

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

SENATE AMENDMENTS TO HOUSE AMENDMENTS, OCTOBER 1, 1996

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions, for
3 arrearages, for contempt of the court order, for attachment
4 of income and for petition for custody by grandparents; and
5 adding provisions relating to same sex marriages.

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

8 Section 1. Section 1102 of Title 23 of the Pennsylvania
9 Consolidated Statutes is amended by adding a definition to read:

10 § 1102. Definitions.

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

14 * * *

15 "Marriage." A civil contract by which one man and one woman
16 take each other for husband and wife.

17 * * *

18 Section 2. Title 23 is amended by adding a section to read:

19 § 1704. Marriage between persons of the same sex.

1 It is hereby declared to be the strong and longstanding
2 public policy of this Commonwealth that marriage shall be
3 between one man and one woman. A marriage between persons of the
4 same sex, which was entered into in another state or foreign
5 jurisdiction, even if valid where entered into, shall be void in
6 this Commonwealth.

7 Section 3. The definition of "income" in section 4302 of
8 Title 23 is amended and the section is amended by adding
9 definitions to read:

10 § 4302. Definitions.

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

14 ~~"Commonwealth agency." Any agency, commission, public~~ <—
15 ~~institution, political subdivision or any other organized body,~~
16 ~~office, institution or entity established by the laws of this~~
17 ~~Commonwealth for the exercise of any function of government. The~~
18 ~~term shall include all public utilities regulated by the~~
19 ~~Pennsylvania Public Utility Commission.~~

20 * * *

21 ~~"GOVERNMENT AGENCY." ANY AGENCY OF THE COMMONWEALTH~~ <—
22 ~~INCLUDING DEPARTMENTS, BOARDS, COMMISSIONS, AUTHORITIES, ANY~~
23 ~~POLITICAL SUBDIVISIONS OR AGENCY OF SUCH POLITICAL SUBDIVISION~~
24 ~~OR LOCAL OR MUNICIPAL AUTHORITY OR OTHER LOCAL GOVERNMENT UNIT~~
25 ~~OR ANY COURT OR RELATED AGENCY.~~

26 "Income." Includes compensation for services, including, but
27 not limited to, wages, salaries, fees, compensation in kind,
28 commissions and similar items; income derived from business;
29 gains derived from dealings in property; interest; rents;
30 royalties; dividends; annuities; income from life insurance and

1 endowment contracts; all forms of retirement; pensions; income
2 from discharge of indebtedness; distributive share of
3 partnership gross income; income in respect of a decedent;
4 income from an interest in an estate or trust; military
5 retirement benefits; railroad employment retirement benefits;
6 social security benefits; temporary and permanent disability
7 benefits; workmen's compensation and unemployment compensation;
8 or other entitlements to money or lump sum awards, without
9 regard to source.

10 * * *

11 ~~"Labor organization." Any organization or employee~~ <—
12 ~~representation committee, plan or arrangement in which employees~~
13 ~~participate and which exists for the purpose of dealing with~~
14 ~~employers concerning grievances, labor disputes, wages, rates of~~
15 ~~pay, hours of employment, conditions of work, pensions or~~
16 ~~benefits.~~

17 "LABOR ORGANIZATION." THE TERM SHALL HAVE THE MEANING GIVEN <—
18 THE TERM IN SECTION 2(5) OF THE NATIONAL LABOR RELATIONS ACT (49
19 STAT. 449, 29 U.S.C. § 151 ET SEQ.) AND SHALL INCLUDE AN ENTITY
20 USED BY THE ORGANIZATION AND AN EMPLOYER TO CARRY OUT
21 REQUIREMENTS OF AN AGREEMENT BETWEEN THE ORGANIZATION AND THE
22 EMPLOYER AS SET FORTH IN SECTION 8(F)(3) OF THE NATIONAL LABOR
23 RELATIONS ACT.

