

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 729 Session of  
2013

---

INTRODUCED BY PETRI, DeLUCA, PICKETT, HARPER AND TOOHL,   
FEBRUARY 14, 2013

---

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 14, 2013

---

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in adoption, further providing for  
3 definitions, for hearing, for alternative procedure for  
4 relinquishment, for grounds for involuntary termination and  
5 for petition for involuntary termination; providing for  
6 notice if identity or whereabouts of parent or putative  
7 father unknown; further providing for report of intention to  
8 adopt, for report of intermediary and for consents necessary  
9 to adoption; and repealing provisions relating to consents  
10 not naming adopting parents.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 2102 of Title 23 of the Pennsylvania  
14 Consolidated Statutes is amended by adding definitions to read:  
15 § 2102. Definitions.

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

19 \* \* \*

20 "Denial of paternity." The written statement of a  
21 presumptive father or putative father declaring all of the  
22 following:

1           (1) The individual is not the father of the child.

2           (2) The individual does not acknowledge paternity of the  
3           child.

4           (3) No court has determined that the individual is the  
5           father of the child.

6           (4) The individual has no interests in proceedings under  
7           this part concerning the child.

8           "Household." A group of people who reside together in the  
9           same housing unit.

10           \* \* \*

11           "Putative father." An alleged birth father of a child  
12           conceived or born out of wedlock whose parental status has not  
13           been legally established.

14           Section 2. Sections 2503(a), (b)(3) and (d), 2504, 2511(a)  
15           and 2512(c) of Title 23 are amended to read:

16           § 2503. Hearing.

17           (a) General rule.--Upon presentation of a petition prepared  
18           pursuant to section 2501 (relating to relinquishment to agency)  
19           or section 2502 (relating to relinquishment to adult intending  
20           to adopt child), the court shall fix a time for hearing which  
21           shall not be less than ten days, nor more than 20 days, after  
22           filing of the petition. The petitioner must appear at the  
23           hearing.

24           (b) Notice.--

25           \* \* \*

26           (3) The [copy of the notice which is given to the]  
27           putative father shall [state that his rights may also be  
28           subject to termination pursuant to subsection (d) if he fails  
29           to file either an acknowledgment of paternity or claim of  
30           paternity pursuant to section 5103 (relating to

1 acknowledgment and claim of paternity) and fails to either  
2 appear at the hearing for the purpose of objecting to the  
3 termination of his rights or file a written objection to such  
4 termination with the court prior to the hearing.] be given  
5 notice in the form provided in section 2513(b) (relating to  
6 hearing). If the identity or whereabouts of the putative  
7 father is unknown, notice shall be given under section  
8 2514(b) (relating to notice if putative father or his  
9 whereabouts unknown). Notice under this paragraph shall state  
10 that the putative father's rights may also be terminated  
11 under subsection (d) if any of the following apply:

12 (i) He fails to file with the court prior to the  
13 hearing a written objection to the termination.

14 (ii) He fails to appear at the hearing for the  
15 purpose of objecting to the termination of his rights.

16 \* \* \*

17 (d) [Putative father] Termination of putative father's  
18 parental rights.--If a putative father [will not file a petition  
19 to voluntarily relinquish his parental rights pursuant to  
20 section 2501 (relating to relinquishment to agency) or 2502  
21 (relating to relinquishment to adult intending to adopt child),]  
22 has been given notice of the hearing being held pursuant to this  
23 section [and], the court may enter a decree terminating his  
24 parental rights, whether or not the putative father has filed a  
25 claim of paternity under section 5103(b) (relating to  
26 acknowledgment and claim of paternity), if the putative father  
27 fails to [either]:

28 (1) file a written objection to the termination with the  
29 court prior to the hearing; or

30 (2) appear at that hearing for the purpose of objecting

1 to termination of his parental rights [or file a written  
2 objection to such termination with the court prior to the  
3 hearing and has not filed an acknowledgment of paternity or  
4 claim of paternity pursuant to section 5103, the court may  
5 enter a decree terminating the parental rights of the  
6 putative father pursuant to subsection (c)].

7 \* \* \*

8 § 2504. Alternative procedure for relinquishment.

9 (a) Petition to confirm consent to adoption.--If the parent  
10 or parents of the child have executed consents to an adoption,  
11 upon petition by the intermediary or, where there is no  
12 intermediary, by the adoptive parent, the court shall hold a  
13 hearing for the purpose of confirming a consent to an adoption  
14 upon expiration of the time periods under section 2711 (relating  
15 to consents necessary to adoption). The original consent or  
16 consents to the adoption shall be attached to the petition.

