
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 723 Session of
1999

INTRODUCED BY WILT AND LEH, MARCH 8, 1999

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 8, 1999

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for the paternity of
3 children born during a marriage.

4 The General Assembly finds and declares as follows:

5 That the overriding public policy of this Commonwealth is
6 that a child born during a marriage shall be presumed to be the
7 issue of the husband. Marriages which continue to function as
8 family units should not be destroyed by disputes over parentage
9 of children conceived during the marriage. Third parties should
10 not be allowed to attack the integrity of a functioning marital
11 unit, and that, generally, members of that unit should not be
12 allowed to deny their identities as parents.

13 However, the General Assembly finds that the common law rule
14 followed by the Pennsylvania courts is an ancient concept that
15 fails to conform with modern-day realities and current
16 scientific methods of determining parentage.

17 The General Assembly also declares that the purpose of this
18 act is to displace common law rule relating to the presumption

1 of paternity for a child born during a marriage and give the
2 courts of this Commonwealth statutory guidance to resolve
3 disputes over paternity for children born during a marriage.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 23 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 5102.1. Paternity of child born during marriage.

9 (a) Presumption of paternity.--A child born during a
10 marriage is presumed to be the child of the marriage and the
11 issue of the husband.

12 (b) Rebuttal of presumption.--The husband or wife may rebut
13 the presumption of paternity by a showing of any of the
14 following:

15 (1) the husband did not have access to the wife at the
16 time of conception;

17 (2) the husband was physically incapable of procreation
18 at the time of conception;

19 (3) the wife was engaged in an extra-marital
20 relationship at the time of conception; or

21 (4) the husband voluntarily completed a blood test which
22 determines that the husband cannot be the father of the
23 child.

24 (c) Applicability of presumption.--The presumption of
25 paternity in subsection (a) shall only apply in instances where
26 an intact family exists.

27 (d) Estoppel of paternity actions.--

28 (1) Notwithstanding subsection (b), an action for
29 paternity shall be estopped and the presumption of paternity
30 shall become irrebuttable if there is clear and convincing

1 evidence that the husband openly holds out the child to be
2 his and receives the child into his home unless the husband
3 disputes his paternity in a legal proceeding within 60 days
4 after the husband discovers or reasonably should have
5 discovered that he is not the father of the child and such
6 action is taken within five years after the birth of the
7 child.

8 (2) A husband who takes timely action to dispute his
9 paternity within the time frame prescribed in paragraph (1)
10 may continue to support the child and receive the child in
11 his home without incurring any legal support obligation or
12 being subject to estoppel unless the husband agrees in
13 writing to assume a support obligation for the child after
14 taking such action.

15 (e) Definition.--As used in this section, the phrase "an
16 intact family exists" means that at the time of the birth of the
17 child, the husband and wife cohabitated and acted as a married
18 couple and parents to the child.

19 Section 2. Section 5104(g) of Title 23 is amended to read:
20 § 5104. Blood tests to determine paternity.

21 * * *

22 (g) Effect on presumption of [legitimacy.--The] paternity.--
23 As provided in section 5102.1 (relating to paternity of child
24 born during marriage) the presumption of [legitimacy] paternity
25 of a child born during [wedlock] a marriage is overcome if the
26 court finds that the conclusions of all the experts as disclosed
27 by the evidence based upon the tests show that the husband is
28 not the father of the child.

29 Section 3. This act shall take effect immediately.