

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL [231 PA. CODE CH. 1910]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; No. 374 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 24th day of September, 2002, Rules 1910.16-4 and 1910.28 of the Pennsylvania Rules of Civil Procedure are amended as follows.

This order shall be processed in accordance with Pa. R.J.A. 103(b) and shall be effective immediately.

Annex A TITLE 231. RULES OF CIVIL PROCEDURE PART I. GENERAL CHAPTER 1910. ACTIONS FOR SUPPORT

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

	OBLIGOR	OBLIGEE
* * * * *		
6. Plus Child's Monthly Social Security Retirement or Disability Derivative Benefit, if any. (See Rule 1910.16-2(b)(2))	_____	_____
7. Adjusted Combined Monthly Net Income	_____	_____
[6] 8. PRELIMINARY BASIC CHILD SUPPORT OBLIGATION (determined from Schedule at Rule 1910.16-3 based on number of children and line [5] 7 adjusted combined monthly net income)	_____	_____
9. Less Child's Monthly Social Security Retirement or Disability Derivative Benefit	_____	_____
10. BASIC CHILD SUPPORT OBLIGATION	_____	_____
[7] 11. Net Income Expressed as a Percentage Share of Income (Divide line 4 by line 5 and multiply by 100)	_____ %	_____ %
[8] 12. Each Parent's Monthly Share of the Basic Child Support Obligation (Multiply line [6] 10 and [7] 11)	_____	_____

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

[9] 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 [9] 13b from line [7] 11)		_____ %
d. Obligor's Adjusted Share of the Basic Monthly Support Obligation (Multiply line [9] 13c and line [6] 10)		_____

* * * * *

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 [on or before _____, 19__] 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.

* * * * *

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

Note

The information requested in the following report may be provided by an employer on its own form, for example, as a computer printout.

(Caption)

HEALTH INSURANCE COVERAGE REPORT

This information must be completed and returned within [10] 15 days. Failure to comply may result in issuance of a subpoena or other appropriate sanctions.

* * * * *

[Pa.B. Doc. No. 02-1771. Filed for public inspection October 11, 2002, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 400]

Determination of Property Claims and Disputes

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa. R.C.P.D.J. No. 420 to clarify the relief that a district justice may grant in connection with objections to levy; and to make other minor technical or "housekeeping" changes to the rule and its Note. The Committee has not submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the official Committee Notes to the rules. The Supreme Court does not adopt the Committee's Notes or the contents of the explanatory Reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

or e-mail to: minorcourt.rules@supreme.court.state.pa.us
no later than Monday, November 18, 2002.

By the Minor Court Rules Committee

THOMAS E. MARTIN, Jr.,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 400. EXECUTION OF JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 420. Determination of Property Claims and Disputes

* * * * *

B. In acting under subdivision A of this rule, the district justice may:

(1) Reappraise or redesignate property appraised or designated by the executing officer, or order inclusion in the levy of property set aside by that officer.

(2) [**Stay or order**] **Order** the abandonment of the levy in whole or part, or release property from the levy.

* * * * *

Note

Official Note: [**Subdivisions**] **Subdivision A [and B]** of this rule [**set**] **sets** forth the various disputes concerning the execution [**which**] **that**, along with property claims, [**the district justice is to hear and determine and what he may do in connection therewith**] **may be brought before the district justice. Subdivision B sets forth the relief that the district justice may grant in connection with these disputes. The [subsections of A and B should] provisions of this rule can be compared with the Pennsylvania Rules of Civil Procedure as follows:**

* * * * *

This rule does not provide for a preliminary determination by the executing officer as to the merits of a property claim by a third party (see Pa.R.C.P. Nos. 3206, 3207), for it was considered that the district justice should be readily available for this purpose and that it would not be desirable to allow constables to make any such determination. Also, it was thought to be permissible to require

the district justice to make the determinations and to take the actions mentioned in this rule as an exercise of power ancillary to [his] the district justice's general power to order execution of the judgment. Subdivision C of the rule is based on Pa.R.C.P. No. 3132.

Amended June 30, 1982, effective 30 days after July 17, 1982; **amended** _____, **effective** _____ .

REPORT

Proposed Amendment to Pa. R.C.P.D.J. No. 420

Clarification Regarding the Relief a District Justice May Grant in Connection with an Objection to Levy

The Committee reviewed Pa. R.C.P.D.J. No. 420 when, in the course of designing and revising forms relating to other rule changes, it was brought to the Committee's attention that the language in Rule 420B(2) was causing confusion about the relief that a district justice may grant in connection with an objection to levy. Specifically, Rule 420B(2) refers to a "[s]tay . . . of the levy" The Committee noted that a stay issued in accordance with Rule 410, a supersedeas issued in accordance with Rule 1008 or Rule 1013, or a bankruptcy stay, will stay the

entire execution. And, the Committee further noted that such a stay may take effect prior to the executing officer making a levy upon the defendant's property. However, the Committee could not contemplate any procedural occurrence in which the limited relief of staying the levy itself would be necessary or appropriate. The Committee also noted that, as a form of relief in connection with an objection to levy, a stay of the levy is procedurally impossible. In order for an objection to a levy to be raised, the levy must necessarily have already occurred. In such a situation, the appropriate relief may be a stay of the sale, which is provided for in Rule 420B(3).

Accordingly, the Committee proposes that Rule 420B(2) be amended to delete the reference to a stay, and thus remove any confusion about the relief that a district justice may grant in connection with an objection to levy.

In addition, the Committee proposes other minor revisions to the Note to address gender neutrality issues and to enhance clarity.

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