

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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No. 2141

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KUKOVICH, McVERRY, WACHOB, REBER, SWEET, LASHINGER, HORGOS,
SPITZ, R. C. WRIGHT AND HOFFEL, DECEMBER 15, 1981

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 15, 1981

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to domestic
3 relations, making conforming amendments to Title 42 and
4 repealing certain acts and parts of acts supplied by the act
5 or otherwise obsolete.

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19 § 6383. Education and training.

20 § 6384. Legislative oversight.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Part IX of Title 23, act of November 25, 1970
24 (P.L.707, No.230), known as the Pennsylvania Consolidated
25 Statutes, is repealed.

26 Section 2. Title 23 is amended by adding parts to read:

27 TITLE 23

28 DOMESTIC RELATIONS

29 Part

30 I. General Provisions

1 II. Marriage
2 IV. Divorce
3 VI. Children and Minors
4 VII. Abuse of Family

5 PART I

6 GENERAL PROVISIONS

7 Chapter

8 1. Preliminary Provisions

9 CHAPTER 1

10 PRELIMINARY PROVISIONS

11 Sec.

12 101. Short title of title.

13 102. Definitions.

14 § 101. Short title of title.

15 This title shall be known and may be cited as the "Domestic
16 Relations Code."

17 § 102. Definitions.

18 (a) General rule.--Subject to additional definitions
19 contained in subsequent provisions of this title which are
20 applicable to specific provisions of this title, the following
21 words and phrases when used in this title shall have the
22 meanings given to them in this subsection unless the context
23 clearly indicates otherwise:

24 "Clerk of court" or "clerk." The personnel of the office of
25 the prothonotary or clerk of the division of the court having
26 jurisdiction over the matter.

27 "Court." The court or district justice having jurisdiction
28 over the matter under Title 42 (relating to judiciary and
29 judicial procedure) exercised as provided in Title 42 or as
30 otherwise provided or prescribed by law.

(b) Title 42 definitions.--Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, words and phrases not defined in subsection (a) which are defined in 42 Pa.C.S. § 102 (relating to definitions) when used in this title shall have the meanings given to them in Title 42 unless the context clearly indicates otherwise.

PART II

MARRIAGE

Chapter

11. Preliminary Provisions

13. Marriage License

15. Marriage Ceremony

17. Miscellaneous Provisions Relating to Marriage

19. Abolition of Actions for Alienation of Affections and Breach of Promise to Marry

CHAPTER 11

PRELIMINARY PROVISIONS

Sec.

1101. Short title of part.

1102. Definitions.

1103. Common law marriage.

1104. Forms.

1105. Fees.

1106. Records and statistics.

§ 1101. Short title of part.

This part shall be known and may be cited as the "Marriage Law."

§ 1102. Definitions.

The following words and phrases when used in this part shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Department." The Department of Health of the Commonwealth.

4 "Marriage license" or "license." A license to marry issued
5 under this part.

6 § 1103. Common law marriage.

7 This part shall not be construed to change the existing law
8 with regard to common law marriage.

9 § 1104. Forms.

10 Marriage license applications, consent certificates, marriage
11 licenses and other necessary forms shall be supplied at the
12 expense of the county and shall be uniform throughout this
13 Commonwealth as prescribed by the department. Statements of
14 physicians and laboratories relative to examinations for
15 syphilis shall be prepared and furnished by the department.

16 § 1105. Fees.

17 (a) General rule.--The fee to be charged for issuing a
18 marriage license or declaration and for returns thereof to the
19 department shall be \$3 of which \$2.50 shall be retained by the
20 county wherein the license is issued and 50¢ shall be remitted
21 to the Commonwealth.

22 (b) Transmitting Commonwealth moneys.--All moneys collected
23 under this section for the Commonwealth shall be transmitted to
24 the State Treasurer no later than the tenth day of the following
25 month.

26 § 1106. Records and statistics.

27 (a) Filing transcript or record.--The county shall furnish
28 the department, not later than the 15th day of each month, with
29 a transcript or record of each marriage license issued and each
30 return of the celebration of a marriage received or filed during

1 the preceding calendar month.

2 (b) Forms.--The transcripts or records required to be
3 furnished shall be made on forms prepared and furnished by the
4 department and shall contain such information as the department
5 may require.

6 (c) Confidentiality.--The records furnished to the
7 department under this section shall not be open to public
8 inspection except as authorized by the regulations of the
9 Advisory Health Board.

10 (d) Statistics.--The department shall from time to time
11 compile and publish statistics derived from records furnished
12 under this section.

13 CHAPTER 13

14 MARRIAGE LICENSE

15 Sec.

16 1301. Marriage license required.

17 1302. Application for license.

18 1303. Waiting period after application.

19 1304. Restrictions on issuance of license.

20 1305. Examination and tests for syphilis.

21 1306. Oral examination.

22 1307. Issuance of license.

23 1308. Judicial review of refusal to issue license.

24 1309. Filing applications and consent certificates.

25 1310. Duration and form of license.

26 § 1301. Marriage license required.

27 (a) General rule.--No person shall be joined in marriage in
28 this Commonwealth until a marriage license has been obtained.

29 (b) Place of marriage ceremony.--A license issued under this
30 part shall authorize a marriage ceremony to be performed in any

1 county of this Commonwealth.

2 (c) Identity of applicants.--Prior to issuance of the
3 license, the person issuing the license must be satisfied as to
4 the identity of both of the applicants.

5 § 1302. Application for license.

6 (a) General rule.--No marriage license shall be issued
7 except upon written and verified application made by both of the
8 parties intending to marry.

9 (b) Contents.--The application shall contain the following:

10 (1) The full name of the applicants.

11 (2) The race, occupation, birthplace, residence and age
12 of the applicants.

13 (3) Whether the marriage contemplated is the first,
14 second or other marriage of an applicant.

15 (4) A statement that neither of the applicants is
16 afflicted with transmissible disease.

17 (5) The full name, residence, race, occupation and
18 birthplace of the parents of each applicant, including the
19 maiden name of the mother of each applicant.

20 (6) Any other facts necessary to determine whether a
21 legal impediment to the proposed marriage exists.

22 § 1303. Waiting period after application.

23 (a) General rule.--No marriage license shall be issued prior
24 to the third day following the making of application therefor.

25 (b) Exception.--In case of emergency or extraordinary
26 circumstances, the court may authorize a license to be issued at
27 any time after the making of the application.

28 § 1304. Restrictions on issuance of license.

29 (a) Examinations and tests for syphilis.--No marriage
30 license shall be issued until there has been compliance with

1 section 1305 (relating to examination and tests for syphilis).

2 (b) Minors.--

3 (1) No marriage license may be issued if either of the
4 applicants for a license is under 16 years of age unless the
5 court decides that it is to the best interest of the
6 applicant and authorizes the issuance of the license.

7 (2) No marriage license may be issued if either of the
8 applicants is under 18 years of age unless the consent of a
9 parent or guardian of the applicant is personally given
10 before the person issuing the license or is certified under
11 the hand of a parent or guardian attested by two adult
12 witnesses and, in the latter case, the signature of the
13 parent or guardian is acknowledged before an officer
14 authorized by law to take acknowledgments. When the minor has
15 no guardian and a judge of the court is absent or not
16 accessible for any reason, the office issuing the license may
17 appoint a guardian pro hac vice for the minor.

18 (c) Incompetent persons.--No marriage license may be issued
19 if either of the applicants for a license is weak-minded,
20 insane, of unsound mind or is under guardianship as a person of
21 unsound mind unless the court decides that it is for the best
22 interest of the applicant and the general public to issue the
23 license and authorizes the issuance of the license.

24 (d) Persons under influence of alcohol or drugs.--No
25 marriage license may be issued if, at the time of making
26 application, either of the applicants is under the influence of
27 alcohol or drugs.

28 (e) Marriage to relatives.--No marriage license may be
29 issued to applicants within the prohibited degrees of
30 consanguinity which are as follows:

1 A man may not marry his mother.
2 A man may not marry the sister of his father.
3 A man may not marry the sister of his mother.
4 A man may not marry his sister.
5 A man may not marry his daughter.
6 A man may not marry the daughter of his son or daughter.
7 A woman may not marry her father.
8 A woman may not marry the brother of her father.
9 A woman may not marry the brother of her mother.
10 A woman may not marry her brother.
11 A woman may not marry her son.
12 A woman may not marry the son of her son or daughter.

13 § 1305. Examination and tests for syphilis.

14 (a) General rule.--No marriage license may be issued until
15 there has been filed a statement or statements, signed by a
16 licensed physician of this Commonwealth or of any other state or
17 territory, a commissioned medical officer in the armed forces of
18 the United States or a physician of the Public Health Service of
19 the Federal Government, that each applicant within 30 days of
20 the issuance of the marriage license has submitted to an
21 examination to determine the existence or nonexistence of
22 syphilis, which examination has included a standard serological
23 test or tests for syphilis, and that, in the opinion of the
24 examining physician, the applicant is not infected with syphilis
25 or, if so infected, is not in a stage of that disease which is
26 likely to become communicable. The statement of the physician
27 shall be accompanied by a statement from the person in charge of
28 the laboratory making the test or from some other person
29 authorized to make the statement setting forth the name of the
30 test, the date the test was made, the exact name and address of

1 the physician to whom a report was sent and the exact name and
2 address of the person whose blood was tested and any other facts
3 the department deems necessary to determine whether the
4 applicant is infected with syphilis in a stage of that disease
5 likely to become communicable. The statement from the laboratory
6 shall not set forth the result of the test.

7 (b) Authorization and payment.--For the purpose of this
8 section, a standard serological test for syphilis shall be a
9 test approved by the department and shall be made at a
10 laboratory approved by the department to make such tests.
11 Laboratory tests required to be made by this section shall, upon
12 request of the physician submitting the sample and certification
13 of the physician that the applicant is unable to pay, be made
14 without charge by the department.

15 (c) Administrative review of denial of statement.--Any
16 applicant for a marriage license having been denied a
17 physician's statement as required by this section shall have the
18 right of appeal to the department for a review of the case and
19 the department shall, after appropriate investigation, issue or
20 refuse to issue a statement in lieu of the physician's statement
21 required by subsection (a).

22 (d) Forms and confidentiality.--The statements of the
23 physician who examined the applicant and the laboratory which
24 made the serological test shall be uniform throughout this
25 Commonwealth and shall be upon forms provided by the department.
26 These forms shall be filed separately from the applications for
27 marriage licenses and shall be regarded as absolutely
28 confidential by every person whose duty it may be to obtain,
29 make, transmit or receive the information or report.

30 § 1306. Oral examination.

Each of the applicants for a marriage license shall appear in person and shall be examined under oath or affirmation as to:

(1) The legality of the contemplated marriage.

(2) Any prior marriage or marriages and its or their dissolution.

(3) The restrictions set forth in section 1304 (relating to restrictions on issuance of license).

(4) All the information required to be furnished on the application for license as prepared and approved by the department.

§ 1307. Issuance of license.

The marriage license shall be issued if it appears from properly completed applications on behalf of each of the parties to the proposed marriage that there is no legal objection to the marriage. Except as provided by section 1303(b) (relating to waiting period after application), the license shall not be issued prior to the third day following the date of the most recent of the two applications therefor.

§ 1308. Judicial review of refusal to issue license.

(a) Certifying proceedings to court.--If the issuance of a marriage license is refused, upon request of the applicants, the proceedings shall immediately be certified to the court without formality or expense to the applicants.

(b) Prompt hearing.--The application for a marriage license shall be heard by a judge of the court, without a jury, in court or in chambers at the earliest possible time.

§ 1309. Filing application and consent certificates.

The applications for marriage licenses and consent certificates shall be immediately filed and docketed as public records.

1 § 1310. Duration and form of license.

2 The marriage license shall not be valid for a longer period
3 than 60 days from the date of issue and shall be in
4 substantially the following form:

5 Commonwealth of Pennsylvania

6 ss: No. _____

7 County of (name)

8 To any person authorized by law to solemnize marriage:

9 You are hereby authorized to join together in holy state
10 of matrimony, according to the laws of the Commonwealth of
11 Pennsylvania, (name) and (name).

12 Given under my hand and seal of the Court of Common Pleas
13 of (name), at (city, borough or town), on (date).

14 Signed _____

15 (Official Title)

16 CHAPTER 15

17 MARRIAGE CEREMONY

18 Sec.

19 1501. Form of marriage certificates.

20 1502. Forms where parties perform ceremony.

21 1503. Persons qualified to solemnize marriages.

22 1504. Returns of marriages.

23 § 1501. Form of marriage certificates.

24 The marriage license shall have appended to it two
25 certificates, numbered to correspond with the license (one
26 marked original and one marked duplicate), which shall be in
27 substantially the following form:

28 I hereby certify that on (date), at (city, borough or
29 town), Pennsylvania, (name) and (name) were by me united in
30 marriage, in accordance with license issued by the Court of

1 Common Pleas of (name) numbered ____.

2 Signed _____

3 (Title of person solemnizing marriage)

4 Address _____

5 § 1502. Forms where parties perform ceremony.

6 (a) Declaration of authorization.--In all cases in which the
7 parties intend to solemnize their marriage by religious ceremony
8 without officiating clergy, the marriage shall not take place
9 until their right so to do is certified in a declaration in
10 substantially the following form:

11 Commonwealth of Pennsylvania

12 ss: No. _____

13 County of (name)

14 To (name) and (name)

15 Legal evidence having been furnished to me, in accordance
16 with law, this certifies that I am satisfied that there is no
17 legal impediment to you joining yourselves together in
18 marriage.

19 Signed _____

20 (Official Title)

21 (b) Marriage certificates.--In lieu of the certificate set
22 forth in section 1501 (relating to form of marriage
23 certificates) there shall be appended to the declaration two
24 certificates, numbered to correspond to the declaration, in the
25 following form:

26 We hereby certify that on (date), we united ourselves in
27 marriage, at (city, borough or town), County of (name),
28 Pennsylvania, having first obtained from the Court of Common
29 Pleas of (name) a declaration numbered ____ that the court
30 was satisfied that there was no existing legal impediment to

1 organization, according to the rules and customs of the society,
2 institution or organization.

3 (c) Marriage license needed to officiate.--No person or
4 religious organization qualified to perform marriages shall
5 officiate at a marriage ceremony without the parties having
6 obtained a marriage license issued under this part.

7 § 1504. Returns of marriages.

8 (a) General rule.--The original marriage certificate shall
9 be signed by the person solemnizing the marriage and given to
10 the parties contracting the marriage. The duplicate certificate
11 shall be signed by the person or by a member of the religious
12 society, institution or organization solemnizing the marriage
13 and returned for recording within ten days to the court which
14 issued the license.

15 (b) Marriage performed by parties.--If the marriage was
16 solemnized by the parties themselves, the original certificate
17 shall be signed by the parties to the marriage, attested by two
18 witnesses and retained by the parties contracting the marriage.
19 The duplicate certificate shall be signed by the parties to the
20 marriage, attested by the same two witnesses and returned for
21 recording within ten days to the court issuing the license.

22 CHAPTER 17

23 MISCELLANEOUS PROVISIONS RELATING TO MARRIAGE

24 Sec.

25 1701. Decree that spouse of applicant is presumed decedent.

26 1702. Marriage during existence of former marriage.

27 1703. Marriage within degree of consanguinity.

28 § 1701. Decree that spouse of applicant is presumed decedent.

29 (a) Finding of death.--When the spouse of an applicant for a
30 marriage license has disappeared or is absent from the place of

1 residence of the spouse without being heard of after diligent
2 inquiry, the court, aided by the report of a master if
3 necessary, upon petition of the applicant for a marriage
4 license, may make a finding and decree that the absentee is dead
5 and the date of death if notice to the absentee has been given
6 as provided in subsection (d) and either of the applicants is
7 and for one year or more prior to the application has been a
8 resident of this Commonwealth.

9 (b) Presumption from absence.--When the death of the spouse
10 of an applicant for a marriage license is in issue, the
11 unexplained absence from the last known place of residence and
12 the fact that the absentee has been unheard of for seven years
13 may be sufficient ground for finding that the absentee died
14 seven years after the absentee was last heard from.

15 (c) Exposure to specific peril.--The fact that an absentee
16 spouse was exposed to a specific peril of death may be a
17 sufficient ground for finding that the absentee died less than
18 seven years after the absentee was last heard from.

19 (d) Notice to absentee.--The court may require advertisement
20 in any newspapers as the court, according to the circumstances
21 of the case, deems advisable of the fact of the application for
22 the marriage license together with notice that at a specified
23 time and place the court will hear evidence concerning the
24 alleged absence, including the circumstances and duration
25 thereof.

26 (e) Remarriage after decree of presumed death.--Even though
27 the absentee spouse declared to be presumed dead is in fact
28 alive, the remarriage of the spouse who has obtained a license
29 to marry and a decree of presumed death of the former spouse
30 shall be valid for all purposes as though the former marriage

1 had been terminated by divorce and all property of the presumed
2 decedent shall be administered and disposed of as provided by
3 Title 20 (relating to decedents, estates and fiduciaries).

4 § 1702. Marriage during existence of former marriage.

5 (a) General rule.--If a married person, during the lifetime
6 of the other person with whom the marriage is in force, enters
7 into a subsequent marriage pursuant to the requirements of this
8 part and the parties to the marriage live together thereafter as
9 husband and wife, and the subsequent marriage was entered into
10 by one or both of the parties in good faith in the full belief
11 that the former spouse was dead or that the former marriage has
12 been annulled or terminated by a divorce, or without knowledge
13 of the former marriage, they shall, after the impediment to
14 their marriage has been removed by the death of the other party
15 to the former marriage or by annulment or divorce, if they
16 continue to live together as husband and wife in good faith on
17 the part of one of them, be held to have been legally married
18 from and immediately after the date of death or the date of the
19 decree of annulment or divorce.

20 (b) False rumor of death of spouse.--Where a remarriage has
21 occurred upon false rumor of the death of a former spouse in
22 appearance well-founded but there has been no decree of presumed
23 death, the remarriage shall be void and subject to annulment by
24 either party to the remarriage as provided by section 3304
25 (relating to annulment or invalidity of void marriages) and the
26 returning spouse shall have cause for divorce as provided in
27 section 3301 (relating to grounds for divorce).

28 (c) Criminal penalties.--Where the remarriage was entered
29 into in good faith, neither party to the remarriage shall be
30 subject to criminal prosecution for bigamy.

1 § 1703. Marriage within degree of consanguinity.

2 All marriages within the prohibited degrees of consanguinity
3 as set forth in this part are voidable but when any of these
4 marriages have not been dissolved during the lifetime of the
5 parties, the unlawfulness of the marriage shall not be inquired
6 into after the death of either of the parties to the marriage.

7 CHAPTER 19

8 ABOLITION OF ACTIONS FOR ALIENATION OF AFFECTIONS

9 AND BREACH OF PROMISE TO MARRY

10 Sec.

11 1901. Actions for alienation of affections abolished.

12 1902. Actions for breach of promise to marry abolished.

13 1903. Purpose of chapter.

14 1904. Filing or threatening to file actions prohibited.

15 1905. Instruments executed in satisfaction of abolished
16 claims prohibited.

17 § 1901. Actions for alienation of affections abolished.

