
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 98

Session of
1985

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JOSEPHS AND PRESSMANN, JANUARY 23, 1985

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
SEPTEMBER 19, 1985

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to support,
3 custody, visitation, property and contracts; and making
4 repeals.

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

10 Section 1. Title 23 of the Pennsylvania Consolidated
11 Statutes is amended by adding parts to read:

12 PART V

13 SUPPORT, PROPERTY AND CONTRACTS

14 Chapter

15 41. General Provisions

16 43. Support Matters Generally

17 45. Reciprocal Enforcement of Support Orders

18 CHAPTER 41

19 GENERAL PROVISIONS

20 Sec.

21 4101. Liability for debts contracted before marriage.

22 4102. Liability for purchases by married person.

23 4103. Liability on judgment against married person.

24 4104. Right of married person to separate earnings.

25 4105. Loans between married persons.

26 4106. Construction of chapter.

27 § 4101. Liability for debts contracted before marriage.

28 (a) General rule.--A spouse is not liable for the debts of
29 the other spouse contracted before marriage, unless voluntarily
30 assumed in writing.

1 (b) Liability of property unaffected.--This chapter does not
2 protect the property of a married person from liability for
3 debts contracted by or in the name of the married person by any
4 person authorized to so contract.

5 § 4102. Liability for purchases by married person.

6 (a) General rule.--Except as provided in subsection (b),
7 married persons are not liable jointly for purchases by one of
8 them unless they voluntarily assume joint debts.

9 (b) Necessaries.--Married persons are jointly and severally
10 liable for debts contracted by one of them for necessities for
11 themselves or their children, except in cases where a child or
12 spousal support order has been entered or a written agreement
13 has been executed.

14 § 4103. Liability on judgment against married person.

15 A judgment against a married person individually before or
16 during marriage does not bind or constitute a lien upon the real
17 property of the other spouse.

18 § 4104. Right of married person to separate earnings.

19 A married person has the right to the separate benefit and
20 use of the separate earnings of that person except with respect
21 to legal support obligations due to other persons.

22 § 4105. Loans between married persons.

23 A married person may loan the other spouse money from the
24 separate estate of the married person and take in security
25 therefor a judgment or mortgage against the property of the
26 other spouse which shall be valid as otherwise provided by law.

27 § 4106. Construction of chapter.

28 This chapter shall not be construed to affect the act of
29 April 2, 1980 (P.L.63, No.26), known as the Divorce Code.

30

CHAPTER 43

SUPPORT MATTERS GENERALLY

Subchapter

A. General Provisions

B. Support

C. Proceedings Generally

D. Proceedings Against Entireties Property

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

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4303. Information to consumer credit bureau.

4304. Cooperation of Commonwealth agencies.

4305. General administration of support matters.

4306. DUTIES OF DISTRICT ATTORNEY.

4307. STATE INCOME TAX INTERCEPT.

§ 4301. Scope of chapter.

(a) General rule.--Actions or proceedings provided by this chapter are in addition to and not in substitution of actions or proceedings provided by unsuspended statutes where there is desertion or a failure to perform a duty to support.

(b) Persons in institutions and foster homes.--Matters relating to the support of persons living in public or private institutions or receiving foster home care and who are otherwise entitled to support under this chapter shall be determined by the court under the statutes pertaining to those institutions or foster homes.

§ 4302. Definitions.

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

1 context clearly indicates otherwise:

2 "Employer." Includes an individual, partnership,
3 association, corporation, trust, Federal agency, Commonwealth
4 agency or political subdivision paying or obligated to pay
5 income.

6 "Income." Includes compensation for services, including, but
7 not limited to, wages, salaries, fees, compensation in kind,
8 commissions and similar items; income derived from business;
9 gains derived from dealings in property; interest; rents;
10 royalties; dividends; annuities; income from life insurance and
11 endowment contracts; all forms of retirement; pensions; income
12 from discharge of indebtedness; distributive share of
13 partnership gross income; income in respect of a decedent;
14 income from an interest in an estate or trust; military
15 retirement benefits; railroad employment retirement benefits;
16 social security benefits; temporary and permanent disability
17 benefits; workmen's compensation and unemployment compensation.

18 "Net income." Gross income minus taxes and any other
19 deductions mandated by the employer as a condition of
20 employment.

21 "Order of support." Includes assistance imposed or imposable
22 by law or by any court order, whether interlocutory or final,
23 whether incidental to a proceeding for divorce, separate
24 maintenance, action for failure to support a child born out of
25 wedlock or otherwise.

26 "Support." Care, maintenance and financial assistance.

27 § 4303. Information to consumer credit bureau.

28 (a) General rule.--Information regarding the amount of
29 arrearages owed by an obligor shall be made available to any
30 consumer credit bureau organization upon the request of the

1 organization, subject to the following:

2 (1) Where the amount of arrearages is less than \$1,000,
3 information regarding the amount shall be made available at
4 the option of the domestic relations ~~office~~ SECTION of the <—
5 county in which the order of support was entered.

6 (2) The information shall be available only after the
7 obligor owing the arrearages has been notified of the
8 proposed action and given a period not to exceed 20 days to
9 contest the accuracy of the information. The notice shall be
10 as provided by local rule of the court of common pleas.

11 (b) Fee.--A fee for furnishing the information in an amount
12 not exceeding the actual cost thereof may be imposed on the
13 requesting organization by the domestic relations office.

14 § 4304. Cooperation of Commonwealth agencies.

15 Upon request of THE DEPARTMENT OF PUBLIC WELFARE ON BEHALF OF <—
16 a domestic relations ~~office~~ SECTION, Commonwealth agencies shall <—
17 provide information regarding wages, employer and address
18 information for the purposes of carrying out this chapter, <—
19 UNLESS SUCH INFORMATION MUST REMAIN CONFIDENTIAL PURSUANT TO
20 OTHER PROVISIONS OF LAW.

21 § 4305. General administration of support matters.

22 Subject to any inconsistent general rules and to the
23 supervision and direction of the court, the domestic relations
24 section shall have the power and duty to:

25 (1) Process all complaints received under Chapter 45
26 (relating to reciprocal enforcement of support orders).

27 (2) Make such investigation as may be necessary.

28 (3) Take charge of any obligor before or after hearing,
29 as may be directed by the court.

30 (4) Collect and pay over to the persons entitled thereto

1 moneys received pursuant to support proceedings.

2 (5) Keep a full and complete record of all support
3 proceedings, including orders of the court.

4 (6) Keep account of all payments made under order of
5 court and promptly bring to the attention of the court and
6 the district attorney any default in compliance with any
7 order of court.

8 (7) Make effective the orders of support entered.

9 (8) Furnish the court with such information and
10 assistance as it may require and generally perform such
11 services as it may direct relating to support proceedings.

12 (9) INFORM BOTH PARTIES TO A SUPPORT ACTION THAT
13 GUIDELINES AS SPECIFIED IN SECTION 4322 (RELATING TO SUPPORT
14 GUIDELINES) ARE AVAILABLE IN THE DOMESTIC RELATIONS OFFICE.

15 § 4306. DUTIES OF DISTRICT ATTORNEY.

16 (A) GENERAL RULE.--THE DISTRICT ATTORNEY SHALL AT ALL TIMES
17 AID IN THE ENFORCEMENT OF THE DUTY OF SUPPORT AND SHALL
18 COOPERATE WITH THE DOMESTIC RELATIONS SECTION IN THE
19 PRESENTATION OF COMPLAINTS OR IN ANY PROCEEDING DESIGNED TO
20 OBTAIN COMPLIANCE WITH ANY ORDER OF THE COURT.

21 (B) REPRESENTATION OF COMPLAINANT.--THE DISTRICT ATTORNEY,
22 UPON THE REQUEST OF THE COURT OR A COMMONWEALTH OR LOCAL PUBLIC
23 WELFARE OFFICIAL, SHALL REPRESENT ANY COMPLAINANT IN ANY
24 PROCEEDING UNDER THIS SUBCHAPTER.

