

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 434 Session of
1995

INTRODUCED BY GREENLEAF, BAKER, BELL, BODACK, GERLACH, DAWIDA,
HELFRICK, LEMMOND, LOEPER, SHUMAKER, STOUT, SCHWARTZ, WAGNER,
WENGER, ANDREZESKI AND RHOADES, FEBRUARY 9, 1995

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 28, 1996

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, ~~providing for~~ FURTHER PROVIDING FOR <—
3 DEFINITIONS, FOR ARREARAGES, FOR CONTEMPT OF THE COURT ORDER,
4 FOR ATTACHMENT OF INCOME AND FOR petition for custody by
5 grandparents; AND ADDING PROVISIONS RELATING TO SAME SEX <—
6 MARRIAGES.

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

9 ~~Section 1. Section 5313 of Title 23 of the Pennsylvania~~ <—
10 ~~Consolidated Statutes is amended to read:~~

11 SECTION 1. SECTION 1102 OF TITLE 23 OF THE PENNSYLVANIA <—
12 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:
13 § 1102. DEFINITIONS.

14 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS PART SHALL
15 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
16 CONTEXT CLEARLY INDICATES OTHERWISE:

17 * * *

18 "MARRIAGE." A CIVIL CONTRACT BY WHICH ONE MAN AND ONE WOMAN

1 TAKE EACH OTHER FOR HUSBAND AND WIFE.

2 * * *

3 SECTION 2. TITLE 23 IS AMENDED BY ADDING A SECTION TO READ:

4 § 1704. MARRIAGE BETWEEN PERSONS OF THE SAME SEX.

5 IT IS HEREBY DECLARED TO BE THE STRONG AND LONGSTANDING
6 PUBLIC POLICY OF THIS COMMONWEALTH THAT MARRIAGE SHALL BE
7 BETWEEN ONE MAN AND ONE WOMAN. A MARRIAGE BETWEEN PERSONS OF THE
8 SAME SEX, WHICH WAS ENTERED INTO IN ANOTHER STATE OR FOREIGN
9 JURISDICTION, EVEN IF VALID WHERE ENTERED INTO, SHALL BE VOID IN
10 THIS COMMONWEALTH.

11 SECTION 3. THE DEFINITION OF "INCOME" IN SECTION 4302 OF
12 TITLE 23 IS AMENDED AND THE SECTION IS AMENDED BY ADDING
13 DEFINITIONS TO READ:

14 § 4302. 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 "COMMONWEALTH AGENCY." ANY AGENCY, COMMISSION, PUBLIC
19 INSTITUTION, POLITICAL SUBDIVISION OR ANY OTHER ORGANIZED BODY,
20 OFFICE, INSTITUTION OR ENTITY ESTABLISHED BY THE LAWS OF THIS
21 COMMONWEALTH FOR THE EXERCISE OF ANY FUNCTION OF GOVERNMENT. THE
22 TERM SHALL INCLUDE ALL PUBLIC UTILITIES REGULATED BY THE
23 PENNSYLVANIA PUBLIC UTILITY COMMISSION.

24 * * *

25 "INCOME." INCLUDES COMPENSATION FOR SERVICES, INCLUDING, BUT
26 NOT LIMITED TO, WAGES, SALARIES, FEES, COMPENSATION IN KIND,
27 COMMISSIONS AND SIMILAR ITEMS; INCOME DERIVED FROM BUSINESS;
28 GAINS DERIVED FROM DEALINGS IN PROPERTY; INTEREST; RENTS;
29 ROYALTIES; DIVIDENDS; ANNUITIES; INCOME FROM LIFE INSURANCE AND
30 ENDOWMENT CONTRACTS; ALL FORMS OF RETIREMENT; PENSIONS; INCOME

1 FROM DISCHARGE OF INDEBTEDNESS; DISTRIBUTIVE SHARE OF
2 PARTNERSHIP GROSS INCOME; INCOME IN RESPECT OF A DECEDENT;
3 INCOME FROM AN INTEREST IN AN ESTATE OR TRUST; MILITARY
4 RETIREMENT BENEFITS; RAILROAD EMPLOYMENT RETIREMENT BENEFITS;
5 SOCIAL SECURITY BENEFITS; TEMPORARY AND PERMANENT DISABILITY
6 BENEFITS; WORKMEN'S COMPENSATION AND UNEMPLOYMENT COMPENSATION;
7 OR OTHER ENTITLEMENTS TO MONEY OR LUMP SUM AWARDS, WITHOUT
8 REGARD TO SOURCE.

9 * * *

10 "LABOR ORGANIZATION." ANY ORGANIZATION OR EMPLOYEE
11 REPRESENTATION COMMITTEE, PLAN OR ARRANGEMENT IN WHICH EMPLOYEES
12 PARTICIPATE AND WHICH EXISTS FOR THE PURPOSE OF DEALING WITH
13 EMPLOYERS CONCERNING GRIEVANCES, LABOR DISPUTES, WAGES, RATES OF
14 PAY, HOURS OF EMPLOYMENT, CONDITIONS OF WORK, PENSIONS OR
15 BENEFITS.

16 * * *

17 SECTION 4. SECTIONS 4304, 4345, 4348(O) AND 5313 OF TITLE 23
18 ARE AMENDED TO READ:

19 § 4304. COOPERATION OF COMMONWEALTH AGENCIES AND OTHER
20 ORGANIZATIONS.

