

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[ 231 PA. CODE CH. 1910 ]

#### Order Amending Rules 1910.16-2 and 1910.16-4 of the Rules of Civil Procedure; No. 621 Civil Procedural Rules Doc.

##### Order

*Per Curiam*

And Now, this 29th day of April, 2015, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 42 Pa.B. 7404 (December 8, 2012) and republished for additional public comment in the *Pennsylvania Bulletin*, 43 Pa.B. 3932 (July 13, 2013):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1910.16-2 and 1910.16-4 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2015.

##### 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.

\* \* \* \* \*

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

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

[ (2) *Social Security Payments for a Child.* If a child for whom support is sought is receiving Social Security benefits as a result of a parent's retirement, death or disability, the benefits the child receives shall be added to the combined monthly net incomes of the obligor and the obligee to calculate the income available for support on the vertical axis of the basic child support schedule set forth in Rule 1910.16-3. The presumptive amount of support as set forth on the schedule at the combined income of the obligee, obligor and child's benefits shall then be reduced by the amount of the child's benefits before apportioning the remaining support obligation between the parties pursuant to Rule 1910.16-4. This calculation presumes that the primary custodial parent, or the shared custodial parent who is the obligee, is receiving the child's benefits. In cases in which the obligor is receiving the child's benefits, the amount of the child's ben-

efit shall be added to the obligor's income and support shall be calculated as in any other case without deduction of the amount of the benefit from the presumptive amount of support set forth in the basic support schedule. For purposes of determining the support obligation of a surviving parent when the child is receiving benefits as the result of the other parent's death, the income of a non-parent obligee who is caring for a child but has no support obligation to that child shall include only those funds the obligee is receiving on behalf of the child. ]

#### (2) *Social Security Derivative Benefits for a Child.*

(A) This subdivision (A) shall be applied if a child for whom support is sought is receiving Social Security derivative benefits as a result of either parent's retirement or disability.

(i) If a child for whom support is sought is receiving Social Security benefits as a result of a parent's retirement or disability, the amount of the benefit shall be added to the income of the party receiving the benefit on behalf of the child to calculate child support. Next, apportion the amount of basic child support set forth in the schedule in Rule 1910.16-3 between the parties based upon each party's percentage share of their combined net monthly income, including the child's benefit in the income of the party receiving it.

(ii) If the child's benefit is being paid to the obligee, the amount of the child's benefit shall be deducted from the basic support obligation of the party whose retirement or disability created the child's benefit. If the child's benefit is being paid to the obligor, the child's benefit shall not be deducted from the obligor's obligation, even if the obligor's retirement or disability created the child's benefit. In cases of equally shared custody, first determine which party has the higher income without the benefit, and thus is the obligor, before adding the child's benefit to the income of the party receiving it.

(iii) In cases in which the obligor is receiving the child's benefits, the domestic relations sections shall provide the parties with two calculations theoretically assigning the benefit to each household.

(iv) In allocating additional expenses pursuant to Rule 1910.16-6, the allocation shall be based upon the parties' incomes before the addition of the child's benefit to the income of the party receiving it.

(B) This subdivision (B) shall be applied when determining the support obligation of a surviving parent when the child for whom support is sought is receiving Social Security derivative benefits as a result of the other parent's death. The income of a non-parent obligee who is caring for a child but has no support obligation to that child shall include only those funds the obligee is receiving on behalf of the child, including the Social Security derivative benefits if they are being paid to the obligee. If the benefits are being paid to the surviving parent, the amount of the benefit shall be added to that parent's income to calculate child support.

