and freezing such income or assets under Rule 1910.26(b).

If, however, the obligor defaults on the support order in any respect (including his or her failure to pay the \$25 per month on the past due support), the \$400 of past due support immediately becomes overdue support under the definitions set forth in 23 Pa.C.S. § 4302 and Rule 1910.1. It becomes a lien on real property and is also subject to increased withholding, attachment of assets and all of the other remedies available for collecting overdue support as quickly as possible. In addition, it remains overdue support subject to these remedies until paid in full. Even if, therefore, the obligor subsequently agreed to repayment of this amount in larger monthly installments, or an order were entered pursuant to a contempt proceeding for larger installments, Act 58 remedies remain available to collect the \$400 whenever additional income or assets are subsequently located and can be used to satisfy the obligation more quickly. This is the case even though at the time of identification the obligor may still be current on the agreement or contempt order.

Subdivision (b) of this rule restricts consumer agency reporting and suspension of licenses to cases involving overdue support. The actual procedures for reporting and license suspension, how-

ever, continue to be governed by statute rather than rule. See 23 Pa.C.S. §§ 4303 and 4355.

Rule 1910.20 does not address the collection of support through IRS intercept, Pennsylvania state tax intercept, lottery winnings or any other remedies which may be authorized by federal or state law but are not specifically listed in this rule.

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) 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.* When nonpayment of the support order 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 current child support 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—2000

1. Rule 1910.21 continues to implement the requirements of mandatory income withholding under 23 Pa.C.S. § 4348(b) in all support cases except those in which there is no overdue support and either the parties agree to an alternative arrangement or the court finds good cause for not requiring such withholding. Consistent with Act 1997-58, advance notice to the obligor is no longer required before the court may issue an order for income withholding. Notice is now provided concurrently with issuance of the order to the obligor's employer under subdivision (e).

2. This Rule continues to apply to the withholding of "income," not merely wages. Income is broadly defined in 23 Pa.C.S. § 4302 as including "compensation for services, including, but not limited to, wages, salaries, bonuses, fees, compensation in kind, commissions and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; all forms of retirement; pensions; income from discharge of indebtedness; distributive share of partnership gross income; income with respect of a decedent; income from an interest in an estate or trust; military retirement benefits; railroad employment retirement benefits; social security benefits; temporary and permanent disability benefits; worker's compensation; unemployment compensation; other entitlements to money or lump sum awards, without regard to source, including lottery winnings, income tax refunds, insurance compensation or settlements; awards or verdicts; and any form of payment due to and collectible by an individual regardless of source."

The Consumer Credit Protection Act, 15 U.S.C. § 1673, sets forth the limitations on monetary with-

holding. It is important to note, however, that these federal limitations apply only to an obligor's wages or earnings, as those terms are defined in the Consumer Credit Protection Act, and do not apply to any additional forms of income set forth in 23 Pa.C.S. § 4302.

3. The term "employer" is broadly defined in 23 Pa.C.S. § 4302 as including an individual, partnership, association, corporation, trust, Federal agency, Commonwealth agency or political subdivision paying or obligated to pay income.

4. Subdivision (c) requires all orders for income withholding to include a provision directing the employer to withhold any income which may be payable to the obligor at the end of the employment relationship. This provision contemplates forms of income payable to obligor "in lieu of" regular income as a direct result of the end of the employment relationship—e.g., lump-sum commutations of workers' compensation benefits, severance pay, golden parachutes, or any form of income payable in lieu of the regular stream of income which had been used during the course of employment to secure the monthly support obligation.

5. Subdivision (f) differs in scope and purpose from subdivision (c). Subdivision (f) applies only in cases involving overdue support, and permits the court to increase the rate of income withholding until the overdue support is paid in full. It also allows the court to order the employer to withhold all forms of income which may be owing and payable to the obligor "in addition to" regular income—e.g., bonuses, proceeds from the exercise of stock options or any other kinds of income which are periodically payable during the course of employment.

6. Subdivision (g) incorporates former Rule 1910.22(e) relating to income withholding for multiple support obligations. The provision is amended only to establish the priority of collecting child support before spousal support in cases where the maximum amount of income which can be withheld under the Consumer Credit Protection Act is not sufficient to cover all of the obligor's support obligations in full. In those cases, the income must be allocated first to meet all of the obligor's child support obligations before it may be used to satisfy any of the obligor's spousal support obligations. The portion of the obligation which cannot be satisfied through income withholding will have to be collected through other available means of enforcement.

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.