18 (a) General rule.--All civil causes of action for alienation
19 of affections of husband or wife are abolished.

20 (b) Exception.--Subsection (a) does not apply to cases where
21 the defendant is a parent, brother or sister or a person
22 formerly in loco parentis to the spouse of plaintiff.

23 § 1902. Actions for breach of promise to marry abolished.

24 All causes of action for breach of contract to marry are
25 abolished.

26 § 1903. Purpose of chapter.

27 (a) General rule.--No act done within this Commonwealth
28 shall give rise, either within or without this Commonwealth, to
29 a cause of action abolished by this chapter.

30 (b) Contract to marry.--No contract to marry which is made

1 within this Commonwealth shall give rise, either within or
2 without this Commonwealth, to a cause of action for breach of
3 the contract.

4 (c) Intention of section.--It is the intention of this
5 section to fix the effect, status and character of such acts and
6 contracts and to render them ineffective to support or give rise
7 to any such causes of action, either within or without this
8 Commonwealth.

9 § 1904. Filing or threatening to file actions prohibited.

10 It is unlawful for a person, either as litigant or attorney,
11 to file, cause to be filed, threaten to file or threaten to
12 cause to be filed in a court in this Commonwealth any pleading
13 or paper setting forth or seeking to recover upon any cause of
14 action abolished or barred by this chapter whether the cause of
15 action arose within or without this Commonwealth.

16 § 1905. Instruments executed in satisfaction of abolished
17 claims prohibited.

18 (a) Contracts and instruments void.--All contracts and
19 instruments of every kind executed within this Commonwealth in
20 payment, satisfaction, settlement or compromise of any claim or
21 cause of action abolished or barred by this chapter, whether the
22 claim or cause of action arose within or without this
23 Commonwealth, are contrary to the public policy of this
24 Commonwealth and void.

25 (b) Execution and use prohibited.--It is unlawful to cause,
26 induce or procure a person to execute a contract or instrument
27 proscribed by this chapter, or cause, induce or procure a person
28 to give, pay, transfer or deliver any money or thing of value in
29 payment, satisfaction, settlement or compromise of any such
30 claim or cause of action, or to receive, take or accept any such

1 money or thing of value in such payment, satisfaction,
2 settlement or compromise.

3 (c) Actions to enforce prohibited.--It is unlawful to
4 commence or cause to be commenced, either as litigant or
5 attorney, in a court of this Commonwealth any proceeding or
6 action seeking to enforce or recover upon a contract or
7 instrument proscribed by this chapter, knowing it to be such,
8 whether the contract or instrument was executed within or
9 without this Commonwealth.

10 (d) Exceptions.--This section does not apply to the payment,
11 satisfaction, settlement or compromise of any causes of action
12 which are not abolished or barred by this chapter or to the bona
13 fide holder in due course of a negotiable instrument.

14 PART IV

15 DIVORCE

16 Chapter

17 31. Preliminary Provisions

18 33. Dissolution of Marital Status

19 35. Property Rights

20 37. Alimony and Support

21 CHAPTER 31

22 PRELIMINARY PROVISIONS

23 Sec.

24 3101. Short title of part.

25 3102. Legislative findings and intent.

26 3103. Definitions.

27 3104. Bases of jurisdiction.

28 § 3101. Short title of part.

29 This part shall be known and may be cited as the "Divorce
30 Code."

1 § 3102. Legislative findings and intent.

2 (a) Policy.--The family is the basic unit in society and the
3 protection and preservation of the family is of paramount public
4 concern. Therefore, it is the policy of the Commonwealth to:

5 (1) Make the law for legal dissolution of marriage
6 effective for dealing with the realities of matrimonial
7 experience.

8 (2) Encourage and effect reconciliation and settlement
9 of differences between spouses, especially where children are
10 involved.

11 (3) Give primary consideration to the welfare of the
12 family rather than the vindication of private rights or the
13 punishment of matrimonial wrongs.

14 (4) Mitigate the harm to the spouses and their children
15 caused by the legal dissolution of the marriage.

16 (5) Seek causes rather than symptoms of family
17 disintegration and cooperate with and utilize the resources
18 available to deal with family problems.

19 (6) Effectuate economic justice between parties who are
20 divorced or separated and grant or withhold alimony according
21 to the actual need and ability to pay of the parties and
22 insure a fair and just determination and settlement of their
23 property rights.

24 (b) Construction of part.--The objectives set forth in
25 subsection (a) shall be considered in construing provisions of
26 this part and shall be regarded as expressing the legislative
27 intent.

28 § 3103. Definitions.

29 The following words and phrases when used in this part shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Alimony." An order for support granted by this Commonwealth
3 or any other state to a spouse or former spouse in conjunction
4 with a decree granting a divorce or annulment.

5 "Alimony pendente lite." An order for temporary support
6 granted to a spouse during the pendency of a divorce or
7 annulment proceeding.

8 "Divorce." Divorce from the bonds of matrimony.

9 "Grounds for divorce." The grounds enumerated in section
10 3301 (relating to grounds for divorce).

11 "Irretrievable breakdown." Estrangement due to marital
12 difficulties with no reasonable prospect of reconciliation.

13 "Qualified professionals." Includes marriage counselors,
14 psychologists, psychiatrists, social workers, ministers,
15 priests, rabbis or other persons who, by virtue of their
16 training and experience, are able to provide counseling.

17 "Separate and apart." Complete cessation of any and all
18 cohabitation.

19 § 3104. Bases of jurisdiction.

20 (a) Residence and domicile of parties.--No spouse is
21 entitled to commence an action for divorce or annulment under
22 this part unless at least one of the parties has been a bona
23 fide resident in this Commonwealth for at least six months
24 immediately previous to the commencement of the action. Both
25 parties shall be competent witnesses to prove their respective
26 residence and proof of actual residence within this Commonwealth
27 for six months shall create a presumption of domicile within
28 this Commonwealth.

29 (b) Powers of court.--The court has authority to entertain
30 an action under this part notwithstanding the fact that the

1 marriage of the parties and the cause for divorce occurred
2 outside of this Commonwealth and that both parties were at the
3 time of the occurrence domiciled without this Commonwealth. The
4 court also has the power to annul void or voidable marriages
5 celebrated without this Commonwealth at a time when neither
6 party was domiciled within this Commonwealth.

7 CHAPTER 33
8 DISSOLUTION OF MARITAL STATUS

9 Subchapter

- 10 A. General Provisions
11 B. Procedure
12 C. Attacks Upon Decrees

13 SUBCHAPTER A
14 GENERAL PROVISIONS

15 Sec.

- 16 3301. Grounds for divorce.
17 3302. Counseling.
18 3303. Annulment of void and voidable marriages.
19 3304. Grounds for annulment of void marriages.
20 3305. Grounds for annulment of voidable marriages.
21 3306. Proceedings to determine marital status.
22 3307. Defenses.
23 3308. Action where defendant suffering from mental disorder.
24 3309. General appearance and collusion.

25 § 3301. Grounds for divorce.

26 (a) Fault.--The court may grant a divorce to the innocent
27 and injured spouse whenever it is judged that the other spouse
28 has:

- 29 (1) Committed willful and malicious desertion, and
30 absence from the habitation of the injured and innocent

1 spouse, without a reasonable cause, for the period of one or
2 more years.

3 (2) Committed adultery.

4 (3) By cruel and barbarous treatment, endangered the
5 life or health of the injured and innocent spouse.

6 (4) Knowingly entered into a bigamous marriage while a
7 former marriage is still subsisting.

8 (5) Been sentenced to imprisonment for a term of two or
9 more years upon conviction of having committed a crime.

10 (6) Offered such indignities to the innocent and injured
11 spouse as to render that spouse's condition intolerable and
12 life burdensome.

13 (b) Institutionalization.--The court may grant a divorce
14 from a spouse upon the ground that insanity or serious mental
15 disorder has resulted in confinement in a mental institution for
16 at least three years immediately before the commencement of an
17 action under this part and where there is no reasonable prospect
18 that the spouse will be discharged from inpatient care during
19 the three years subsequent to the commencement of the action. A
20 presumption that no prospect of discharge exists shall be
21 established by a certificate of the superintendent of the
22 institution to that effect and which includes a supporting
23 statement of a treating physician.

24 (c) Mutual consent.--The court may grant a divorce where it
25 is alleged that the marriage is irretrievably broken and 90 days
26 have elapsed from the date of commencement of an action under
27 this part and an affidavit has been filed by each of the parties
28 evidencing that each of the parties consents to the divorce.

29 (d) Irretrievable breakdown.--

30 (1) The court may grant a divorce where a party has

1 filed an affidavit alleging that the parties have lived
2 separate and apart for a period of at least three years and
3 that the marriage is irretrievably broken and the defendant
4 either:

5 (i) Does not deny the allegations set forth in the
6 affidavit.

7 (ii) Denies one or more of the allegations set forth
8 in the affidavit but, after notice and hearing, the court
9 determines that the parties have lived separate and apart
10 for a period of at least three years and that the
11 marriage is irretrievably broken.

12 (2) If a hearing has been held pursuant to paragraph
13 (1)(ii) and the court determines that there is a reasonable
14 prospect of reconciliation, then the court shall continue the
15 matter for a period not less than 90 days nor more than 120
16 days unless the parties agree to a period in excess of 120
17 days. During this period, the court shall require counseling
18 as provided in section 3302 (relating to counseling). If the
19 parties have not reconciled at the expiration of the time
20 period and one party states under oath that the marriage is
21 irretrievably broken, the court shall determine whether the
22 marriage is irretrievably broken. If the court determines
23 that the marriage is irretrievably broken, the court shall
24 grant the divorce. Otherwise, the court shall deny the
25 divorce.

26 § 3302. Counseling.

27 (a) Indignities.--Whenever indignities under section
28 3301(a)(6) (relating to grounds for divorce) is the ground for
29 divorce, the court shall require up to a maximum of three
30 counseling sessions where either of the parties requests it.

1 (b) Mutual consent.--Whenever mutual consent under section
2 3301(c) is the ground for divorce, the court shall require up to
3 a maximum of three counseling sessions within the 90 days
4 following the filing of the complaint where either of the
5 parties requests it.

6 (c) Irretrievable breakdown.--Whenever the court orders a
7 continuation period as provided for irretrievable breakdown in
8 section 3301(d)(2), the court shall require up to a maximum of
9 three counseling sessions within the time period where either of
10 the parties requests it or may require such counseling where the
11 parties have at least one child under 16 years of age.

12 (d) Notification of availability of counseling.--Whenever
13 section 3301(a)(6), (c) or (d) is the ground for divorce, the
14 court shall, upon the commencement of an action under this part,
15 notify both parties of the availability of counseling and, upon
16 request, provide both parties a list of qualified professionals
17 who provide such services.

18 (e) Choice of qualified professionals unrestricted.--The
19 choice of a qualified professional shall be at the option of the
20 parties and the professional need not be selected from the list
21 provided by the court.

22 (f) Report.--Where the court requires counseling, a report
23 shall be made by the qualified professional stating that the
24 parties did or did not attend.

25 § 3303. Annulment of void and voidable marriages.

26 In all cases where a supposed or alleged marriage has been
27 contracted which is void or voidable under this title or under
28 applicable law, either party to the supposed or alleged marriage
29 may bring an action in annulment to have it declared void in
30 accordance with the procedures provided by this part and

1 prescribed by general rules.

2 § 3304. Grounds for annulment of void marriages.

3 (a) General rule.--Where there has been no confirmation by
4 cohabitation following the removal of an impediment, the
5 supposed or alleged marriage of a person shall be deemed void in
6 the following cases:

7 (1) Where either party at the time of such marriage had
8 an existing spouse and the former marriage had not been
9 annulled nor had there been a divorce except where that party
10 had obtained a decree of presumed death of the former spouse.

11 (2) Where the parties to such marriage are related
12 within the degrees of consanguinity prohibited by section
13 1304(e) (relating to restriction on issuance of license).

14 (3) Where either party to such marriage was incapable of
15 consenting by reason of insanity or serious mental disorder
16 or otherwise lacked capacity to consent or did not intend to
17 consent to the marriage.

18 (b) Procedures.--In all cases of marriages which are void,
19 the marriage may be annulled as set forth in section 3303
20 (relating to annulment of void and voidable marriages) or its
21 invalidity may be declared in any collateral proceeding.

22 § 3305. Grounds for annulment of voidable marriages.

23 (a) General rule.--The marriage of a person shall be deemed
24 voidable and subject to annulment in the following cases:

25 (1) Where either party to the marriage was under 16
26 years of age unless the marriage was expressly authorized by
27 the court.

28 (2) Where either party was 16 or 17 years of age and
29 lacked the consent of parent or guardian or express
30 authorization of the court and has not subsequently ratified

1 the marriage upon reaching 18 years of age and an action for
2 annulment is commenced within 60 days after the marriage
3 ceremony.

4 (3) Where either party to the marriage was under the
5 influence of alcohol or drugs and an action for annulment is
6 commenced within 60 days after the marriage ceremony.

7 (4) Where either party to the marriage was at the time
8 of the marriage and still is naturally and incurably impotent
9 unless the condition was known to the other party prior to
10 the marriage.

11 (5) Where one party was induced to enter into the
12 marriage due to fraud, duress, coercion or force attributable
13 to the other party and there has been no subsequent voluntary
14 cohabitation after knowledge of the fraud or release from the
15 effects of fraud, duress, coercion or force.

16 (b) Status of voidable marriage.--In all cases of marriages
17 which are voidable, either party to the marriage may seek and
18 obtain an annulment of the marriage but, until a decree of
19 annulment is obtained from a court of competent jurisdiction,
20 the marriage shall be valid. The validity of a voidable marriage
21 shall not be subject to attack or question by any person if it
22 is subsequently confirmed by the parties to the marriage or if
23 either party has died.

24 § 3306. Proceedings to determine marital status.

25 When the validity of a marriage is denied or doubted, either
26 or both of the parties to the marriage may bring an action for a
27 declaratory judgment seeking a declaration of the validity or
28 invalidity of the marriage and, upon proof of the validity or
29 invalidity of the marriage, the marriage shall be declared valid
30 or invalid by decree of the court and, unless reversed upon

1 appeal, the declaration shall be conclusive upon all persons
2 concerned.

3 § 3307. Defenses.

4 (a) General rule.--Existing common law defenses are retained
5 as to the grounds enumerated in section 3301(a) and (b)
6 (relating to grounds for divorce). The defenses of condonation,
7 connivance, collusion, recrimination and provocation are
8 abolished as to the grounds enumerated in section 3301(c) and
9 (d).

10 (b) Adultery.--In an action for divorce on the ground of
11 adultery, it is a good defense and a perpetual bar against the
12 action if the defendant alleges and proves, or if it appears in
13 the evidence, that the plaintiff:

14 (1) has been guilty of like conduct;

15 (2) has admitted the defendant into conjugal society or
16 embraces after the plaintiff knew of the fact;

17 (3) allowed the defendant's prostitution or received
18 hire from it; or

19 (4) exposed the defendant to lewd company whereby the
20 defendant became involved in the adultery.

21 § 3308. Action where defendant suffering from mental disorder.

22 If a spouse is insane or suffering from serious mental
23 disorder, an action may be commenced under this part against
24 that spouse upon any ground for divorce or annulment.

25 § 3309. General appearance and collusion.

26 The entry of a general appearance by, or in behalf of, a
27 defendant does not constitute collusion. Collusion shall be
28 found to exist only where the parties conspired to fabricate
29 grounds for divorce or annulment, agreed to and did commit
30 perjury or perpetrated fraud on the court. Negotiation and

1 discussion of terms of property settlement and other matters
2 arising by reason of contemplated divorce or annulment do not
3 constitute collusion.

4 SUBCHAPTER B

5 PROCEDURE

6 Sec.

7 3321. Hearing by master.

8 3322. Jury trial.

9 3323. Decree of court.

10 § 3321. Hearing by master.

11 The court may appoint a master to hear testimony on all or
12 some issues, except issues of custody and paternity, and return
13 the record and a transcript of the testimony together with a
14 report and recommendation as prescribed by general rules or a
15 judge of the court in chambers may appoint a master to take
16 testimony and return a transcript of the testimony to the court.

17 § 3322. Jury trial.

18 (a) Application for jury trial.--After service of the
19 complaint in divorce or annulment on the defendant in the manner
20 prescribed by general rules or entry of a general appearance for
21 the defendant, if either of the parties desires any matter of
22 fact that is affirmed by one and denied by the other to be tried
23 by a jury, that party may take a rule upon the opposite party,
24 to be allowed by a judge of the court, to show cause why the
25 issues of fact set forth in the rule should not be tried by a
26 jury which rule shall be served upon the opposite party or
27 counsel for the opposite party.

28 (b) Disposition of application.--Upon the return of the
29 rule, after hearing, the court may discharge it, make it
30 absolute or frame issues itself. Only the issues ordered by the

1 court shall be tried. The rule shall not be made absolute when,
2 in the opinion of the court, a trial by jury cannot be had
3 without prejudice to the public morals.

4 § 3323. Decree of court.

5 (a) General rule.--In all matrimonial causes, the court may
6 either dismiss the complaint or enter a decree of divorce or
7 annulment of the marriage.

8 (b) Contents of decree.--A decree granting a divorce or an
9 annulment shall include, after a full hearing, where these
10 matters are raised in the pleadings, an order determining and
11 disposing of existing property rights and interests between the
12 parties, custody and visitation rights, child support, alimony
13 and any other related matters including the enforcement of
14 separation agreements voluntarily entered into between the
15 parties. In the event that the court is unable for any reason to
16 determine and dispose of the matters provided for in this
17 subsection within 30 days after the report of the master has
18 been filed, it may enter a decree of divorce or annulment. The
19 court may order alimony, reasonable counsel fees and expenses
20 pending final disposition of the matters provided for in this
21 subsection.

22 SUBCHAPTER C

23 ATTACKS UPON DECREES

24 Sec.

25 3331. Limitations on attacks upon decrees.

26 3332. Opening or vacating decrees.

27 3333. Res judicata and estoppel.

28 § 3331. Limitations on attacks upon decrees.

29 The validity of a decree of divorce or annulment issued by a
30 court shall not be questioned, except by appeal, in any court or

1 place in this Commonwealth after the death of either party to
2 the proceeding. If it is shown that a party who subsequently
3 attempts to question the validity of the decree had full
4 knowledge of the facts and circumstances later complained of at
5 the time of issuance of the decree or failed to take any action
6 despite this knowledge within two years after the date of the
7 decree, the party shall be barred from questioning the decree
8 and it shall be valid in all courts and places within this
9 Commonwealth.

10 § 3332. Opening or vacating decrees.

11 A motion to open a decree of divorce or annulment may be made
12 only within the period limited by 42 Pa.C.S. § 5505 (relating to
13 modification of orders) and not thereafter. The motion may lie
14 where it is alleged that the decree was procured by intrinsic
15 fraud or that there is new evidence relating to the cause of
16 action which will sustain the attack upon its validity. A motion
17 to vacate a decree or strike a judgment alleged to be void
18 because of extrinsic fraud, lack of jurisdiction over the
19 subject matter or a fatal defect apparent upon the face of the
20 record must be made within five years after entry of the final
21 decree. Intrinsic fraud relates to a matter adjudicated by the
22 judgment, including perjury and false testimony, whereas
23 extrinsic fraud relates to matters collateral to the judgment
24 which have the consequence of precluding a fair hearing or
25 presentation of one side of the case.