(3) *Foster Care Payments.* If either party to a support action is a foster parent and/or is receiving payments from a public or private agency for the care of a child who is not his or her biological or adoptive child, those payments shall not be included in the income of the foster parent or other caretaker for purposes of calculating child support for the foster parent's or other caretaker's biological or adoptive 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 \$543 per month. From that amount, subtract the amount the child is receiving in Social Security derivative benefits (\$543 minus \$300 equals \$243). Then, apply the formula at Rule 1910.16-4 to apportion the remaining child support amount of \$243 between the obligor and the obligee in proportion to their respective incomes. The obligor's \$1,200 net income per month is 60% of the total of the obligor's and the obligee's combined net monthly income. Thus, the obligor's support obligation would be 60% of \$243, or \$146, per month. ]

*Example 1.* The obligor has net monthly income of \$2,000. The obligee's net monthly income is \$1,500 and the obligee, as primary custodial parent of the parties' two children, receives \$700 per month in Social Security derivative benefits on behalf of the children as a result of the obligor's disability. Add the children's benefit to the obligee's income, which now is \$2,200 per month. At the parties' combined net monthly income of \$4,200, the amount of basic child support for two children is \$1,272. As the obligor's income is 48% of the parties' combined monthly net income, the obligor's preliminary share of the basic support obligation is \$611. However, because the obligor's disability created the children's Social Security derivative benefits that the obligee is receiving, the obligor's obligation is reduced by the amount of the benefit, \$700. As the amount cannot be less than zero, the obligor's obligation is \$0 per month. If it were the obligee's disability that created the benefit, the obligor's obligation would remain \$611. If the obligor were receiving the children's benefit as a result of the obligor's retirement or disability, the obligor's income would include the amount of the benefit and total \$2,700, or 64% of the parties' combined net monthly income. The obligor's share of the basic support obligation would then be \$814 and would not be reduced by the amount of the children's benefit because the obligor, not the obligee, is receiving the benefit. Therefore, the obligor's obligation is less if the obligee is receiving the benefit created by the obligor.

*Example 2.* Two children live with Grandmother who receives [ \$400 ] \$800 per month in Social Security death benefits for the children as a result of their father's death. Grandmother also receives \$500 per month from a trust established by Father for the benefit of the children. Grandmother is employed and earns \$2,000 net per month. Grandmother seeks support from the children's mother, who earns \$1,500 net per month. For purposes of calculating Mother's support obligation, Grandmother's

income will be [ \$500 ] \$1300, the amount she receives on behalf of the children in Social Security derivative benefits and income from the trust. (If Mother were receiving the benefit on behalf of the children it would be added to her income such that Mother's income would be \$2,300 and Grandmother's would be \$500.) Therefore, the obligee's and [ the obligor's ] Grandmother's combined net monthly incomes total [ \$2,000 ] \$2,800. [ Add to that the \$400 in Social Security benefits Grandmother receives for the children to find the basic child support amount in Rule 1910.16-3. ] The basic support amount at the [ \$2,400 ] \$2,800 income level for two children is [ \$815 ] \$948. Subtracting from that amount the [ \$400 ] \$800 in Social Security derivative benefits Grandmother receives for the children, results in a basic support amount of [ \$415 ] \$148. As Mother's income of \$1,500 is [ 75% ] 54% of the parties' combined income of [ \$2,000 ] \$2,800, her support obligation to Grandmother is [ \$311 ] \$80 per month. If Grandmother were not receiving the children's derivative benefits or income from the trust, her income for purposes of calculating Mother's child support obligation would be zero and Mother would pay 100% of the basic support amount because Grandmother has no support obligation to the children.

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

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#### Explanatory Comment—2013

The SSR has been increased to \$931, the 2012 federal poverty level for one person. Subdivision (e) has been amended to require that when the obligor's income falls into the shaded area of the basic child support schedule in Rule 1910.16-3, two calculations must be performed. One calculation uses only the obligor's income and the other is a regular calculation using both parties' incomes, awarding the lower amount to the obligee. The two step process is intended to address those cases in which the obligor has minimal income and the obligee's income is substantially greater.

#### Explanatory Comment—2015

The rule has been amended to provide that a party's support obligation will be reduced by the amount of a child's Social Security derivative benefit if that party's retirement or disability created the benefit and the benefit is being paid to the household in which the child primarily resides or the obligee in cases of equally shared custody. In most cases, payment of the benefit to the obligee's household will increase the resources available to the child and the parties. The rule is intended to encourage parties to direct that the child's benefits be paid to the obligee.

