

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

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 28, 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 AMENDING TITLE 23 (DOMESTIC RELATIONS) OF THE PENNSYLVANIA <--  
9 CONSOLIDATED STATUTES, IN SUPPORT MATTERS GENERALLY, FURTHER  
10 PROVIDING FOR LIABILITY FOR SUPPORT; AND, IN CHILD CUSTODY,  
11 FURTHER PROVIDING FOR CONSIDERATION OF CRIMINAL CONVICTION.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 ~~Section 1. Sections 2511(a)(7) and 2513(d) of Title 23 of~~ <--  
15 ~~the Pennsylvania Consolidated Statutes are amended to read:~~

16 ~~§ 2511. Grounds for involuntary termination.~~

17 ~~(a) General rule. The rights of a parent in regard to a~~  
18 ~~child may be terminated after a petition filed on any of the~~  
19 ~~following grounds:~~

20 \* \* \*

1           ~~(7) The parent is the [father] parent of a child~~  
2           ~~conceived as a result of [a rape or incest.] any of the~~  
3           ~~following offenses, which the parent has been convicted of,~~  
4           ~~pled guilty or no contest to, or been adjudicated delinquent~~  
5           ~~for:~~

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);~~

11                    ~~(iv) 18 Pa.C.S. § 3124.2 (relating to institutional~~  
12                    ~~sexual assault); or~~

13                    ~~(v) 18 Pa.C.S. § 4302 (relating to incest).~~

14                    ~~(vi) An equivalent offense under the laws of another~~  
15                    ~~state of the United States to any offense under~~  
16                    ~~subparagraphs (i), (ii), (iii), (iv) and (v).~~

17            ~~\* \* \*~~

18    ~~§ 2513. Hearing.~~

19            ~~\* \* \*~~

20            ~~(d) Decree. After hearing, which may be private, the court~~  
21            ~~shall make a finding relative to the pertinent provisions of~~  
22            ~~section 2511 (relating to grounds for involuntary termination)~~  
23            ~~and upon such finding may enter a decree of termination of~~  
24            ~~parental rights. A decree terminating parental rights under this~~  
25            ~~section shall not affect the support obligation provided for by~~  
26            ~~section 4321 (relating to liability for support) on the parent~~  
27            ~~whose rights have been terminated or the inheritance rights~~  
28            ~~provided for or through the child subject to the decree by the~~  
29            ~~laws of this Commonwealth or any other state.~~

30            ~~Section 2. Section 4321 of Title 23 is amended by adding a~~

1 ~~paragraph to read:~~

2 ~~§ 4321. Liability for support.~~

3 ~~Subject to the provisions of this chapter:~~

4 ~~\* \* \*~~

5 ~~(4) For purposes of paragraphs (2) and (3), the term~~  
6 ~~"parents" includes an individual whose parental rights have~~  
7 ~~been terminated due to a conviction for, plea of guilty or no~~  
8 ~~contest to, or adjudication of delinquency for any of the~~  
9 ~~following offenses where the child was conceived as a result~~  
10 ~~of the offense:~~

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

12 ~~(ii) 18 Pa.C.S. § 3122.1 (relating to statutory~~  
13 ~~sexual assault);~~

14 ~~(iii) 18 Pa.C.S. § 3124.1 (relating to sexual~~  
15 ~~assault);~~

16 ~~(iv) 18 Pa.C.S. § 3124.2 (relating to institutional~~  
17 ~~sexual assault);~~

18 ~~(v) 18 Pa.C.S. § 4302 (relating to incest); or~~

19 ~~(vi) an equivalent offense under the laws of another~~  
20 ~~state of the United States to any offense under~~  
21 ~~subparagraphs (i), (ii), (iii), (iv) and (v).~~

22 ~~Paternity of the child under this paragraph shall be~~  
23 ~~established in accordance with the laws of this Commonwealth.~~  
24 ~~The cost of the testing shall be borne by the parent who was~~  
25 ~~convicted of the offense.~~

26 ~~\* \* \*~~

27 ~~Section 3. Section 5329 of Title 23 is amended by adding a~~  
28 ~~subsection to read:~~

29 ~~§ 5329. Consideration of criminal conviction.~~

30 ~~\* \* \*~~

1 ~~(b.1) Parent convicted of certain sexual offenses.~~

2 ~~(1) Except as provided in paragraph (2), no court shall~~  
3 ~~award any type of custody set forth in section 5323 (relating~~  
4 ~~to award of custody) to the parent of a child conceived as a~~  
5 ~~result of any of the following offenses for which the parent~~  
6 ~~has been convicted, pled nolo contendere to, or has been~~  
7 ~~adjudicated delinquent for:~~

8 ~~18 Pa.C.S. § 3121.~~

9 ~~18 Pa.C.S. § 3122.1.~~

10 ~~18 Pa.C.S. § 3124.1.~~

11 ~~18 Pa.C.S. § 3124.2 (relating to institutional sexual~~  
12 ~~assault).~~

13 ~~18 Pa.C.S. § 4302.~~

14 ~~An equivalent offense under the laws of another state of~~  
15 ~~the United States to any offense listed under this paragraph.~~

16 ~~(2) A court may award any type of custody set forth in~~  
17 ~~section 5323 to a parent who has been convicted of an offense~~  
18 ~~under paragraph (1) if:~~

19 ~~(i) the parent who was the victim of the offense, or~~  
20 ~~the legal guardian if the parent is a minor or is~~  
21 ~~otherwise incapable of personally objecting, does not~~  
22 ~~object to the custody award; or~~