26 § 3333. Res judicata and estoppel.

27 The validity of a divorce or annulment decree granted by a
28 court having jurisdiction over the subject matter may not be
29 questioned by a party who was subject to the personal
30 jurisdiction of the court except by direct appeal provided or

1 prescribed by law. A party who sought and obtained a decree,
2 financed or agreed to its procurement, or accepted a property
3 settlement, alimony pendente lite or alimony pursuant to the
4 terms of the decree, or who remarries after the decree, or is
5 guilty of laches, is barred from making a collateral attack upon
6 the validity of the decree unless by clear and convincing
7 evidence it is established that fraud by the other party
8 prevented the making of a timely appeal from the divorce or
9 annulment decree.

10 CHAPTER 35

11 PROPERTY RIGHTS

12 Sec.

13 3501. Definition.

14 3502. Equitable division of marital property.

15 3503. Effect of divorce on property rights generally.

16 3504. Disposition of property after termination of marriage.

17 3505. Disposition of property to defeat obligations.

18 3506. Statement of reasons for distribution.

19 3507. Division of entireties property between divorced persons.

20 3508. Conveyance of entireties property to divorced spouse.

21 § 3501. Definition.

22 (a) General rule.--As used in this chapter "marital
23 property" means all property acquired by either party during the
24 marriage except:

25 (1) Property acquired in exchange for property acquired
26 prior to the marriage except for the increase in value during
27 the marriage.

28 (2) Property excluded by valid agreement of the parties
29 entered into before, during or after the marriage.

30 (3) Property acquired by gift, bequest, devise or

1 descent except for the increase in value during the marriage.

2 (4) Property acquired after separation until the date of
3 divorce or, if the parties separate and reconcile, all
4 property acquired subsequent to the final separation until
5 their divorce.

6 (5) Property which a party has sold, granted, conveyed
7 or otherwise disposed of in good faith and for value prior to
8 the time proceedings for the divorce are commenced.

9 (6) Veterans' benefits exempt from attachment, levy or
10 seizure pursuant to the act of September 2, 1958, Public Law
11 85-857, 72 Statute 1229, as amended, except for those
12 benefits received by a veteran where the veteran has waived a
13 portion of his military retirement pay in order to receive
14 veterans' compensation.

15 (7) Property to the extent to which the property has
16 been mortgaged or otherwise encumbered in good faith for
17 value prior to the time proceedings for the divorce are
18 commenced.

19 (b) Presumption.--All real or personal property acquired by
20 either party during the marriage is presumed to be marital
21 property regardless of whether title is held individually or by
22 the parties in some form of co-ownership such as joint tenancy,
23 tenancy in common or tenancy by the entirety. The presumption of
24 marital property is overcome by a showing that the property was
25 acquired by a method listed in subsection (a).

26 § 3502. Equitable division of marital property.

27 (a) General rule.--In an action for divorce or annulment,
28 the court shall, upon request of either party, equitably divide,
29 distribute or assign the marital property between the parties
30 without regard to marital misconduct in such proportions as the

1 court deems just after considering all relevant factors
2 including:

3 (1) The length of the marriage.

4 (2) Any prior marriage of either party.

5 (3) The age, health, station, amount and sources of
6 income, vocational skills, employability, estate, liabilities
7 and needs of each of the parties.

8 (4) The contribution by one party to the education,
9 training or increased earning power of the other party.

10 (5) The opportunity of each party for future
11 acquisitions of capital assets and income.

12 (6) The sources of income of both parties, including but
13 not limited to medical, retirement, insurance or other
14 benefits.

15 (7) The contribution or dissipation of each party in the
16 acquisition, preservation, depreciation or appreciation of
17 the marital property, including the contribution of a party
18 as homemaker.

19 (8) The value of the property set apart to each party.

20 (9) The standard of living of the parties established
21 during the marriage.

22 (10) The economic circumstances of each party at the
23 time the division of property is to become effective.

24 (b) Lien.--The court may impose a lien or charge upon the
25 marital property assigned to a party as security for the payment
26 of alimony or other award for the other party.

27 (c) Family home.--The court may award to one, each or both
28 of the parties the right to live in the family home for
29 reasonable periods of time.

30 (d) Life insurance.--The court may direct the continued

1 maintenance and beneficiary designations of existing policies
2 insuring the life of either party. This subsection extends only
3 to policies originally purchased during the marriage and owned
4 by or within the effective control of either party.

5 § 3503. Effect of divorce on property rights generally.

6 Whenever a decree or judgment is granted which nullifies or
7 absolutely terminates the bonds of matrimony, all property
8 rights which are dependent upon the marital relation, except
9 those which are vested rights, are terminated unless the court
10 expressly provides otherwise in its decree. All duties, rights
11 and claims accruing to either of the parties at any time
12 theretofore in pursuance of the marriage shall cease and the
13 parties shall severally be at liberty to marry again as if they
14 had never been married.

15 § 3504. Disposition of property after termination of marriage.

16 Unless provided otherwise by the court, whenever a decree of
17 divorce or annulment is entered by a court of competent
18 jurisdiction, both parties whose marriage is terminated or
19 affected shall have complete freedom of disposition as to their
20 separate real and personal property and may mortgage, sell,
21 grant, convey or otherwise encumber or dispose of their separate
22 property, whether the property was acquired before, during or
23 after coverture, and neither need join in, consent to or
24 acknowledge a deed, mortgage or instrument of the other.

25 § 3505. Disposition of property to defeat obligations.

26 (a) Preliminary relief.--Where it appears to the court that
27 a party is about to leave the jurisdiction of the court or is
28 about to remove property of that party from the jurisdiction of
29 the court or is about to dispose of, alienate or encumber
30 property in order to defeat alimony pendente lite, alimony,

1 child and spousal support or a similar award, an injunction may
2 issue to prevent the removal or disposition and the property may
3 be attached as prescribed by general rules. The court may also
4 issue a writ of ne exeat to preclude the removal.

5 (b) Inventory of property.--Both parties shall submit to the
6 court an inventory and appraisal of all property owned or
7 possessed at the time action was commenced.

8 (c) Constructive trust for undisclosed assets.--If a party
9 deliberately or negligently fails to disclose information
10 required by subsection (b) and in consequence thereof an asset
11 or assets with a fair market value of \$500 or more is omitted
12 from the final distribution of property, the party aggrieved by
13 the nondisclosure may at any time petition the court granting
14 the divorce or annulment to declare the creation of a
15 constructive trust as to all undisclosed assets for the benefit
16 of the parties and their minor or dependent children, if any.
17 The party in whose name the assets are held shall be declared
18 the constructive trustee and the trust may include any terms and
19 conditions the court may determine. The court shall grant the
20 petition upon a finding of a failure to disclose the assets as
21 required under subsection (b).

22 (d) Encumbrance or disposition to third parties.--An
23 encumbrance or disposition of property to third persons who had
24 notice of the pendency of the matrimonial action or who paid
25 wholly inadequate consideration for the property may be deemed
26 fraudulent and declared void.

27 § 3506. Statement of reasons for distribution.

28 In an order made under this chapter for the distribution of
29 property the court shall set forth the reason for the
30 distribution ordered.

1 § 3507. Division of entireties property between divorced
2 persons.

3 (a) General rule.--Whenever married persons holding property
4 as tenants by entireties are divorced, they shall, except as
5 otherwise provided by an order made under this chapter,
6 thereafter hold the property as tenants in common of equal one-
7 half shares in value and either of them may bring an action
8 against the other to have the property sold and the proceeds
9 divided between them.

10 (b) Division of proceeds.--Except as provided in subsection
11 (c), the proceeds of a sale under this section, after the
12 payment of the expenses of sale, shall be equally divided
13 between the parties.

14 (c) Liens.--The amount of any lien entered of record jointly
15 against both of the parties, together with any interest due on
16 the lien and docket costs, shall be deducted from the proceeds
17 of sale and the amount of the liens entered of record against
18 either of the parties, together with any interest due on the
19 liens and docket costs, shall be deducted from the share of the
20 party against whom the lien is filed and paid to the person or
21 persons to whom the amount of the lien is due and payable.

22 (d) Record of divorce decree.--No decree of divorce shall be
23 effective to change the existing law relating to liens upon
24 property held by tenants by the entireties except a decree of
25 divorce that is valid in this Commonwealth and not until the
26 decree of divorce or a certified copy of the decree is recorded
27 in the office of the recorder of deeds of the county where the
28 property is situate. The decree shall be indexed in the
29 grantor's index against each of the tenants by the entireties.

30 § 3508. Conveyance of entireties property to divorced spouse.

1 Whenever married persons have acquired real estate as tenants
2 by entireties and thereafter are divorced, either former spouse,
3 except as otherwise provided by an order made under this
4 chapter, may convey to the other without the joinder of the
5 other the grantor's interest in the real estate so that the
6 grantee holds the real estate in fee simple, freed from all
7 right, title and interest which the grantor had in the real
8 estate as a tenant by the entireties.

9 CHAPTER 37

10 ALIMONY AND SUPPORT

11 Sec.

12 3701. Alimony.

13 3702. Alimony pendente lite, counsel fees and expenses.

14 3703. Enforcement of arrearages.

15 3704. Payment of support, alimony and alimony pendente lite.

16 3705. Alimony in case of foreign ex parte divorce or annulment.

17 3706. Enforcement of foreign decrees.

18 3707. Bar to alimony.

19 § 3701. Alimony.

20 (a) General rule.--The court may allow alimony, as it deems
21 reasonable, to either party only if it finds that the party
22 seeking alimony:

23 (1) lacks sufficient property, including but not limited
24 to any property distributed pursuant to Chapter 35 (relating
25 to property rights), to provide for the reasonable needs of
26 that party; and

27 (2) is unable to be self-supporting through appropriate
28 employment.

29 (b) Factors relevant.--In determining whether alimony is
30 necessary and in determining the nature, amount, duration and

1 manner of payment of alimony, the court shall consider all
2 relevant factors including:

3 (1) The relative earnings and earning capacities of the
4 parties.

5 (2) The ages and the physical, mental and emotional
6 conditions of the parties.

7 (3) The sources of income of both parties including but
8 not limited to medical, retirement, insurance or other
9 benefits.

10 (4) The expectancies and inheritances of the parties.

11 (5) The duration of the marriage.

12 (6) The contribution by one party to the education,
13 training or increased earning power of the other party.

14 (7) The extent to which it would be inappropriate for a
15 party, because the party will be custodian of a minor child,
16 to seek employment outside the home.

17 (8) The standard of living of the parties established
18 during the marriage.

19 (9) The relative education of the parties and the time
20 necessary to acquire sufficient education or training to
21 enable the party seeking alimony to find appropriate
22 employment.

23 (10) The relative assets and liabilities of the parties.

24 (11) The property brought to the marriage by either
25 party.

26 (12) The contribution of a spouse as homemaker.

27 (13) The relative needs of the parties.

28 (14) The marital misconduct of either of the parties
29 during the marriage. The marital misconduct of either of the
30 parties during separation subsequent to the commencement of

an action for divorce under this part shall not be considered by the court in its determinations relative to alimony.

(c) Duration.--Unless the ability of the party seeking the alimony to provide for the reasonable needs of that party through employment is substantially diminished by reason of age, physical, mental or emotional condition, custody of minor children or other compelling impediment to gainful employment, the court in ordering alimony shall limit the duration of the order to a period of time which is reasonable for the purpose of allowing the party seeking alimony to meet these reasonable needs by:

(1) obtaining appropriate employment; or

(2) developing an appropriate employable skill.

(d) Statement of reasons.--In an order made under this section the court shall set forth the reason for its denial or award of alimony and the amount thereof.

(e) Modification and termination.--An order entered pursuant to this section is subject to further order of the court upon changed circumstances of either party of a substantial and continuing nature whereupon the order may be modified, suspended, terminated or reinstituted or a new order made. Any further order shall apply only to payments accruing subsequent to the petition for the requested relief. Remarriage of the party receiving alimony shall terminate the award of alimony.

(f) Status of agreement to pay alimony.--Whenever the court approves an agreement for the payment of alimony voluntarily entered into between the parties, the agreement shall constitute the order of the court and may be enforced as provided in section 3703 (relating to enforcement of arrearages).

§ 3702. Alimony pendente lite, counsel fees and expenses.

1 In proper cases, upon petition, the court may allow a spouse
2 reasonable alimony pendente lite and reasonable counsel fees and
3 expenses.

4 § 3703. Enforcement of arrearages.

5 If at any time a party is in arrears in the payment of
6 alimony or alimony pendente lite as provided for in sections
7 3701 (relating to alimony) and 3702 (relating to alimony
8 pendente lite, counsel fees and expenses) the court may, after
9 hearing, in order to effect payment of the arrearages:

10 (1) Enter judgment.

11 (2) Authorize the taking and seizure of the goods and
12 chattels and the collection of the rents and profits of the
13 real estate of the party.

14 (3) Attach no more than 50% of the wages of the party.

15 (4) Award interest on unpaid installments.

16 (5) Require security to insure future payments.

17 (6) Issue attachment proceedings, directed to the
18 sheriff or other proper officer of the county, directing that
19 the person named as having failed to comply with the court
20 order be brought before the court at such time as the court
21 may direct. If the court finds, after hearing, that the named
22 person willfully failed to comply with the court order, it
23 may declare the person in civil contempt of court and in its
24 discretion make an appropriate order including, but not
25 limited to, commitment of the person to prison for a period
26 not to exceed six months.

27 § 3704. Payment of support, alimony and alimony pendente lite.

28 When so ordered by the court, all payments of child and
29 spousal support, alimony or alimony pendente lite shall be made
30 to the domestic relations section of the court which issued the

1 order or the domestic relations section of the court at the
2 residence of the party entitled to receive the award. The
3 domestic relations section shall keep an accurate record of all
4 payments and shall notify the court immediately whenever a
5 person subject to a payment order is 30 days in arrears of
6 payment so that appropriate action may be taken to enforce the
7 order of the court. The domestic relations section shall
8 distribute the payments to the person entitled to them as soon
9 as possible after receipt.

10 § 3705. Alimony in case of foreign ex parte divorce or
11 annulment.

12 A person who was a resident of this Commonwealth at the time
13 the person was a defendant or respondent in a foreign ex parte
14 action for divorce or annulment may petition a court of this
15 Commonwealth for alimony. If the person establishes the need for
16 alimony and if the court has jurisdiction over the person or
17 property of the other party, the court may order that alimony be
18 paid in the same manner and under the same conditions and
19 limitations which pertain when alimony is sought as provided in
20 this chapter. In the event that the other party from whom the
21 alimony is sought cannot be located within this Commonwealth,
22 the court may attach the tangible or intangible property of that
23 party which is within the jurisdiction of the court in the
24 manner prescribed by general rules except that no exemption
25 shall apply. The property shall thereupon be subject to the
26 payment of alimony in the same manner as provided by law in
27 actions for nonsupport.

28 § 3706. Enforcement of foreign decrees.

29 (a) General rule.--Whenever a person subject to a valid
30 decree of a sister state or territory for the payment of

1 alimony, temporary alimony or alimony pendente lite, or the
2 property of that person is found within this Commonwealth, the
3 obligee of the decree may petition the court where the obligor
4 or the property of the obligor is found to register, adopt as
5 its own and enforce the decree as a properly issued and
6 authenticated decree of a sister state or territory. Upon
7 registration and adoption, such relief and process for
8 enforcement as is provided or prescribed by law in similar cases
9 originally commenced in this Commonwealth shall be available. A
10 copy of the decree and order shall be forwarded to the court of
11 the state or territory which issued the original decree. The
12 obligor shall have whatever defenses and relief are available to
13 the obligor in the state or territory which issued the original
14 decree and may question the jurisdiction of that court if not
15 otherwise barred. Interest may be awarded on unpaid installments
16 and security may be required to insure future payments as in
17 cases originally commenced in this Commonwealth. Where property
18 of the obligor, but not the person of the obligor, is found
19 within this Commonwealth, there shall be jurisdiction quasi in
20 rem and, upon registration and adoption of the decree of the
21 sister state or territory, relief and enforcement of the decree
22 shall be available as in other proceedings which are quasi in
23 rem.

24 (b) Optional procedure.--The right of a judgment creditor to
25 proceed under 42 Pa.C.S. § 4306 (relating to enforcement of
26 foreign judgments) or otherwise instead of proceeding under this
27 section remains unimpaired.

28 § 3707. Bar to alimony.

29 No petitioner is entitled to receive an award of alimony
30 where the petitioner, subsequent to the divorce pursuant to

1 which alimony is being sought, has entered into cohabitation
2 with a person of the opposite sex who is not a member of the
3 family of the petitioner within the degrees of consanguinity.

4 PART VI

5 CHILDREN AND MINORS

6 Chapter

7 51. General Provisions

8 53. Custody

9 55. Liability for Tortious Acts of Children

10 CHAPTER 51

11 GENERAL PROVISIONS

12 Sec.

13 5101. Attainment of full age.

14 5102. Children declared to be legitimate.

15 5103. Acknowledgment and claim of paternity.

16 § 5101. Attainment of full age.

17 (a) Age for entering into contracts.--Any individual 18
18 years of age and older shall have the right to enter into
19 binding and legally enforceable contracts and the defense of
20 minority shall not be available to such individuals.

21 (b) Age for suing and being sued.--Except where otherwise
22 provided or prescribed by law, an individual 18 years of age and
23 older shall be deemed an adult and may sue and be sued as such.

24 § 5102. Children declared to be legitimate.

25 (a) General rule.--All children shall be legitimate
26 irrespective of the marital status of their parents and in every
27 case where children are born out of wedlock they shall enjoy all
28 the rights and privileges as if they had been born during the
29 wedlock of their parents except as otherwise provided in Title
30 20 (relating to decedents, estates and fiduciaries).

1 (b) Determination of paternity.--For purposes of prescribing
2 benefits to children born out of wedlock by, from and through
3 the father, paternity shall be determined by any one of the
4 following ways:

5 (1) If the parents of a child born out of wedlock have
6 married each other.

7 (2) If, during the lifetime of the child, it is
8 determined by clear and convincing evidence that the father
9 openly holds out the child to be his and either receives the
10 child into his home or provides support for the child.

11 (3) If there is clear and convincing evidence that the
12 man was the father of the child which may include a prior
13 court determination of paternity.

14 § 5103. Acknowledgment and claim of paternity.

15 (a) Acknowledgment of paternity.--The father of a child born
16 to an unmarried woman may file with the Department of Health on
17 forms prescribed by it an acknowledgment of paternity of the
18 child which shall include the consent of the mother of the child
19 supported by her affidavit. The department shall, upon receipt
20 of the acknowledgment, proceed as provided in section 603(a) of
21 the act of June 29, 1953 (P.L.304, No.66), known as the "Vital
22 Statistics Law of 1953," and the father shall have all the
23 rights and duties as to the child which he would have had if he
24 had been married to the mother at the time of the birth of the
25 child and the child shall have all the rights and duties as to
26 the father which the child would have had if the father had been
27 married to the mother at the time of birth. The acknowledgment
28 may also provide for the assumption by the child of the surname
29 of the father or other name desired by the parents.