25 § 4307. STATE INCOME TAX INTERCEPT.

26 THE DEPARTMENT OF PUBLIC WELFARE SHALL HAVE THE AUTHORITY TO
27 IMPLEMENT A STATE INCOME TAX INTERCEPT PROGRAM PURSUANT TO
28 SECTION 466 (A)(3) OF THE SOCIAL SECURITY ACT (PUBLIC LAW 74-
29 271, 42 U.S.C. § 666(A)(3)) WHEN, IN THE JUDGMENT OF THE
30 DEPARTMENT, IT IS COST EFFECTIVE TO DO SO.

SUBCHAPTER B

SUPPORT

Sec.

4321. Liability for support.

4322. Support guidelines.

4323. Support of emancipated child.

4324. Inclusion of medical support.

4325. Payment of order of support.

§ 4321. Liability for support.

Subject to the provisions of this chapter:

(1) Married persons are liable for the support of each other according to their respective abilities to provide support as provided by law.

(2) Parents are liable for the support of their children who are unemancipated and 18 years of age or younger.

(3) Parents may be liable for the support of their children who are 18 years of age or older.

§ 4322. Support guidelines.

The courts of common pleas shall develop guidelines for child and spousal support so that persons similarly situated shall be treated similarly. The guidelines shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guidelines shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention.

§ 4323. Support of emancipated child.

1 (a) Emancipated child.--A court shall not order either or
2 both parents to pay for the support of a child if the child is
3 emancipated.

4 (b) Marital status of parents immaterial.--In making an
5 order for the support of a child, no distinction shall be made
6 because of the marital status of the parents.

7 § 4324. Inclusion of medical support.

8 In addition to periodic support payments, the court may
9 require that an obligor pay a designated percentage of a child's
10 or spouse's reasonable and necessary health care expenses. If
11 health care coverage is available through an obligor at no cost
12 as a benefit of employment or at a reasonable cost, the court
13 may order an obligor to provide or extend health care coverage
14 to a child or spouse. Upon failure of the obligor to make this
15 payment or reimburse the custodial parent or spouse and after
16 compliance with procedural due process requirement, the court
17 shall treat the amount as arrearages.

18 § 4325. Payment of order of support.

19 An order of support shall direct payment to be made payable
20 to or payment to be made to the domestic relations office for
21 transmission to the obligee or for transmission directly to a
22 public body or public or private agency whenever the care,
23 maintenance and assistance of the obligee is provided for by the
24 public body or public or private agency.

25 SUBCHAPTER C

26 PROCEEDINGS GENERALLY

27 Sec.

28 4341. Commencement of support actions or proceedings.

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30 4343. Paternity.

1 4344. Contempt for failure of obligor to appear.
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3 4346. Contempt for noncompliance with visitation
4 or partial custody order.
5 4347. Security for attendance or performance.
6 4348. Attachment of income.
7 4349. Consolidation of proceedings.
8 4350. Effect of appeal.
9 4351. Costs and fees.
10 4352. Continuing jurisdiction over support orders.
11 4353. Duty to report.

12 § 4341. Commencement of support actions or proceedings.

13 A support action or proceeding under this chapter shall be
14 commenced in the manner prescribed by the Rules of Civil
15 Procedure governing actions of support.

16 § 4342. Expedited procedure.

17 (a) General rule.--The Supreme Court shall by general rule
18 provide for expedited procedures for the determination of
19 support. The procedures shall include an office conference; a
20 conference summary to the court by the hearing officer; an
21 opportunity for the court to enter an order without hearing the
22 parties; and an opportunity for the parties to demand a full
23 hearing by the court.

24 (b) Alternate procedure.--The Supreme Court shall also
25 provide an alternate expedited procedure which may be adopted by
26 local rule of the courts of common pleas. The procedure shall
27 include an office conference; an evidentiary hearing before a
28 hearing officer who shall be an attorney; a transcript of the
29 testimony; a report and recommendation to the court by the
30 hearing officer; and an opportunity for the filing of exceptions

1 with and argument before the court.

2 § 4343. Paternity.

3 (a) Determination.--Where the paternity of a child born out
4 of wedlock is disputed, the determination of paternity shall be
5 made by the court in a civil action without a jury unless either
6 party demands trial by jury. The burden of proof shall be by a
7 preponderance of the evidence.

8 (b) Limitation of actions.--An action or proceeding under
9 this chapter to establish the paternity of a child born out of
10 wedlock must be commenced within 18 years of the date of birth
11 of the child.

12 § 4344. Contempt for failure of obligor to appear.

13 A person who willfully fails or refuses to appear in response
14 to a duly served order or other process under this chapter may,
15 as prescribed by general rule, be adjudged in contempt. Contempt
16 shall be punishable by any one or more of the following:

17 (1) Imprisonment for a period not to exceed six months.

18 (2) A fine not to exceed \$500.

19 (3) Probation for a period not to exceed six months.

20 § 4345. Contempt for noncompliance with support order.

21 (a) General rule.--A person who willfully fails to comply
22 with any order under this chapter, except an order subject to
23 section 4344 (relating to contempt for failure of obligor to
24 appear), may, as prescribed by general rule, be adjudged in
25 contempt. Contempt shall be punishable by any one or more of the
26 following:

27 (1) Imprisonment for a period not to exceed six months.

28 (2) A fine not to exceed \$500.

29 (3) Probation for a period not to exceed six months.

30 (b) Condition for release.--An order committing a defendant

1 to jail under this section shall specify the condition the
2 fulfillment of which will result in the release of the obligor.
3 § 4346. Contempt for noncompliance with visitation or partial
4 custody order.

5 (a) General rule.--A party who willfully fails to comply
6 with any visitation or partial custody order may, as proscribed
7 by general rule, be adjudged in contempt. Contempt shall be
8 punishable by any one or more of the following:

9 (1) Imprisonment for a period not to exceed six months.

10 (2) A fine not to exceed \$500.

11 (3) Probation for a period not to exceed six months.

12 (b) Condition for release.--An order committing a person to
13 jail under this section shall specify the condition which, when
14 fulfilled, will result in the release of the obligor.

15 § 4347. Security for attendance or performance.

16 At any stage of the proceedings under this chapter, upon
17 affidavit filed that the obligor is about to leave this
18 Commonwealth or the judicial district or, where in the judgment
19 of the court, the obligor has habitually failed to comply with
20 court orders under this chapter, the court may, as prescribed by
21 general rule, issue appropriate process directing that the
22 obligor be brought before the court and may direct that the
23 obligor give security to appear when directed by the court or to
24 comply with any order of the court.

25 § 4348. Attachment of income.

26 (a) Existing orders.--As to orders of support entered prior
27 to the effective date of this part, the obligor's income shall
28 be attached PURSUANT TO THIS SECTION where the obligor is in
29 arrears in an amount equal to or greater than one month's
30 support obligation or at such earlier date as the court may

<—

1 designate. ~~This attachment shall be consistent with~~ <—
2 ~~constitutional due process requirements.~~ THE DOMESTIC RELATIONS <—
3 SECTIONS SHALL MAIL NOTICE TO OBLIGORS OF EXISTING ORDERS
4 INFORMING THEM OF THE PASSAGE OF THIS ACT AND THE ATTACHMENT
5 PROCEDURE WHICH SHALL BE APPLIED IF THE OBLIGOR FALLS INTO
6 ARREARS AS SPECIFIED BY THIS SECTION. THIS NOTICE REQUIREMENT
7 SHALL NOT APPLY TO OBLIGORS WHOSE EXISTING ORDERS OF SUPPORT
8 CONTAIN MANDATORY ATTACHMENT PROVISIONS.