#### 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 basic child support, either from the schedule in Rule 1910.16-3 or the formula in Rule 1910.16-3.1(a), as well as spousal support and alimony pendente lite obligations. In high income cases, Part IV shall be used as a preliminary analysis in the calculation of spousal support or alimony pendente lite obligations:

PART I. BASIC CHILD SUPPORT

		<i>OBLIGOR</i>	<i>OBLIGEE</i>
1.	Total Gross Income Per Pay Period	_____	_____
2.	Less Deductions	( _____ )	( _____ )
3.	Net Income	_____	_____
4.	Conversion to Monthly Amount (if pay period is other than monthly) [ <b>Include in the obligor's income the child's monthly Social Security retirement or disability benefit if the obligor is receiving the child's benefit. (See Rule 1910.16-2(b)(2))</b> ] <b>Include amount of child's monthly Social Security derivative benefit, if any, in the income of the party receiving it pursuant to Rule 1910.16-2(b)(2)(A) or (B).</b>	_____	_____
5.	Combined Total Monthly Net Income	_____	_____
[ 6. ]	<b>Plus Child's Monthly Social Security, Death, Retirement or Disability Derivative Benefit, if any. Do not add child's benefit if included in the obligor's income in line 4. (See Rule 1910.16-2(b)(2))</b>	+ _____	
7.	<b>Adjusted Combined Monthly Net Income</b>	_____	
8.	<b>PRELIMINARY BASIC CHILD SUPPORT OBLIGATION (determined from schedule at Rule 1910.16-3 based on number of children and line 7 adjusted combined monthly net income)</b>	_____	
9.	<b>Less Child's Monthly Social Security Derivative Benefit (Do not deduct the child's benefit if the obligor is receiving the child's benefit.)</b>	( _____ ) ]	
[ 10. ] 6.	<b>BASIC CHILD SUPPORT OBLIGATION (determined from schedule at Rule 1910.16-3 based on number of children and line 5 combined monthly net income)</b>	_____	
[ 11. ] 7.	Net Income Expressed as a Percentage Share of Income (divide line 4 by line 5 and multiply by 100)	_____ %	_____ %
[ 12. ] 8.	Each [ <b>Parent's</b> ] <b>Party's Preliminary Monthly Share of the Basic Child Support Obligation (multiply line [ 10 and 11 ] 6 and 7)</b>	_____	_____
9.	<b>Subtract Child's Social Security Derivative Disability or Retirement Benefit from the Monthly Share of Basic Child Support of the Party whose Retirement or Disability Created the Child's Benefits if the Benefits are Paid to the Obligee</b>	_____	_____
10.	<b>Each Party's Adjusted Monthly Share of the Basic Child Support Obligation (Not less than 0)</b>	_____	_____

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

[ 13. ] 11.	a. Percentage of Time [ <b>Spent</b> ] <b>Obligor Spends</b> 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 <b>result of calculation in</b> line [ 13b ] 11b from line [ 11 ] 7)	_____ %
	d. Obligor's <b>Preliminary</b> Adjusted Share of the Basic Monthly Support Obligation (multiply line [ 13c ] 11c and line [ 10 ] 6)	_____

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

**f. Obligor's Adjusted Share of the Basic Child Support Amount.** \_\_\_\_\_

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

- [ 14. ] 12. a. Obligor's Share of Child Care Expenses \_\_\_\_\_
- b. Obligor's Share of Health Insurance Premium (if the obligee is paying the premium) \_\_\_\_\_
- c. Less Obligee's Share of the Health Insurance Premium (if the obligor is paying the premium) (\_\_\_\_\_)
- d. Obligor's Share of Unreimbursed Medical Expenses \_\_\_\_\_
- e. Other Additional Expenses \_\_\_\_\_
- f. Total Additional Expenses \_\_\_\_\_
- [ 15. ] 13. OBLIGOR'S TOTAL MONTHLY SUPPORT OBLIGATION [ (add line 12 (or 13(d or e) (if applicable) and line 14f) ] (add line 10 or 11f, if applicable, and line 12f) \_\_\_\_\_

