

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2163

Session of
1978

INTRODUCED BY SCIRICA, BERSON, YOHN, RHODES AND GREENLEAF,
MARCH 15, 1978

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 15, 1978

AN ACT

1 To provide for the civil enforcement of certain rights and
2 responsibilities of members of the family, including the
3 rights of children born out of wedlock; to provide for the
4 enforcement of support, including attachment of property and
5 earnings; to set forth the duties of the court in matters
6 pertaining to the family and the support of its members and
7 to provide procedures therefor; to provide for the
8 determining of support for the family; to determine paternity
9 of children born out of wedlock; to provide for the recovery
10 of public moneys expended for care and assistance from the
11 property and estates of certain persons; repealing and saving
12 from repeal certain acts.

TABLE OF CONTENTS

13
14 Chapter 1. General Provisions
15 Section 101. Short title.
16 Section 102. Purposes.
17 Section 103. Definitions.
18 Chapter 2. Rights and Responsibilities of Individuals
19 Section 201. Rights and duties.
20 Chapter 3. Power and Duties of the Court
21 Section 301. Civil proceedings.
22 Section 302. Contempt proceedings.
23 Section 303. Domestic relations division.

1 Section 304. Consolidation.

2 Chapter 4. Duties of the Director and the Domestic Relations

3 Division

4 Section 401. Processing support actions.

5 Section 402. Assistance to the court, other duties.

6 Chapter 5. Duties of District Attorney or Domestic Relations

7 Division Attorney

8 Section 501. Presentation of complaints.

9 Section 502. Representation of plaintiff.

10 Section 503. Assignments to domestic relations staff.

11 Chapter 6. Determination of Support

12 Section 601. General provisions.

13 Section 602. Marital status of parents.

14 Section 603. Effective date of order.

15 Section 604. Determination of support order.

16 Section 605. Defendant living with family.

17 Section 606. Order of support.

18 Section 607. Voluntary payments.

19 Chapter 7. Costs and Fees

20 Section 701. Costs and fees.

21 Section 702. Counsel fees, costs and expenses.

22 Chapter 8. Support Proceedings

23 Section 801. Who may file.

24 Section 802. Commencement of actions.

25 Section 803. Venue.

26 Chapter 9. Enforcement; Wage Attachment

27 Section 901. Authority of court.

28 Section 902. Compelling attendance.

29 Section 903. Attachment proceedings.

30 Section 904. Wage attachment.

1 Section 905. Counsel fees.

2 Chapter 10. Transfer of Jurisdiction and Court Order

3 Section 1001. Jurisdiction

4 Section 1002. Notice to transfer.

5 Section 1003. Transfer of jurisdiction or order.

6 Chapter 11. Intercounty Proceedings

7 Section 1101. Intercounty proceedings.

8 Chapter 12. Confidentiality

9 Section 1201. Confidential information; powers of courts.

10 Chapter 13. Relevancy to Other Acts

11 Section 1301. Support of persons in institutions and foster

12 homes.

13 Chapter 14. Repealer

14 Section 1401. General repealer.

15 Section 1402. Saving clause.

16 Section 1403. General construction.

17 Section 1404. Effective date.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 CHAPTER 1

21 GENERAL PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as "Family Support

24 Law."

25 Section 102. Purposes.

26 For the purpose of preserving family life, promoting family

27 responsibility and the resolution of problems of disunity and

28 nonsupport in an atmosphere of good will and cooperation, the

29 courts, as soon as feasible, shall revise local procedure and

30 practices in desertion, nonsupport, and paternity actions so as

1 to exclusively utilize the civil procedures, remedies, and
2 services provided in this act and the act of December 6, 1972
3 (P.L.1365, No.291), known as the "Revised Uniform Reciprocal
4 Enforcement of Support Act."

5 Section 103. Definitions.

6 The following words and phrases, when used in this act shall
7 have, unless the context clearly indicates otherwise, the
8 meanings given to them in this section:

9 "Amount." Periodic payments as ordered by the court or as
10 agreed to by the parties other than a lump sum order.

