

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Adoption of Pa.R.Civ.P. 1960-1964

The Domestic Relations Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pennsylvania Rules of Civil Procedure 1960-1964 to implement the Uniform Family Law Arbitration Act, 42 Pa.C.S. §§ 7371-7398, for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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Pennsylvania Judicial Center
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All communications in reference to the proposal should be received by **August 16, 2024**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Domestic Relations Procedural Rules Committee,

Carolyn Moran Zack, Esq., Chair

(These are entirely new rules.)

Rule 1960. Applicability of Rules to Arbitration.

The rules in this chapter shall apply to court proceedings arising from the Uniform Family Law Arbitration Act, 42 Pa.C.S. §§ 7371-7398 (hereinafter “Act”).

Comment: The Act provides for limited judicial review of arbitration proceedings and awards. Readers are advised to consult the Act for the permitted bases for review, the timing for seeking review, and the conditions and limits on the scope of review. Petitioners are required to allege sufficient facts and cite the Act with specificity in support of the relief sought. See Pa.R.Civ.P. 1962, 1963(c)(1).

Rule 1961. Petition for Judicial Relief - Forum.

A petition for judicial relief, as permitted by the Act, shall be filed in the appropriate forum:

- (a) the court in which a proceeding is pending involving a dispute subject to arbitration under the Act; or
- (b) if no proceeding is pending, a court with jurisdiction over the parties and the subject matter.

Comment: See 42 Pa.C.S. § 7377(a).

Rule 1962. Petition for Judicial Relief – Not Specified.

A petition seeking judicial relief not otherwise specified in this Chapter shall conform to the requirements of Pa.R.Civ.P. 1964(a)-(d) and contain a notice substantially in the following form:

To: (Name of Adverse Party)

You are hereby notified to file a written response to the enclosed petition within 20 days from service hereof or an order may be entered against you.

(Party Filing Pleading or the Party's Attorney)

Comment: This rule is intended to govern petitions, including, but not limited to, those seeking court selection of an arbitrator, objecting to the selection or continued service of an arbitrator, staying arbitration, terminating arbitration, and clarifying, modifying, or enforcing a confirmed award, or consolidating separate arbitrations.

Rule 1963. Petition for Judicial Relief - Compulsion.

- (a) **Compulsion by Party.** A party seeking to compel arbitration of an arbitrable claim shall file a petition against the other party.
- (b) **Service.** The petition shall be served pursuant to Pa.R.Civ.P. 1930.1 unless the claim has previously been raised and remains pending before the court. Otherwise, the petition shall be served in accordance with Pa.R.Civ.P. 440.
- (c) **Contents of Petition.**
 - (1) The petition shall include an allegation that the claim sought to be reviewed is subject to an agreement to submit these claims to arbitration.
 - (2) A copy of the arbitration agreement shall be appended to the petition.
- (d) **Notice to File Answer.** The petition shall contain a notice substantially in the following form:

Notice to File Answer

The petition attached to this notice asks the court to enforce an agreement to submit claims to arbitration. If you oppose submission of this claim to arbitration, you must file an answer to the petition with the Prothonotary within 20 days of mailing or other service of this notice. If you fail to respond, this case will proceed to arbitration, and you may lose custody, money, property, or other rights important to you.

- (e) **No Response or Admission by Responding Party.** If the responding party fails to file a responsive pleading, or files an answer admitting that the claim is subject to arbitration, the moving party may file a *praecipe* directing the prothonotary to enter on the docket a stay of proceedings pending arbitration.
- (f) **Denial by Responding Party.** If the responding party files either preliminary objections or an answer denying that the claim is subject to arbitration, the court shall decide any preliminary objections and the petition without delay.

- (g) **Compulsion by Party.** A party seeking to compel arbitration of an arbitrable claim for which the other party is not seeking arbitration shall proceed by preliminary objection.
- (h) **Court Order.** If the court grants the motion to compel arbitration, the court shall enter an order compelling the parties to proceed with arbitration and staying proceedings pending arbitration.

