THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1910, 1915, 1920 AND 1930]
Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 74

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The Committee solicits comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, March 24, 2006 directed to:

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By the Domestic Relations Procedural Rules Committee NANCY P. WALLITSCH,

Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

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

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

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

(2) Social Security Derivative Benefits.

(A) If a child for whom support is sought is receiving Social Security benefits as a result of a parent's retirement [, death] or disability, the benefits the child receives shall be added to the combined monthly net incomes of the obligor and the obligee to calculate the income available for support on the vertical axis of the basic child support schedule set forth in Rule 1910.16-3. The presumptive amount of support as set forth on the

schedule at the combined income of the obligee, obligor and child's benefits shall then be [reduced by the amount of the child's benefits before apportioning the remaining support obligation] apportioned between the parties pursuant to Rule 1910.16-4. Then, the amount of the child's benefit shall be deducted from the obligor's share of the basic support amount.

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

Example 1. If the obligor has net income of \$1,200 per month; the obligee has net monthly income of \$800; and the child receives Social Security derivative benefits of \$300 per month as a result of either the obligor's or obligee's retirement or disability, then the total combined monthly net income is \$2,300. Using the schedule at Rule 1910.16-3 for one child, the amount of support is \$568 per month. [From that amount, subtract the amount the child is receiving in Social Security derivative benefits (\$568 minus \$300 equals \$268). Then, apply **Apply** the formula at Rule 1910.16-4 to apportion the [remaining] basic child support amount of [\$268] \$568 between the obligor and the obligee in proportion to their respective incomes. The obligor's \$1,200 net income per month is 60% of the total of the obligor's and the obligee's combined net monthly income. Thus, **under the** formula, the obligor's support obligation would be 60% of [\$268] \$568, or [\$161] \$341, per month. From that amount, subtract the amount the child is receiving in Social Security derivative benefits (\$341 - \$300 = \$41). The obligor's basic support obligation is \$41.

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

		*	*	*	*	OBI *	LIGOR	OBLIG	EE
9.	Less Child's Monthly Social Security Derivative Death Benefit, if any						()	
		*	*	*	*	*			

12.	a. Each Parent's Preliminary Monthly Share of the Basic Child Support Obligation (multiply line 10 and 11)								
	b. Subtract Child's Social Security Derivative Disability or Retirement Benefit, if any, from the Obligation of the Obligor								
	c. Each Parent's Monthly Share of the Basic Child Support Obligation								
CU	RT II. SUBSTANTIAL or SHARED PHYSICAL STODY ADJUSTMENT, IF APPLICABLE e subdivision (c) of this rule)								
13.	a. Percentage of Time [Spent] Obligor Spends with Children (divide number of overnights with obligor by 365 and multiply by 100) %								
	* * * * *								
	d. Obligor's Preliminary Adjusted Share of the Basic Monthly Support Obligation (multiply line 13c and line 10)								
	e. Further adjustment, if necessary under Rule 1910.16-2(b)(2)(disability or retirement derivative benefits) and/or subdivision (c)(2) of this rule								
	f. Obligor's Adjusted Share of the Basic Child Support Amount.								
PA I 191	CT III. ADDITIONAL EXPENSES (See Rule 0.16-6)								
	* * * * *								
15.	OBLIGOR'S TOTAL MONTHLY SUPPORT OBLIGATION (add line 12c (or 13[d or e]f) (if applicable) and line 14f)								
	RT IV. SPOUSAL SUPPORT OR APL h Dependent Children								
	* * * * *								
20.	Less Obligor's Total Monthly Child Support Obligation Without Part II Substantial or Shared Custody Adjustment (Obligor's line 12c plus line 14f) ()								
	* * * * *								
	[Pa.B. Doc. No. 06-4. Filed for public inspection January 6, 2006, 9:00 a.m.]								