11 "Child." Any child including child born out of wedlock, who
12 is:

13 (1) an unemancipated person under 18 years of age;

14 (2) a student in a fulltime educational program who has
15 not reached his 23rd birthday; or

16 (3) a person mentally incompetent or physically
17 disabled.

18 "Complaint." Any petition, information, affidavit or any
19 other legal document used in instituting support proceedings.

20 "Court." The family court divisions of the Courts of Common
21 Pleas of Allegheny and Philadelphia Counties and the courts of
22 common pleas of every other judicial district.

23 "Court working day." A day in which the court is in session
24 or in which the office of the domestic relations division is
25 open.

26 "Department." The Pennsylvania Department of Public Welfare.

27 "Director." The officer appointed by the court as director
28 of the domestic relations division.

29 "Domestic relations division." That division hereinafter
30 described, of the court, coming under the jurisdiction of the

1 courts and carrying certain responsibilities in connection with
2 the enforcement of support and the solution of family problems.

3 "Duty of support." Any duty of support imposed or imposable
4 by law or by any court order, decree or judgment, whether
5 interlocutory or final, whether incidental to a proceeding for
6 divorce, separation, separate maintenance and any proceeding for
7 the establishment of paternity and support of a child born out
8 of wedlock, or otherwise.

9 "Emancipation."

10 (1) marriage of a child;

11 (2) self-supporting (the ability to perform employment
12 at a supporting wage);

13 (3) release from parental control,

14 (i) the child's having a permanent residence away
15 from the permanent residence of the party seeking
16 support; (a residence at boarding school, camp, college
17 or professional school is not to be deemed a residence
18 away from the permanent residence of the party seeking
19 support, unless the child's permanent residence when not
20 attending boarding school, camp, college or professional
21 school is not with the party seeking support);

22 (ii) release from legal subjection to parents and
23 results from some juristic act or other conduct of the
24 parent from which the extinguishment of parental rights
25 and filial duties may be inferred;

26 (4) entry into the armed forces of the United States.

27 "Family." Spouses, children and parents.

28 "Law." Includes common law, statutory law, and case law.

29 "Parent." The father or mother of any child regardless of
30 marital status.

1 "Spouse." Either husband or wife.

2 "Support." Financial assistance.

3 CHAPTER 2

4 RIGHTS AND RESPONSIBILITIES OF INDIVIDUALS

5 Section 201. Rights and duties.

6 (1) Each child shall be entitled to support from his
7 parents as provided in Chapter 6 (relating to the
8 determination of support).

9 (2) Each spouse shall be entitled to the support of the
10 other spouse as provided in Chapter 6.

11 (3) The right to support shall obtain notwithstanding
12 that the respondent lives in the same household with the
13 person for whom support is sought as provided in Chapter 6.

14 CHAPTER 3

15 POWER AND DUTIES OF THE COURT

16 Section 301. Civil proceedings.

17 The court shall have the power to hear and determine through
18 civil action all matters embraced by the provisions of this act,
19 and its decrees and orders shall be subject to appeal as
20 provided by law. Cases may be instituted upon complaint of a
21 person seeking support or by any private agency, public body,
22 public agency, or person contributing to or paying the expenses
23 for the care, maintenance, assistance, or aid of any person
24 against any defendant having the duty of support of such person.

25 Section 302. Contempt proceedings.

26 The court shall have the power to enforce its decrees by
27 contempt proceedings as provided for in Chapter 9 (relating to
28 enforcement; wage attachment).

29 Section 303. Domestic relations division.

30 (a) In every judicial district of the Commonwealth, there

1 shall be established and maintained a domestic relations
2 division or branch of the family court division of the court of
3 common pleas, staffed and supervised by the court.

4 (b) The court shall appoint a director of the domestic
5 relations division or branch of the family court division of the
6 court of common pleas who shall be, in the opinion of the court,
7 a competent and qualified person and have the power to appoint
8 other supporting staff as it may deem necessary to effectively
9 perform the work of the domestic relations division. The court
10 shall have the power to suspend and remove all employees of the
11 domestic relations division for cause and to require of any
12 employee security for faithful performance.