9 (b) Future orders.--As of ~~October 1, 1985~~ THE EFFECTIVE DATE <—
10 OF THIS ACT, all orders of support entered or modified by courts
11 of this Commonwealth shall provide for the mandatory attachment
12 of the obligor's income where the obligor is in arrears in an
13 amount equal to or greater than one month's support obligation
14 or at such earlier date as the court may designate. The court
15 may, on its own motion, order the attachment of the obligor's
16 income where the court has a reasonable basis to believe the
17 obligor will not comply with the order of support. In making
18 this determination, the court may consider evidence of the
19 person's previous violations of orders entered ~~pursuant to this~~ <—
20 ~~chapter~~ IN ANY JURISDICTION OR EVIDENCE THAT THE OBLIGOR HAS <—
21 ATTEMPTED TO CONCEAL INCOME OR TO TRANSFER, CONVEY OR ENCUMBER
22 PROPERTY IN ORDER TO REDUCE THE OBLIGOR'S SUPPORT OBLIGATION.
23 Attachment shall occur without amendment to the order of
24 support.

25 (c) Assessment of penalty.--~~where an obligor is subject to~~ <—
26 ~~attachment under this section, the court may impose a penalty of~~
27 ~~up to 10% to be added to the amount which is 30 days or more in~~
28 ~~arrears. Any such penalty shall be imposed on the amount in~~
29 ~~arrears at the time of the attachment.~~ THE COURT MAY IMPOSE A <—
30 PENALTY OF NOT MORE THAN 10% ON ANY AMOUNT IN ARREARS FOR 30

1 DAYS OR MORE IF THE COURT DETERMINES THAT THE ARREARAGE WAS
2 WILLFUL.

3 (d) Arrearages.--If support arrearages exist at the time of
4 the entry of the order, the order shall specify all of the
5 following:

6 (1) To whom an arrearage is owed and the amount of the
7 arrearage.

8 (2) The period of time for which the arrearage is
9 calculated.

10 (3) The amount of periodic support to be applied to
11 current support and the amount to be applied to arrearages.

12 (4) If support arrearages are owed to more than one
13 obligee, how payments are to be divided and in which
14 priority.

15 (5) A direction that all payments are to be credited to
16 current support obligations first, with any payment in excess
17 to be applied to arrearages.

18 (e) Attachment process.--

19 (1) The obligor shall be given advance notice prior to
20 the attachment of his income. Such notice shall specify all
21 of the following:

22 (i) The amount to be withheld.

23 (ii) That the order of attachment shall apply to
24 current and future employers.

25 (iii) That the grounds for contesting the order of
26 attachment shall be limited to mistakes of fact. Mistakes
27 of fact shall be limited to errors in the amount of
28 current support owed, errors in the amount of arrearage,
29 an attachment in excess of the maximum amount set forth
30 in subsection (g) or mistaken identity of the obligor.

1 (iv) That attachment shall occur in all cases within
2 ten days of the issuance of the advance notice.

3 (v) A notice of how and when the order may be
4 contested.

5 (2) To contest the order, the obligor must appear before
6 the domestic relations section no later than ten days after
7 issuance of the initial notice at which time it will be
8 determined if a mistake of fact has occurred. If so, the
9 order shall be modified accordingly.

10 (f) Request of obligor.--The court shall also order the
11 attachment of income where the obligor so requests.

12 ~~(g) Maximum amount.~~

<—

13 ~~(1) The maximum part of the aggregate disposable~~
14 ~~earnings of an individual for any workweek which is subject~~
15 ~~to attachment to enforce any order for the support of any~~
16 ~~person shall not exceed:~~

17 ~~(i) Where such individual is supporting his spouse~~
18 ~~or dependent child, other than a spouse or child with~~
19 ~~respect to whose support such order is used, 50% of such~~
20 ~~individual's disposable earnings for that week.~~

21 ~~(ii) Where such individual is not supporting such a~~
22 ~~spouse or dependent child described in subparagraph (i),~~
23 ~~60% of such individual's disposable earnings for that~~
24 ~~week.~~

25 ~~(2) With respect to the disposable earnings of any~~
26 ~~individual for any workweek, the 50% specified in paragraph~~
27 ~~(1)(i) shall be deemed to be 55% and the 60% specified in~~
28 ~~paragraph (1)(ii) shall be deemed to be 65%, if and to the~~
29 ~~extent that such earnings are subject to attachment to~~
30 ~~enforce a support order with respect to a period which is~~

1 ~~prior to the 12-week period which ends with the beginning of~~
2 ~~such workweek.~~

3 (G) MAXIMUM AMOUNT.--THE MAXIMUM AMOUNT OF ANY ATTACHMENT <—
4 UNDER THIS SECTION SHALL NOT EXCEED THE LIMITS SET FORTH IN THE
5 CONSUMER CREDIT PROTECTION ACT (PUBLIC LAW 90-321, 15 U.S.C. §
6 1601 ET SEQ.).

7 (h) Termination.--The court may order the termination of an
8 order of attachment in any of the following instances:

9 (1) The support obligation has terminated and the total
10 arrearages are paid.

11 (2) Where the payee cannot be located and it becomes
12 impossible to forward payments.

13 (3) The result would be unconscionable.

14 (i) Notice to employer.--The employer of an obligor shall be
15 given notice of the attachment as provided by the Rules of Civil
16 Procedure governing support. This notice shall include reference
17 to subsections (g), (k), (l) and, (n) AND (O) and all of the <—
18 following:

19 (1) The amount to be attached.

20 (2) That the attachment shall be implemented as soon as
21 possible and no later than 14 days from the issuance of the
22 notice to the employer.

23 (3) THAT THE ATTACHMENT PAYMENT MUST BE SENT TO THE <—
24 DOMESTIC RELATIONS SECTION WITHIN TEN DAYS OF THE DATE THE
25 OBLIGOR IS PAID.

26 ~~(3)~~ (4) That the attachment order is binding upon the <—
27 employer until further notice.

28 ~~(4)~~ (5) That the employer may combine attachment <—
29 payments into a single payment to the domestic relations
30 section and separately identify the portions attributable to

1 each obligor.

2 (6) THAT THE EMPLOYER MUST NOTIFY THE DOMESTIC RELATIONS <—
3 SECTION WHEN THE OBLIGOR TERMINATES EMPLOYMENT AND PROVIDE
4 HIS LAST KNOWN ADDRESS AND THE NEW EMPLOYER'S NAME AND
5 ADDRESS, IF KNOWN.

6 (j) Effect of compliance by employer.--Compliance by an
7 employer with an order of attachment of income operates as a
8 discharge of the liability of the employer to the obligor as to
9 that portion of the employment income of the obligor affected.
10 The employer may deduct from the income of the obligor ~~3%~~ 2% of <—
11 the amount paid under the order for reimbursement of the expense
12 in complying with the order. In no case shall the money be
13 deducted from the amount of the support order.

14 (k) Effect of noncompliance by employer.--

15 (1) An employer or officer or employee thereof who
16 willfully fails to comply with an order of attachment under
17 this chapter may, as prescribed by general rule, be adjudged
18 in contempt and committed to jail or fined by the court.

19 (2) The employer shall be liable for any amount the
20 employer willfully fails to withhold from income due an
21 employee under an order of attachment of income and any
22 amount which is withheld from such income but not forwarded
23 to the domestic relations office.

24 (3) The court may, pursuant to general rule, attach
25 funds or property of an employer.

26 (l) Disciplinary action by employer prohibited.--

27 (1) When an order of attachment on income is about to be
28 or has been entered, an employer or officer or employee
29 thereof shall not use the attachment or possibility thereof
30 as a basis, in whole or in part, for the discharge of an

1 employee or for any disciplinary action against or demotion
2 of, an employee. In case of a violation of this subsection,
3 the employer or officer or employee thereof may be adjudged
4 in contempt and committed to jail or fined by the court.

5 (2) Any employee aggrieved by a violation of this
6 subsection shall have the substantive right to bring an
7 action for damages by reason of such violation in a court of
8 competent jurisdiction.

9 (m) Certify income.--Upon request of the domestic relations
10 section, the employer shall report and certify the income of an
11 employee.

12 (n) Bonding.--The court may attach forms of income other
13 than wages, assets including spendthrift trusts, and private, <—
14 STATE and municipal pensions, and include bonding or other
15 requirements in cases involving obligors whose income is from
16 sources other than wages, in order to assure that support owed
17 by obligors in this Commonwealth will be collected without
18 regard to the types of these obligors' income or the nature of
19 their income-producing activities.