30 (b) Claim of paternity.--If the mother of the child fails or

1 refuses to join in the acknowledgment of paternity provided for
2 in subsection (a), the Department of Health shall index it as a
3 claim of paternity. The filing and indexing of a claim of
4 paternity shall not confer upon the putative father any rights
5 as to the child except that the putative father shall be
6 entitled to notice of any proceeding brought to terminate any
7 parental rights as to the child.

8 CHAPTER 53

9 CUSTODY

10 Subchapter

11 A. General Provisions

12 B. Child Custody Jurisdiction

13 SUBCHAPTER A

14 GENERAL PROVISIONS

15 Sec.

16 5301. Declaration of policy.

17 5302. Definitions.

18 5303. Award of sole custody.

19 5304. Award of shared custody.

20 5305. Counseling.

21 5306. Plan for implementation of custody order.

22 5307. Denial of custody under agreement or plan.

23 5308. Removal of party or child from jurisdiction.

24 5309. Access to records and information.

25 5310. Modification of existing custody orders.

26 5311. Visitation rights of grandparents.

27 § 5301. Declaration of policy.

28 The General Assembly declares that it is the public policy of
29 this Commonwealth, when in the best interest of the child, to
30 assure a reasonable and continuing contact of the child with

1 both parents after a separation or dissolution of the marriage
2 and the sharing of the rights and responsibilities of child
3 rearing by both parents.

4 § 5302. Definitions.

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

8 "Child." Any unemancipated person under 18 years of age.

9 "Legal custody." The legal right to make major decisions
10 affecting the best interest of a minor child including, but not
11 limited to, medical, religious and educational decisions.

12 "Physical custody." The actual physical possession and
13 control of a child.

14 "Shared custody." An order awarding shared legal or shared
15 physical custody or both of a child in such a way as to assure
16 the child of frequent and continuing contact with and physical
17 access to both parents.

18 § 5303. Award of sole custody.

19 In making an order for custody to either parent individually,
20 the court shall consider, among other factors, which parent is
21 more likely to encourage, permit and allow frequent and
22 continuing contact and physical access between the noncustodial
23 parent and the child. The court shall award sole custody when it
24 is in the best interest of the child.

25 § 5304. Award of shared custody.

26 An order for shared custody may be awarded by the court when
27 it is in the best interest of the child:

28 (1) upon application of one or both parents;

29 (2) when the parties have agreed to an award of shared
30 custody; or

1 (3) in the discretion of the court.

2 § 5305. Counseling.

3 (a) General rule.--The court may require the parents to
4 attend counseling sessions and may consider the recommendations
5 of the counselors prior to awarding sole or shared custody.
6 These counseling sessions may include but shall not be limited
7 to discussions of the responsibilities and decision making
8 arrangements involved in both sole and shared custody and the
9 suitability of each arrangement to the capabilities of each
10 parent or both parents.

11 (b) Temporary custody.--The court may temporarily award
12 custody to either parent or both parents pending resolution of
13 any counseling.

14 (c) Report.--The court may require the counselor to submit a
15 report if the court desires and within such reasonable time as
16 the court determines.

17 § 5306. Plan for implementation of custody order.

18 The court, in its discretion, may require the parents to
19 submit to the court a plan for the implementation of any custody
20 order made pursuant to this subchapter. Upon the request of
21 either parent or the court, the domestic relations section of
22 the court or other party or agency approved by the court shall
23 assist in the formulation and implementation of the plan.

24 § 5307. Denial of custody under agreement or plan.

25 When the court declines to enter an order awarding custody
26 either as agreed to by the parents or under the plan developed
27 by the parents, the court shall state its reasons for denial on
28 the record.

29 § 5308. Removal of party or child from jurisdiction.

30 If either party intends to or does leave this Commonwealth or

1 intends to or does remove the child from this Commonwealth after
2 a custody order has been made, the court, on its own motion or
3 at the request of either party, may review the existing custody
4 order.

5 § 5309. Access to records and information.

6 (a) General rule.--Except as provided in subsections (b) and
7 (c), each parent shall be provided access to all the medical,
8 dental, religious or school records of the child, the residence
9 address of the child and of the other parent and any other
10 information that the court deems necessary.

11 (b) Court determination not to release information.--The
12 court, in its discretion, may determine not to release any part
13 or parts of the information in this section but in doing so must
14 state its reason for denial on the record.

15 (c) Nondisclosure of confidential records.--The court shall
16 not order that the address of a shelter for battered spouses and
17 their dependent children or otherwise confidential records of a
18 domestic violence counselor be disclosed to any party or counsel
19 for any party to the proceedings.

20 § 5310. Modification of existing custody orders.

21 Any order for the custody of the child of a marriage entered
22 by a court in this Commonwealth or another state may, subject to
23 the jurisdictional requirements set forth in sections 5342
24 (relating to purposes and construction of subchapter) and 5344
25 (relating to jurisdiction), be modified at any time to an order
26 of shared custody in accordance with this subchapter.

27 § 5311. Visitation rights of grandparents.

28 (a) When parent deceased.--If a parent of an unmarried child
29 is deceased, the court may grant the parents or grandparents of
30 the deceased parent reasonable visitation rights to the

1 unmarried child upon a finding that visitation rights would be
2 in the best interest of the child and would not interfere with
3 the parent-child relationship. The court shall consider the
4 amount of personal contact between the parents or grandparents
5 of the deceased parent and the child prior to the application
6 for visitation rights.

7 (b) When marriage of parents dissolved.--In all proceedings
8 for dissolution of the marriage, subsequent to the commencement
9 of the proceeding and continuing thereafter, the court may, upon
10 the request of the parent or grandparent of a party, grant
11 reasonable visitation rights to the unmarried child, after
12 dissolution of the marriage, if it finds that visitation rights
13 would be in the best interest of the child and would not
14 interfere with the parent-child relationship. The court shall
15 consider the amount of personal contact between the parents or
16 grandparents of the party and the child prior to the application
17 for visitation rights.

18 (c) When child resided with grandparents.--If an unmarried
19 child has resided with his grandparents or great-grandparents
20 for a period of 12 months or more and is subsequently removed
21 from the home by his parents, the grandparents or great-
22 grandparents may petition the court for an order granting them
23 reasonable visitation rights to the child. The court shall grant
24 the petition if it finds that visitation rights would be in the
25 best interest of the child and would not interfere with the
26 parent-child relationship.

27 (d) Exception for adopted children.--This section does not
28 apply if the child has been adopted by a person other than a
29 stepparent or grandparent. Any visitation rights granted
30 pursuant to this section prior to the adoption of the child

1 shall be automatically terminated upon such adoption.

2 SUBCHAPTER B

3 CHILD CUSTODY JURISDICTION

4 Sec.

5 5341. Short title of subchapter.

6 5342. Purposes and construction of subchapter.

7 5343. Definitions.

8 5344. Jurisdiction.

9 5345. Notice and opportunity to be heard.

10 5346. Notice to persons outside this Commonwealth; submission
11 to jurisdiction.

12 5347. Simultaneous proceedings in other states.

13 5348. Inconvenient forum.

14 5349. Jurisdiction declined by reason of conduct.

15 5350. Information under oath to be submitted to the court.

16 5351. Additional parties.

17 5352. Appearance of parties and the child.

18 5353. Binding force and res judicata effect of custody decree.

19 5354. Recognition of out-of-state custody decrees.

20 5355. Modification of custody decree of another state.

21 5356. Filing and enforcement of custody decree of another
22 state.

23 5357. Registry of out-of-state custody decrees and proceedings.

24 5358. Certified copies of custody decree.

25 5359. Taking testimony in another state.

26 5360. Hearings and studies in another state; orders to appear.

27 5361. Assistance to courts of other states.

28 5362. Preservation of documents for use in other states.

29 5363. Request for court records of another state.

30 5364. Intrastate application.

1 5365. International application.

2 5366. Priority.

3 § 5341. Short title of subchapter.

4 This subchapter shall be known and may be cited as the
5 "Uniform Child Custody Jurisdiction Act."

6 § 5342. Purposes and construction of subchapter.

7 (a) Purposes.--The general purposes of this subchapter are
8 to:

9 (1) Avoid jurisdictional competition and conflict with
10 courts of other states in matters of child custody which have
11 in the past resulted in the shifting of children from state
12 to state with harmful effects on their well-being.

13 (2) Promote cooperation with the courts of other states
14 to the end that a custody decree is rendered in that state
15 which can best decide the case in the interest of the child.

16 (3) Assure that litigation concerning the custody of a
17 child takes place ordinarily in the state with which the
18 child and his family have the closest connection and where
19 significant evidence concerning his care, protection,
20 training, and personal relationships is most readily
21 available, and that courts of this Commonwealth decline the
22 exercise of jurisdiction when the child and his family have a
23 closer connection with another state.

24 (4) Discourage continuing controversies over child
25 custody in the interest of greater stability of home
26 environment and of secure family relationships for the child.

27 (5) Deter abductions and other unilateral removals of
28 children undertaken to obtain custody awards.

29 (6) Avoid relitigation of custody decisions of other
30 states in this Commonwealth insofar as feasible.

1 (7) Facilitate the enforcement of custody decrees of
2 other states.

3 (8) Promote and expand the exchange of information and
4 other forms of mutual assistance between the courts of this
5 Commonwealth and those of other states concerned with the
6 same child.

7 (b) Construction.--This subchapter shall be construed to
8 promote the general purposes stated in this section.

9 § 5343. Definitions.

10 The following words and phrases when used in this subchapter
11 shall have, unless the context clearly indicates otherwise, the
12 meanings given to them in this section:

13 "Contestant." An institution or an individual, including a
14 parent, who claims a right to custody or visitation rights with
15 respect to a child.

16 "Custody determination." A court decision and court orders
17 and instructions providing for the custody of a child, including
18 visitation rights; the term does not include a decision relating
19 to child support or any other monetary obligation of any person.

20 "Custody proceeding." Includes proceedings in which a
21 custody determination is one of several issues, such as an
22 action for divorce or separation, and includes child neglect and
23 dependency proceedings.

24 "Decree" or "custody decree." A custody determination
25 contained in a judicial decree or order made in a custody
26 proceeding, and includes an initial decree and a modification
27 decree.

28 "Home state." The state in which the child immediately
29 preceding the time involved lived with his parents, a parent, or
30 a person acting as parent, or in an institution, for at least

1 six consecutive months, and in the case of a child less than six
2 months old the state in which the child lived from birth with
3 any of the persons mentioned. Periods of temporary absence of
4 any of the named persons are counted as part of the six-month or
5 other period.

6 "Initial decree." The first custody decree concerning a
7 particular child.

8 "Modification decree." A custody decree which modifies or
9 replaces a prior decree, whether made by the court which
10 rendered the prior decree or by another court.

11 "Person acting as parent." A person, including an
12 institution other than a parent, who has physical custody of a
13 child and who has either been awarded custody by a court or
14 claims a right to custody.

15 "Physical custody." Actual possession and control of a
16 child.

17 § 5344. Jurisdiction.

18 (a) General rule.--A court of this Commonwealth which is
19 competent to decide child custody matters has jurisdiction to
20 make a child custody determination by initial or modification
21 decree if:

22 (1) this Commonwealth:

23 (i) is the home state of the child at the time of
24 commencement of the proceeding; or

25 (ii) had been the home state of the child within six
26 months before commencement of the proceeding and the
27 child is absent from this Commonwealth because of his
28 removal or retention by a person claiming his custody or
29 for other reasons, and a parent or person acting as
30 parent continues to live in this Commonwealth;

1 (2) it is in the best interest of the child that a court
2 of this Commonwealth assume jurisdiction because:

3 (i) the child and his parents, or the child and at
4 least one contestant, have a significant connection with
5 this Commonwealth; and

6 (ii) there is available in this Commonwealth
7 substantial evidence concerning the present or future
8 care, protection, training, and personal relationships of
9 the child;

10 (3) the child is physically present in this
11 Commonwealth, and:

12 (i) the child has been abandoned; or

13 (ii) it is necessary in an emergency to protect the
14 child because he has been subjected to or threatened with
15 mistreatment or abuse or is otherwise neglected or
16 dependent;

17 (4) (i) it appears that no other state would have
18 jurisdiction under prerequisites substantially in
19 accordance with paragraph (1), (2) or (3), or another
20 state has declined to exercise jurisdiction on the ground
21 that this Commonwealth is the more appropriate forum to
22 determine the custody of the child; and

23 (ii) it is in the best interest of the child that
24 the court assume jurisdiction; or

25 (5) the child welfare agencies of the counties wherein
26 the contestants for the child live, have made an
27 investigation of the home of the person to whom custody is
28 awarded and have found it to be satisfactory for the welfare
29 of the child.

30 (b) Physical presence insufficient.--Except under subsection

1 (a)(3) and (4), physical presence in this Commonwealth of the
2 child, or of the child and one of the contestants, is not alone
3 sufficient to confer jurisdiction on a court of this
4 Commonwealth to make a child custody determination.

5 (c) Physical presence unnecessary.--Physical presence of the
6 child, while desirable, is not a prerequisite for jurisdiction
7 to determine his custody.

8 § 5345. Notice and opportunity to be heard.

9 Before making a decree under this subchapter, reasonable
10 notice and opportunity to be heard shall be given to the
11 contestants, any parent whose parental rights have not been
12 previously terminated and any person who has physical custody of
13 the child. If any of these persons is outside this Commonwealth,
14 notice and opportunity to be heard shall be given pursuant to
15 section 5346 (relating to notice to persons outside this
16 Commonwealth; submission to jurisdiction).

17 § 5346. Notice to persons outside this Commonwealth; submission
18 to jurisdiction.

19 (a) General rule.--Notice required for the exercise of
20 jurisdiction over a person outside this Commonwealth shall be
21 given in a manner reasonably calculated to give actual notice,
22 and may be:

23 (1) by personal delivery outside this Commonwealth in
24 the manner prescribed for service of process within this
25 Commonwealth;

26 (2) in the manner prescribed by the law of the place in
27 which the service is made for service of process in that
28 place in an action in any of its courts of general
29 jurisdiction;

30 (3) by any form of mail addressed to the person to be

1 served and requesting a receipt; or

2 (4) as directed by the court including publication, if
3 other means of notification are ineffective.

4 (b) Duration.--Notice under this section shall be served,
5 mailed, or delivered or last published at least ten days before
6 any hearing in this Commonwealth.

7 (c) Proof of service.--Proof of service outside this
8 Commonwealth may be made by affidavit of the individual who made
9 the service, or in the manner prescribed by the law of this
10 Commonwealth, the order pursuant to which the service is made,
11 or the law of the place in which the service is made. If service
12 is made by mail, proof may be a receipt signed by the addressee
13 or other evidence of delivery to the addressee.

14 (d) Submission to jurisdiction.--Notice is not required if a
15 person submits to the jurisdiction of the court.
16 § 5347. Simultaneous proceedings in other states.

17 (a) General rule.--A court of this Commonwealth shall not
18 exercise its jurisdiction under this subchapter if at the time
19 of filing the petition a proceeding concerning the custody of
20 the child was pending in a court of another state exercising
21 jurisdiction substantially in conformity with this subchapter,
22 unless the proceeding is stayed by the court of the other state
23 because this Commonwealth is a more appropriate forum or for
24 other reasons.

25 (b) Procedure.--Before hearing the petition in a custody
26 proceeding the court shall examine the pleadings and other
27 information supplied by the parties under section 5350 (relating
28 to information under oath to be submitted to the court) and
29 shall consult the child custody registry established under
30 section 5357 (relating to registry of out-of-state custody

1 decrees and proceedings) concerning the pendency of proceedings
2 with respect to the child in other states. If the court has
3 reason to believe that proceedings may be pending in another
4 state it shall direct an inquiry to the state court
5 administrator or other appropriate official of the other state.

6 (c) Stay; communication with other court.--If the court is
7 informed during the course of the proceeding that a proceeding
8 concerning the custody of the child was pending in another state
9 before the court assumed jurisdiction it shall stay the
10 proceeding and communicate with the court in which the other
11 proceeding is pending to the end that the issue may be litigated
12 in the more appropriate forum and that information be exchanged
13 in accordance with sections 5360 (relating to hearings and
14 studies in another state; orders to appear) through 5363
15 (relating to request for court records of another state). If a
16 court of this Commonwealth has made a custody decree before
17 being informed of a pending proceeding in a court of another
18 state it shall immediately inform that court of the fact. If the
19 court is informed that a proceeding was commenced in another
20 state after it assumed jurisdiction it shall likewise inform the
21 other court to the end that the issues may be litigated in the
22 more appropriate forum.

23 § 5348. Inconvenient forum.

24 (a) General rule.--A court which has jurisdiction under this
25 subchapter to make an initial or modification decree may decline
26 to exercise its jurisdiction any time before making a decree if
27 it finds that it is an inconvenient forum to make a custody
28 determination under the circumstances of the case and that a
29 court of another state is a more appropriate forum.

30 (b) Moving party.--A finding of inconvenient forum may be

1 made upon the court's own motion or upon motion of a party or a
2 guardian ad litem or other representative of the child.

3 (c) Factors to be considered.--In determining if it is an
4 inconvenient forum, the court shall consider if it is in the
5 interest of the child that another state assume jurisdiction.
6 For this purpose it may take into account the following factors,
7 among others:

8 (1) If another state is or recently was the home state
9 of the child.

10 (2) If another state has a closer connection with the
11 child and his family or with the child and one or more of the
12 contestants.

13 (3) If substantial evidence concerning the present or
14 future care, protection, training, and personal relationships
15 of the child is more readily available in another state.

16 (4) If the parties have agreed on another forum which is
17 no less appropriate.

18 (5) If the exercise of jurisdiction by a court of this
19 Commonwealth would contravene any of the purposes stated in
20 section 5342 (relating to purposes and construction of
21 subchapter).

22 (d) Communication with other court.--Before determining
23 whether to decline or retain jurisdiction the court may
24 communicate with a court of another state and exchange
25 information pertinent to the assumption of jurisdiction by
26 either court with a view to assuring that jurisdiction will be
27 exercised by the more appropriate court and that a forum will be
28 available to the parties.

29 (e) Disposition.--If the court finds that it is an
30 inconvenient forum and that a court of another state is a more

1 appropriate forum it may dismiss the proceedings, or it may stay
2 the proceedings upon condition that a custody proceeding be
3 promptly commenced in another named state or upon any other
4 conditions which may be just and proper, including the condition
5 that a moving party stipulate his consent and submission to the
6 jurisdiction of the other forum.

7 (f) Effect on divorce or other proceeding.--The court may
8 decline to exercise its jurisdiction under this subchapter if a
9 custody determination is incidental to an action for divorce or
10 another proceeding while retaining jurisdiction over the divorce
11 or other proceeding.

12 (g) Costs and expenses.--Subject to general rules:

13 (1) If it appears to the court that it is clearly an
14 inappropriate forum it may require the party who commenced
15 the proceedings to pay, in addition to the costs of the
16 proceedings in this Commonwealth, necessary travel and other
17 expenses, including attorneys' fees, incurred by other
18 parties or their witnesses.