13 (c) The compensation or salaries of such appointees shall be
14 fixed by the judges of the court and their salaries together
15 with necessary expenses incurred while in actual performance of
16 duty shall be paid by the county. Such salaries shall be
17 commensurate with their duties and shall be comparable with
18 salaries paid employees in the State classified services having
19 similar duties and responsibilities as set out in the current
20 State classification and compensation plans.

21 (d) The domestic relations division may make full use of
22 services from other agencies concerned with matters coming
23 within the purview of the court under this act.

24 Section 304. Consolidation.

25 The court shall have the right to consolidate with any
26 support action any action filed for visitation, partial custody
27 or custody.

28 CHAPTER 4

29 DUTIES OF THE DIRECTOR AND THE DOMESTIC RELATIONS DIVISION

30 Section 401. Processing support actions.

1 It shall be the duty of the director, along with such
2 assistants as may be necessary, to receive and process, in
3 accordance with law and the rules of court, all complaints
4 provided for under this act and under the provisions of the act
5 of December 6, 1972 (P.L.1365, No.291), known as the "Revised
6 Uniform Reciprocal Enforcement of Support Act."

7 Section 402. Assistance to the court, other duties.

8 (a) It shall be the duty of the director to make such
9 investigation as may be necessary, and to furnish the court such
10 information and assistance as the court may require, and to take
11 charge of any defendant before or after any hearing, as may be
12 directed by the court, and to collect and pay over to the proper
13 persons, bodies, or agencies money received, and, in general, to
14 do and perform such services as the court may direct.

15 (b) The director shall use all means available to locate
16 respondents having the duty of support.

17 (c) As directed by the court, the director or his
18 assistants, shall have full power and authority to detain any
19 defendant or other person who fails to comply with an order of
20 court or summons issued in any pending civil action for support
21 pursuant to the provisions of this act directing such person to
22 appear for any hearing or who is in substantial violation of the
23 terms of an order of support. Such detention shall be made only
24 upon a writ of attachment or written order of the court.

25 (d) The director shall keep an account of all orders made by
26 the court and a record of all payments made thereunder and shall
27 bring periodically to the attention of the court any default in
28 compliance with the court's order. The director shall maintain
29 administrative statistics of the number of orders entered and
30 amounts paid on such orders, and shall make an annual report to

1 the court of the full activities of the domestic relations
2 division.

3 (e) All case records shall be identified by the social
4 security numbers of plaintiffs, recipients and defendants.

5 CHAPTER 5

6 DUTIES OF DISTRICT ATTORNEY OR

7 DOMESTIC RELATIONS DIVISION ATTORNEY

8 Section 501. Presentation of complaints.

9 The district attorney shall at all times furnish legal advice
10 to the domestic relations director and aid in the enforcement of
11 the duty of support and shall cooperate with the domestic
12 relations division in the preparation and presentation of
13 support complaints and ancillary petitions and writs and in any
14 proceeding designed to obtain compliance with any order of court
15 pursuant to this act or the "Revised Uniform Reciprocal
16 Enforcement of Support Act."

17 Section 502. Representation of plaintiff.

18 The district attorney, upon the request of the court, the
19 director of the domestic relations division or a State or local
20 public welfare official, shall represent any plaintiff and any
21 minor child involved in any proceeding under this act.

22 Section 503. Assignments to domestic relations staff.

23 The district attorney shall assign to the staff of the
24 domestic relations division such assistant district attorneys as
25 the court deems necessary and requests to carry out the support
26 enforcement responsibilities assigned to him in this chapter and
27 to aid in the effective operation of the domestic relations
28 division.

29 CHAPTER 6

30 DETERMINATION OF SUPPORT

1 Section 601. General provisions.

2 If the court finds a duty of support to exist, it shall
3 determine the amount thereof and order the defendant to furnish
4 support in accordance with the provisions of this act, and it
5 shall have the power and responsibility for the enforcement of
6 such order.

7 Section 602. Marital status of parents.

8 In entering an order for the support of a child, no
9 distinction shall be made because of the marital status of the
10 parents.