20 (o) Priority of attachment.--An order of attachment under
21 this chapter shall have priority over any attachment, execution,
22 garnishment or wage assignment.

23 (p) Nonresidents.--Income attachment shall be available to
24 obligees residing outside this Commonwealth where the income of
25 the obligor is derived in this Commonwealth.

26 § 4349. Consolidation of proceedings.

27 In order to facilitate frequent and unimpeded contact between
28 children and parents, a judge may consolidate with a support
29 action or proceeding any proceeding commenced for visitation
30 rights, sole or shared custody, temporary or permanent custody

1 or any other matters pertaining to support authorized by law
2 which fairly and expeditiously may be determined and disposed of
3 in the support action or proceeding.

4 § 4350. Effect of appeal.

5 An appeal from an order of support entered pursuant to this
6 chapter shall not operate as a supersedeas unless so ordered by
7 the court.

8 § 4351. Costs and fees.

9 (a) General rule.--When it appears to the court that either
10 party or both parties are financially able to pay costs and
11 fees, the court may impose the costs and fees on either party or
12 both parties.

13 (b) Lack of good cause for failure to pay on time.--If the
14 court determines that the person subject to a child support
15 order did not have good cause for failing to make child support
16 payments on time, it may further assess costs and reasonable
17 attorney fees incurred by the party seeking to enforce the
18 order.

19 § 4352. Continuing jurisdiction over support orders.

20 (a) General rule.--The court making an order of support
21 shall at all times maintain jurisdiction of the matter for the
22 purpose of enforcement of the order and for the purpose of
23 increasing, decreasing, modifying or rescinding the order
24 without limiting the right of the obligee to institute
25 additional proceedings for support in any county in which the
26 obligor resides or in which property of the obligor is situated.

27 (b) Transfer of action.--Where neither party to the action
28 resides or is employed in the county wherein the support action
29 was filed, the court may transfer the matter to ~~either of the~~ <—
30 ~~two counties wherein the parties reside or are~~ ANY COUNTY <—

1 WHEREIN EITHER PARTY RESIDES OR WHERE THE DEFENDANT IS REGULARLY
2 employed. If one of the parties resides outside of this
3 Commonwealth, the action may be transferred to the county of
4 residence or employment of the other party.

5 (c) Foreign support orders.--The court may modify registered
6 foreign support orders when the foreign court declines,
7 surrenders or determines that it is an inappropriate forum to
8 modify the decree. The court may at any time remit, correct or
9 reduce the amount of arrearages.

10 (d) Applicability.--This section applies to all support
11 orders whether entered under this chapter or any other statute.
12 § 4353. Duty to report.

13 A party to a support proceeding shall notify the domestic
14 relations section in writing or by personal appearance within
15 seven days of any change of employment, change of personal
16 address or change of address of any child receiving support.
17 Willful failure to comply with this section may be adjudged in
18 contempt of court pursuant to section 4345 (relating to contempt
19 for noncompliance with support order).

20 CHAPTER 45

21 RECIPROCAL ENFORCEMENT OF 22 SUPPORT ORDERS

23 Sec.

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7 § 4501. Short title and purposes of chapter.

8 (a) Short title.--This chapter shall be known and may be
9 cited as the Revised Uniform Reciprocal Enforcement of Support
10 Act (1968).

11 (b) Purposes.--The purposes of this chapter are to improve
12 and extend by reciprocal legislation the enforcement of duties
13 of support.

14 § 4502. Definitions.

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

18 "Court." The courts of common pleas of this Commonwealth and
19 when the context requires, the court of any other state as
20 defined in a substantially similar reciprocal law.

21 "Duty of support." A duty of support whether imposed or
22 imposable by law or by order, decree, or judgment of any court,
23 whether interlocutory or final or whether incidental to an
24 action for divorce, separation, separate maintenance, or
25 otherwise and includes the duty to pay arrearages of support
26 past due and unpaid.

27 "Governor." Includes any person performing the functions of
28 Governor or the executive authority of any state covered by this
29 chapter.

30 "Initiating court." The court in which a proceeding is

1 commenced.

2 "Initiating state." A state in which a proceeding pursuant
3 to this or a substantially similar reciprocal law is commenced.

4 "Law." Includes both common and statutory law.

5 "Obligee." A person to whom a duty of support is owed or a
6 person including a state or political subdivision that has
7 commenced a proceeding for enforcement of an alleged duty of
8 support or for registration of a support order. It is immaterial
9 if the person to whom a duty of support is owned is a recipient
10 of public assistance.

11 "Obligor." Any person owing a duty of support or against
12 whom a proceeding for the enforcement of a duty of support or
13 registration of a support order is commenced.

14 "Prosecuting attorney." The public official in the
15 appropriate place who has the duty to enforce laws relating to
16 the failure to provide for the support of any person.

17 "Register." To record in the Registry of Foreign Support
18 Orders.

19 "Registering court." Any court of this Commonwealth in which
20 a support order of a rendering state is registered.

21 "Rendering state." A state in which the court has issued a
22 support order for which registration is sought or granted in the
23 court of another state.

24 "Responding court." The court in which a responsive
25 proceeding is commenced.

26 "Responding state." A state in which any responsive
27 proceeding pursuant to the proceeding in the initiating state is
28 commenced.

29 "State." Includes a state, territory, or possession of the
30 United States, the District of Columbia, the Commonwealth of

1 Puerto Rico, and any foreign jurisdiction in which this or a
2 substantially similar reciprocal law is in effect.

3 "Support order." Any judgment, decree, or order of support
4 in favor of an obligee whether temporary or final, or subject to
5 modification, revocation, or remission, regardless of the kind
6 of action or proceeding in which it is entered.

7 § 4503. Remedies additional to those now existing.

8 The remedies provided in this chapter are in addition to and
9 not in substitution for any other remedies.

10 § 4504. Extent of duties of support.

11 Duties of support arising under the law of this Commonwealth,
12 when applicable under section 4507 (relating to choice of law),
13 bind the obligor present in this Commonwealth regardless of the
14 presence or residence of the obligee.

15 § 4505. Interstate rendition.

16 The Governor of this Commonwealth may:

17 (1) demand of the Governor of another state the
18 surrender of a person found in that state who is charged
19 criminally in this Commonwealth with failing to provide for
20 the support of any person; or

21 (2) surrender on demand by the Governor of another state
22 a person found in this Commonwealth who is charged criminally
23 in that state with failing to provide for the support of any
24 person.

25 Provisions for extradition of criminals not inconsistent with
26 this chapter apply to the demand even if the person whose
27 surrender is demanded was not in the demanding state at the time
28 of the commission of the crime and has not fled therefrom. The
29 demand, the oath, and any proceedings for extradition pursuant
30 to this section need not state or show that the person whose

1 surrender is demanded has fled from justice or at the time of
2 the commission of the crime was in the demanding state.

3 § 4506. Conditions of interstate rendition.

4 (a) Obligor in another state.--Before making the demand upon
5 the Governor of another state for the surrender of a person
6 charged criminally in this Commonwealth with failing to provide
7 for the support of a person, the Governor of this Commonwealth
8 may require any prosecuting attorney of this Commonwealth to
9 satisfy him that at least 60 days prior thereto the obligee
10 initiated proceedings for support under this chapter or that the
11 initiation of any proceeding would be of no avail.

12 (b) Obligor in this Commonwealth.--If, under a substantially
13 similar law, the Governor of another state makes a demand upon
14 the Governor of this Commonwealth for the surrender of a person
15 charged criminally in that state with failure to provide for the
16 support of a person, the Governor may require any prosecuting
17 attorney to investigate the demand and to report to him whether
18 proceedings for support have been initiated or would be
19 effective. If it appears to the Governor that a proceeding would
20 be effective but has not been initiated he may delay honoring
21 the demand for a reasonable time to permit the initiation of a
22 proceeding.

