

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 663 Session of 2015

INTRODUCED BY VULAKOVICH, SCARNATI, ALLOWAY, AUMENT, BOSCOLA, BROOKS, COSTA, FOLMER, FONTANA, HAYWOOD, MCGARRIGLE, McILHINNEY, MENSCH, RAFFERTY, STEFANO, TARTAGLIONE, VOGEL, WARD AND SCHWANK, MARCH 31, 2015

SENATOR BROWNE, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 9, 2015

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, IN PROCEEDINGS PRIOR TO PETITION TO <--
3 ADOPT, FURTHER PROVIDING FOR GROUNDS FOR INVOLUNTARY
4 TERMINATION AND FOR HEARING; in support matters generally,
5 further providing for liability for support; and, in child
6 custody, further providing for consideration of criminal
7 conviction.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. Section 4321 of Title 23 of the Pennsylvania <--
11 Consolidated Statutes is amended by adding a paragraph to read:~~

12 SECTION 1. SECTIONS 2511(A) (7) AND 2513(D) OF TITLE 23 OF <--
13 THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

14 § 2511. GROUNDS FOR INVOLUNTARY TERMINATION.

15 (A) GENERAL RULE.--THE RIGHTS OF A PARENT IN REGARD TO A
16 CHILD MAY BE TERMINATED AFTER A PETITION FILED ON ANY OF THE
17 FOLLOWING GROUNDS:

18 * * *

19 (7) THE PARENT IS THE [FATHER] PARENT OF A CHILD

1 CONCEIVED AS A RESULT OF [A RAPE OR INCEST.] ANY OF THE
2 FOLLOWING OFFENSES:

3 (I) 18 PA.C.S. § 3121 (RELATING TO RAPE);

4 (II) 18 PA.C.S. § 3122.1 (RELATING TO STATUTORY
5 SEXUAL ASSAULT);

6 (III) 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL
7 ASSAULT);

8 (IV) 18 PA.C.S. § 3124.2 (RELATING TO INSTITUTIONAL
9 SEXUAL ASSAULT); OR

10 (V) 18 PA.C.S. § 4302 (RELATING TO INCEST).

11 * * *

12 § 2513. HEARING.

13 * * *

14 (D) DECREE.--AFTER HEARING, WHICH MAY BE PRIVATE, THE COURT
15 SHALL MAKE A FINDING RELATIVE TO THE PERTINENT PROVISIONS OF
16 SECTION 2511 (RELATING TO GROUNDS FOR INVOLUNTARY TERMINATION)
17 AND UPON SUCH FINDING MAY ENTER A DECREE OF TERMINATION OF
18 PARENTAL RIGHTS. A DECREE ENTERED TERMINATING PARENTAL RIGHTS
19 UNDER THIS SECTION SHALL NOT AFFECT ANY SUPPORT OBLIGATION
20 IMPOSED UNDER SECTION 4321 (RELATING TO LIABILITY FOR SUPPORT)
21 ON THE PARENT WHOSE RIGHTS HAVE BEEN TERMINATED.

22 SECTION 2. SECTION 4321 OF TITLE 23 IS AMENDED BY ADDING A
23 PARAGRAPH TO READ:

24 § 4321. Liability for support.

25 Subject to the provisions of this chapter:

26 * * *

27 ~~(2.1) Paragraph (2) applies whether or not parental~~ <--
28 ~~rights of the parent have been terminated due to a conviction~~
29 ~~for any of the following where the other parent is the~~
30 ~~victim:~~

1 (4) FOR PURPOSES OF PARAGRAPHS (2) AND (3), THE TERM <--
2 "PARENTS" INCLUDES AN INDIVIDUAL WHOSE PARENTAL RIGHTS HAVE
3 BEEN TERMINATED DUE TO A CONVICTION FOR ANY OF THE FOLLOWING
4 OFFENSES WHERE THE CHILD WAS CONCEIVED AS A RESULT OF THE
5 OFFENSE:

6 (i) 18 Pa.C.S. § 3121 (relating to rape);

7 (ii) 18 Pa.C.S. § 3122.1 (relating to statutory
8 sexual assault);

9 (iii) 18 Pa.C.S. § 3124.1 (relating to sexual
10 assault) where the offense involved sexual intercourse; <--

11 (iv) 18 Pa.C.S. § 3124.2 (relating to institutional
12 sexual assault) where the offense involved sexual <--
13 intercourse; or

14 (v) 18 Pa.C.S. § 4302 (relating to incest) where the <--
15 offense involved sexual intercourse.

16 Paternity of the child under this paragraph shall be
17 established through blood, genetic or other type of paternity <--
18 test acceptable to the court IN ACCORDANCE WITH THE LAWS OF <--
19 THIS COMMONWEALTH. The cost of the testing shall be borne by
20 the parent who was convicted of the offense.

21 * * *

22 Section 2 3. Section 5329 of Title 23 is amended by adding a <--
23 subsection to read:

24 § 5329. Consideration of criminal conviction.

25 * * *

26 (b.1) Parent convicted of certain sexual offenses.--

27 (1) Notwithstanding any provision of this chapter to the <--
28 contrary and subject to paragraph (2), if a parent who is a
29 victim of any of the offenses set forth in this paragraph
30 objects EXCEPT AS PROVIDED IN PARAGRAPH (2), no court shall <--

1 award any type of custody set forth in section 5323 (relating
2 to award of custody) to the ~~other~~ parent of a child conceived <--
3 as a result of any of the following offenses for which the
4 ~~other~~ parent has been convicted: <--

5 18 Pa.C.S. § 3121.

6 18 Pa.C.S. § 3122.1.

7 18 Pa.C.S. § 3124.1, where the offense involved sexual <--
8 intercourse.

9 18 Pa.C.S. § 3124.2 (relating to institutional sexual
10 assault), where the offense involved sexual intercourse. <--

11 18 Pa.C.S. § 4302.

12 (2) A court may award any type of custody set forth in
13 section 5323 to a parent who has been convicted of an offense
14 under paragraph (1), notwithstanding the objection of the <--
15 parent who is a victim, if:

16 (i) the child is of suitable age and consents to the
17 custody order; and

18 (ii) IF: <--

19 (I) THE PARENT WHO WAS THE VICTIM OF THE OFFENSE
20 DOES NOT OBJECT TO THE CUSTODY AWARD; OR

21 (II) DESPITE THE OBJECTION TO THE CUSTODY AWARD BY
22 THE PARENT WHO WAS THE VICTIM OF THE OFFENSE, THE CHILD
23 IS OF SUITABLE AGE AND CONSENTS TO THE CUSTODY ORDER AND
24 the court determines the award is in the best interest of
25 the child.

26 (3) Paternity of the child shall be established in
27 accordance with the laws of this Commonwealth. The cost of
28 the testing shall be borne by the parent who was convicted of
29 the offense.

30 * * *

1 Section ~~3~~ 4. The AMENDMENT OR addition of 23 Pa.C.S. §§ <--
2 ~~4321(2.1)~~ 2511(A) (7), 2513(D), 4321(4) and 5329 (b.1) shall <--
3 apply to any action regarding custody of a child under 23
4 Pa.C.S. Ch. 43 or 53 that is filed on or after the effective
5 date of this section.
6 Section ~~4~~ 5. This act shall take effect in 60 days. <--