11 Section 603. Effective date of order.

12 The effective date of an order of support may be the date of
13 the filing of the petition for support or such date thereafter
14 as shall be deemed consistent with the needs of the person
15 requiring support as well as the financial ability of the person
16 furnishing support.

17 Section 604. Determination of support order.

18 (a) In determining the amount of a support order, the court
19 shall consider the standard of living of the family, the current
20 income, earning power, needs and net resources, and earning
21 capacity of the family members, basing the order on all of these
22 factors.

23 (b) In determining the amount of a support order, no
24 percentage limitation shall apply.

25 (c) A spouse seeking support shall not be entitled to such
26 support if such spouse has acted in such manner as to give the
27 other spouse grounds for divorce provided such other spouse
28 must, in addition to having grounds for divorce, be the innocent
29 and injured spouse.

30 Section 605. Defendant living with family.

1 A complaint for support filed against a defendant, who is
2 living with the member of his family for whom support is sought,
3 shall have the same force and effect as a complaint filed
4 against a defendant separated from his family.

5 Section 606. Order of support.

6 An order for the support of any person shall be made payable
7 to such person as the court may direct or to the domestic
8 relations division for transmittal to the plaintiff or person
9 designated by the court or directly to a public body or private
10 agency whenever the care, maintenance and assistance of such
11 person is provided for by such public body or public or private
12 agency.

13 Section 607. Voluntary payments.

14 The court may, in its discretion, after hearing, dismiss a
15 complaint if the defendant is voluntarily paying and is willing
16 to continue to pay an amount greater than the court determines
17 it would award.

18 CHAPTER 7

19 COSTS AND FEES

20 Section 701. Costs and fees.

21 No fees or costs for filing any complaint shall be required
22 to be paid in advance. When it appears to the court that either
23 of the parties in an action is financially able to pay costs and
24 fees, the court, in its discretion, can impose such costs and
25 fees.

26 Section 702. Counsel fees, costs and expenses.

27 The court, in its discretion, may award reasonable counsel
28 fees, costs and expenses. This section shall not apply when a
29 public agency is a party to the action.

30 CHAPTER 8

SUPPORT PROCEEDINGS

Section 801. Who may file.

A complaint may be filed by any person, including a minor spouse, to whom a duty of support is owing. It shall be filed on behalf of a minor child by a person having the physical care or custody of the minor without appointment as guardian ad litem. It may be filed by any public body or public private agency having any interest in the care, maintenance or assistance of any person to whom a duty of support is owing.

Section 802. Commencement of actions.

(a) A support action under this act shall be commenced by the filing in the domestic relations division of a verified complaint which shall state substantially the following:

(1) The name and address of plaintiff and social security account number.

(2) The name and last known address of defendant and social security account number.

(3) The date and place of marriage, if married, or if not married, the date and place of birth of each child born out-of-wedlock.

(4) The names, dates of birth and residence of any children.

(5) Date and circumstances of separation or failure to support.

(6) Usual occupation, employment and earnings of plaintiff and defendant.

(7) Amount of public aid, if any.

(8) The complaint may contain any information available to aid in the location or identification of a defendant including, but without limitation, by enumeration, a

1 photograph of the defendant, a description of any
2 distinguishing marks on his person, other names and aliases
3 by which he has been or is known, his financial status,
4 fingerprints, etc.

5 (9) Any order of support in any other proceedings and
6 amount of arrearages, if any.

7 (b) Every complaint for support shall contain an order
8 directing the defendant to appear for hearing at a time and
9 place specified in the order.

10 (c) Every complaint for support and order to appear may be
11 served on the defendant in any one of the following manners:

12 (1) In accordance with the Rules of Civil Procedure
13 relating to an action in equity; or

14 (2) by sending two copies of the complaint, one by
15 registered mail, deliver to addressee only, return receipt
16 requested, and one by ordinary mail to the defendant at
17 his/her last known address, with residence or business.

18 (3) If service is not accomplished by registered mail as
19 provided in paragraph (2), and there is no personal
20 appearance by the defendant, then service must be
21 accomplished as in paragraph (1) or as may be authorized by
22 court.

23 (4) No responsive pleadings are required.

24 (5) Notices to defend or plead are not required.