Explanatory Comment—2000

New Rule 1910.22 implements 23 Pa.C.S. § 4352(d) as amended by Act 1997-58 and Act 1998-127. Under prior law, the existence of overdue support created only a judgment by operation of law against the obligor. The judgment did not, however, operate as a lien against the property until and unless, either at the direction of the court or upon praecipe of the party, the court certified the overdue support and entered it of record at the prothonotary's office. Pursuant to § 4352(d), as amended, the existence of overdue support not only creates a judgment by operation of law against the obligor, it also creates a lien by operation of law against the obligor's real property. The practical effect of this amendment is that certification by the court is no longer required to create the lien on real property. It is the existence of overdue support, not its judicial certification, which creates the lien on real property. The lien also extends to any and all real property owned by the obligor which is located in Pennsylvania.

While the existence of overdue support creates an automatic lien on real property, it does not create an automatic lien against an obligor's personal property. Nor does it have the effect of a fully perfected security interest in such property until the Department of Public Welfare establishes a statewide system for providing public notice of liens on such property. To the extent, however, that overdue support continues to operate as a judgment by operation of law against the obligor, it may still also be reduced to a judgment of record and satisfied through levy and execution on both real and personal property in the manner prescribed in Rule 1910.24.

1. Subdivision (a) requires that the overdue support be "of record" at the domestic relations section. Overdue support becomes a matter of record at the time it is automatically recorded into the PACSES computer system. Since statewide implementation of PACSES means that every domestic relations section in Pennsylvania now has equal access to all information relating to overdue support obligations, no additional paperwork in or by the county is necessary for a lien on real property to become of record for purposes of giving the lien statewide effect against the obligor's real property.

When the overdue support obligation arises in another state but is forwarded for enforcement in Pennsylvania, the originating state must initially forward it to the Department of Public Welfare Central Registry. The Central Registry will verify the amount owed and transmit the information to the appropriate domestic relations section. The domestic relations section must then enter this amount in its records. This recording creates the "lien of record" making the foreign obligation enforceable as a lien against any and all real property owned by obligor which is located in Pennsylvania.

2. While certification of overdue support is no longer necessary to create the lien on real property, certification is necessary for purposes of satisfying and removing the lien from the property prior to refinancing or sale of the property. Subdivisions (b) through (d) prescribe the procedures for obtaining this written certification. The effect of certification on the rights and liabilities of the parties involved in the actual refinancing or sales transaction is set forth in 23 Pa.C.S. § 4352(d.1)(3).

3. Subdivision (c) sets forth the limited grounds for objecting to the imposition of a lien on real property. The third ground for objection is that the property is exempt from attachment as a matter of law. This objection contemplates property held by the obligor and his or her spouse as tenants by the entirety.

4. 23 Pa.C.S. § 4352(d.1)(2) through (9) establish the priorities of liens against real property. Pursuant to 23 Pa.C.S. § 4352(d.1)(2)(i)(B), moreover, any overdue support existing on the effective date of this rule which becomes a lien on property in another county solely by virtue of the promulgation of this rule shall have priority against the property in the other county only from the effective date of this rule.

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.

Explanatory Comment—2000

Rule 1910.23 implements 23 Pa.C.S. § 4305(b)(10) (iii) authorizing the attachment and seizure of an obligor's assets held in financial institutions. A "financial institution" is defined in 23 Pa.C.S. § 4304.1(g) and includes any bank, federal or state credit union, insurer, safe deposit company or money-market mutual fund authorized to do business in Pennsylvania.

Subdivision (b) of this rule sets forth the three limited grounds for objecting to an attachment of assets under this rule. The third ground for objection—that the assets are not subject to attachment as a matter of law—chiefly contemplates assets held by the obligor and his or her spouse as tenants by the entirety. Other examples include assets being held in an escrow or trust account in the name of the obligor as the escrowee or trustee.

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.

Explanatory Comment—2000

Rule 1910.24 incorporates former Rules 1910.23-1 and 1910.23-2 prescribing the procedures for reducing overdue support to a judgment of record against the obligor and for petitioning to have the judgment corrected in the event the amount of overdue support is incorrect. Although 23 Pa.C.S. § 4352(d) states that "a support obligation" constitutes a judgment by operation of law, subdivision (a) states that only overdue support constitutes a judgment by operation of law. This is in accordance with *Welz v. Stump*, 403 Pa. Super. 93, 588 A.2d 47 (1991) which holds that a judgment cannot be entered against the obligor for past due support when the support order specifically provides for repayment of the past due support in monthly installments and the obligor is in compliance with the order.

A judgment entered of record does not arise simply when a support obligation becomes due and remains unpaid. Nor does it arise merely upon the court's determination of the amount of arrears as of a particular date. Rather, the court must specifically direct that the judgment in the specified amount be entered of record. The prothonotary must then enter the judgment in the proper docket and judgment index in order to create the notice of the judgment. Only after the judgment has been properly entered of record is the judgment enforceable under the general rules of civil procedure governing garnishment and execution against the obligor's real or personal property.