24 * * *

25 ~~Section 4. Sections 4304, 4345, 4348(o) and 5313 of Title 23~~ <—
26 ~~are amended to read:~~

27 ~~§ 4304. Cooperation of Commonwealth agencies and other~~
28 ~~organizations.~~

29 ~~(a) Cooperation of Commonwealth agencies. Upon request of~~
30 ~~the Department of Public Welfare on behalf of a domestic~~

1 ~~relations section, Commonwealth agencies shall provide~~
2 ~~information regarding [wages, employer and address information~~
3 ~~for the purposes of carrying out this chapter, unless such~~
4 ~~information must remain confidential pursuant to other~~
5 ~~provisions of law.] a person's income, telephone number,~~
6 ~~address, Social Security number and date of birth and the name,~~
7 ~~address and telephone number of that person's employer to the~~
8 ~~extent this information is known by the Commonwealth agency~~
9 ~~unless such information must remain confidential in accordance~~
10 ~~with Federal law. All information obtained by a domestic~~
11 ~~relations section under this section shall be confidential and~~
12 ~~shall only be used in the enforcement and establishment of child~~
13 ~~support orders under this title.~~

14 ~~(b) Cooperation of labor organizations. Upon the request of~~
15 ~~the Department of Public Welfare on behalf of a domestic~~
16 ~~relations section, labor organizations shall provide information~~
17 ~~regarding a person's income, telephone number, address, Social~~
18 ~~Security number and date of birth and the name, address and~~
19 ~~telephone number of that person's employer to the extent that~~
20 ~~this information is known by the entity unless such information~~
21 ~~must remain confidential in accordance with Federal law. All~~
22 ~~information obtained by a domestic relations section under this~~
23 ~~section shall be confidential and shall only be used in the~~
24 ~~enforcement and establishment of child support orders under this~~
25 ~~title.~~

26 ~~(c) Immunity. In the absence of malice, agencies or~~
27 ~~organizations, their employees, agents or designees, providing~~
28 ~~information under this section, shall not be subject to civil or~~
29 ~~criminal liability by reason of having provided the information.~~

30 SECTION 4. SECTION 4304 OF TITLE 23 IS REPEALED.

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SECTION 5. TITLE 23 IS AMENDED BY ADDING A SECTION TO READ:

§ 4304.1. COOPERATION OF GOVERNMENT AGENCIES.

(A) COOPERATION OF GOVERNMENT AGENCIES.--NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INCLUDING THE PROVISIONS OF SECTION 731 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, ALL GOVERNMENT AGENCIES SHALL:

(1) AT THE REQUEST OF THE DEPARTMENT OF PUBLIC WELFARE, PROVIDE INFORMATION, IN A FORM PRESCRIBED BY THE DEPARTMENT, REGARDING A PERSON'S WAGES, INCOME, TELEPHONE NUMBERS, ADDRESSES, SOCIAL SECURITY NUMBERS AND DATE OF BIRTH, EMPLOYER NAMES, ADDRESSES AND TELEPHONE NUMBERS.

(2) REQUIRE THE SOCIAL SECURITY NUMBER OF AN INDIVIDUAL ON ANY APPLICATION FOR A PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATION.

(3) REQUIRE THE SOCIAL SECURITY NUMBER OF ANY INDIVIDUAL SUBJECT TO A SUPPORT ORDER, PATERNITY DETERMINATION OR ACKNOWLEDGMENT OF PATERNITY IN ALL RECORDS RELATING TO THE MATTER.

(B) COOPERATION OF LABOR ORGANIZATIONS.--LABOR ORGANIZATIONS SHALL, AT THE REQUEST OF THE DEPARTMENT OF PUBLIC WELFARE, PROVIDE INFORMATION, IN A FORM PRESCRIBED BY THE DEPARTMENT, REGARDING WAGES, INCOME, TELEPHONE NUMBERS, ADDRESSES, SOCIAL SECURITY NUMBERS AND DATE OF BIRTH, EMPLOYER NAMES, ADDRESSES AND TELEPHONE NUMBERS.