25 Section 803. Venue.

26 An action against an individual may be brought in and only
27 in:

28 (1) the county in which the obligor resides;

29 (2) the county in which the obligor is regularly
30 employed; or

1 (3) the county where the last marital domicile was
2 located and the obligee currently resides.

3 CHAPTER 9

4 ENFORCEMENT - WAGE ATTACHMENT

5 Section 901. Authority of court.

6 (a) The court, upon receiving information, either through
7 written application, or at any hearing, that there is failure to
8 comply with any order of the court, may issue attachment
9 proceedings, directed to the sheriff or other proper officer of
10 the county, directing that the person named be brought before
11 the court at such time as the court may direct.

12 (b) Any person who is found, after hearing, to have
13 willfully failed to comply with any order of the court may be
14 adjudged in contempt of court and may be punished by the court
15 by commitment to the county prison or house of correction until
16 compliance with said order, but in no case for a period
17 exceeding six months, and the court in its order shall state the
18 condition upon which fulfillment will result in the release of
19 such person.

20 Section 902. Compelling attendance.

21 At all stages of proceedings provided under this act, the
22 court may compel the attendance, by attachment process directed
23 to the sheriff or other proper officer of the county, directing
24 and commanding that the person named as having failed to appear
25 be brought before the court at such time as the court may
26 direct, at which time the court may adjudge such person in
27 contempt of court, and, in its discretion, may commit such
28 person to the county prison for a period not exceeding six
29 months.

30 Section 903. Attachment proceedings.

1 If, at any state of the proceedings under this act, when it
2 is believed that the respondent is about to leave the
3 jurisdiction, at the discretion of the court, an attachment may
4 be issued by the court directed to the sheriff or other proper
5 officer of the county, directing and commanding that the person
6 named be brought before the court at such time as the court may
7 direct, at which time the court may direct that the person named
8 give security by one or more sureties to appear when directed by
9 the court or to comply with any order of the court.

10 Section 904. Wage attachment.

11 On the motion of the plaintiff or on the motion of the court,
12 the court may issue an order attaching the wages, salary or
13 commissions of the defendant, to the defendant's employer, at
14 any stage of the proceeding after the entry of an order, in the
15 following manner:

16 (1) A certified copy of the order of support shall be
17 served on the employer, whether a corporation, the United
18 States, the Commonwealth, or any political subdivision,
19 association, company, firm or individual, and shall be served
20 by certified mail or by any adult person or in any other
21 manner provided by law.

22 (2) Such certified copy of the order shall contain an
23 order directing the employer to make a full answer, within
24 ten days after service of the order, of the amount of wages,
25 salary, or commissions of the defendant, and further
26 directing the employer to make no payment to the defendant
27 over 50% of the amount due him until further order of court.

28 (3) The court shall determine the amount of wages,
29 salary or commission which shall be regularly paid by the
30 employer to the domestic relations division and shall so

1 notify the employer.

2 (4) Thereafter, it shall be the duty of the employer to
3 pay such amount regularly to the domestic relations division
4 and upon failure so to pay shall be in contempt and subject
5 to the court's order as now provided in proceedings against
6 the defendant in this chapter. The employer is authorized to
7 deduct 2% of the amount paid under the order from the wages
8 of the defendant for clerical work and expenses involved in
9 complying therewith.

10 (5) Such attachment shall continue until discharged by
11 order of the court.

12 (6) An employer shall not use such attachment of wages,
13 salary or commissions as a basis, in whole or in part, for
14 the discharge of an employee or for any disciplinary action
15 against any employee.

16 (7) Compliance by an employer with an order of
17 attachment of wages, salary or commissions operates as a
18 discharge of the employer's liability to the employee as to
19 that portion of the employee's earnings so affected.

20 Section 905. Counsel fees.

21 In attachment or contempt proceedings, the court may, in its
22 discretion, award reasonable counsel fees if it is determined
23 that there has been a flagrant and willful failure to comply
24 with an order of support.

