

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2328 Session of
2000

INTRODUCED BY FEESE, CAWLEY, CLARK, L. I. COHEN, M. COHEN,
CORRIGAN, FAIRCHILD, FRANKEL, GEIST, GODSHALL, HALUSKA,
HENNESSEY, HERMAN, HESS, LEH, MAJOR, McILHINNEY, S. MILLER,
ORIE, ROSS, SATHER, SAYLOR, B. SMITH, SOLOBAY, STERN,
E. Z. TAYLOR, TRELLO, TULLI, WALKO, WILT, FARGO, RUBLEY,
WOGAN, HARHAI, EGOLF, SEMMEL, HORSEY, YOUNGBLOOD, THOMAS AND
RAMOS, MARCH 14, 2000

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 20, 2000

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 forfeiture relating to intestate succession, FOR GRANTING OF <—
4 LETTERS TESTAMENTARY AND LETTERS OF ADMINISTRATION, FOR
5 QUALIFICATIONS TO SERVE AS A PERSONAL REPRESENTATIVE, FOR
6 REVOCATION OF LETTERS TESTAMENTARY AND LETTERS OF
7 ADMINISTRATION AND FOR REMOVAL OF PERSONAL REPRESENTATIVE;
8 AND PROVIDING FOR A PREADJUDICATION RULE.

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

11 Section 1. Section 2106(b) of Title 20 of the Pennsylvania
12 Consolidated Statutes is amended to read:

13 § 2106. Forfeiture.

14 * * *

15 (b) Parent's share.--Any parent who, for one year or upwards
16 previous to the death of the parent's minor or dependent child,
17 has: [willfully neglected or]

18 (1) failed to perform [any] the duty [of] to support

1 [owed to] the minor or dependent child or who, for one year,
2 has [willfully] deserted the minor or dependent child; or
3 (2) been convicted of one of the following offenses
4 under Title 18:

5 section 4303 (relating to concealing death of child);

6 section 4304 (relating to endangering welfare of
7 children);

8 section 6312 (relating to sexual abuse of children);

9 or an equivalent crime under Federal law or the law of
10 another state involving his or her child shall have no right
11 or interest under this chapter in the real or personal estate
12 of the minor or dependent child. The determination under
13 paragraph (1) of this subsection shall be made by the court
14 after considering the quality, nature and extent of the
15 parent's contact with the child and the physical, emotional
16 and financial support provided to the child.

17 * * *

18 SECTION 2. SECTION 3155 OF TITLE 20 IS AMENDED BY ADDING A <—
19 SUBSECTION TO READ:

20 § 3155. PERSONS ENTITLED.

21 * * *

22 (D) DEATH CHARGES.--NOTWITHSTANDING THE PROVISIONS OF
23 SUBSECTIONS (A) AND (B), THE REGISTER SHALL NOT GRANT LETTERS
24 TESTAMENTARY OR LETTERS OF ADMINISTRATION TO ANY PERSON CHARGED,
25 WHETHER BY INDICTMENT, INFORMATION OR OTHERWISE, BY THE UNITED
26 STATES, THE COMMONWEALTH OR ANY OF THE SEVERAL STATES, WITH
27 VOLUNTARY MANSLAUGHTER OR HOMICIDE, EXCEPT HOMICIDE BY VEHICLE,
28 IN CONNECTION WITH A DECEDENT'S DEATH UNLESS AND UNTIL THE
29 CHARGE IS WITHDRAWN, DISMISSED OR A VERDICT OF NOT GUILTY IS
30 RETURNED.

SECTION 3. SECTION 3156 OF TITLE 20 IS AMENDED BY ADDING A
PARAGRAPH TO READ:

§ 3156. PERSONS NOT QUALIFIED.

NO PERSON SHALL BE QUALIFIED TO SERVE AS A PERSONAL
REPRESENTATIVE WHO IS:

* * *

(5) CHARGED, WHETHER BY INDICTMENT, INFORMATION OR
OTHERWISE, BY THE UNITED STATES, THE COMMONWEALTH OR ANY OF
THE SEVERAL STATES, WITH VOLUNTARY MANSLAUGHTER OR HOMICIDE,
EXCEPT HOMICIDE BY VEHICLE, IN CONNECTION WITH A DECEDENT'S
DEATH UNLESS AND UNTIL THE CHARGE IS WITHDRAWN, DISMISSED OR
A VERDICT OF NOT GUILTY IS RETURNED.

SECTION 4. SECTION 3181 OF TITLE 20 IS AMENDED BY ADDING A
SUBSECTION TO READ:

§ 3181. REVOCATION OF LETTERS.