23 (c) Effect of support proceedings.--If proceedings have been
24 initiated and the person demanded has prevailed therein the
25 Governor may decline to honor the demand. If the obligee
26 prevailed and the person demanded is subject to a support order,
27 the Governor may decline to honor the demand if the person
28 demanded is complying with the support order.

29 § 4507. Choice of law.

30 Duties of support applicable under this chapter are those

1 imposed under the laws of any state where the obligor was
2 present for the period during which support is sought. The
3 obligor is presumed to have been present in the responding state
4 during the period for which support is sought until otherwise
5 shown.

6 § 4508. Remedies of state or political subdivision furnishing
7 support.

8 If a state or a political subdivision furnishes support to an
9 individual obligee it has the same right to initiate a
10 proceeding under this chapter as the individual obligee for the
11 purpose of securing reimbursement for support furnished and of
12 obtaining continuing support.

13 § 4509. How duties of support are enforced.

14 All duties of support, including the duty to pay arrearages,
15 are enforceable by a proceeding under this chapter including a
16 proceeding for civil contempt. The defense that the parties are
17 immune to suit because of their relationship as husband and wife
18 or parent and child is not available to the obligor.

19 § 4510. Jurisdiction.

20 Jurisdiction of any proceeding under this chapter is vested
21 in the courts of common pleas.

22 § 4511. Petition for support.

23 (a) Contents.--The petition shall be verified and shall
24 state the name and, so far as known to the obligee, the address
25 and circumstances of the obligor, the persons for whom support
26 is sought, and all other pertinent information. The obligee may
27 include in or attach to the petition any information which may
28 help in locating or identifying the obligor including a
29 photograph of the obligor, a description of any distinguishing
30 marks on his person, other names and aliases by which he has

1 been or is known, the name of his employer, his fingerprints,
2 and his social security number.

3 (b) Filing.--The petition may be filed in the appropriate
4 court of any state in which the obligee resides. The court may
5 decline or refuse to accept and forward the petition on the
6 ground that it should be filed with some other court of this or
7 any other state where there is pending another action for
8 divorce, separation, annulment, dissolution, habeas corpus,
9 adoption, or custody between the same parties or where another
10 court has already issued a support order in some other
11 proceeding and has retained jurisdiction for its enforcement.

12 § 4512. Officials to represent obligee.

13 If this Commonwealth is acting as an initiating state the
14 prosecuting attorney upon the request of the court, or a
15 Commonwealth or local welfare official shall represent the
16 obligee in any proceeding under this chapter. If the prosecuting
17 attorney neglects or refuses to represent the obligee, the
18 Department of Public Welfare may undertake the representation.

19 § 4513. Petition for a minor.

20 A petition on behalf of a minor obligee may be executed and
21 filed by a person having legal custody of the minor without
22 appointment as guardian ad litem.

23 § 4514. Duty of initiating court.

24 If the initiating court finds that the petition sets forth
25 facts from which it may be determined that the obligor owes a
26 duty of support and that a court of the responding state may
27 obtain jurisdiction of the obligor or his property it shall so
28 certify and cause three copies of the petition and its
29 certificate and one copy of this chapter to be sent to the
30 responding court. Certification shall be in accordance with the

1 requirements of the initiating state. If the name and address of
2 the responding court is unknown and the responding state has an
3 information agency comparable to that established in the
4 initiating state it shall cause the copies to be sent to the
5 state information agency or other proper official of the
6 responding state, with a request that the agency or official
7 forward them to the proper court and that the court of the
8 responding state acknowledge their receipt to the initiating
9 court.

10 § 4515. Costs and fees.

11 An initiating court shall not require payment of either a
12 filing fee or other costs from the obligee but may request the
13 responding court to collect fees and costs from the obligor. A
14 responding court shall not require payment of a filing fee or
15 other costs from the obligee but it may direct that all fees and
16 costs requested by the initiating court and all fees and costs
17 incurred in this Commonwealth when acting as a responding state,
18 including fees for filing of pleadings, service of process,
19 seizure of property, stenographic or duplication service, or
20 other service supplied to the obligor, be paid in whole or in
21 part by the obligor or by the state or political subdivision
22 thereof. These costs or fees do not have priority over amounts
23 due to the obligee.

24 § 4516. Jurisdiction by arrest.

25 (a) General rule.--If the court of this Commonwealth
26 believes that the obligor may flee it may:

27 (1) as an initiating court, request in its certificate
28 that the responding court obtain the body of the obligor by
29 appropriate process; or

30 (2) as a responding court, obtain the body of the

1 obligor by appropriate process. Thereupon it may release him
2 upon his own recognizance or upon his giving a bond in an
3 amount set by the court to assure his appearance at the
4 hearing. When the obligor is detained for the hearing, the
5 hearing shall be held within 15 days from the date of arrest.
6 The court may compel the attendance at a hearing by
7 attachment process directed to the sheriff or other proper
8 officer of the county directing and commanding that the
9 obligor be brought before the court at such time as the court
10 may direct. If the court, whenever an attachment is issued in
11 any county as provided in this paragraph, shall find after
12 hearing that the obligor has willfully neglected or refused
13 to comply with any order of the court, the court may adjudge
14 such person in contempt of court and, in its discretion, may
15 commit such person to the county jail or house of correction
16 until compliance with such order, but in no case for a period
17 exceeding six months. The court in its order shall state the
18 condition upon which fulfillment will result in the release
19 of the obligor.

20 (b) Philadelphia cases.--In the first judicial district the
21 obligor shall be brought before the court forthwith, but in any
22 event within 48 hours or two court working days, whichever is
23 the longer from the time the obligor is taken in custody
24 pursuant to the attachment; at which time, if the court shall
25 find, after hearing, that the obligor is about to leave the
26 jurisdiction, the court may direct that he give security, by one
27 or more sureties, to appear when directed by the court, or to
28 comply with any order of court.

29 § 4517. State information agency.

30 (a) General rule.--The Department of Public Welfare is

1 designated as the state information agency under this chapter.

2 It shall:

3 (1) Compile a list of the courts and their addresses in
4 this Commonwealth having jurisdiction under this chapter and
5 transmit it to the state information agency of every other
6 state which has adopted this or a substantially similar law.
7 Upon the adjournment of each session of the General Assembly
8 the agency shall distribute copies of any amendments to this
9 chapter and a statement of their effective date to all other
10 state information agencies.

11 (2) Maintain a register of lists of courts received from
12 other states and transmit copies thereof promptly to every
13 court in this Commonwealth having jurisdiction under this
14 chapter.

15 (3) Forward to the court in this Commonwealth which has
16 jurisdiction over the obligor or his property petitions,
17 certificates and copies of the laws it receives from courts
18 or information agencies of other states.

19 (b) Inquiry for obligor.--If the state information agency
20 does not know the location of the obligor or his property in the
21 state and no state location service is available it shall use
22 all means at its disposal to obtain this information, including
23 the examination of official records in the state and other
24 sources such as telephone directories, real property records,
25 vital statistics records, police records, requests for the name
26 and address from employers who are able or willing to cooperate,
27 records of motor vehicle license offices, requests made to the
28 tax offices, both State and Federal, where such offices are able
29 to cooperate, and requests made to the Social Security
30 Administration as permitted by the Social Security Act as

1 amended.

2 (c) Department of Public Welfare prosecution.--After the
3 deposit of three copies of the petition and certificate and one
4 copy of the law of the initiating state with the clerk of the
5 appropriate court, if the state information agency knows or
6 believes that the prosecuting attorney is not prosecuting the
7 case diligently it shall inform the Department of Public
8 Welfare, who may undertake the representation.

9 § 4518. Duty of the court and officials of this Commonwealth as
10 responding state.

11 (a) Docketing and notice.--After the responding court
12 receives copies of the petition, certificate and law from the
13 initiating court the clerk of the court shall docket the case
14 and notify the prosecuting attorney of his action.