19 (2) Payment is to be made to the office of the clerk of
20 the court of common pleas for remittance to the proper party.

21 (h) Notice of disposition.--Upon dismissal or stay of
22 proceedings under this section the court shall inform the court
23 found to be the more appropriate forum of this fact, or if the
24 court which would have jurisdiction in the other state is not
25 certainly known, shall transmit the information to the court
26 administrator or other appropriate official of the other state
27 for forwarding to the appropriate court.

28 (i) Registry of out-of-state stay; notice of assumption of
29 jurisdiction.--Any communication received from another state
30 informing this Commonwealth of a finding of inconvenient forum

1 because a court of this Commonwealth is the more appropriate
2 forum shall be filed in the custody registry of the appropriate
3 court. Upon assuming jurisdiction the court of this Commonwealth
4 shall inform the original court of this fact.

5 § 5349. Jurisdiction declined by reason of conduct.

6 (a) General rule.--If the petitioner for an initial decree
7 has wrongfully taken the child from another state or has engaged
8 in conduct intending to benefit his position in a custody
9 hearing, the court may decline to exercise jurisdiction if this
10 is just and proper under the circumstances.

11 (b) Restriction on modification of foreign decree.--Unless
12 required in the interest of the child, the court shall not
13 exercise its jurisdiction to modify a custody decree of another
14 state if the petitioner, without consent of the person entitled
15 to custody, has improperly removed the child from the physical
16 custody of the person entitled to custody or has improperly
17 retained the child after a visit or other temporary
18 relinquishment of physical custody. If the petitioner has
19 violated any other provision of a custody decree of another
20 state the court may decline to exercise its jurisdiction unless
21 the petitioner can show that conditions in the custodial
22 household are physically or emotionally harmful to the child,
23 the burden of proof being on the petitioner requesting the court
24 to take jurisdiction.

25 (c) Costs and expenses.--Subject to general rules, in
26 appropriate cases a court dismissing a petition under this
27 section may charge the petitioner with necessary travel and
28 other expenses, including attorneys' fees, incurred by other
29 parties or their witnesses.

30 § 5350. Information under oath to be submitted to the court.

1 (a) General rule.--Every party in a custody proceeding in
2 his first pleading or in an affidavit attached to that pleading
3 shall give information under oath as to the present address of
4 the child, the places where the child has lived within the last
5 five years, and the names and present addresses of the persons
6 with whom the child has lived during that period. In this
7 pleading or affidavit every party shall further declare under
8 oath whether:

9 (1) he has participated (as a party, witness, or in any
10 other capacity) in any other litigation concerning the
11 custody of the same child in this or any other state;

12 (2) he has information of any custody proceeding
13 concerning the child pending in a court of this or any other
14 state; and

15 (3) he knows of any person not a party to the
16 proceedings who has physical custody of the child or claims
17 to have custody or visitation rights with respect to the
18 child.

19 (b) Additional information.--If the declaration as to any of
20 the items set forth in subsection (a) is in the affirmative the
21 declarant shall give additional information under oath as
22 required by the court. The court may examine the parties under
23 oath as to details of the information furnished and as to other
24 matters pertinent to the jurisdiction of the court and the
25 disposition of the case.

26 (c) Continuing duty.--Each party has a continuing duty to
27 inform the court of any custody proceeding concerning the child
28 in this Commonwealth or any other state of which he obtained
29 information during proceedings under this subchapter.

30 § 5351. Additional parties.

1 If the court learns from information furnished by the parties
2 pursuant to section 5350 (relating to information under oath to
3 be submitted to the court) or from other sources that a person
4 not a party to the custody proceeding has physical custody of
5 the child or claims to have custody or visitation rights with
6 respect to the child, it shall order that person to be joined as
7 a party and to be duly notified of the pendency of the
8 proceeding and of his joinder as a party. If the person joined
9 as a party is outside this Commonwealth he shall be served with
10 process or otherwise notified in accordance with section 5346
11 (relating to notice to persons outside this Commonwealth;
12 submission to jurisdiction).

13 § 5352. Appearance of parties and the child.

14 (a) General rule.--The court may order any party to the
15 proceeding who is in this Commonwealth to appear personally
16 before the court. If that party has physical custody of the
17 child the court may order that he appear personally with the
18 child.

19 (b) Out-of-state persons.--If a party to the proceeding
20 whose presence is desired by the court is outside this
21 Commonwealth with or without the child the court may order that
22 the notice given under section 5346 (relating to notice to
23 persons outside this Commonwealth; submission to jurisdiction)
24 include a statement directing that party to appear personally
25 with or without the child and declaring that failure to appear
26 may result in a decision adverse to that party.

27 (c) Costs and expenses.--If a party to the proceeding who is
28 outside this Commonwealth is directed to appear under subsection
29 (b) or desires to appear personally before the court with or
30 without the child, the court may require another party to pay

1 travel and other necessary expenses of the party so appearing
2 and of the child if this is just and proper under the
3 circumstances.

4 § 5353. Binding force and res judicata effect of custody
5 decree.

6 A custody decree rendered by a court of this Commonwealth
7 which had jurisdiction under section 5344 (relating to
8 jurisdiction) binds all parties who have been served in this
9 Commonwealth or notified in accordance with section 5346
10 (relating to notice to persons outside this Commonwealth;
11 submission to jurisdiction) or who have submitted to the
12 jurisdiction of the court, and who have been given an
13 opportunity to be heard. As to these parties the custody decree
14 is conclusive as to all issues of law and fact decided and as to
15 the custody determination made unless and until that
16 determination is modified pursuant to law, including the
17 provisions of this subchapter.

18 § 5354. Recognition of out-of-state custody decrees.

19 The courts of this Commonwealth shall recognize and enforce
20 an initial or modification decree of a court of another state
21 which had assumed jurisdiction under statutory provisions
22 substantially in accordance with this subchapter or which was
23 made under factual circumstances meeting the jurisdictional
24 standards of this subchapter, so long as the decree has not been
25 modified in accordance with jurisdictional standards
26 substantially similar to those of this subchapter.

27 § 5355. Modification of custody decree of another state.

28 (a) General rule.--If a court of another state has made a
29 custody decree, a court of this Commonwealth shall not modify
30 that decree unless:

1 (1) it appears to the court of this Commonwealth that
2 the court which rendered the decree does not now have
3 jurisdiction under jurisdictional prerequisites substantially
4 in accordance with this subchapter or has declined to assume
5 jurisdiction to modify the decree; and

6 (2) the court of this Commonwealth has jurisdiction.

7 (b) Consideration of out-of-state record.--If a court of
8 this Commonwealth is authorized under subsection (a) and section
9 5349 (relating to jurisdiction declined by reason of conduct) to
10 modify a custody decree of another state it shall give due
11 consideration to the transcript of the record and other
12 documents of all previous proceedings submitted to it in
13 accordance with section 5363 (relating to request for court
14 records of another state).

15 § 5356. Filing and enforcement of custody decree of another
16 state.

17 (a) General rule.--A certified copy of a custody decree of
18 another state whose decrees are recognized under section 5354
19 (relating to recognition of out-of-state custody decrees) may be
20 filed in any office of the clerk of the court of common pleas of
21 this Commonwealth. The clerk shall treat the decree in the same
22 manner as a custody decree of a court of common pleas of this
23 Commonwealth. A custody decree so filed has the same effect and
24 shall be enforced in like manner as a custody decree rendered by
25 a court of this Commonwealth.

26 (b) Costs and expenses.--A person violating a custody decree
27 of another state which makes it necessary to enforce the decree
28 in this Commonwealth may be required to pay necessary travel and
29 other expenses, including attorneys' fees, incurred by the party
30 entitled to the custody or his witnesses.

1 § 5357. Registry of out-of-state custody decrees and
2 proceedings.

3 Each office of the clerk of the court of common pleas shall
4 maintain a registry in which it shall enter the following:

5 (1) Certified copies of custody decrees of other states
6 received for filing.

7 (2) Communications as to the pendency of custody
8 proceedings in other states.

9 (3) Communications concerning a finding of inconvenient
10 forum by a court of another state.

11 (4) Other communications or documents concerning custody
12 proceedings in another state which may affect the
13 jurisdiction of a court of this Commonwealth or the
14 disposition to be made by it in a custody proceeding.

15 § 5358. Certified copies of custody decree.

16 The office of the clerk of the court of common pleas, at the
17 request of the court of another state or at the request of any
18 person who is affected by or has a legitimate interest in a
19 custody decree, shall certify and forward a copy of the decree
20 to that court or person.

21 § 5359. Taking testimony in another state.

22 In addition to other procedural devices available to a party,
23 any party to the proceeding or a guardian ad litem or other
24 representative of the child may adduce testimony of witnesses,
25 including parties and the child, by deposition or otherwise, in
26 another state. The court on its own motion may direct that the
27 testimony of a person be taken in another state and may
28 prescribe the manner in which and the terms upon which the
29 testimony shall be taken.

30 § 5360. Hearings and studies in another state; orders to

1 appear.

2 (a) Hearings and studies.--A court of this Commonwealth may
3 request the appropriate court of another state to hold a hearing
4 to adduce evidence, to order a party to produce or give evidence
5 under other procedures of that state, or to have social studies
6 made with respect to the custody of a child involved in
7 proceedings pending in the court of this Commonwealth; and to
8 forward to the court of this Commonwealth certified copies of
9 the transcript of the record of the hearing, the evidence
10 otherwise adduced, or any social studies prepared in compliance
11 with the request. Subject to general rules, the cost of the
12 services may be assessed against the parties or, if necessary,
13 ordered paid by the county.

14 (b) Order to appear.--A court of this Commonwealth may
15 request the appropriate court of another state to order a party
16 to custody proceedings pending in the court of this Commonwealth
17 to appear in the proceedings, and if that party has physical
18 custody of the child, to appear with the child. The request may
19 state that travel and other necessary expenses of the party and
20 of the child whose appearance is desired will be assessed
21 against another party or will otherwise be paid.

22 § 5361. Assistance to courts of other states.

23 (a) General rule.--Upon request of the court of another
24 state the courts of this Commonwealth which are competent to
25 hear custody matters may order a person in this Commonwealth to
26 appear at a hearing to adduce evidence or to produce or give
27 evidence under other procedures available in this Commonwealth
28 or may order social studies to be made for use in a custody
29 proceeding in another state. A certified copy of the transcript
30 of the record of the hearing or the evidence otherwise adduced,

1 any psychological studies and any social studies prepared shall
2 be forwarded to the requesting court.

3 (b) Voluntary testimony.--A person within this Commonwealth
4 may voluntarily give his testimony or statement in this
5 Commonwealth for use in a custody proceeding outside this
6 Commonwealth.

7 (c) Appearance in other state.--Upon request of the court of
8 another state a competent court of this Commonwealth may order a
9 person in this Commonwealth to appear alone or with the child in
10 a custody proceeding in another state. The court may condition
11 compliance with the request upon assurance by the other state
12 that travel and other necessary expenses will be advanced or
13 reimbursed.

14 § 5362. Preservation of documents for use in other states.

15 In any custody proceeding in this Commonwealth the court
16 shall preserve the pleadings, orders and decrees, any record
17 that has been made of its hearings, social studies, and other
18 pertinent documents until the child reaches 18 years of age.
19 Upon appropriate request of the court of another state the court
20 shall forward to the other court certified copies of any or all
21 of such documents.

22 § 5363. Request for court records of another state.

23 If a custody decree has been rendered in another state
24 concerning a child involved in a custody proceeding pending in a
25 court of this Commonwealth, the court of this Commonwealth upon
26 taking jurisdiction of the case shall request of the court of
27 the other state a certified copy of the transcript of any court
28 record and other documents mentioned in section 5362 (relating
29 to preservation of documents for use in other states).

30 § 5364. Intrastate application.

1 (a) General rule.--Except as otherwise provided in this
2 section, the provisions of this subchapter allocating
3 jurisdiction and functions between and among courts of different
4 states shall also allocate jurisdiction and functions between
5 and among the courts of common pleas of this Commonwealth.

6 (b) Home jurisdiction.--For the purposes of the definition
7 of "home state" in section 5343 (relating to definitions) a
8 period of temporary absence of the child from the physical
9 custody of the parent, person acting as parent or institution
10 shall not affect the six months or other period.

11 (c) Petitioner.--As used in this subchapter insofar as
12 relates to the allocation of jurisdiction and functions between
13 and among the courts of common pleas of this Commonwealth, the
14 term "petitioner" means anyone seeking change in the status of
15 custody of a child either by an affirmative action brought in a
16 court or as a defense to a custody action brought by a person
17 acting as parent who had previously been awarded custody of the
18 child.

19 (d) Effect of agency investigation.--Section 5344(a)(5)
20 (relating to jurisdiction) shall not be applicable for the
21 purposes of this section.

22 (e) Period of notice.--Notice under section 5346 (relating
23 to notice to persons outside this Commonwealth; submission to
24 jurisdiction) shall be served, mailed, delivered or last
25 published at least 20 days before any hearing.

26 (f) Jurisdiction declined by reason of conduct.--

27 (1) If it is just and proper under the circumstances,
28 when the petitioner for an initial decree has wrongfully
29 taken the child from another jurisdiction or has engaged in
30 improper conduct intending to benefit his position in a

1 custody proceeding, upon presentation of the petition, the
2 court shall decline to exercise jurisdiction or shall
3 exercise jurisdiction only to issue an order, pending a full
4 hearing in the appropriate jurisdiction, returning the
5 parties to the custodial status quo existing prior to the
6 improper conduct or wrongful taking unless the petitioner can
7 show that conditions in the former custodial household are
8 physically or emotionally harmful to the child.

9 (2) Unless required in the interest of the child, the
10 court shall not exercise its jurisdiction to modify a custody
11 decree of another court if the petitioner, without consent of
12 the person entitled to custody has:

13 (i) improperly removed the child from the physical
14 custody of the person entitled to custody;

15 (ii) improperly retained the child after a visit or
16 other temporary relinquishment of physical custody; or

17 (iii) removed the child from the jurisdiction of the
18 court entering the decree without 20 days written notice
19 to the court entering the decree and any party entitled
20 to custody or visitation rights under the terms of the
21 decree.

22 If the petitioner has violated any provision of a custody
23 decree of another court, the court shall decline to exercise
24 its jurisdiction unless the contestant can show that
25 conditions in the custodial household are physically or
26 emotionally harmful to the child. The burden of proof on this
27 issue is on the contestant requesting the court to take
28 jurisdiction.

29 (3) Subject to general rules, in appropriate cases a
30 court dismissing a petition under this subsection may charge

1 the petitioner with necessary travel and other expenses,
2 including attorneys' fees, incurred by other parties or their
3 witnesses.

4 (g) Statewide orders.--A court may under section 5352(a)
5 (relating to appearance of parties and the child) issue orders
6 to any party to the proceeding who is in any judicial district
7 of this Commonwealth.

8 (h) Modification of custody decrees.--

9 (1) If another court has made a custody decree, a court
10 before which a petition for modification is pending shall not
11 modify the decree of the other court unless it appears to the
12 court before which the petition is pending that the other
13 court which rendered the decree does not have jurisdiction
14 under jurisdictional prerequisites substantially in
15 accordance with this subchapter or has declined to assume
16 jurisdiction to modify its decree and the provisions of
17 subsection (f)(2) will not be violated by an exercise of
18 jurisdiction by the court before which the petition is
19 pending.

20 (2) If a court of this Commonwealth is authorized under
21 paragraph (1) to modify a custody decree of another court it
22 shall give due consideration to the transcript of the record
23 and other documents of all previous proceedings submitted to
24 it in accordance with section 5363 (relating to request for
25 court records of another state).

26 § 5365. International application.

27 The general policies of this subchapter extend to the
28 international area. The provisions of this subchapter relating
29 to the recognition and enforcement of custody decrees of other
30 states apply to custody decrees and decrees involving legal

1 institutions similar in nature to custody institutions rendered
2 by appropriate authorities of other nations if reasonable notice
3 and opportunity to be heard were given to all affected persons.
4 § 5366. Priority.

5 Upon the request of a party to a custody proceeding which
6 raises a question of existence or exercise of jurisdiction under
7 this subchapter the case shall be given calendar priority and
8 handled expeditiously.

9 CHAPTER 55

10 LIABILITY FOR TORTIOUS ACTS OF CHILDREN

11 Sec.

12 5501. Definitions.

13 5502. Liability of parents.

14 5503. Establishing liability in criminal or juvenile
15 proceedings.

16 5504. Establishing liability in civil proceedings.

17 5505. Monetary limits of liability.

18 5506. Double recovery for same injury prohibited.

19 5507. Indemnity or contribution from child prohibited.

20 5508. Liability of parent not having custody or control of
21 child.

22 5509. Other liability of parent or child unaffected.

23 § 5501. Definitions.

24 The following words and phrases when used in this chapter
25 shall have the meanings given to them in this section unless the
26 context clearly indicates otherwise:

27 "Child." An individual under 18 years of age.

28 "Injury." Includes injury to the person and theft,
29 destruction or loss of property.

30 "Parent." Includes natural or adoptive parents.

1 "Person." Includes government units and Federal agencies.

2 "Tortious act." A willful tortious act resulting in injury.

3 § 5502. Liability of parents.

4 Any parent whose child is found liable or is adjudged guilty
5 by a court of competent jurisdiction of a tortious act shall be
6 liable to the person who suffers the injury to the extent set
7 forth in this chapter.

8 § 5503. Establishing liability in criminal or juvenile
9 proceedings.

10 (a) General rule.--In any criminal proceeding against a
11 child and in any proceeding against a child under Chapter 63 of
12 Title 42 (relating to juvenile matters), the court shall
13 ascertain the amount sufficient to fully reimburse any person
14 who has suffered injury because of the tortious act of the child
15 and direct the parents to make payment in the amount not to
16 exceed the limitations set forth in section 5505 (relating to
17 monetary limits of liability).

18 (b) Noncompliance with direction of court.--If the parents
19 fail to comply with the direction of the court, the amount may
20 be recovered in a civil action against the parents or either of
21 them.

22 § 5504. Establishing liability in civil proceedings.

23 (a) Petition.--If a judgment has been rendered against the
24 child in a civil action for injury because of the tortious act
25 of the child and the judgment has not been satisfied within a
26 period of 30 days, the injured person may petition the court for
27 a rule to show cause why judgment should not be entered against
28 the parent.

29 (b) Answer and trial.--The parent may file an answer to the
30 petition and, if there is any dispute as to unlitigated facts,

1 the case shall be set down for trial.

2 (c) Judgment.--If there is no dispute as to the unlitigated
3 facts, the court shall authorize the entry of a judgment against
4 the parent. In no case shall the judgment against the parent
5 exceed the limitations set forth in section 5505 (relating to
6 monetary limits of liability).

7 § 5505. Monetary limits of liability.

8 (a) General rule.--Liability of the parents under this
9 chapter shall be limited to:

10 (1) The sum of \$300 for injuries suffered by any one
11 person as a result of one tortious act or continuous series
12 of tortious acts.

13 (2) The sum of \$1,000 regardless of the number of
14 persons who suffer injury as a result of one tortious act or
15 continuous series of tortious acts.