25 CHAPTER 10

26 TRANSFER OF JURISDICTION AND COURT ORDER

27 Section 1001. Jurisdiction.

28 The court making the order shall at all times maintain
29 jurisdiction of the case for the purpose of enforcement of the
30 order and for the purpose of increasing, decreasing, modifying

1 or rescinding such order, without limiting the right of a
2 plaintiff to institute additional proceedings for support in any
3 county wherein the defendant resides or where his property is
4 situated.

5 Section 1002. Notice to transfer.

6 On motion of any party, if any party has subsequently
7 established residence in a county other than the county where
8 the order has been originally entered and no party objects
9 within 20 days after notice of the requested transfer, the order
10 may be transferred to any county of new residence of any of the
11 parties for the purposes as set forth in section 1001 (relating
12 to jurisdiction).

13 Section 1003. Transfer of jurisdiction or order.

14 (a) If a support order has been ordered transferred to
15 another county, in accordance with section 1002 (relating to
16 notice to transfer), such order shall be entered in the new
17 county upon the forwarding of three certified copies of the
18 order of support and arrearages which have accrued thereunder,
19 along with verified information as to defendant's address. The
20 court to which such support order is so certified shall accept
21 such order and register same.

22 (b) Within ten days after receipt of such certification, the
23 court shall notify defendant by registered mail or any other
24 means of service as provided by law of the registration of said
25 court order.

26 (c) Said registered court order from another county shall be
27 treated in the same manner as a support order issued in the
28 county to which the order was transferred. It shall have the
29 same effect and is subject to the same procedures, defenses and
30 proceedings for revision, vacating or staying and may be

1 enforced in like manner.

2 CHAPTER 11

3 INTERCOUNTY PROCEEDINGS

4 Section 1101. Intercounty proceedings.

5 If the plaintiff proceeds under this act and venue lies in
6 accordance with the provisions of section 803 (relating to
7 venue), the provisions of the "Revised Uniform Reciprocal
8 Enforcement of Support Act" shall not apply to such proceedings.

9 CHAPTER 12

10 CONFIDENTIALITY

11 Section 1201. Confidential information; powers of courts.

12 In order to promote trust and confidence and to provide a
13 maximum of service in the most economical manner, all
14 information obtained by or for a court or by or for enforcement
15 officials in connection with this act shall be held confidential
16 and shall be used only for the purpose of this act. Any question
17 as to confidentiality shall be resolved by the court.

18 CHAPTER 13

19 RELEVANCY TO OTHER ACTS

20 Section 1301. Support of persons in institutions and foster
21 homes.

22 Support of persons living in public or private institutions
23 or receiving foster home care, who are entitled to support under
24 this act, shall be determined by the court under the provisions
25 of the acts pertaining to such care and institutionalization.

26 CHAPTER 14

27 REPEALER

28 Section 1401. General repealer.

29 All acts and parts of acts are repealed insofar as they are
30 inconsistent herewith.

1 Section 1402. Saving clause.

2 This act shall not repeal or modify any of the provisions of
3 the following acts:

4 The act of May 24, 1923 (P.L.446, No.238), entitled "An act
5 authorizing the sale of real estate held by entirities by
6 husband and wife when an order of support has been secured
7 against the husband who has neglected to comply with the same,
8 or whose whereabouts is unknown, or who has absented himself
9 from this Commonwealth; prescribing the procedure to be
10 followed; permitting husband and wife to testify; providing for
11 the disposition of the proceeds of such sale; and granting a
12 divorced woman the same rights under this act as a wife."

13 The act of June 24, 1937 (P.L.2045, No.397), known as "The
14 Support Law."

15 The act of December 6, 1972 (P.L.1365, No.291), known as the
16 "Revised Uniform Reciprocal Enforcement of Support Act."

17 Section 1403. General construction.

18 The provisions of this act, so far as they are the same as
19 those of existing laws, are intended as a continuation of such
20 laws and not as new enactments. The provisions of this act shall
21 not affect any court order or decree entered, act done,
22 liability incurred, or right accrued or vested, or affect any
23 suit pending, or to be instituted, to enforce any right or
24 penalty or punish any offense under the authority of such
25 repealed laws.

26 Section 1404. Effective date.

27 This act shall take effect immediately.