

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [ 231 PA. CODE CH. 1910 ]

#### Amendment of Rule 1910.16-6 of the Rules of Civil Procedure; No. 666 Civil Procedural Rules Doc.

#### Order

*Per Curiam*

And Now, this 23rd day of June, 2017, upon the recommendation of the Domestic Relations Procedural Rules Committee, the proposal having been published for public comment in the *Pennsylvania Bulletin*, 46 Pa.B. 7522 (December 3, 2016):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1910.16-6 of the Pennsylvania Rules of Civil Procedure is 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 October 1, 2017.

#### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation. Allocation of Additional Expenses.

The trier of fact may allocate between the parties the additional expenses identified in subdivisions (a)—(e). If under the facts of the case an order for basic support is not appropriate, the trier of fact may allocate between the parties the additional expenses.

(a) *Child care expenses.* Reasonable child care expenses paid by [ **either parent** ] **the parties**, if necessary to maintain employment or appropriate education in pursuit of income, shall be allocated between the parties in proportion to their monthly net incomes [ **and added to his and her basic support obligation** ]. **The court may order that the obligor's share is added to his or her basic support obligation, paid directly to the service provider, or paid directly to the obligee.** When a [ **parent** ] **party** is receiving a child care subsidy through the Department of Human Services, the expenses to be allocated between the parties shall be the amount actually paid by the [ **parent** ] **party** receiving the subsidy.

*Example.* Mother has primary custody of the parties' two children and Father has partial custody. Mother's monthly net income is \$2,000 and Father's is \$3,500. At their combined income level of \$5,500, the basic monthly child support from the schedule in Pa.R.C.P. No. 1910.16-3 is \$1,463 for two children. As Father's income is 64% of the parties' combined income, his share is \$936. Mother incurs child care expenses of \$400 per month and Father incurs \$100 of such expenses each month. The total amount of child care expenses, \$500, will be appor-

tioned between the parties, with Father paying 64%, or \$320. As he is already paying \$100 for child care while the children are in his partial custody, he would pay the remaining \$220 to Mother for a total child support obligation of \$1,156 (\$936 + \$220 = \$1,156).

(1) **Documentation of the child care expenses shall be provided to the other party within a reasonable period of time after receipt unless the service provider invoices the parties separately for their proportionate share of the expense. Allocation of expenses for which documentation is not timely provided to the other party shall be within the discretion of the court.**

[ (1) ] (2) Except as provided in [ **subsection (2)** ] **subdivision (3)**, the total child care expenses shall be reduced to reflect the amount of the federal child care tax credit available to the eligible [ **parent** ] **party**, whether or not the credit is actually claimed by that [ **parent** ] **party**, up to the maximum annual cost allowable under the Internal Revenue Code.

[ (2) ] (3) The federal child care tax credit shall not be used to reduce the child care expenses subject to allocation between the parties if the eligible [ **parent** ] **party** is not qualified to receive the credit.

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(d) *Private School Tuition. Summer Camp. Other Needs.* [ **The support schedule does not take into consideration expenditures for private school tuition or other needs of a child which are not specifically addressed by the guidelines. If the court determines that one or more such needs are reasonable, the expense thereof shall be allocated between the parties in proportion to their net incomes. The obligor's share may be added to his or her basic support obligation.** ] Expenditures for needs outside the scope of typical child-rearing expenses, e.g., private school tuition, summer camps, have not been factored into the Basic Child Support Schedule.

(1) **If a party incurs an expense for a need not factored into the Basic Child Support Schedule and the court determines the need and expense are reasonable, the court shall allocate the expense between the parties in proportion to the parties' monthly net incomes. The court may order that the obligor's share is added to his or her basic support obligation, paid directly to the service provider, or paid directly to the obligee.**

(2) **Documentation of the expenses allocated under (d)(1) shall be provided to the other party not later than March 31 of the year following the calendar year in which the invoice was received unless the service provider invoices the parties separately for their proportionate share of the expense. For purposes of subsequent enforcement, these expenses need not be submitted to the domestic relations section prior to March 31. Allocation of expenses for which documentation is not timely provided to the other party shall be within the discretion of the court.**

(e) *Mortgage Payment.* The guidelines assume that the spouse occupying the marital residence will be solely responsible for the mortgage payment, real estate taxes, and homeowners' insurance. Similarly, the court will assume that the party occupying the marital residence will be paying the items listed unless the recommendation specifically provides otherwise. If the obligee is living in the marital residence and the mortgage payment exceeds 25% of the obligee's net income (including amounts of spousal support, alimony pendente lite and child support), the court may direct the obligor to assume up to 50% of the excess amount as part of the total support award. If the obligor is occupying the marital residence and the mortgage payment exceeds 25% of the obligor's monthly net income (less any amount of spousal

support, alimony pendente lite or child support the obligor is paying), the court may make an appropriate downward adjustment in the obligor's support obligation. This rule shall not be applied after a final resolution of all outstanding economic claims. For purposes of this subdivision, the term "mortgage" shall include first mortgages, real estate taxes and homeowners' insurance and may include any subsequent mortgages, home equity loans and any other obligations incurred during the marriage which are secured by the marital residence.

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[Pa.B. Doc. No. 17-1118. Filed for public inspection July 7, 2017, 9:00 a.m.]

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