16 (b) Proceedings where loss exceeds liability.--In the event
17 that actual loss as ascertained by the court or the judgment
18 against the child exceeds \$1,000, the parents shall be
19 discharged from further liability by the payment of \$1,000 into
20 court. The court shall cause all aggrieved parties to submit
21 itemized statements of loss in writing and shall make
22 distribution proportionately, whether the claims be for injuries
23 to the person or for theft, destruction or loss of property. The
24 court may take testimony to assist it in making proper
25 distribution and may appoint a master to accomplish this
26 purpose. All costs and fees incurred in these proceedings shall
27 be paid from the \$1,000 paid into court.

28 (c) Joint acts by children of same parent.--The limitations
29 on liability set forth in subsections (a) and (b) shall be
30 applicable when two or more children of the same parent engage

1 jointly in the commission of one tortious act or series of
2 tortious acts.

3 § 5506. Double recovery for same injury prohibited.

4 In no case shall there be a double recovery for one injury.
5 Any judgment against a child resulting from a tortious act for
6 which a parent makes payment under this chapter shall be reduced
7 by the amount paid by the parent.

8 § 5507. Indemnity or contribution from child prohibited.

9 The parent shall have no right of indemnity or contribution
10 against the child.

11 § 5508. Liability of parent not having custody or control of
12 child.

13 (a) General rule.--No liability may be imposed upon a parent
14 under this chapter if at the time of commission of the tortious
15 act the parent has neither custody of the child nor is entitled
16 to custody of the child or if the child is institutionalized or
17 emancipated.

18 (b) Exception.--No parent is absolved of liability due to
19 the desertion of the child by the parent.

20 § 5509. Other liability of parent or child unaffected.

21 The liability imposed upon parents by this chapter shall not
22 limit the common law liability of parents for damages caused by
23 a child and shall be separate and apart from any liability which
24 may be imposed upon the child.

25 PART VII

26 ABUSE OF FAMILY

27 Chapter

28 61. Protection From Abuse

29 63. Child Protective Services

30 CHAPTER 61

PROTECTION FROM ABUSE

Sec.

6101. Short title of chapter.

6102. Definitions.

6103. Effect of departure to avoid abuse.

6104. Commencement of proceedings.

6105. Hearings.

6106. Relief.

6107. Service of orders.

6108. Emergency relief by minor judiciary.

6109. Arrest for violation of order.

6110. Contempt for violation of order or agreement.

6111. Procedure and other remedies.

§ 6101. Short title of chapter.

This chapter shall be known and may be cited as the
"Protection From Abuse Act."

§ 6102. Definitions.

The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Abuse." The occurrence of one or more of the following acts
between family or household members who reside together or
family and household members who formerly resided together and
both parties continue to have legal access to the residence:

(1) Attempting to cause or intentionally, knowingly or
recklessly causing bodily injury or serious bodily injury
with or without a deadly weapon.

(2) Placing by physical menace another in fear of
imminent serious bodily injury.

(3) Sexually abusing minor children.

1 "Adult." An individual who is 18 years of age or older.

2 "Family or household members." Spouses, persons living as
3 spouses, parents and children, or other persons related by
4 consanguinity or affinity.

5 "Minor." An individual who is not an adult.

6 § 6103. Effect of departure to avoid abuse.

7 The right of plaintiff to relief under this chapter shall not
8 be affected by plaintiff leaving the residence or household to
9 avoid further abuse.

10 § 6104. Commencement of proceedings.

11 (a) General rule.--A person may seek relief under this
12 chapter for that person or any parent or adult household member
13 may seek relief under this chapter on behalf of minor children
14 by filing a petition with the court alleging abuse by the
15 defendant.

16 (b) Affidavit of insufficient funds for fees.--If the
17 plaintiff files an affidavit stating that plaintiff does not
18 have funds available to pay the fees for filing and service, the
19 petition shall be filed and service shall be made without
20 payment of fees and leave of court to proceed in forma pauperis
21 shall not be required.

22 (c) Determination of indigency.--When the petition is filed
23 without payment of fees, the court shall determine at the
24 hearing on the petition if the plaintiff is indigent. If the
25 court finds that the plaintiff is not indigent the court may
26 order the plaintiff to pay the filing fees.

27 § 6105. Hearings.

28 (a) General rule.--Within ten days of the filing of a
29 petition under this chapter a hearing shall be held at which the
30 plaintiff must prove the allegation of abuse by a preponderance

1 of the evidence. The court shall advise the defendant of the
2 right to be represented by counsel.

3 (b) Temporary orders.--The court may enter such temporary
4 orders as it deems necessary to protect the plaintiff or minor
5 children from abuse upon good cause shown in an ex parte
6 proceeding. Immediate and present danger of abuse to the
7 plaintiff or minor children shall constitute good cause for the
8 purposes of this subsection.

9 (c) Continued hearings.--If a hearing under subsection (a)
10 is continued, the court may make or extend such temporary orders
11 under subsection (b) as it deems necessary.

12 § 6106. Relief.

13 (a) General rule.--The court may grant any protection order
14 or approve any consent agreement to bring about a cessation of
15 abuse of the plaintiff or minor children. The order or agreement
16 may include:

17 (1) Directing the defendant to refrain from abusing the
18 plaintiff or minor children.

19 (2) Granting possession to the plaintiff of the
20 residence or household to the exclusion of the defendant by
21 evicting the defendant or restoring possession to the
22 plaintiff when the residence or household is jointly owned or
23 leased by the parties or is owned or leased by the entireties
24 or is owned or leased solely by the plaintiff.

25 (3) When the defendant has a duty to support the
26 plaintiff or minor children living in the residence or
27 household and the defendant is the sole owner or lessee,
28 granting possession to the plaintiff of the residence or
29 household to the exclusion of the defendant by evicting the
30 defendant or restoring possession to the plaintiff or, by

1 consent agreement, allowing the defendant to provide suitable
2 alternate housing.

3 (4) Awarding temporary custody of or establishing
4 temporary visitation rights with regard to minor children.

5 (5) After a hearing in accordance with section 6105(a)
6 (relating to hearings), directing the defendant to pay
7 financial support to those persons the defendant has a duty
8 to support. The support order shall be temporary and any
9 beneficiary of the order must file a complaint for support
10 under the provisions of 42 Pa.C.S. Ch. 67 (relating to
11 support proceedings) within two weeks of the date of the
12 issuance of the protection order. If a complaint for support
13 is not filed, that portion of the protection order requiring
14 the defendant to pay support is void. When there is a
15 subsequent ruling on a complaint for support under Chapter 45
16 the portion of the protection order requiring the defendant
17 to pay support expires.

18 (b) Duration and amendment of order or agreement.--A
19 protection order or approved consent agreement shall be for a
20 fixed period of time not to exceed one year. The court may amend
21 its order or agreement at any time upon subsequent petition
22 filed by either party.

23 (c) Title to real property unaffected.--No order or
24 agreement under this chapter shall in any manner affect title to
25 any real property.

26 § 6107. Service of orders.

27 A copy of an order under this chapter shall be issued to the
28 plaintiff, the defendant and the police department with
29 appropriate jurisdiction to enforce the order or agreement in
30 accordance with the provisions of this chapter or as ordered by

1 the court.

2 § 6108. Emergency relief by minor judiciary.

3 (a) General rule.--When the court is unavailable from the
4 close of business at the end of the week to the resumption of
5 business at the beginning of the week, a petition may be filed
6 before a district justice or judge of the Philadelphia Municipal
7 Court who may grant relief in accordance with section 6106(a)(2)
8 or (3) (relating to relief) if the district justice or judge
9 deems it necessary to protect the plaintiff or minor children
10 from abuse upon good cause shown in an ex parte proceeding.
11 Immediate and present danger of abuse to the plaintiff or minor
12 children shall constitute good cause for the purposes of this
13 subsection.

14 (b) Expiration of order.--An order issued under subsection
15 (a) shall expire as of the resumption of business of the court
16 at the beginning of the week or within 72 hours, whichever
17 occurs sooner, at which time the plaintiff may seek a temporary
18 order from the court.

19 (c) Certification of order to court.--An order issued under
20 this section and any documentation in support thereof shall be
21 immediately certified to the court. The certification to the
22 court shall have the effect of commencing proceedings under
23 section 6104 (relating to commencement of proceedings) and
24 invoking the other provisions of this chapter.

25 § 6109. Arrest for violation of order.

26 (a) General rule.--An arrest for violation of an order
27 issued pursuant to this chapter may be without warrant upon
28 probable cause whether or not the violation is committed in the
29 presence of the police officer. The police officer may verify,
30 if necessary, the existence of a protection order by telephone

1 or radio communication with the appropriate police department.

2 (b) Procedure following arrest.--Subsequent to an arrest the
3 defendant shall be taken without unnecessary delay before the
4 court that issued the order. When that court is unavailable the
5 defendant shall be arraigned before a district justice or the
6 Philadelphia Municipal Court in accordance with general rules.

7 (c) Other emergency powers unaffected.--This section and
8 section 6110 (relating to contempt for violation of order or
9 agreement) shall not be construed to in any way limit any of the
10 other powers for emergency relief provided in this chapter.

11 § 6110. Contempt for violation of order or agreement.

12 (a) General rule.--Upon violation of a protection order or a
13 court approved consent agreement the court may hold the
14 defendant in indirect criminal contempt and punish the defendant
15 in accordance with law.

16 (b) Trial and punishment.--A sentence for contempt under
17 this chapter may include imprisonment up to six months or a fine
18 not to exceed \$1,000 or both.

19 § 6111. Procedure and other remedies.

20 Unless otherwise indicated in this chapter, a proceeding
21 under this chapter shall be in accordance with applicable
22 general rules and shall be in addition to any other available
23 civil or criminal remedies.

24 CHAPTER 63

25 CHILD PROTECTIVE SERVICES

26 Subchapter

27 A. Preliminary Provisions

28 B. Reporting Suspected Child Abuse

29 C. Powers and Duties of Department

30 D. Organization and Responsibilities of Child Protective

1 Service

2 E. Miscellaneous Provisions

3 SUBCHAPTER A

4 PRELIMINARY PROVISIONS

5 Sec.

6 6301. Short title of chapter.

7 6302. Finding and purpose of chapter.

8 6303. Definitions.

9 § 6301. Short title of chapter.

10 This chapter shall be known and may be cited as the "Child
11 Protective Services Law."

12 § 6302. Finding and purpose of chapter.

13 (a) Finding.--Abused children are in urgent need of an
14 effective child protective service to prevent them from
15 suffering further injury and impairment.

16 (b) Purpose.--It is the purpose of this chapter to encourage
17 more complete reporting of suspected child abuse and to
18 establish in each county a child protective service capable of
19 investigating such reports swiftly and competently, providing
20 protection for children from further abuse and providing
21 rehabilitative services for children and parents involved so as
22 to ensure the well-being of the child and to preserve and
23 stabilize family life wherever appropriate.

24 § 6303. Definitions.

25 The following words and phrases when used in this chapter
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Abused child." A child under 18 years of age who exhibits
29 evidence of serious physical or mental injury not explained by
30 the available medical history as being accidental, sexual abuse

1 or serious physical neglect, if the injury, abuse or neglect has
2 been caused by the acts or omissions of the parents of the child
3 or by a person responsible for the welfare of the child. No
4 child shall be deemed to be physically or mentally abused for
5 the sole reason the child is in good faith being furnished
6 treatment by spiritual means through prayer alone in accordance
7 with the tenets and practices of a recognized church or
8 religious denomination by an accredited practitioner thereof or
9 solely on the grounds of environmental factors which are beyond
10 the control of the person responsible for the welfare of the
11 child such as inadequate housing, furnishings, income, clothing
12 and medical care.

13 "Child protective service." That section of each county
14 public child welfare agency required to be established by
15 section 6361 (relating to organization of child protective
16 service)

17 "Department." The Department of Public Welfare of the
18 Commonwealth.

19 "Expunge." To strike out or obliterate entirely so that the
20 expunged information may not be stored, identified or later
21 recovered by any mechanical or electronic means or otherwise.

22 "Founded report." A report made pursuant to this chapter if
23 there has been any judicial adjudication based on a finding that
24 a child who is a subject of the report has been abused.

25 "Indicated report." A report made pursuant to this chapter
26 if an investigation by the child protective service determines
27 that substantial evidence of the alleged abuse exists based on
28 either:

29 (1) Available medical evidence and the child protective
30 service investigation.

(2) An admission of the acts of abuse by the parent of the child or person responsible for the welfare of the child.

"Secretary." The Secretary of Public Welfare of the Commonwealth.

"Subject of the report." Any child reported to the central register of child abuse and a parent, guardian or other legally responsible person also named in the report.

"Under investigation." A report pursuant to this chapter which is being investigated to determine whether it is "founded," "indicated" or "unfounded."

"Unfounded report." Any report made pursuant to this chapter unless the report is a "founded report" or unless an investigation by the appropriate child protective service determines that the report is an "indicated report."

SUBCHAPTER B

REPORTING SUSPECTED CHILD ABUSE

Sec.

6311. Persons required to report suspected child abuse.

6312. Persons permitted to report suspected child abuse.

6313. Reporting procedure.

6314. Photographs and x-rays of child subject to report.

6315. Taking child into protective custody.

6316. Admission to private and public hospitals.

6317. Reporting and postmortem investigation of deaths.

6318. Immunity from liability.

6319. Penalties for failure to report.

§ 6311. Persons required to report suspected child abuse.

(a) General rule.--Persons who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be

1 made in accordance with section 6313 (relating to reporting
2 procedure) when they have reason to believe, on the basis of
3 their medical, professional or other training and experience,
4 that a child coming before them in their professional or
5 official capacity is an abused child.

6 (b) Enumeration of persons required to report.--Persons
7 required to report suspected child abuse under subsection (a)
8 include, but are not limited to, any licensed physician,
9 osteopath, medical examiner, coroner, dentist, optometrist,
10 chiropractor, podiatrist, intern, registered nurse, licensed
11 practical nurse, hospital personnel engaged in the admission,
12 examination, care or treatment of persons, a Christian Science
13 practitioner, school administrator, school teacher, school
14 nurse, social services worker, day care center worker or any
15 other child care or foster care worker, mental health
16 professional, peace officer or law enforcement official.

17 (c) Staff members of institutions, etc.--Whenever a person
18 is required to report under subsection (b) in the capacity as a
19 member of the staff of a medical or other public or private
20 institution, school, facility or agency, that person shall
21 immediately notify the person in charge of the institution,
22 school, facility or agency or the designated agent of the person
23 in charge. Upon notification, the person in charge or the
24 designated agent, if any, shall assume the responsibility and
25 have the legal obligation to report or cause a report to be made
26 in accordance with section 6313. This chapter does not require
27 more than one report from any such institution, school, facility
28 or agency.

29 § 6312. Persons permitted to report suspected child abuse.

30 In addition to those persons and officials required to report

1 suspected child abuse, any person may make such a report if that
2 person has reasonable cause to suspect that a child is an abused
3 child.

4 § 6313. Reporting procedure.

5 (a) General rule.--Reports of suspected child abuse from
6 persons required to report under section 6311 (relating to
7 persons required to report suspected child abuse) shall be made
8 immediately by telephone and in writing within 48 hours after
9 the oral report.

10 (b) Oral reports.--Oral reports shall be made to the
11 department pursuant to Subchapter C (relating to powers and
12 duties of department) and may be made to the appropriate child
13 protective service. When oral reports are made initially to the
14 child protective service, the child protective service shall
15 immediately prepare a child abuse report summary in such form as
16 the department prescribes by regulation and shall immediately
17 forward the report summary to the department to be held in the
18 pending complaint file as provided in Subchapter C. The initial
19 child abuse report summary shall be supplemented as more facts
20 become available, as the written report is received and when a
21 determination is made as to whether a report of suspected child
22 abuse is a founded report, an unfounded report or an indicated
23 report.

24 (c) Written reports.--Written reports from persons required
25 to report under section 6311 shall be made to the appropriate
26 child protective service in a manner and on forms the department
27 prescribes by regulation. The written reports shall include the
28 following information if available:

29 (1) The names and addresses of the child and the parents
30 or other person responsible for the care of the child if

1 known.

2 (2) The age and sex of the child.

3 (3) The nature and extent of the suspected child abuse
4 including any evidence of prior abuse to the child or
5 siblings of the child.

6 (4) The name of the person or persons responsible for
7 causing the suspected abuse if known.

8 (5) Family composition.

9 (6) The source of the report.

10 (7) The person making the report and where that person
11 can be reached.

12 (8) The actions taken by the reporting source including
13 the taking of photographs and x-rays, removal or keeping of
14 the child or notifying the medical examiner or coroner.

15 (9) Any other information which the department may
16 require by regulation.

17 (d) Failure to confirm oral report.--The failure of a person
18 reporting cases of suspected child abuse to confirm an oral
19 report in writing within 48 hours shall not relieve the child
20 protective service from any duties prescribed by this chapter.
21 In such event, the child protective service shall proceed as if
22 a written report were actually made.

23 § 6314. Photographs and x-rays of child subject to report.

24 A person or official required to report cases of suspected
25 child abuse may take or cause to be taken photographs of the
26 areas of trauma visible on a child who is subject to a report
27 and, if medically indicated, cause to be performed a
28 radiological examination on the child. Any photographs or x-rays
29 taken shall be sent to the child protective service at the time
30 the written report is sent or as soon thereafter as possible.

1 § 6315. Taking child into protective custody.

2 (a) General rule.--A child may be taken into protective
3 custody:

4 (1) As provided by 42 Pa.C.S. § 6324 (relating to taking
5 into custody).

6 (2) By a physician examining or treating the child or by
7 the director, or a person specifically designated in writing
8 by the director, of any hospital or other medical institution
9 where the child is being treated if protective custody is
10 immediately necessary to protect the child from further
11 serious physical injury, sexual abuse or serious physical
12 neglect.

13 (b) Duration of custody.--No child may be held in protective
14 custody for more than 24 hours unless the appropriate child
15 protective service is immediately notified that the child has
16 been taken into custody and the child protective service obtains
17 an order from a court of competent jurisdiction permitting the
18 child to be held in custody for a longer period. Each court
19 shall insure that a judge is available 24 hours a day, 365 days
20 a year to accept and decide the actions brought by a child
21 protective service under this subsection within the 24-hour
22 period.

23 (c) Notice of custody.--An individual taking a child into
24 protective custody under this chapter shall immediately, and
25 within 24 hours in writing, notify the parent, guardian or other
26 custodian of the child of the whereabouts of the child and the
27 reasons for the need to take the child into protective custody
28 and shall immediately notify the appropriate child protective
29 service in order that proceedings under Chapter 63 of Title 42
30 (relating to juvenile matters) may be initiated, if appropriate.

1 (d) Detention hearing.--In no case shall protective custody
2 under this chapter be maintained longer than 72 hours without a
3 detention hearing. If at the detention hearing it is determined
4 that protective custody shall be continued, the child protective
5 service shall within 48 hours file a petition with the court
6 under Chapter 63 of Title 42.

7 (e) Place of detention.--No child taken into protective
8 custody under this chapter may be detained during the protective
9 custody except in an appropriate medical facility, foster home
10 or other appropriate facility approved by the department for
11 this purpose.