23 ~~(ii) despite the objection to the custody award~~  
24 ~~under this paragraph, the child is of suitable age and~~  
25 ~~consents to the custody order and the court determines~~  
26 ~~the award is in the best interest of the child.~~

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

1       \* \* \*

2       ~~Section 4. The amendment or addition of 23 Pa.C.S. §§~~  
3 ~~2511(a)(7), 2513(d), 4321(4) and 5329 (b.1) shall apply to any~~  
4 ~~action regarding custody of a child under 23 Pa.C.S. Ch. 43 or~~  
5 ~~53 that is filed on or after the effective date of this section.~~

6       ~~Section 5. This act shall take effect in 60 days.~~

7       SECTION 1. SECTION 4321 OF TITLE 23 OF THE PENNSYLVANIA       <--  
8 CONSOLIDATED STATUTES IS AMENDED BY ADDING A PARAGRAPH TO READ:  
9 § 4321. LIABILITY FOR SUPPORT.

10       SUBJECT TO THE PROVISIONS OF THIS CHAPTER:

11       \* \* \*

12       (2.1) PARAGRAPH (2) APPLIES WHETHER OR NOT PARENTAL  
13 RIGHTS OF THE PARENT HAVE BEEN TERMINATED DUE TO A CONVICTION  
14 FOR ANY OF THE FOLLOWING WHERE THE OTHER PARENT IS THE VICTIM  
15 AND A CHILD HAS BEEN CONCEIVED AS A RESULT OF THE OFFENSE:

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

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

19       (III) 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL  
20 ASSAULT) WHERE THE OFFENSE INVOLVED SEXUAL INTERCOURSE;

21       (IV) 18 PA.C.S. § 3124.2 (RELATING TO INSTITUTIONAL  
22 SEXUAL ASSAULT) WHERE THE OFFENSE INVOLVED SEXUAL  
23 INTERCOURSE; OR

24       (V) 18 PA.C.S. § 4302 (RELATING TO INCEST) WHERE THE  
25 OFFENSE INVOLVED SEXUAL INTERCOURSE.

26       PATERNITY OF THE CHILD UNDER THIS PARAGRAPH SHALL BE  
27 ESTABLISHED THROUGH BLOOD, GENETIC OR OTHER TYPE OF PATERNITY  
28 TEST ACCEPTABLE TO THE COURT. THE COST OF THE TESTING SHALL  
29 BE BORNE BY THE PARENT WHO WAS CONVICTED OF THE OFFENSE.

30       \* \* \*

1 SECTION 2. SECTION 5329 OF TITLE 23 IS AMENDED BY ADDING A  
2 SUBSECTION TO READ:

3 § 5329. CONSIDERATION OF CRIMINAL CONVICTION.

4 \* \* \*

5 (B.1) PARENT CONVICTED OF CERTAIN SEXUAL OFFENSES.--

6 (1) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE  
7 CONTRARY AND SUBJECT TO PARAGRAPH (2), IF A PARENT WHO IS A  
8 VICTIM OF ANY OF THE OFFENSES SET FORTH IN THIS PARAGRAPH  
9 OBJECTS, NO COURT SHALL AWARD ANY TYPE OF CUSTODY SET FORTH  
10 IN SECTION 5323 (RELATING TO AWARD OF CUSTODY) TO THE OTHER  
11 PARENT OF A CHILD CONCEIVED AS A RESULT OF ANY OF THE  
12 FOLLOWING OFFENSES FOR WHICH THE OTHER PARENT HAS BEEN  
13 CONVICTED:

14 18 PA.C.S. § 3121.

15 18 PA.C.S. § 3122.1.

16 18 PA.C.S. § 3124.1, WHERE THE OFFENSE INVOLVED SEXUAL  
17 INTERCOURSE.

18 18 PA.C.S. § 3124.2 (RELATING TO INSTITUTIONAL SEXUAL  
19 ASSAULT), WHERE THE OFFENSE INVOLVED SEXUAL INTERCOURSE.

20 18 PA.C.S. § 4302.

21 (2) A COURT MAY AWARD ANY TYPE OF CUSTODY SET FORTH IN  
22 SECTION 5323 TO A PARENT WHO HAS BEEN CONVICTED OF AN OFFENSE  
23 UNDER PARAGRAPH (1) IF:

24 (I) THE PARENT WHO IS A VICTIM HAD AN OPPORTUNITY TO  
25 ADDRESS THE COURT;

26 (II) THE CHILD IS OF SUITABLE AGE AND CONSENTS TO  
27 THE CUSTODY ORDER; AND

28 (III) THE COURT DETERMINES THE AWARD IS IN THE BEST  
29 INTEREST OF THE CHILD.

30 (3) PATERNITY OF THE CHILD SHALL BE ESTABLISHED BY

1 BLOOD, GENETIC OR OTHER PATERNITY TESTING ACCEPTABLE TO THE  
2 COURT. THE COST OF THE TESTING SHALL BE BORNE BY THE PARENT  
3 WHO WAS CONVICTED OF THE OFFENSE.

4 \* \* \*

5 SECTION 3. THE ADDITION OF 23 PA.C.S. §§ 4321(2.1) AND 5329  
6 (B.1) SHALL APPLY TO ANY ACTION REGARDING CUSTODY OF A CHILD  
7 UNDER 23 PA.C.S. CH. 43 OR 53 THAT IS FILED ON OR AFTER THE  
8 EFFECTIVE DATE OF THIS SECTION.

9 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.