Rule 1910.24's authorized use of the prothonotary to enforce a judgment does not in any way limit the authority of the domestic relations section to issue writs and orders pursuant to 23 Pa.C.S. § 4305(b).

[Rule 1910.21-1] 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 [attachment pursuant to Rule 1910.22] income withholding pursuant to Rule 1910.21 has been ineffective, or within [ninety] 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.

* * * * *

Rule [1910.21-2] 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 1910.21-3] 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 [1910.21-3, 1910.21-4, and 1910.21-5] 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 [1910.21-4] 1910.25-3 (conference and hearing de novo) or by a hearing officer in counties adopting the alternative procedure of Rule [1910.21-5] 1910.25-4 (record hearing and exceptions).

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

Rule [1910.21-3] 1910.25-2. **Civil Contempt.** Office Conference. Agreement. Alternative Procedures Upon Failure to Agree.

* * * * *

(d) If an agreement is not reached, the procedure shall be as prescribed by Rule [1910.21-4] 1910.25-3 unless the court by local rule adopts the alternative procedure of Rule [1910.21-5] 1910.25-4.

Rule [1910.21-4] 1910.25-3. **Civil Contempt.** Conference Summary. Order. Hearing *De Novo*.

(a) * * *

Official Note: The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule [1910.21-6(a)] 1910.25-5(a).

* * * * *

(d) If the court does not enter an order under Rule [1910.21-3(c)] 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.

* * * * *

Rule [1910.21-5] 1910.25-4. **Civil Contempt.** Alternative Procedure. Record Hearing. Report. Exceptions. Order.

(b) * * *

Official Note: The sanction of imprisonment may be imposed only following an evidentiary hearing before a judge. See Rule [1910.21-6(a)] 1910.25-5(a).

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Rule [1910.21-6] 1910.25-5. **Civil Contempt.** Contempt Order. Incarceration.

(b) * * *

Official Note: The time periods set forth in Rules [1910.21-1 through 1910.21-6] 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.

[Rule 1910.21-7] 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 1910.21-1 through 1910.21-6] Rules 1910.25 through 1910.25-6.

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.

Explanatory Comment—2000

New Rule 1910.26 merely consolidates into one rule the provisions formerly found in Rules 1910.24 and 1910.25.

Subdivision (a) continues to reflect the existing policy of eliminating delay and procedural impediments to the receipt of support. The routine granting of a stay of proceedings would defeat this policy and have a disastrous effect upon a destitute obligee and child. Thus, a stay of an action for

support or of a support order may only be granted (1) upon a special order of court following notice and hearing or (2) upon written agreement of the parties.

Subdivision (b) continues to reflect the availability of special relief. Sections 1 and 2 of the Act 1907, 48 P. S. §§ 131 and 132, authorize the bringing of an action at law or in equity to enforce the duty of support. These sections are suspended by these Rules insofar as they provide practice and procedure for an action of support. However, equitable remedies may still be useful in a case which warrants them. Illustrations are the enjoining of a resident trustee from disbursing funds to a defendant beneficiary outside the Commonwealth or to an improvident defendant or obtaining satisfaction from a spendthrift trust. The Rule contains a broad provision empowering the court to provide special relief where appropriate. It may also be used to freeze and seize income or assets to secure past due support when appropriate. See Rule 1910.1 and Rule 1910.20 Explanatory Comments.

[Rule 1910.26] Rule 1910.27. Form of Complaint. Order. Income and Expense Statement. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification.

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[Rule 1910.27] Rule 1910.28. Order for Earnings and Health Insurance Information. Form of Earnings Report. Form of Health Insurance Coverage Information.

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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.

Explanatory Comment—2000

23 Pa.C.S. § 4342(f) creates a hearsay exception in support actions to permit a verified petition, affidavit or document and a document incorporated by reference in any of them to be admitted into evidence if it would not otherwise be excluded as hearsay if given in person and it is admitted under oath by a party or witness to the support action. Rule 1910.29 requires that notice of the documents to be admitted be given to the other party prior to the hearing. It also sets forth the procedures for raising an objection to the admission of those documents.

If the requisite 20-day notice is given and there is no objection, the document must be admitted into evidence under this rule and 23 Pa.C.S. § 4342(f). In the event an objection is timely made, the rules of evidence apply to determine the document's ultimate admissibility.

Rule 1910.29 is not intended to affect 23 Pa.C.S. § 4342(g) and (h) relating to admissibility of payment records, billing statements and bills for genetic testing and prenatal and postnatal health care of the mother and child. Those documents are admissible into evidence without advance notice for the limited purposes which are expressly set forth in those statutory provisions.