* * *

(C) DEATH CHARGES.--WHETHER OR NOT A WILL HAS BEEN SUBMITTED
OR ADMITTED, THE REGISTER MAY REVOKE LETTERS TESTAMENTARY OR OF
ADMINISTRATION WHEN IT APPEARS THAT THE PERSON TO WHOM THE
LETTERS WERE GRANTED HAS BEEN CHARGED WITH VOLUNTARY
MANSLAUGHTER OR HOMICIDE, EXCEPT HOMICIDE BY VEHICLE, AS SET
FORTH IN SECTIONS 3155 (RELATING TO PERSONS ENTITLED) AND 3156
(RELATING TO PERSONS NOT QUALIFIED), PROVIDED THAT THE
REVOCATION SHALL NOT OCCUR ON THESE GROUNDS IF AND WHEN THE
CHARGE HAS BEEN DISMISSED, WITHDRAWN OR TERMINATED BY A VERDICT
OF NOT GUILTY.

SECTION 5. SECTION 3182 OF TITLE 20 IS AMENDED BY ADDING A
PARAGRAPH TO READ:

§ 3182. GROUNDS FOR REMOVAL.

THE COURT SHALL HAVE EXCLUSIVE POWER TO REMOVE A PERSONAL

1 REPRESENTATIVE WHEN HE:

2 * * *

3 (4.1) HAS BEEN CHARGED WITH VOLUNTARY MANSLAUGHTER OR
4 HOMICIDE, EXCEPT HOMICIDE BY VEHICLE, AS SET FORTH IN
5 SECTIONS 3155 (RELATING TO PERSONS ENTITLED) AND 3156
6 (RELATING TO PERSONS NOT QUALIFIED), PROVIDED THAT THE
7 REMOVAL SHALL NOT OCCUR ON THESE GROUNDS IF THE CHARGE HAS
8 BEEN DISMISSED, WITHDRAWN OR TERMINATED BY A VERDICT OF NOT
9 GUILTY; OR

10 * * *

11 SECTION 6. TITLE 20 IS AMENDED BY ADDING A SECTION TO READ:
12 § 8814.1. PREADJUDICATION RULE.

13 (A) GENERAL RULE.--IF A PERSON HAS BEEN CHARGED, WHETHER BY
14 INDICTMENT, INFORMATION OR OTHERWISE, BY THE UNITED STATES, THE
15 COMMONWEALTH OR ANY OF THE SEVERAL STATES, WITH VOLUNTARY
16 MANSLAUGHTER OR HOMICIDE, EXCEPT HOMICIDE BY VEHICLE, IN
17 CONNECTION WITH A DECEDENT'S DEATH, THEN ANY AND ALL PROPERTY OR
18 BENEFIT THAT WOULD OTHERWISE PASS TO THAT PERSON FROM THE
19 DECEDENT'S ESTATE SHALL BE PLACED AND PRESERVED IN ESCROW BY THE
20 PERSON DULY APPOINTED BY THE REGISTER AS PERSONAL
21 REPRESENTATIVE. UPON DISMISSAL OR WITHDRAWAL OF THE CHARGE, OR
22 UPON THE RETURN OF A VERDICT OF NOT GUILTY, THE PROPERTY OR
23 BENEFIT HELD IN ESCROW SHALL PASS AS IF NO CHARGE HAD BEEN FILED
24 OR MADE. UPON CONVICTION OF THE CHARGE, THE PROPERTY OR BENEFIT
25 HELD IN ESCROW SHALL PASS IN ACCORDANCE WITH THE TERMS AND
26 PROVISIONS OF THIS CHAPTER.

27 (B) EXCEPTION.--NOTWITHSTANDING SUBSECTION (A), THE DULY
28 APPOINTED PERSONAL REPRESENTATIVE SHALL BE AUTHORIZED UPON
29 NOTICE TO ALL INTERESTED PARTIES, INCLUDING, BUT NOT LIMITED TO,
30 THE ACCUSED, TO PETITION THE ORPHANS' COURT DIVISION OF THE

1 COURT OF COMMON PLEAS IN THE COUNTY WHERE THE ESTATE LIES FOR
2 PAYMENT FROM THE ESCROWED FUNDS OF CHILD SUPPORT AND RELATED
3 EXPENSES AND OF EXPENSES OF ESTATE ADMINISTRATION. DISPOSITION
4 OF THE PETITION SHALL LIE IN THE SOUND DISCRETION OF THE COURT.

5 (C) NOTICE TO REGISTER OF WILLS.--WITHIN SEVEN DAYS OF
6 CHARGING, WHETHER BY INDICTMENT, INFORMATION OR OTHERWISE, A
7 PERSON WITH HOMICIDE OR MANSLAUGHTER THE DISTRICT ATTORNEY
8 SHALL, IN WRITING, NOTIFY THE REGISTER OF THE NAME OF THE PERSON
9 CHARGED, THE NAME OF THE DECEDENT AND THE CHARGE.

10 Section 2 7. This act shall take effect in 60 days.

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