15 (b) District attorney prosecution.--The prosecuting attorney
16 shall prosecute the case diligently. He shall take all action
17 necessary in accordance with the laws of this Commonwealth to
18 enable the court to obtain jurisdiction over the obligor or his
19 property and shall request the clerk of the court to set a time
20 and place for a hearing and give notice thereof to the obligor
21 in accordance with law.

22 (c) Department of Public Welfare prosecution.--If the
23 prosecuting attorney neglects or refuses to represent the
24 obligee, the Department of Public Welfare may undertake the
25 representation.

26 § 4519. Further duties of court and officials of responding
27 state.

28 (a) General rule.--The prosecuting attorney on his own
29 initiative shall use all means at his disposal to locate the
30 obligor or his property, and if because of inaccuracies in the

1 petition or otherwise the court cannot obtain jurisdiction the
2 prosecuting attorney shall inform the court of what he has done
3 and request the court to continue the case pending receipt of
4 more accurate information or an amended petition from the
5 initiating court.

6 (b) Forwarding of documents.--If the obligor or his property
7 is not found in the county, and the prosecuting attorney
8 discovers that the obligor or his property may be found in
9 another county of this Commonwealth or in another state he shall
10 so inform the court. Thereupon the clerk of the court shall
11 forward the documents received from the court in the initiating
12 state to a court in the other county or to a court in the other
13 state or to the information agency or other proper official of
14 the other state with a request that the documents be forwarded
15 to the proper court. All powers and duties provided by this
16 chapter apply to the recipient of the documents so forwarded. If
17 the clerk of a court of this Commonwealth forwards documents to
18 another court he shall forthwith notify the initiating court.

19 (c) Notice of no information.--If the prosecuting attorney
20 has no information as to the location of the obligor or his
21 property he shall so inform the initiating court.

22 § 4520. Hearing and continuance.

23 If the obligee is not present at the hearing and the obligor
24 denies owing the duty of support alleged in the petition or
25 offers evidence constituting a defense the court, upon request
26 of either party, shall continue the hearing to permit evidence
27 relative to the duty to be adduced by either party by deposition
28 or by appearing in person before the court. The court may
29 designate the judge of the initiating court as a person before
30 whom a deposition may be taken.

1 § 4521. Immunity from criminal prosecution.

2 If at the hearing the obligor is called for examination as an
3 adverse party and he declines to answer upon the ground that his
4 testimony may tend to incriminate him, the court may require him
5 to answer, in which event he is immune from criminal prosecution
6 with respect to matters revealed by his testimony, except for
7 perjury committed in this testimony.

8 § 4522. Evidence of husband and wife.

9 Laws attaching a privilege against the disclosure of
10 communications between husband and wife are inapplicable to
11 proceedings under this chapter. Husband and wife are competent
12 witnesses and may be compelled to testify to any relevant
13 matter, including marriage and parentage.

14 § 4523. Rules of evidence.

15 In any hearing for the civil enforcement of this chapter the
16 court is governed by the rules of evidence applicable in a civil
17 matter in the court of common pleas. If the action is based on a
18 support order issued by another court a certified copy of the
19 order shall be received as evidence of the duty of support,
20 subject only to any defenses available to an obligor under
21 section 4527 (relating to paternity) or to a defendant in an
22 action or a proceeding to enforce a foreign money judgment. The
23 determination or enforcement of a duty of support owed to one
24 obligee is unaffected by any interference by another obligee
25 with rights of custody or visitation granted by a court.

26 § 4524. Order of support.

27 If the responding court finds a duty of support it may order
28 the obligor to furnish support or reimbursement therefor and
29 subject the property of the obligor to the order. Support orders
30 made pursuant to this chapter shall require that payments be

1 made to the clerk of the court of the responding state, or to
2 other officer designated by the court. The court and prosecuting
3 attorney of any county in which the obligor is present or has
4 property have the same powers and duties to enforce the order as
5 have those of the county in which it was first issued. If
6 enforcement is impossible or cannot be completed in the county
7 in which the order was issued, the prosecuting attorney shall
8 send a certified copy of the order to the prosecuting attorney
9 of any county in which it appears that proceedings to enforce
10 the order would be effective. The prosecuting attorney to whom
11 the certified copy of the order is forwarded shall proceed with
12 enforcement and report the results of the proceedings to the
13 court first issuing the order.

14 § 4525. Responding court to transmit copies to initiating
15 court.

16 The responding court shall cause a copy of all support orders
17 to be sent to the initiating court.

18 § 4526. Additional powers of responding court.

19 In addition to the foregoing powers set forth in this chapter
20 a responding court may subject the obligor to any terms and
21 conditions proper to assure compliance with its orders and in
22 particular to:

23 (1) Require the obligor to furnish a cash deposit or a
24 bond of a character and amount to assure payment of any
25 amount due.

26 (2) Require the obligor to report personally and to make
27 payments at specific intervals to the clerk of the court, or
28 to other officer designated by the court.

29 (3) Punish under the power of contempt the obligor who
30 violates any order of the court. No such punishment shall be

1 administered until the court shall find, after hearing, that
2 the violation was willful.

3 § 4527. Paternity.

4 If the obligor asserts as a defense that he is not the father
5 of the child for whom support is sought and it appears to the
6 court that the defense is not frivolous, and if both of the
7 parties are present at the hearing or the proof required in the
8 case indicates that the presence of either or both of the
9 parties is not necessary, the court may adjudicate the paternity
10 issue. Otherwise the court may adjourn the hearing until the
11 paternity issue has been adjudicated.

12 § 4528. Additional duties of responding court.

13 A responding court has the following duties which may be
14 carried out through the clerk of the court, or other officer
15 designated by the court:

16 (1) To transmit to the initiating court any payment made
17 by the obligor pursuant to any order of the court or
18 otherwise.

19 (2) To furnish to the initiating court upon request a
20 certified statement of all payments made by the obligor.

21 § 4529. Additional duty of initiating court.

22 An initiating court shall receive and disburse forthwith all
23 payments made by the obligor or sent by the responding court.
24 This duty may be carried out through the clerk of the court, or
25 other officer designated by the court.

26 § 4530. Proceedings not to be stayed.

27 A responding court shall not stay the proceeding or refuse a
28 hearing under this chapter because of any pending or prior
29 action or proceeding for divorce, separation, annulment,
30 dissolution, habeas corpus, adoption, or custody in this

1 Commonwealth or any other state. The court shall hold a hearing
2 and may issue a support order pendente lite. In aid thereof it
3 may require the obligor to give a bond for the prompt
4 prosecution of the pending proceeding. If the other action or
5 proceeding is concluded before the hearing in the instant
6 proceeding and the judgment therein provides for the support
7 demanded in the petition being heard the court must take into
8 account in placing its support order the amount allowed in the
9 other action or proceeding. Thereafter the court shall not stay
10 enforcement of its support order because of the retention of
11 jurisdiction for enforcement purposes by the court in the other
12 action or proceeding.

13 § 4531. Application of payments.

14 A support order made by a court of this Commonwealth pursuant
15 to this chapter does not nullify and is not nullified by a
16 support order made by a court of this Commonwealth pursuant to
17 any other law or by a support order made by a court of any other
18 state pursuant to a substantially similar law or any other law,
19 regardless of priority of issuance, unless otherwise
20 specifically provided by the court. Amounts paid for a
21 particular period pursuant to any support order made by the
22 court of another state shall be credited against the amounts
23 accruing or accrued for the same period under any support order
24 made by the court of this Commonwealth.

25 § 4532. Effect of participation in proceeding.

26 Participation in any proceeding under this chapter does not
27 confer jurisdiction upon any court over any of the parties
28 thereto in any other proceeding.

29 § 4533. Intrastate application.

30 This chapter applies if both the obligee and the obligor are

1 in this Commonwealth but in different counties. If the court of
2 the county in which the petition is filed finds that the
3 petition sets forth facts from which it may be determined that
4 the obligor owes a duty of support and finds that a court of
5 another county in this Commonwealth may obtain jurisdiction over
6 the obligor or his property, the clerk of the court shall send
7 the petition and a certification of the findings to the court of
8 the county in which the obligor or his property is found. The
9 clerk of the court of the county receiving these documents shall
10 notify the prosecuting attorney of their receipt. The
11 prosecuting attorney and the court in the county to which the
12 copies are forwarded then shall have duties corresponding to
13 those imposed upon them when acting for this Commonwealth as a
14 responding state.