21 (A) COOPERATION OF COMMONWEALTH AGENCIES.--UPON REQUEST OF
22 THE DEPARTMENT OF PUBLIC WELFARE ON BEHALF OF A DOMESTIC
23 RELATIONS SECTION, COMMONWEALTH AGENCIES SHALL PROVIDE
24 INFORMATION REGARDING [WAGES, EMPLOYER AND ADDRESS INFORMATION
25 FOR THE PURPOSES OF CARRYING OUT THIS CHAPTER, UNLESS SUCH
26 INFORMATION MUST REMAIN CONFIDENTIAL PURSUANT TO OTHER
27 PROVISIONS OF LAW.] A PERSON'S INCOME, TELEPHONE NUMBER,
28 ADDRESS, SOCIAL SECURITY NUMBER AND DATE OF BIRTH AND THE NAME,
29 ADDRESS AND TELEPHONE NUMBER OF THAT PERSON'S EMPLOYER TO THE
30 EXTENT THIS INFORMATION IS KNOWN BY THE COMMONWEALTH AGENCY

1 UNLESS SUCH INFORMATION MUST REMAIN CONFIDENTIAL IN ACCORDANCE
2 WITH FEDERAL LAW. ALL INFORMATION OBTAINED BY A DOMESTIC
3 RELATIONS SECTION UNDER THIS SECTION SHALL BE CONFIDENTIAL AND
4 SHALL ONLY BE USED IN THE ENFORCEMENT AND ESTABLISHMENT OF CHILD
5 SUPPORT ORDERS UNDER THIS TITLE.

6 (B) COOPERATION OF LABOR ORGANIZATIONS.--UPON THE REQUEST OF
7 THE DEPARTMENT OF PUBLIC WELFARE ON BEHALF OF A DOMESTIC
8 RELATIONS SECTION, LABOR ORGANIZATIONS SHALL PROVIDE INFORMATION
9 REGARDING A PERSON'S INCOME, TELEPHONE NUMBER, ADDRESS, SOCIAL
10 SECURITY NUMBER AND DATE OF BIRTH AND THE NAME, ADDRESS AND
11 TELEPHONE NUMBER OF THAT PERSON'S EMPLOYER TO THE EXTENT THAT
12 THIS INFORMATION IS KNOWN BY THE ENTITY UNLESS SUCH INFORMATION
13 MUST REMAIN CONFIDENTIAL IN ACCORDANCE WITH FEDERAL LAW. ALL
14 INFORMATION OBTAINED BY A DOMESTIC RELATIONS SECTION UNDER THIS
15 SECTION SHALL BE CONFIDENTIAL AND SHALL ONLY BE USED IN THE
16 ENFORCEMENT AND ESTABLISHMENT OF CHILD SUPPORT ORDERS UNDER THIS
17 TITLE.

18 (C) IMMUNITY.--IN THE ABSENCE OF MALICE, AGENCIES OR
19 ORGANIZATIONS, THEIR EMPLOYEES, AGENTS OR DESIGNEES, PROVIDING
20 INFORMATION UNDER THIS SECTION, SHALL NOT BE SUBJECT TO CIVIL OR
21 CRIMINAL LIABILITY BY REASON OF HAVING PROVIDED THE INFORMATION.

22 § 4345. CONTEMPT FOR NONCOMPLIANCE WITH SUPPORT ORDER.

23 (A) GENERAL RULE.--A PERSON WHO WILLFULLY FAILS TO COMPLY
24 WITH ANY ORDER UNDER THIS CHAPTER, EXCEPT AN ORDER SUBJECT TO
25 SECTION 4344 (RELATING TO CONTEMPT FOR FAILURE OF OBLIGOR TO
26 APPEAR), MAY, AS PRESCRIBED BY GENERAL RULE, BE ADJUDGED IN
27 CONTEMPT. CONTEMPT SHALL BE PUNISHABLE BY ANY ONE OR MORE OF THE
28 FOLLOWING:

29 (1) IMPRISONMENT FOR A PERIOD NOT TO EXCEED SIX MONTHS.

30 (2) A FINE NOT TO EXCEED [\$500] \$1,000.

1 (3) PROBATION FOR A PERIOD NOT TO EXCEED [SIX MONTHS]
2 ONE YEAR.

3 (B) CONDITION FOR RELEASE.--AN ORDER COMMITTING A DEFENDANT
4 TO JAIL UNDER THIS SECTION SHALL SPECIFY THE CONDITION THE
5 FULFILLMENT OF WHICH WILL RESULT IN THE RELEASE OF THE OBLIGOR.
6 § 4348. ATTACHMENT OF INCOME.

7 * * *

8 (O) PRIORITY OF ATTACHMENT.--AN ORDER OF ATTACHMENT FOR
9 SUPPORT SHALL HAVE PRIORITY OVER ANY ATTACHMENT, EXECUTION,
10 GARNISHMENT, STATE OR LOCAL TAX WITHHOLDING OR WAGE ASSIGNMENT.

11 * * *

12 § 5313. When [child has resided with] grandparents may
13 petition.

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

23 (b) Physical and legal custody.--A grandparent has standing
24 to bring a petition for physical and legal custody of a
25 grandchild. If it is in the best interest of the child not to be
26 in the custody of either parent and if it is in the best
27 interest of the child to be in the custody of the grandparent,
28 the court may award physical and legal custody to the
29 grandparent. This subsection applies to a grandparent:

30 (1) who has genuine care and concern for the child;

1 (2) whose relationship with the child began with the
2 consent of a parent of the child or pursuant to an order of
3 court; and

4 (3) who, OVER AN EXTENDED PERIOD OF TIME, has assumed ←
5 the role and responsibilities of the child's parent,
6 providing for the physical, emotional and social needs of the
7 child, or who deems it is necessary to assume the role and
8 responsibilities of the child's parent due to physical or
9 sexual abuse or neglect, or parental dysfunction, such as
10 drug or alcohol abuse or emotional or mental illness or
11 instability.

12 Section 2 5. This act shall take effect in 60 days. ←