(C) PENALTY.--FOLLOWING NOTICE AND HEARING, THE DEPARTMENT OF PUBLIC WELFARE MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 PER VIOLATION UPON ANY GOVERNMENT AGENCY OR LABOR ORGANIZATION, WHICH WILLFULLY FAILS TO COMPLY WITH A REQUEST BY THE DEPARTMENT OF PUBLIC WELFARE FOR INFORMATION PURSUANT TO THIS SECTION.

(D) CONFIDENTIALITY.--ANY INFORMATION PROVIDED OR COLLECTED

1 PURSUANT TO THIS SECTION SHALL BE CONFIDENTIAL AND MAY ONLY BE
2 USED FOR PURPOSES OF CHILD SUPPORT ENFORCEMENT BY THE DEPARTMENT
3 OF PUBLIC WELFARE. ANY PERSON, GOVERNMENT AGENCY, EMPLOYER OR
4 AGENT OF THE DEPARTMENT WHO DIVULGES SUCH INFORMATION IN A
5 MANNER NOT PROVIDED IN THIS ACT COMMITS A MISDEMEANOR OF THE
6 THIRD DEGREE, AND, UPON CONVICTION, SHALL BE SENTENCED TO PAY A
7 FINE OF UP TO \$1,000 PER VIOLATION AND COSTS AND SHALL BE
8 SUBJECT TO A TERM OF IMPRISONMENT OF NOT MORE THAN ONE YEAR, OR
9 BOTH.

10 (E) IMMUNITY.--A PERSON, GOVERNMENT AGENCY OR LABOR
11 ORGANIZATION PROVIDING INFORMATION PURSUANT TO THIS SECTION
12 SHALL NOT BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY. THE
13 IMMUNITY PROVIDED BY THIS PARAGRAPH SHALL NOT APPLY TO ANY
14 PERSON OR AGENT OF A GOVERNMENT AGENCY OR LABOR ORGANIZATION WHO
15 KNOWINGLY SUPPLIES FALSE INFORMATION UNDER THIS SECTION.

16 SECTION 6. SECTIONS 4345, 4348(O) AND 5313 OF TITLE 23 ARE
17 AMENDED TO READ:

18 § 4345. Contempt for noncompliance with support order.

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

- 25 (1) Imprisonment for a period not to exceed six months.
26 (2) A fine not to exceed [\$500] \$1,000.
27 (3) Probation for a period not to exceed [six months]
28 one year.

29 (b) Condition for release.--An order committing a defendant
30 to jail under this section shall specify the condition the

1 fulfillment of which will result in the release of the obligor.

2 § 4348. Attachment of income.

3 * * *

4 (o) Priority of attachment.--An order of attachment for
5 support shall have priority over any attachment, execution,
6 garnishment, State or local tax withholding or wage assignment.

7 * * *

8 § 5313. When [child has resided with] grandparents may
9 petition.

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

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

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

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

30 (3) who, over an extended period of time, FOR 12 MONTHS

<—

1 has assumed the role and responsibilities of the child's
2 parent, providing for the physical, emotional and social
3 needs of the child, or who deems it is necessary to assume <—
4 the role and responsibilities of the child's parent due to
5 physical or sexual abuse or neglect, or parental dysfunction,
6 such as drug or alcohol abuse or emotional or mental illness
7 or instability. CHILD OR WHO ASSUMES THE RESPONSIBILITY FOR A <—
8 CHILD WHO HAS BEEN DETERMINED TO BE A DEPENDENT CHILD
9 PURSUANT TO 42 PA.C.S. CH. 63 (RELATING TO JUVENILE MATTERS)
10 OR WHO ASSUMES OR DEEMS IT NECESSARY TO ASSUME RESPONSIBILITY
11 FOR A CHILD WHO IS SUBSTANTIALLY AT RISK DUE TO PARENTAL
12 ABUSE, NEGLECT, DRUG OR ALCOHOL ABUSE OR MENTAL ILLNESS. THE
13 COURT MAY ISSUE A TEMPORARY ORDER PURSUANT TO THIS SECTION.
14 Section 5 7. This act shall take effect in 60 days. <—