15 § 4534. Appeals.

16 (a) By Department of Public Welfare.--If the Department of
17 Public Welfare is of the opinion that a support order is
18 erroneous, or inadequate, or presents a question of law
19 warranting an appeal in the public interest, it may:

20 (1) perfect an appeal to the proper appellate court if
21 the support order was issued by a court of this Commonwealth;
22 or

23 (2) if the support order was issued in another state,
24 cause the appeal to be taken in the other state.

25 In either case expenses of appeal taken by such department may
26 be paid from funds appropriated to the Department of Public
27 Welfare.

28 (b) By obligee.--In the event the Department of Public
29 Welfare fails or refuses to file an appeal on behalf of the
30 obligee, such obligee may file such appeal as provided in

1 subsection (a).

2 (c) By obligor.--The obligor shall have the right to file an
3 appeal to the proper appellate court if the support order was
4 issued by a court of this Commonwealth, or may cause the appeal
5 to be taken in the other state, if the support order was issued
6 in another state.

7 § 4535. Additional remedies.

8 If the duty of support is based on a foreign support order,
9 the obligee has the additional remedies provided in the
10 following sections of this chapter.

11 § 4536. Registration.

12 The obligee may register the foreign support order in a court
13 of this Commonwealth in the manner, with the effect, and for the
14 purposes provided in this chapter.

15 § 4537. Registry of foreign support orders.

16 The clerk of the court shall maintain a registry of foreign
17 support orders in which he shall file foreign support orders.

18 § 4538. Official to represent obligee.

19 (a) General rule.--If this Commonwealth is acting either as
20 a rendering or a registering state the prosecuting attorney upon
21 the request of the court, or a Commonwealth or other local
22 welfare official, shall represent the obligee in proceedings
23 under this chapter.

24 (b) Department of Public Welfare prosecution.--If the
25 prosecuting attorney neglects or refuses to represent the
26 obligee, the Department of Public Welfare may undertake the
27 representation.

28 § 4539. Registration procedure.

29 (a) General rule.--An obligee seeking to register a foreign
30 support order in a court of this Commonwealth shall transmit to

1 the clerk of the court:

2 (1) One certified copy of the order with all
3 modifications thereof.

4 (2) One copy of the reciprocal enforcement of support
5 law of the state in which the order was made.

6 (3) A statement verified and signed by the obligee,
7 showing the post office address of the obligee, the last
8 known place of residence and post office address of the
9 obligor, the amount of support remaining unpaid, a
10 description and the location of any property of the obligor
11 available upon execution, and a list of the states in which
12 the order is registered.

13 Upon receipt of these documents the clerk of the court, without
14 payment of a recording fee or other cost to the obligee, shall
15 record them in the registry of foreign support orders. The
16 recording constitutes registration under this chapter.

17 (b) Notice.--Within ten days after the registration the
18 clerk of the court shall send by certified or registered mail to
19 the obligor at the address given a notice of the registration
20 with a copy of the registered support order and the post office
21 address of the obligee. He shall also docket the case and notify
22 the prosecuting attorney of his action. The prosecuting attorney
23 shall proceed diligently to enforce the order.

24 § 4540. Effect and enforcement of registered order.

25 (a) Effect.--Upon registration the registered foreign
26 support order shall be treated in the same manner as a support
27 order issued by a court of this Commonwealth. It has the same
28 effect and is subject to the same procedures, defenses, and
29 proceedings for reopening, vacating, or staying as a support
30 order of this Commonwealth and may be enforced and satisfied in

1 like manner.

2 (b) Challenge to order.--The obligor has 20 days after the
3 mailing of notice of the registration in which to petition the
4 court to vacate the registration or for other relief. If he does
5 not so petition the registered support order is confirmed.

6 (c) Procedure.--At the hearing to enforce the registered
7 support order the obligor may present only matters that would be
8 available to him as defenses in an action to enforce a foreign
9 money judgment. If he shows to the court that an appeal from the
10 order is pending or will be taken or that a stay of execution
11 has been granted the court shall stay enforcement of the order
12 until the appeal is concluded, the time for appeal has expired,
13 or the order is vacated, upon satisfactory proof that the
14 obligor has furnished security for payment of the support
15 ordered as required by the rendering state. If he shows to the
16 court any ground upon which enforcement of a support order of
17 this Commonwealth may be stayed the court shall stay enforcement
18 of the order for an appropriate period if the obligor furnishes
19 the same security for payment of the support ordered that is
20 required for a support order of this Commonwealth.

21 PART VI

22 CHILDREN AND MINORS

23 Chapter

24 53. Custody

25 CHAPTER 53

26 CUSTODY

27 Subchapter

28 A. General Provisions

29 B. (Reserved)

30 SUBCHAPTER A

GENERAL PROVISIONS

Sec.

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§ 5301. Declaration of policy.

The General Assembly declares that it is the public policy of this Commonwealth, when in the best interest of the child, to assure a reasonable and continuing contact of the child with both parents after a separation or dissolution of the marriage and the sharing of the rights and responsibilities of child rearing by both parents and continuing contact of the child or children with grandparents when a parent is deceased, divorced or separated.

§ 5302. Definitions.

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

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

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

5 "Partial custody." The right to take possession of a child
6 away from the custodial parent for a certain period of time.

7 "Physical custody." The actual physical possession and
8 control of a child.

9 "Shared custody." An order awarding shared legal or shared
10 physical custody, or both, of a child in such a way as to assure
11 the child of frequent and continuing contact with and physical
12 access to both parents.

13 "Visitation." The right to visit a child. The term does not
14 include the right to remove a child from the custodial parent's
15 control.

16 § 5303. Award of sole custody.

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

23 § 5304. Award of shared custody.

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

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

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

29 (3) in the discretion of the court.

30 § 5305. Counseling.

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

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

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

15 § 5306. Plan for implementation of custody order.

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

22 § 5307. Denial of custody under agreement or plan.

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

27 § 5308. Removal of party or child from jurisdiction.

28 If either party intends to or does remove himself or the
29 child from this Commonwealth after a custody order has been
30 made, the court, on its own motion or upon motion of either

1 party, may review the existing custody order.

2 § 5309. Access to records and information.

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

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

12 (c) Nondisclosure of confidential information.--The court
13 shall not order that the address of a shelter for battered
14 spouses and their dependent children or otherwise confidential
15 information of a domestic violence counselor be disclosed to the
16 defendant or his counsel or any party to the proceedings.

17 § 5310. Modification of existing custody orders.

18 Any order for the custody of the child of a marriage entered
19 by a court in this Commonwealth or any state may, subject to the
20 jurisdictional requirements set forth in 42 Pa.C.S. §§ 5342
21 (relating to purposes and construction of subchapter) and 5344
22 (relating to jurisdiction), be modified at any time to an order
23 of shared custody in accordance with this subchapter.

24 § 5311. When parent deceased.

25 If a parent of an unmarried child is deceased, the parents or
26 grandparents of the deceased parent may be granted reasonable
27 partial custody or visitation rights, or both, to the unmarried
28 child by the court upon a finding that partial custody or
29 visitation rights, or both, would be in the best interest of the
30 child and would not interfere with the parent-child

1 relationship. The court shall consider the amount of personal
2 contact between the parents or grandparents of the deceased
3 parent and the child prior to the application.

4 § 5312. When parents' marriage is dissolved or parents are
5 separated.

6 In all proceedings for dissolution, subsequent to the
7 commencement of the proceeding and continuing thereafter or when
8 parents have been separated for six months or more, the court
9 may, upon application of the parent or grandparent of a party,
10 grant reasonable partial custody or visitation rights, or both,
11 to the unmarried child if it finds that visitation rights or
12 partial custody, or both, would be in the best interest of the
13 child and would not interfere with the parent-child
14 relationship. The court shall consider the amount of personal
15 contact between the parents or grandparents of the party and the
16 child prior to the application.