*PART IV. SPOUSAL SUPPORT OR APL*

*With Dependent Children*

- [ 16. ] 14. Obligor's Monthly Net Income (line 4) \_\_\_\_\_
- [ 17. ] 15. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations, if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2)) (\_\_\_\_\_)
- [ 18. ] 16. Less Obligee's Monthly Net Income ([ Line ] line 4) (\_\_\_\_\_)
- [ 19. ] 17. Difference \_\_\_\_\_
- [ 20. ] 18. Less Obligor's Total Monthly Child Support Obligation Without Part II Substantial or Shared Custody Adjustment (Obligor's line [ 12 ] 10 plus line [ 14 ] 12f) (\_\_\_\_\_)
- [ 21. ] 19. Difference \_\_\_\_\_
- [ 22. ] 20. Multiply by 30% x           .30

[ 23. ] 21. AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL \_\_\_\_\_

*Without Dependent Children*

- [ 24. ] 22. Obligor's Monthly Net Income (line 4) \_\_\_\_\_
- [ 25. ] 23. Less Obligor's Support, Alimony Pendente Lite or Alimony Obligations, if any, to Children or Former Spouses who are not part of this action (see Rule 1910.16-2(c)(2)) (\_\_\_\_\_)
- [ 26. ] 24. Less Obligee's Monthly Net Income ([ Line ] line 4) (\_\_\_\_\_)
- [ 27. ] 25. Difference \_\_\_\_\_
- [ 28. ] 26. Multiply by 40% x           .40

[ 29. ] 27. PRELIMINARY AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL \_\_\_\_\_

[ 30. ] 28. Adjustments for Other Expenses (see Rule 1910.16-6) \_\_\_\_\_

[ 31. ] 29. TOTAL AMOUNT OF MONTHLY SPOUSAL SUPPORT OR APL \_\_\_\_\_

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[Pa.B. Doc. No. 15-904. Filed for public inspection May 15, 2015, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## YORK COUNTY

### Amendment of Local Rule of Judicial Administration 112; AD 30 2015

#### Administrative Order Amending York County Local Rule of Judicial Administration 112

And Now, this 27th day of April, 2015, it is *Ordered* that York County Local Rule of Judicial Administration 112 is hereby amended as indicated in the following document, effective immediately.

The District Court Administrator shall publish this Order and the following Rule to:

(a) Administrative Office of Pennsylvania Courts, and the Pennsylvania Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, in accordance with the requirements of Pa.R.J.A. No. 103(c);

(b) York County Bar Association for publication in the *York Legal Record*.

By the Court

STEPHEN P. LINEBAUGH,  
*President Judge*

#### YCJA 112. Photography, Recording, Broadcasting and Electronic Equipment.

(A) The taking of photographs, including video pictures and recording, and the use of audio and video broadcast and audio recording equipment and any other device capable of capturing or transmitting sound or images, in a courtroom or hearing room or its environs during the progress of or in connection with any action, whether or not court is actually in session, is prohibited.

(B) *Environs Defined*: Environs of a courtroom or hearing room shall include the entire floor on which is located any courtroom, hearing room, jury room, grand jury room, sheriff's office or station, Prothonotary's or Clerk of Courts' office, office of the District Attorney, or any lockup or prisoner holding area. Environs also includes the corridor or lobby on the main floor or street floor, any elevator area and any area constituting an interior entrance area to the building of any courtroom, hearing room or grand jury room. **Environs includes the York County Judicial Center and all York County Magisterial District Court buildings.**

(C) *Cellular Telephones Prohibited*: Cameras, cellular telephones, portable electronic data devices and any other device capable of capturing or transmitting images or sound are prohibited inside of the York County Judicial Center[, and prohibited inside a Magisterial District Court at the discretion of the Magisterial District Judge] and all York County Magisterial District Court buildings.