Rule 1964. Petition for Judicial Relief – Confirming, Amending, Correcting, or Vacating Award.

- (a) **Petition.** A party seeking to confirm, amend, correct, or vacate an arbitrator’s award shall file a timely petition naming the other party as respondent.
- (b) **Docket Number.** If the claim has been raised in a matter stayed pending arbitration, the petition shall be filed on that docket. Otherwise, the petition shall be filed as new action.
- (c) **Service.** If the claim has been raised in a matter stayed pending arbitration, the petition shall be served in accordance with Pa.R.Civ.P. 440. Otherwise, the petition shall be served pursuant to Pa.R.Civ.P. 1930.4.
- (d) **Contents of Petition.**
 - (1) The petition shall allege sufficient facts and cite the Act with specificity in support of the relief sought.
 - (2) A copy of the arbitrator’s award shall be appended to the petition.
- (e) **Notice to File Answer.** The petition shall contain a notice substantially in the following form:

Notice to File Answer

A party to these proceedings has filed a motion to (confirm/amend/correct/vacate) an arbitration award. If you oppose the motion, you are required to file an answer to the motion within 20 days from the date below setting forth your objections to the motion. If you fail to file an answer, a court order based on the arbitration award may be entered against you without further notice. You may lose custody, money, property, or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES

THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

(Name)

(Address)

(Telephone Number)

Comment: The scope of this rule is intended to include temporary awards and unconfirmed awards by an arbitrator.

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DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

Proposed Adoption of Pa.R.Civ.P. 1960-1964

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing the adoption of Pennsylvania Rules of Civil Procedure 1960-1964 to implement the Uniform Family Law Arbitration Act, 42 Pa.C.S. §§ 7371-7398, insofar as the arbitration process may interface with the court.

While the concept of arbitration is an agreement between the parties to have disputes resolved privately, the Act does involve the court in limited aspects. The court's involvement is generally limited to issues regarding arbitrability, compulsion of arbitration, specific irregularities involving the arbitration process, confirmation of an arbitration award, and enforcement of an award.

The Committee proposes a set of rules providing procedures for seeking the court's involvement. The rules are intended to be general in nature so as not to overreach into the arbitration process or restate portions of the Act. The Committee consulted Pa.R.Civ.P. 1326-1331, which govern arbitration in consumer credit transactions.

As stated in the Comment to Pa.R.Civ.P. 1960, the burden would be on the reader to consult the Act. Pa.R.Civ.P. 1961, concerning forum, instructs a petitioner where to seek judicial action. See 42 Pa.C.S. § 7377(a). Pa.R.Civ.P. 1962 pertains to petitions for judicial relief other than those for compulsion, which is governed by Pa.R.Civ.P. 1963, and for confirming, amending, correcting, or vacating an arbitration award, which are governed by Pa.R.Civ.P. 1964. Pa.R.Civ.P. 1962 incorporates by reference the requirements of Pa.R.Civ.P. 1964(a)-(d). All petitions are required to contain a rule-based notice to the other party. Please note the requirement of Pa.R.Civ.P. 1964(d)(1), which requires specific citation of the Act in support of the relief sought. This requirement is intended to avoid the need to reiterate portions of the Act within the rule text or commentary, as well as require that the petition inform the court about the specific part of the Act relied upon for the relief sought.

The rules are intended to respect that the parties have knowingly, intelligently, and voluntarily entered into a contract to have their disputes heard by an arbitrator. At this juncture, it is anticipated that much of a court's involvement will focus on confirmation of awards. The Committee presumes that arbitrators will explain the arbitration process to the parties, including the confirmation process. After some

experience is gained through the application of the Act, the Committee can reassess whether additional procedures are necessary.

The Committee discussed whether a petition seeking confirmation of an award can be filed as a “miscellaneous matter” and without an underlying complaint having been docketed. The Committee specifically seeks input on this aspect of family law arbitration governed by the Act.

All comments, concerns, and suggestions concerning this rule proposal are welcome.