12 (f) Conference with parent or other custodian.--A conference
13 between the parent, guardian or other custodian of the child
14 taken into temporary protective custody pursuant to this section
15 and the case worker designated by the child protection service
16 to be responsible for the child shall be held within 48 hours of
17 the time that the child is taken into custody for the purpose
18 of:

19 (1) Explaining to the parent, guardian or other
20 custodian the reasons for the temporary detention of the
21 child and the whereabouts of the child.

22 (2) Expediting, wherever possible, the return of the
23 child to the custody of the parent, guardian or other
24 custodian where custody is no longer necessary.

25 § 6316. Admission to private and public hospitals.

26 (a) General rule.--Children appearing to suffer any physical
27 or mental trauma which may constitute child abuse shall be
28 admitted to and treated in appropriate facilities of private and
29 public hospitals on the basis of medical need and shall not be
30 refused or deprived in any way of proper medical treatment and

1 care.

2 (b) Failure of hospital to admit child.--The failure of a
3 hospital to admit and properly treat and care for a child
4 pursuant to subsection (a) shall be cause for the department to
5 order immediate admittance, treatment and care by the hospital
6 which shall be enforceable, if necessary, by the prompt
7 institution of a civil action by the department. The child,
8 through an attorney, shall also have the additional and
9 independent right to seek immediate injunctive relief and
10 institute an appropriate civil action for damages against the
11 hospital.

12 § 6317. Reporting and postmortem investigation of deaths.

13 A person or official required to report cases of suspected
14 child abuse, including employees of a county public child
15 welfare agency and its child protective service, who has
16 reasonable cause to suspect that a child died as a result of
17 child abuse shall report that fact to the coroner. The coroner
18 shall accept the report for investigation and shall report his
19 finding to the police, the district attorney, the appropriate
20 child protective service and, if the report is made by a
21 hospital, the hospital.

22 § 6318. Immunity from liability.

23 (a) General rule.--A person, hospital, institution, school,
24 facility or agency participating in good faith in the making of
25 a report or testifying in a proceeding arising out of an
26 instance of suspected child abuse, the taking of photographs or
27 the removal or keeping of a child pursuant to section 6315
28 (relating to taking child into protective custody) shall have
29 immunity from any civil or criminal liability that might
30 otherwise result by reason of those actions.

(b) Presumption of good faith.--For the purpose of any civil or criminal proceeding, the good faith of a person required to report cases of child abuse pursuant to section 6311 (relating to persons required to report suspected child abuse) shall be presumed.

§ 6319. Penalties for failure to report.

A person or official required by this chapter to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

SUBCHAPTER C

POWERS AND DUTIES OF DEPARTMENT

Sec.

6331. Establishment of pending complaint file and Statewide central register.

6332. Establishment of Statewide toll-free telephone number.

6333. Continuous availability of department.

6334. Disposition of complaints received.

6335. Information in pending complaint file.

6336. Information in Statewide central register.

6337. Disposition of unfounded reports.

6338. Disposition of founded and indicated reports.

6339. Confidentiality of reports.

6340. Release of information in confidential reports.

6341. Amendment, sealing or expungement of information.

6342. Studies of data in records.

6343. Investigating performance of child protective service.

6344. Audits by Attorney General.

6345. Cooperation of other agencies.

1 6346. Annual reports to Governor and General Assembly.

2 6347. Regulations.

3 6348. Penalties.

4 § 6331. Establishment of pending complaint file and Statewide
5 central register.

6 There shall be established in the department:

7 (1) A pending complaint file of child abuse reports
8 under investigation.

9 (2) A Statewide central register of child abuse which
10 shall consist of founded and indicated reports of child
11 abuse.

12 § 6332. Establishment of Statewide toll-free telephone number.

13 (a) General rule.--The department shall establish a single
14 Statewide toll-free telephone number that all persons, whether
15 mandated by law or not, may use to report cases of suspected
16 child abuse. A child protective service may use the Statewide
17 toll-free telephone number for determining the existence of
18 prior founded or indicated reports of child abuse in the
19 Statewide central register.

20 (b) Limitation on use.--A child protective service may only
21 request and receive information pursuant to this subsection
22 either on its own behalf because it has before it a child
23 suspected of being an abused child or on behalf of a physician
24 examining or treating a child or on behalf of the director or a
25 person specifically designated in writing by the director of any
26 hospital or other medical institution where a child is being
27 treated, where the physician or the director or a person
28 specifically designated in writing by the director suspects the
29 child of being an abused child.

30 § 6333. Continuous availability of department.

1 The department shall be capable of receiving oral reports of
2 child abuse made pursuant to this chapter and report summaries
3 of child abuse from child protective services and shall be
4 capable of immediately identifying prior reports of child abuse
5 in the Statewide central register and of monitoring the
6 provision of child protective services 24 hours a day, seven
7 days a week.

8 § 6334. Disposition of complaints received.

9 (a) Notice to child protective service.--Upon receipt of a
10 complaint of suspected child abuse, the department shall
11 immediately transmit in writing (and orally if deemed advisable)
12 to the appropriate child protective service notice that the
13 complaint of suspected child abuse has been received and the
14 substance of the complaint. If the Statewide central register
15 contains information indicating a prior founded or indicated
16 report concerning a subject of the report, the department shall
17 immediately notify the appropriate child protective service of
18 this fact.

19 (b) Recording in pending complaint file.--Upon receipt of a
20 complaint of suspected child abuse, the department shall
21 maintain a record of the complaint of suspected child abuse in
22 the pending complaint file.

23 § 6335. Information in pending complaint file.

24 (a) Information authorized.--No information other than that
25 permitted to be retained in the Statewide central register in
26 section 6336 (relating to information in Statewide central
27 register) shall be retained in the pending complaint file or
28 otherwise by the department.

29 (b) Access to information.--Except as provided in section
30 6342 (relating to studies of data in records), no person, other

1 than an employee of the department in the course of official
2 duties in connection with the responsibilities of the department
3 under this chapter, shall at any time have access to any
4 information in the pending complaint file.

5 § 6336. Information in Statewide central register.

6 (a) Information authorized.--The Statewide central register
7 shall include and shall be limited to the following information:

8 (1) The names of the subjects of the reports.

9 (2) The date or dates and the nature and extent of the
10 alleged instances of suspected child abuse.

11 (3) The home addresses of subjects of the report.

12 (4) The age of the children suspected of being abused.

13 (5) The locality in which the suspected abuse occurred.

14 (6) Whether the report is a founded report or an
15 indicated report.

16 (7) The progress of any legal proceedings brought on the
17 basis of the report of suspected child abuse.

18 No information other than that permitted in this subsection
19 shall be retained in the Statewide central register, the pending
20 complaint file or otherwise by the department.

21 (b) Type of information released.--Except as provided in
22 sections 6334 (relating to disposition of complaints received),
23 6335 (relating to information in pending complaint file) and
24 6342 (relating to studies of data in records), persons receiving
25 information from the Statewide central register may be informed
26 only as to:

27 (1) Whether a prior founded or indicated report exists.

28 (2) The number of founded and indicated reports.

29 (3) The nature and extent of the alleged instances of
30 suspected child abuse.

(4) Whether the reports are founded reports or indicated reports.

(c) Limitation on release of information.--Except as provided in sections 6334, 6335 and 6342, no information shall be released from the Statewide central register unless pursuant to section 6332 (relating to establishment of Statewide toll-free telephone number) and unless the department has positively identified the representative of the child protective service requesting the information and the department has inquired into and is satisfied that the representative has a legitimate need, within the scope of official duties and the provisions of section 6332, to obtain information from the Statewide central register. Information in the Statewide central register shall not be released for any purpose or to any individual not specified in this section.

§ 6337. Disposition of unfounded reports.

(a) General rule.--When a report of suspected child abuse is determined by the appropriate child protective service to be an unfounded report, the information concerning that report of suspected child abuse shall be expunged immediately from the pending complaint file and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department.

(b) Absence of other determination.--If an investigation of a report of suspected child abuse conducted by the appropriate child protective service pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is an indicated report or an unfounded report, or unless within that

1 same 60-day period the report is determined to be a founded
2 report, the report shall be considered to be an unfounded report
3 and all information identifying the subjects of the report shall
4 be expunged immediately. Nothing in this subsection shall in any
5 way limit the powers and duties of the department as provided in
6 section 6343 (relating to investigating performance of child
7 protective service).

8 (c) Expungement of information.--All information identifying
9 the subjects of any report of suspected child abuse determined
10 to be an unfounded report shall be expunged immediately from the
11 pending complaint file and the Statewide central register. The
12 expungement shall be mandated and guaranteed by the department.
13 § 6338. Disposition of founded and indicated reports.

14 (a) General rule.--When a report of suspected child abuse is
15 determined by the appropriate child protective service to be a
16 founded report or an indicated report, the information
17 concerning that report of suspected child abuse shall be
18 expunged immediately from the pending complaint file and an
19 appropriate entry shall be made in the Statewide central
20 register.

21 (b) Expungement of information when child attains 18 years
22 of age.--All information identifying the subjects of all
23 indicated reports and all information identifying the subject
24 child of all founded reports shall be expunged when the subject
25 child reaches the age of 18 years. The expungement shall be
26 mandated and guaranteed by the department.

27 § 6339. Confidentiality of reports.

28 Except as otherwise provided in this subchapter, reports made
29 pursuant to this chapter including, but not limited to, report
30 summaries of child abuse and written reports made pursuant to

1 section 6313(b) and (c) (relating to reporting procedure) as
2 well as any other information obtained, reports written or
3 photographs or x-rays taken concerning alleged instances of
4 child abuse in the possession of the department, a county public
5 child welfare agency or a child protective service shall be
6 confidential.

7 § 6340. Release of information in confidential reports.

8 (a) General rule.--Reports specified in section 6339
9 (relating to confidentiality of reports) shall only be made
10 available to:

11 (1) An authorized official of a child protective service
12 in the course of official duties.

13 (2) A physician examining or treating a child or the
14 director or a person specifically designated in writing by
15 the director of any hospital or other medical institution
16 where a child is being treated when the physician or the
17 director or the designee of the director suspect the child of
18 being an abused child.

19 (3) A guardian ad litem for the child.

20 (4) An authorized official of the department in
21 accordance with department regulations or in accordance with
22 the conduct of a performance audit as authorized by section
23 6343 (relating to investigating performance of child
24 protective service).

25 (5) A court of competent jurisdiction pursuant to a
26 court order.

27 (b) Release of information to subject child.--At any time
28 and upon written request, a subject of a report may receive a
29 copy of all information, except that prohibited from being
30 disclosed by subsection (c), contained in the Statewide central

1 register or in any report filed pursuant to section 6313
2 (relating to reporting procedure).

3 (c) Protecting identity of person making report.--The
4 release of data that would identify the person who made a report
5 of suspected child abuse or the person who cooperated in a
6 subsequent investigation is prohibited unless the secretary
7 finds that the release will not be detrimental to the safety of
8 that person.

9 § 6341. Amendment, sealing or expungement of information.

10 (a) General rule.--At any time:

11 (1) The secretary may amend, seal or expunge any record
12 upon good cause shown and notice to the subjects of the
13 report.

14 (2) A subject of a report may request the secretary to
15 amend, seal or expunge information contained in the pending
16 complaint file and the Statewide central register or order
17 the appropriate child protective service to amend, seal or
18 expunge the information contained in its files pertaining to
19 any report filed pursuant to section 6313 (relating to
20 reporting procedure).

21 (b) Hearing.--If the secretary refuses or does not act
22 within a reasonable time, but in no event later than 30 days
23 after the request, the subject shall have the right to a hearing
24 before the secretary or a designated agent of the secretary to
25 determine whether the summary in the Statewide central register
26 or the contents of any report filed pursuant to section 6313
27 should be amended, sealed or expunged on the grounds that it is
28 inaccurate or that it is being maintained in a manner
29 inconsistent with this chapter. The appropriate child protective
30 service shall be given notice of the hearing.

1 (c) Burden of proof and evidence.--The burden of proof in
2 the hearing shall be on the department and appropriate child
3 protective service. In the hearings, the fact that there was a
4 court finding of child abuse shall be presumptive evidence that
5 the report was substantiated.

6 (d) Order.--The secretary or designated agent may make any
7 appropriate order respecting the amendment or expungement of
8 such records to make it accurate or consistent with the
9 requirements of this chapter.

10 (e) Notice of expungement or amendment.--Written notice of
11 an expungement or amendment of any record, made pursuant to the
12 provisions of this chapter, shall be served upon each subject of
13 the record and the appropriate child protective service. The
14 latter, upon receipt of the notice, shall take appropriate,
15 similar action in regard to the local child abuse records and
16 inform, for the same purpose, the appropriate coroner if that
17 officer has received reports pursuant to section 6367 (relating
18 to reports to department and coroner).

19 (f) Access to sealed record.--Once sealed, a record shall
20 not be otherwise available except as provided in section 6342
21 (relating to studies of data in records) or except if the
22 secretary, upon notice to the subjects of the report, gives
23 personal approval for an appropriate reason.

24 § 6342. Studies of data in records.

25 The department may conduct or authorize the conducting of
26 studies of the data contained in the pending complaint file and
27 the Statewide central register and distribute the results of the
28 studies. No study may contain the name or other information by
29 which a subject of a report could be identified.

30 § 6343. Investigating performance of child protective service.

1 (a) General rule.--If within 30 days from the date of an
2 initial report of suspected child abuse the appropriate child
3 protective service has not properly investigated the report and
4 informed the department that the report is an indicated report
5 or an unfounded report, or unless within that same 30-day period
6 the report is determined to be a founded report, the department
7 shall immediately begin an inquiry into the performance of the
8 child protective service which inquiry may include a performance
9 audit of the child protective service as provided in subsection
10 (b). On the basis of that inquiry, the department shall take
11 appropriate action to require that the provisions of this
12 chapter be strictly followed, which action may include, without
13 limitation, the institution of appropriate legal action and the
14 withholding of reimbursement for all or part of the activities
15 of the county public child welfare agency.

16 (b) Performance audit.--Notwithstanding any other provision
17 of this chapter, the secretary or a designee of the secretary
18 may direct, at their discretion, a performance audit of any
19 activity engaged in pursuant to this chapter.

20 § 6344. Audits by Attorney General.

21 The Attorney General shall conduct a mandated audit done
22 randomly but at least once every three months during each year
23 on an unannounced basis to ensure that the expungement
24 requirements of this chapter are being fully and properly
25 conducted.

26 § 6345. Cooperation of other agencies.

27 The secretary may request and shall receive from Commonwealth
28 agencies, political subdivisions, an authorized agency or any
29 other agency providing services under the local child protective
30 services plan any assistance and data that will enable the

1 department and the child protective services to fulfill their
2 responsibilities properly.

3 § 6346. Annual reports to Governor and General Assembly.

4 No later than April 15 of every year, the secretary shall
5 prepare and transmit to the Governor and the General Assembly a
6 report on the operations of the central register of child abuse
7 and the various child protective services. The report shall
8 include a full statistical analysis of the reports of suspected
9 child abuse made to the department together with a report on the
10 implementation of this chapter and its total cost to the
11 Commonwealth, the evaluation of the secretary of services
12 offered under this chapter and recommendations for repeal or for
13 additional legislation to fulfill the purposes of this chapter.
14 All such recommendations should contain an estimate of increased
15 or decreased costs resulting therefrom.

16 § 6347. Regulations.

17 The department shall adopt regulations necessary to implement
18 this chapter.

19 § 6348. Penalties.

20 (a) Failure to amend or expunge information.--

21 (1) A person or official authorized to keep the records
22 mentioned in section 6337 (relating to disposition of
23 unfounded reports) or 6338 (relating to disposition of
24 founded and indicated reports) who willfully fails to expunge
25 the information when required commits a summary offense for
26 the first violation and a misdemeanor of the third degree for
27 a second or subsequent violation.

28 (2) A person who willfully fails to obey a final order
29 of the secretary or designated agent of the secretary to
30 amend or expunge the summary of the report in the Statewide

central register or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a summary offense.

(b) Unauthorized release of information.--A person who willfully releases or permits the release of any data and information contained in the pending complaint file, the Statewide central register or the child welfare records required by this chapter, including records maintained by any county public child welfare agency and any child protective service, to persons or agencies not permitted by this chapter commits a misdemeanor of the third degree.

SUBCHAPTER D

ORGANIZATION AND RESPONSIBILITIES OF CHILD PROTECTIVE SERVICE

Sec.

6361. Organization of child protective service.

6362. Responsibilities of child protective service.

6363. Local plan for child protective services.

6364. Purchasing services of other agencies.

6365. Services for prevention and treatment of child abuse.

6366. Continuous availability to receive reports.

6367. Reports to department and coroner.

6368. Investigation of reports.

6369. Taking child into protective custody.

6370. Services for protection of child at home or in custody.

6371. Rehabilitative services for child and family.

6372. Protecting well-being of children detained outside home.

§ 6361. Organization of child protective service.

(a) Establishment.--Every county public child welfare agency shall establish a "Child Protective Service" within the agency.

1 (b) Staff and organization.--The child protective service
2 shall have a sufficient staff of sufficient qualifications to
3 fulfill the purposes of this chapter and be organized in such a
4 way as to maximize the continuity of responsibility, care and
5 services of individual workers toward individual children and
6 families.

7 (c) Functions authorized.--The child protective service
8 shall perform those functions assigned by this chapter to it and
9 only such others that would further the purposes of this
10 chapter.

11 § 6362. Responsibilities of child protective service.

12 (a) General rule.--The child protective service shall be the
13 sole agency responsible for receiving and investigating all
14 reports of child abuse made pursuant to this chapter
15 specifically including, but not limited to, reports of child
16 abuse in facilities operated by the department and other public
17 agencies, for the purpose of providing protective services to
18 prevent further abuses to children and to provide or arrange for
19 and monitor the provision of those services necessary to
20 safeguard and ensure the well-being and development of the child
21 and to preserve and stabilize family life wherever appropriate.

22 (b) Assumption of responsibility by department.--When the
23 suspected abuse has been committed by the county public child
24 welfare agency or any of its agents or employees, the department
25 shall assume the role of the agency.

26 § 6363. Local plan for child protective services.

27 (a) General rule.--No later than once each year as required
28 by the department each county agency child protective service
29 shall prepare and submit to the department, after consultation
30 with local law enforcement agencies, the court and appropriate

1 public or private agencies and after a public hearing, a local
2 plan for the provision of child protective services which shall
3 describe the implementation of this chapter including the
4 organization, staffing, mode of operations and financing of the
5 child protective service as well as the provisions made for
6 purchase of service and interagency relations. The local plan
7 may take effect immediately.

8 (b) Certification by department.--Within 60 days the
9 department shall certify whether or not the local plan fulfills
10 the purposes of and meets the requirements set forth in this
11 chapter. If the department certifies that the local plan does
12 not do so, the department shall state the reasons therefor and
13 may withhold reimbursement for all or part of the activities of
14 the agency. If the department finds that a proposed local plan
15 does not meet the requirements set forth in this chapter, the
16 child protective service shall revise the local plan in
17 accordance with the reasons of the department for disapproval.

18 § 6364. Purchasing services of other agencies.