(1) *Employee Exception*: The prohibition in Section (C) above shall not apply to those individuals employed in the Judicial Center, a Magisterial District Court or employed by the County of York, who clearly display an identification badge issued by the County of York, provided, however, that the device shall be in a "silent" or "vibrate only" mode when the employee enters a courtroom, hearing room, or grand jury room.

(2) *Attorney Exception*: The prohibition in Section (C) above shall not apply to an attorney at law who enters the Judicial Center or a Magisterial District Court on business related to the representation of a client, provided, however, that the device shall have the power switched "off" when the attorney enters a courtroom, hearing room, or grand jury room.

(3) *Emergency Responder Exception*: The prohibition in Section (C) above shall not apply to emergency medical or other personnel responding to a call within the Judicial Center or Magisterial District Court.

(4) *Other Exceptions*: The prohibition in Section (C) above may be waived by a judge, Court Administrator, or the Sheriff or his designee, in special circumstances.

(D) *Special Proceedings*: In the discretion of any judge, photographing, making video or audio recordings, or televising or broadcasting any special proceedings, such as investiture, naturalization, or ceremonial proceedings, in a courtroom or its environs may be permitted under such conditions as the judge may prescribe, consistent with the proscriptions of [ **Canon 3A (7) of the Code of Judicial Conduct** ] Pa.R.J.A. No. 1910.

(E) *Stenographic Recordings*: Except as permitted by law or rule of court, the recording by any means of any judicial proceedings by anyone other than the official court stenographer in a court case, for any purpose, is prohibited.

(F) *Special Permission*: The President Judge may, upon application, make exception to the prohibitions contained in this Rule under such circumstances and subject to such conditions as the President Judge may prescribe.

(1) The application shall include the reason for the request, the type of electronic medium intended to be used, the locations at which the electronic medium is to be used, and the date and times of the day for which the exception is being sought.

(2) If the exception is being sought in connection with any judicial proceeding, the caption and case number of the proceeding shall be included in the application.

(G) *Special Cases*: The court may make such orders as may be necessary in connection with any specific case to protect the rights of all parties and the public.

April 27, 2015 amendment: effective immediately, bold text in brackets is rescinded, and bold text is added.

[Pa.B. Doc. No. 15-905. Filed for public inspection May 15, 2015, 9:00 a.m.]

YORK COUNTY

Domestic Relations Section 2015 Schedule of Fees; CP-67-AD-27 2015

Administrative Order Setting the Schedule of Fees for the Domestic Relations Section

And Now, this 24th day of April, 2015, pursuant to Act 49 of 2009, the York County Domestic Relations Section shall charge fees for such matters as set forth in the following fee schedule. This order and the referenced fees shall be effective for matters pending on and after June 1, 2015 and shall be effective until further order of Court. This Court's previous administrative order dated January 14, 2003 and docketed at 2003-MI-0011 is revoked immediately. This Court's previous administrative order dated January 28, 2010 and docketed at 2010-MI-000036-55 is revoked effective June 1, 2015.

The District Court Administrator shall provide a copy of this order to the AOPC so that the revoked order dated January 14, 2003 may be removed from the UJS website.

By the Court

STEPHEN P. LINEBAUGH,
President Judge

York County Domestic Relations Section 2015 Fee Schedule

APPEALS:

To Supreme, Superior or Commonwealth Courts ..... \$73.50

CERTIFICATION:

Each Document .....\$5.00

CASE ADMINISTRATION FEE:

Assessed to Defendant in Case—Annual ..... \$26.00

CASE COPIES (per page) .....\$0.25

MODIFICATION ..... \$20.00

PERSONAL SERVICE (Bench Warrant/Transport):

Assessed to appropriate Party at Rate
Billed to DRS for service ..... \$39.50—\$75.00

RETURNED CHECK ..... \$25.00

UNIFIED JUDICIAL SYSTEM—remitted to AOPC (Filing Fee):

Assessed to Plaintiff at commencement of support action ..... \$35.50

[Pa.B. Doc. No. 15-906. Filed for public inspection May 15, 2015, 9:00 a.m.]