17 § 5313. When child has resided with grandparents.

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

27 § 5314. Exception for adopted children.

28 Sections 5311 (relating to when parent deceased), 5312
29 (relating to when parents' marriage is dissolved or parents are
30 separated) and 5313 (relating to when child has resided with

1 grandparents) shall not apply if the child has been adopted by a
2 person other than a stepparent or grandparent. Any visitation
3 rights granted pursuant to this section prior to the adoption of
4 the child shall be automatically terminated upon such adoption.

5 Section 2. Savings provision.--(a) This act does not affect
6 the ability to enforce any right to penalty or punish any
7 offense under the authority of statutes repealed by this act.

8 (b) This act does not repeal or modify sections 1, 2, 3, 4,
9 5 and 6 of the act of June 24, 1937 (P.L.2045, No.397), known as
10 The Support Law.

11 Section 3. Repeals.--(a) The following acts or parts of
12 acts are repealed:

13 Act of February 22, 1718 (1 Sm.L. 99, Ch. 226), entitled "An
14 act concerning feme-sole traders."

15 Act of April 11, 1848 (P.L.536, No.372), entitled "A
16 supplement to an act, entitled 'An Act relative to the Le
17 Raysville Phalanx,' passed March, Anno Domini one thousand eight
18 hundred and forty-seven, and relative to obligators and
19 obligees, to secure the right of married women, in relation to
20 defalcation, and to extend the boundaries of the borough of
21 Ligonier."

22 ~~Act~~ SECTION 20 OF THE ACT of April 22, 1850 (P.L.549, <—
23 No.342), entitled "A supplement to an act, entitled 'An Act to
24 prevent waste in certain cases within this commonwealth,' passed
25 the twenty-ninth day of March, one thousand eight hundred and
26 twenty-two; to land and building associations; giving the court
27 of Susquehanna county jurisdiction in a certain case; relative
28 to the service of process in certain cases; to party walls in
29 West Philadelphia; to the proof of a certain will; to the sale
30 and purchase of certain burial grounds in Philadelphia; to the

1 laying of gas pipes in the district of Moyamensing; to the
2 release of certain sureties in Erie county; to the State Lunatic
3 hospital; relative to the service of process against sheriffs;
4 to the rights of married women; to ground rents; and relating to
5 foreign insurance companies."

6 Act of April 15, 1851 (P.L.669, No.358), entitled "An act to
7 incorporate a company to erect a bridge over the river
8 Schuylkill at Spring Mill, in Montgomery county, relative to the
9 nineteenth section of 'An act regulating certain election
10 districts, &c,' approved March twenty-ninth, eighteen hundred
11 and fifty-one, to school directors in Philadelphia county, to
12 actions for damages sustained by injuries done to the person by
13 negligence or default, relative to the accounts of John Humes,
14 deceased, to authorize the trustees of the Seventh Presbyterian
15 church of Philadelphia to convey certain real estate, to
16 security for moneys loaned by wives to husbands, to unpaid
17 school taxes in Bradford county, and relative to service or
18 process on agents of joint stock companies."

19 Act of May 4, 1855 (P.L.430, No.456), entitled "An act
20 relating to certain duties and rights of Husband and Wife, and
21 Parents and Children."

22 Act of April 11, 1856 (P.L.315, No.334), entitled "An act
23 relating to the rights of property of Husband and Wife."

24 Act of April 1, 1863 (P.L.212, No.225), entitled "A
25 supplement to the act to secure the rights of married women,
26 passed the eleventh day of April, Anno Domini one thousand eight
27 hundred and forty-eight."

28 Act of April 3, 1872 (P.L.35, No.24), entitled "An act
29 securing to married women their separate earnings."

30 Act of June 11, 1879 (P.L.126, No.129), entitled "An act

1 relative to actions brought by husband and wife, or by the wife
2 alone, for her separate property, in cases of desertion."

3 Act of June 8, 1893 (P.L.344, No.284), entitled "An act
4 relating to husband and wife, enlarging her capacity to acquire
5 and dispose of property, to sue and be sued, and to make a last
6 will, and enabling them to sue and to testify against each other
7 in certain cases."

8 Act of July 9, 1897 (P.L.212, No.171), entitled "An act
9 authorizing married women, living separate and apart from their
10 husbands under separation agreements, to convey and encumber
11 their real estate without the joinder of their husbands."

12 ~~Act~~ SECTION 2 OF THE ACT of June 4, 1901 (P.L.425, No.233), <—
13 entitled "An act regulating trusts arising from the payment of
14 the purchase money of land by one person, and the taking of the
15 legal title in the name of another."

16 Act of May 23, 1907 (P.L.227, No.176), entitled "An act
17 relating to husband and wife, and to enlarge the rights and
18 remedies of married women in case of desertion or non-support by
19 husband."

20 Act of June 3, 1911 (P.L.631, No.241), entitled "An act
21 authorizing a married woman to make conveyances of real estate
22 to her husband, and validating all such conveyances heretofore
23 made."

24 Act of May 1, 1913 (P.L.146, No.97), entitled "An act
25 enabling a married woman, who has been deserted, abandoned, or
26 driven from her home by her husband, to sue her husband, upon
27 any cause of action whatsoever; and making such wife a competent
28 witness against the husband in such case."

29 Act of June 12, 1913 (P.L.502, No.330), entitled "An act to
30 increase the powers of courts in summary proceedings for

1 desertion or non-support of wives, children, or aged parents, by
2 directing that imprisonment in such cases be at hard labor in
3 such institution as the court shall name, with the wages payable
4 to the wives, children, or parents; providing for the
5 disbursement of moneys collected on forfeitures of bonds, bail-
6 bonds, or recognizances; and by empowering such courts to
7 appoint desertion probation officers for the performance of such
8 duties as the court shall direct; and providing for the payment
9 of the expenses incident to the carrying out of this act."

10 Act of May 28, 1915 (P.L.639, No.279), entitled "An act to
11 permit a married woman whose husband has lived separate and
12 apart from her for one year or more, and who during that time
13 has not been supported by her husband, to become a feme sole
14 trader."

15 Act of June 2, 1919 (P.L.363, No.177), entitled "An act to
16 quiet the title of real estate by providing that the sale of
17 real estate of any bankrupt or insolvent debtor shall pass the
18 title of such real estate freed from any claims for, or rights
19 to, any statutory interest inchoate of the spouse of the
20 bankrupt or insolvent debtor."

21 Act of May 10, 1921 (P.L.434, No.210), entitled "An act to
22 empower courts of competent jurisdiction to issue writs of
23 execution against property of defendant, and attachment
24 execution or in the nature of attachment execution against
25 trusts, including those commonly known as spendthrift trusts, no
26 matter when such trusts were created, in cases where an order,
27 award, or decree has been made against a husband for the support
28 of his wife or children or both; making such attachment
29 execution against trusts a continuing lien and levy for fifty
30 per centum of such money or property until the order, judgment,

1 or decree is paid in full with costs; and abolishing the benefit
2 of the exemption law in such cases."

3 Section 7 of the act of June 24, 1937 (P.L.2045, No.397),
4 known as The Support Law.

5 Act of July 17, 1957 (P.L.969, No.417), entitled "An act
6 enlarging the rights and powers of married women as to property
7 and contracts and repealing certain provisions."

8 ~~Act of August 7, 1961 (P.L.961, No.426), entitled "An act~~ <—
9 ~~authorizing minor spouses to join their adult spouse in the~~
10 ~~conveyance or mortgaging of their real estate and to execute~~
11 ~~bonds or other obligations in connection therewith and~~
12 ~~validating such action taken."~~

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

15 18 Pa.C.S. Ch. 43 Subch. B (relating to nonsupport).

16 42 Pa.C.S. Ch. 67 (relating to support proceedings).

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

19 Section 4. Effective date.--This act shall take effect in 90
20 days.