19 Any other provision of law notwithstanding but consistent
20 with sections 6361 (relating to organization of child protective
21 service) and 6362 (relating to responsibilities of child
22 protective service), the county public child welfare agency,
23 based upon the local plan of services as provided in section
24 6363 (relating to local plan for child protective services), may
25 purchase and utilize the services of any appropriate public or
26 private agency.

27 § 6365. Services for prevention and treatment of child abuse.

28 Each child protective service shall make available among its
29 services for the prevention and treatment of child abuse
30 multidisciplinary teams, instruction in education for

1 parenthood, protective and preventive social counseling,
2 emergency caretaker services, emergency shelter care, emergency
3 medical services and the establishment of groups organized by
4 former abusing parents to encourage self-reporting and self-
5 treatment of present abusers.

6 § 6366. Continuous availability to receive reports.

7 Each child protective service shall receive 24 hours a day,
8 seven days a week all reports, both oral and written, of
9 suspected child abuse in accordance with this chapter, the local
10 plan for the provision of child protective services and the
11 regulations of the department.

12 § 6367. Reports to department and coroner.

13 (a) Reports to department.--Upon the receipt of each report
14 of suspected child abuse made pursuant to this chapter, the
15 child protective service shall immediately transmit a child
16 abuse report summary as provided in section 6313 (relating to
17 reporting procedure) to the department. Supplemental reports
18 shall be made at regular intervals thereafter in a manner and
19 form the department prescribes by regulation to the end that the
20 department is kept fully informed and up-to-date concerning the
21 status of reports of child abuse.

22 (b) Reports to coroner.--The child protective service shall
23 give telephone notice and forward immediately a copy of reports
24 made pursuant to this chapter which involve the death of a child
25 to the appropriate coroner pursuant to section 6317 (relating to
26 reporting and postmortem investigation of deaths).

27 § 6368. Investigation of reports.

28 (a) General rule.--Upon receipt of each report of suspected
29 child abuse, the child protective service shall commence within
30 24 hours an appropriate investigation which shall include a

1 determination of the risk to the child or children if they
2 continue to remain in the existing home environment as well as a
3 determination of the nature, extent and cause of any condition
4 enumerated in the report and, after seeing to the safety of the
5 child or children, immediately notify the subjects of the report
6 in writing of the existence of the report and their rights
7 pursuant to this chapter in regard to amendment or expungement.

8 (b) Conditions outside home environment.--The investigation
9 shall determine whether the child is being harmed by factors
10 beyond the control of the parent or other person responsible for
11 the welfare of the child and, if so determined, the child
12 protective service shall promptly take all available steps to
13 remedy and correct these conditions including but not limited to
14 the coordination of social services for the child and the
15 family.

16 (c) Limitation of actions.--The investigation shall be
17 completed within 30 days. The child protective service shall
18 determine, within 30 days, whether the report is "founded,"
19 "indicated" or "unfounded."

20 § 6369. Taking child into protective custody.

21 Pursuant to the provisions of section 6315 (relating to
22 taking child into protective custody) and after court order, the
23 child protective service shall take a child into protective
24 custody for protection from further abuse. No child protective
25 service worker may enter the home of any individual for this
26 purpose without judicial authorization.

27 § 6370. Services for protection of child at home or in custody.

28 (a) General rule.--Based on the investigation and evaluation
29 conducted pursuant to this chapter, the child protective service
30 shall provide or contract with private or public agencies for

1 the protection of the child at home whenever possible and those
2 services necessary for adequate care of the child when placed in
3 protective custody. Prior to offering these services to a
4 family, the agency shall explain that it has no legal authority
5 to compel the family to receive the services but may inform the
6 family of the obligations and authority of the child protective
7 service to initiate appropriate court proceedings.

8 (b) Initiation of court proceedings.--In those cases in
9 which an appropriate offer of service is refused and the child
10 protective service determines, or if the service for any other
11 appropriate reason determines that the best interests of the
12 child require court action, the child protective service shall
13 initiate the appropriate court proceeding. The child protective
14 service shall assist the court during all stages of the court
15 proceeding in accordance with the purposes of this chapter.

16 § 6371. Rehabilitative services for child and family.

17 The child protective service shall provide or arrange for and
18 monitor rehabilitative services for children and their families
19 on a voluntary basis or under a final or intermediate order of
20 the court.

21 § 6372. Protecting well-being of children detained outside home.

22 The child protective service shall be as equally vigilant of
23 the status, well-being and conditions under which a child is
24 living and being maintained in a facility other than that of a
25 parent, custodian or guardian from which the child has been
26 removed as the service is of the conditions in the dwelling of
27 the parent, custodian or guardian. Where the child protective
28 service finds that the placement for any temporary or permanent
29 custody, care or treatment is for any reason inappropriate or
30 harmful to the physical or mental well-being of the child, it

1 shall take immediate steps to remedy these conditions including
2 petitioning the court.

3 SUBCHAPTER E

4 MISCELLANEOUS PROVISIONS

5 Sec.

6 6381. Evidence in court proceedings.

7 6382. Guardian ad litem for child in court proceedings.

8 6383. Education and training.

9 6384. Legislative oversight.

10 § 6381. Evidence in court proceedings.

11 (a) General rule.--In addition to the rules of evidence
12 provided under Chapter 63 of Title 42 (relating to juvenile
13 matters), the rules of evidence in this section shall govern in
14 child abuse proceedings in court.

15 (b) Reports of unavailable persons.--Whenever a person
16 required to report under this chapter is unavailable due to
17 death or removal from the jurisdiction of the court, the written
18 report of that person shall be admissible in evidence in any
19 proceedings arising out of child abuse other than proceedings
20 under Title 18 (relating to crimes and offenses). Any hearsay
21 contained in the reports shall be given such weight, if any, as
22 the court determines to be appropriate under all of the
23 circumstances. However, any hearsay contained in a written
24 report shall not of itself be sufficient to support an
25 adjudication based on abuse.

26 (c) Privileged communications.--Except for privileged
27 communications between a lawyer and a client and between a
28 minister and a penitent, a privilege of confidential
29 communication between husband and wife or between any
30 professional person, including but not limited to physicians,

1 psychologists, counselors, employees of hospitals, clinics, day
2 care centers and schools and their patients or clients, shall
3 not constitute grounds for excluding evidence at any proceeding
4 regarding child abuse or the cause of child abuse.

5 (d) Prima facie evidence of abuse.--Evidence that a child
6 has suffered serious physical injury, sexual abuse or serious
7 physical neglect of such a nature as would ordinarily not be
8 sustained or exist except by reason of the acts or omissions of
9 the parent or other person responsible for the welfare of the
10 child shall be prima facie evidence of child abuse by the parent
11 or other person responsible for the welfare of the child.

12 § 6382. Guardian ad litem for child in court proceedings.

13 (a) Appointment.--When a proceeding has been initiated
14 arising out of child abuse, the court shall appoint a guardian
15 ad litem for the child. The guardian ad litem shall be an
16 attorney at law.

17 (b) Powers and duties.--The guardian ad litem shall be given
18 access to all reports relevant to the case and to any reports of
19 examination of the parents or other custodian of the child
20 pursuant to this chapter. The guardian ad litem shall be charged
21 with the representation of the best interests of the child at
22 every stage of the proceeding and shall make such further
23 investigation necessary to ascertain the facts, interview
24 witnesses, examine and cross-examine witnesses, make
25 recommendations to the court and participate further in the
26 proceedings to the degree appropriate for adequately
27 representing the child.

28 (c) Duty of court.--The court shall, upon consideration of
29 the petition of any attorney for the child, order a local child
30 protective service or other agency to establish and implement,

1 fully and promptly, appropriate services, treatment and plans
2 for a child found in need of them. The court shall also, upon
3 consideration of the petition of an attorney for the child,
4 terminate or alter the conditions of any temporary or permanent
5 placement of a child.

6 § 6383. Education and training.

7 The department and each child protective service, both
8 jointly and individually, shall conduct a continuing publicity
9 and education program for the citizens of this Commonwealth
10 aimed at the prevention of child abuse, the identification of
11 abused children and the provision of necessary ameliorative
12 services to abused children and their families. In addition, the
13 department and each child protective service shall conduct an
14 ongoing training and education program for local staff, persons
15 required to make reports and other appropriate persons in order
16 to familiarize those persons with the reporting and
17 investigative procedures for cases of suspected child abuse and
18 the rehabilitative services that are available to children and
19 families.

20 § 6384. Legislative oversight.

21 The Senate Committee on Aging and Youth and the House
22 Committee on Health and Welfare, either jointly or separately,
23 shall review the manner in which this chapter has been
24 administered at the State and local level for the following
25 purposes:

26 (1) Providing information that will aid the General
27 Assembly in its oversight responsibilities.

28 (2) Enabling the General Assembly to determine whether
29 the programs and services mandated by this chapter are
30 effectively meeting the goals of this chapter.

(3) Assisting the General Assembly in measuring the costs and benefits of this program and the effects and side-effects of mandated program services.

(4) Permitting the General Assembly to determine whether the confidentiality of records mandated by this chapter is being maintained at the State and local level.

(5) Providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this chapter.

Section 3. Amendments to Title 42.--Sections 1725.1(c) 4135(a), 5924, 5945, 5948, 7541(c) and 8127(a) of Title 42 are amended or added to read:

§ 1725.1. Costs.

* * *

(c) Unclassified costs or charges.--The costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

(1) Entering transcript of judgment from another member of the minor judiciary..... \$ 3.00

(2) Marrying each couple, making record thereof, and certificate to the parties..... \$10.00

(3) Granting emergency relief pursuant to [the act of October 7, 1976 (P.L.1090, No.218), known as the "Protection From Abuse Act"] Chapter 61 of Title 23 (relating to protection from abuse)..... \$10.00

(4) Issuing a search warrant (except as provided in subsection (d))..... \$10.00

(5) Any other issuance not otherwise provided for in this subsection..... \$10.00

* * *

1 § 4135. Criminal contempt.

2 (a) General rule.--In all cases where a person shall be
3 charged with indirect criminal contempt for violation of a
4 restraining order or injunction issued by a court or judge, the
5 accused shall enjoy:

6 (1) The rights as to admission to bail that are accorded
7 to persons accused of crime.

8 (2) The right to be notified of the accusation and a
9 reasonable time to make a defense, if the alleged contempt is
10 not committed in the immediate view or presence of the court.

11 (3) (i) Upon demand, the right to a speedy and public
12 trial by an impartial jury of the judicial district
13 wherein the contempt shall have been committed.

14 (ii) The requirement of subparagraph (i) shall not
15 be construed to apply to contempts:

16 (A) committed in the presence of the court or so
17 near thereto as to interfere directly with the
18 administration of justice, or to apply to the
19 misbehavior, misconduct, or disobedience of any
20 officer of the court in respect to the writs, orders,
21 or process of the court; [or]

22 (B) subject to 23 Pa.C.S. § 6110 (relating to
23 contempt for violation of order or agreement); or

24 (C) subject to 75 Pa.C.S. § 4108(c) (relating to
25 nonjury criminal contempt proceedings).

26 (4) The right to file with the court a demand for the
27 withdrawal of the judge sitting in the proceeding, if the
28 contempt arises from an attack upon the character or conduct
29 of such judge, and if the attack occurred otherwise than in
30 open court. Upon the filing of any such demand, the judge

1 shall thereupon proceed no further but another judge shall be
2 designated by the court. The demand shall be filed prior to
3 the hearing in the contempt proceeding.

4 * * *

5 § 5924. Spouses as witnesses against each other.

6 (a) General rule.--In a civil matter neither husband nor
7 wife shall be competent or permitted to testify against each
8 other.

9 (b) Exception.--Subsection (a) shall not apply in an action
10 or proceeding:

11 (1) For divorce, including ancillary proceedings for the
12 partition or division of property.

13 (2) For support or relating to the protection or
14 recovery of marital or separate property.

15 (3) For custody or care of children, including actions
16 or proceedings relating to visitation rights and similar
17 matters.

18 (4) Arising under [the act of October 7, 1976 (P.L.1090,
19 No.218), known as the "Protection From Abuse Act."] Chapter
20 61 of Title 23 (relating to protection from abuse).

21 (5) When a statute heretofore or hereafter enacted
22 applicable to the action or proceeding provides either
23 expressly or by necessary implication that spouses may
24 testify therein against each other.

25 § 5945. Confidential communications to school personnel.

26 (a) General rule.--No guidance counselor, school nurse,
27 school psychologist, or home and school visitor in the public
28 schools or in private or parochial schools or other educational
29 institutions providing elementary or secondary education,
30 including any clerical worker of such schools and institutions,

1 who, while in the course of his professional or clerical duties
2 for a guidance counselor, home and school visitor, school nurse
3 or school psychologist, has acquired information from a student
4 in confidence shall be compelled or allowed:

5 (1) without the consent of the student, if the student
6 is 18 years of age or over; or

7 (2) without the consent of his parent or guardian, if
8 the student is under the age of 18 years;

9 to disclose such information in any legal proceeding, trial, or
10 investigation before any government unit.

11 (b) Exemption.--Notwithstanding subsection (a), no such
12 person shall be excused or prevented from complying with [the
13 act of November 26, 1975 (P.L.438, No.124), known as the "Child
14 Protective Services Law."] Chapter 63 of Title 23 (relating to
15 child protective services).

16 § 5948. Confidential communications to divorce counselors.

17 Communications of a confidential character made by a spouse
18 to a qualified professional as defined in 23 Pa.C.S. § 3103
19 (relating to definitions) shall be privileged and inadmissible
20 in evidence in any matrimonial matter unless the party concerned
21 waives this privilege.

22 § 7541. Construction of subchapter.

23 * * *

24 (c) Exceptions.--Relief shall not be available under this
25 subchapter with respect to any:

26 (1) Action wherein a divorce or annulment of marriage is
27 sought except as provided by 23 Pa.C.S. § 3306 (relating to
28 proceedings to determine marital status).

29 (2) Proceeding within the exclusive jurisdiction of a
30 tribunal other than a court.

1 (3) Proceeding involving an appeal from an order of a
2 tribunal.

3 § 8127. Personal earnings exempt from process.

4 (a) General rule.--The wages, salaries and commissions of
5 individuals shall while in the hands of the employer be exempt
6 from any attachment, execution or other process except upon an
7 action or proceeding under Part IV of Title 23 (relating to
8 divorce) or for support or for board for four weeks or less.

9 * * *

10 Section 4. Repeals.--(a) The following acts and parts of
11 acts are repealed:

12 Act of March 13, 1815 (P.L.150, No.109), entitled "An act
13 concerning divorces."

14 Act of May 14, 1857 (P.L.507, No.567), entitled "An act to
15 Legitimate Children Born out of Lawful Wedlock."

16 Act of April 21, 1858 (P.L.413, No.444), entitled "An act
17 relating to Illegitimate Children."

18 Act of March 22, 1865 (P.L.30, No.14), entitled, as amended,
19 "An act to authorize minor husbands and wives, seventeen years
20 of age and older, to join in conveyances of their adult spouses'
21 real estate, and to validate such conveyances heretofore made."

22 Act of April 6, 1868 (P.L.67, No.31), entitled "An act to
23 validate certain marriages and legitimatize the issue thereof."

24 Act of June 2, 1871 (P.L.283, No.263), entitled "An act to
25 authorize married women owning capital stock of any railroad
26 company to sell and transfer the same."

27 Act of February 29, 1872 (P.L.21, No.7), entitled "An act
28 enabling married women to purchase sewing machines."

29 Act of April 1, 1874 (P.L.49, No.9), entitled "An act to
30 authorize married women owning loans of this commonwealth, or of

1 the city of Philadelphia, or capital stock of any corporation of
2 this commonwealth, to sell and transfer the same."

3 Act of May 15, 1874 (P.L.179, No.110), entitled "An act to
4 prevent traffic in children."

5 Act of June 26, 1895 (P.L.316, No.232), entitled "An act
6 relating to husband and wife who are the parents of minor
7 children, enlarging and extending the power, control and
8 authority of the mother over their minor children, under certain
9 circumstances."

10 Act of April 18, 1919 (P.L.67, No.52), entitled "An act to
11 give to women, married and single, the same right as men to be
12 corporators, and, in furtherance of their interests as
13 stockholders, to serve as directors and officers of corporations
14 for profit."

15 Act of April 11, 1927 (P.L.181, No.151), entitled "An act
16 authorizing a married woman, granted a divorce from bed and
17 board, to convey and encumber her real estate, without the
18 joinder of her husband."

19 Act of May 10, 1927 (P.L.884, No.451), entitled, as amended,
20 "An act modifying the common-law rule relating to property
21 hereafter acquired by husband and wife as tenants by entireties,
22 where such husband and wife are subsequently divorced; creating
23 a tenancy in common in such cases; providing for the sale of
24 property held by husband and wife as tenants by entireties where
25 they have been divorced; and directing the distribution of the
26 proceeds of such sale."

27 Act of June 22, 1935 (P.L.450, No.189), entitled "An act to
28 promote public morals; abolishing civil causes of action for
29 alienation of affections, except in certain cases, and breach of
30 promise to marry; making it unlawful to file, cause to be filed,

1 threaten to file, or threaten to cause to be filed any such
2 action; fixing a time for the commencement of such causes of
3 action heretofore accrued; declaring void all future contracts
4 in settlement of such actions; making it unlawful to induce the
5 execution of such a contract or payment thereunder or
6 institution of suit thereon; and providing penalties."

7 Act of May 13, 1949 (P.L.1319, No.390), entitled "An act
8 authorizing the conveyance of the interest of either former
9 spouse after a divorce to the other without the joinder of the
10 other, of such former spouse's interest in real estate which is
11 held by them as tenants by the entireties, and validating such
12 conveyances formerly made."

13 Act of August 22, 1953 (P.L.1344, No.383), known as "The
14 Marriage Law."

15 Act of December 17, 1959 (P.L.1916, No.695), entitled "An act
16 relating to the legitimacy of children born of void or voidable
17 marriages."

18 Act of July 27, 1967 (P.L.186, No.58), entitled "An act
19 imposing liability upon parents for personal injury, or theft,
20 destruction, or loss of property caused by the wilful, tortious
21 acts of children under eighteen years of age, setting forth
22 limitations, and providing procedure for recovery."

23 Act of June 16, 1972 (P.L.472, No.151), entitled "An act
24 authorizing persons eighteen years of age and older to enter
25 into contracts."

26 Act of December 6, 1972 (P.L.1404, No.300), entitled "An act
27 making a person eighteen and older an adult for the purpose of
28 suing and being sued."

29 Act of November 26, 1975 (P.L.438, No.124), known as the
30 "Child Protective Services Law."

1 Act of October 7, 1976 (P.L.1090, No.218), known as the
2 "Protection From Abuse Act."

3 Act of April 2, 1980 (P.L.63, No.26), known as the "Divorce
4 Code."

5 Act of November 5, 1981 (P.L.322, No.115), known as the
6 "Custody and Grandparents Visitation Act."

7 42 Pa.C.S. Ch. 53, Subch. C (relating to child custody
8 jurisdiction).

9 (b) All other acts and parts of acts are repealed insofar as
10 they are inconsistent with this act.

11 Section 5. Effective date.--This act shall take effect in 90
12 days.