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; **[and]**

(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 enforced 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.**

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Expenses. **[Effect of Decree on Spousal Support.]**

(a) (1) Within thirty days after the service of the pleading or petition containing a claim for child or spousal support, alimony, alimony pendente lite or counsel fees, costs and expenses, each party shall file a true copy of the most recent federal income tax return, pay stubs for the preceding six months and a

completed income and expense statement in the manner and form required by Rules 1910.11 and [Rule 1910.26] Rule 1910.27.

* * * * *

Rule 1920.52. Hearing by the Court. Decision. No Post-Trial Relief. Decree.

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[(c) Where a paternity matter is tried by jury, post-trial practice shall be permitted in accordance with Rules of Civil Procedure 227.1.

Official Note: Post-trial motions are a prerequisite to appeal in paternity matters tried by jury.]

[(d)] (c) * * *

[(e)] (d) * * *

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.2. No Post-Trial Practice. Motions for Reconsideration.

(a) There shall be no motions for post-trial relief in any domestic relations matter [except that where a paternity matter is tried by jury, post-trial practice shall be permitted in accordance with Rule of Civil Procedure 227.1].

* * * * *

Explanatory Comment 1994

[With the exception of paternity jury trials] All post-trial practice in domestic relations cases is abolished by this rule. [Post-trial practice in paternity jury trials is governed by Rule of Civil Procedure 227.1.] In order to allow the trial court to take a second look at a case before it is appealed to the Superior Court, the rule allows a request for reconsideration to be filed in accordance with Appellate rule 1701(b)(3). The aim of these rules is to ensure that domestic cases are moved as quickly as possible toward a final resolution, and thus the requirement of Appellate Rule 1701 that the motion for reconsideration be filed and granted within the thirty day appeal period is adopted here. If the motion for reconsideration is granted, the time for filing the notice of appeal is tolled. However, if it is not granted, there is no extension of the appeal period, so that the matter proceeds without delay.

Rule 1930.3. [Use of Telephone Testimony] Testimony by Electronic Means.

With the approval of the court upon good cause shown, [telephone testimony may be taken] a party or witness may be deposed or testify by telephone, audiovisual or other electronic means at a designated location in all domestic relations matters.

Explanatory Comment—2000

This rule is amended to implement 23 Pa.C.S. § 4342(j) which sets forth the various electronic methods that may be used to take testimony in an action for support. It also extends these methods to all domestic relations matters.

[Pa.B. Doc. No. 00-1076. Filed for public inspection June 23, 2000, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LUZERNE COUNTY

Schedule of Fees; Domestic Relations Section No. 3960C 2000

Now This 2nd day of June, 2000, the Court hereby adopts the following schedule of fees for the Domestic Relations Section of the Court of Common Pleas of Luzerne County effective thirty (30) days after the date of publication in the Pennsylvania Bulletin:

- a) Arrearage certifications \$10.00
b) Photocopy costs—per page50
c) Objection to conference officer's recommendation/request for hearing (must be paid at the time of filing the demand for hearing) 25.00
d) Exceptions to hearing officer's recommendation/request for argument court hearing (must be paid at the time of filing exceptions) ... 50.00
e) Genetic testing per person (which will be assessed against the defendant unless the defendant is excluded, in which case the Domestic Relations section will pay the cost of the genetic test) 68.00
f) AOPC/JCP fee per case (as mandated by the Pennsylvania Supreme Court Rule) 5.00
g) Petition for complex case designation for master's hearing per half day (must be paid at the time the order designating the case as "complex" is filed). Unused fee, or any portion will be refunded 150.00
h) Transcription fee-in accordance with Court Rules

Fees must be paid when service is requested with the exception of the genetic testing fee. Checks maybe accepted subject to collection. A \$20.00 service charge shall be assessed if any check is returned by drawer's bank, for any reason.

The Domestic Relations Section is authorized to adopt regulations and to inaugurate and maintain accounting systems in order to collect and process the above fees.

It is further ordered that the District Court Administrator shall file seven (7) certified copies of this Rule with the Administrative Office of Pennsylvania Courts, two (2) certified copies to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin, one (1) certified copy to the Domestic Relations Procedural Rules Committee and one (1) copy to the Luzerne Legal Register for publication in the next issue.

It is further ordered that this local rule shall be kept continuously available for public inspection and copying in the Domestic Relations Office.

By the Court

JOSEPH M. AUGELLO, President Judge

[Pa.B. Doc. No. 00-1077. Filed for public inspection June 23, 2000, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Steven J. Marmarou, having been disbarred from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated June 6, 2000, disbaring Steven J. Marmarou from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Executive Director & Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 00-1078. Filed for public inspection June 23, 2000, 9:00 a.m.]