17 (b) Hearing.--Upon presentation of a petition filed pursuant  
18 to this section, the court shall fix a time for a hearing which  
19 shall not be less than ten days, nor more than 40 days, after  
20 filing of the petition. Notice of the hearing shall be by  
21 personal service or by registered mail or by such other means as  
22 the court may require upon the consenter and shall be in the  
23 form provided in section 2513(b) (relating to hearing). Notice  
24 of the hearing shall be given to the other parent or parents, to  
25 the putative father whose parental rights could be terminated  
26 pursuant to subsection (c) and to the parents or guardian of a  
27 consenting parent who has not reached 18 years of age[.], unless  
28 a waiver is executed in accordance with section 2711(e). If the  
29 identity or whereabouts of the putative father is unknown,  
30 notice shall be given under section 2514(b) (relating to notice

1 if putative father or his whereabouts unknown). The notice shall  
2 state that the consenting parent's or putative father's rights  
3 may be terminated as a result of the hearing. After hearing,  
4 which shall be private, the court may enter a decree of  
5 termination of parental rights in the case of a relinquishment  
6 to an adult or a decree of termination of parental rights and  
7 duties, including the obligation of support, in the case of a  
8 relinquishment to an agency.

9 (c) [Putative] Termination of parental rights of putative  
10 father.--If a putative father [will not execute a consent to an  
11 adoption as required by section 2711,] has been given notice of  
12 the hearing being held pursuant to this section [and fails to  
13 either appear at that hearing for the purpose of objecting to  
14 termination of his parental rights or file a written objection  
15 to such termination with the court prior to the hearing and has  
16 not filed an acknowledgment of paternity or claim of paternity  
17 pursuant to section 5103 (relating to acknowledgment and claim  
18 of paternity)], the court may enter a decree terminating the  
19 parental rights of the putative father [pursuant to subsection  
20 (b).], if the putative father fails to:

21 (1) file a written objection to the termination of his  
22 parental rights with the court prior to the hearing; or  
23 (2) appear at the hearing for the purpose of objecting  
24 to such termination.

25 (d) Right to file personal and medical history  
26 information.--At the time the decree of termination is  
27 transmitted to the parent, the court shall also advise, in  
28 writing, the parent whose rights have been terminated of his or  
29 her continuing right to place and update personal and medical  
30 history information, whether or not the medical condition is in

1 existence or discoverable at the time of adoption, on file with  
2 the court and with the Department of Public Welfare pursuant to  
3 Subchapter B of Chapter 29 (relating to records and access to  
4 information).

5 § 2511. Grounds for involuntary termination.

6 (a) General rule.--The rights of a parent in regard to a  
7 child may be terminated after a petition filed on any of the  
8 following grounds:

9 (1) The parent by conduct continuing for a period of at  
10 least six months immediately preceding the filing of the  
11 petition either has evidenced a settled purpose of  
12 relinquishing parental claim to a child or has refused or  
13 failed to perform parental duties.

14 (2) The repeated and continued incapacity, abuse,  
15 neglect or refusal of the parent has caused the child to be  
16 without essential parental care, control or subsistence  
17 necessary for his physical or mental well-being and the  
18 conditions and causes of the incapacity, abuse, neglect or  
19 refusal cannot or will not be remedied by the parent within a  
20 reasonable period of time.

21 (3) The parent is the presumptive but not the [natural]  
22 birth father of the child.

23 (4) The child was abandoned and is in the custody of an  
24 agency, [having been found under such circumstances that] the  
25 identity or whereabouts of the parent is unknown and cannot  
26 be ascertained by diligent search and the parent does not  
27 claim the child within three months after the child is found.

28 (5) The child has been removed from the care of the  
29 parent by the court or under a voluntary agreement with an  
30 agency for a period of at least six months, the conditions

1 which led to the removal or placement of the child continue  
2 to exist, the parent cannot or will not remedy those  
3 conditions within a reasonable period of time, the services  
4 or assistance reasonably available to the parent are not  
5 likely to remedy the conditions which led to the removal or  
6 placement of the child within a reasonable period of time and  
7 termination of the parental rights would best serve the needs  
8 and welfare of the child.

9 (6) In the case of a newborn child, the parent or  
10 putative father knows or has reason to know of the child's  
11 birth, does not reside with the child, [has not married the  
12 child's other parent,] has failed for a period of [four] two  
13 months immediately preceding the filing of the petition to  
14 make reasonable efforts to maintain substantial and  
15 continuing contact with the child and has failed during the  
16 same [four-month] two-month period to provide substantial  
17 financial support for the child. For the purposes of this  
18 paragraph, evidence that the parent or putative father had  
19 sexual relations with the child's other parent near the  
20 probable time of the conception of the child shall be  
21 considered sufficient reason for that individual to know of  
22 the child's birth.

23 (7) The parent is the [father of a child conceived as a  
24 result] perpetrator of a rape or sexual assault or of incest,  
25 which resulted in the conception of the child.

26 (8) The child has been removed from the care of the  
27 parent by the court or under a voluntary agreement with an  
28 agency, 12 months or more have elapsed from the date of  
29 removal or placement, the conditions which led to the removal  
30 or placement of the child continue to exist and termination

1 of parental rights would best serve the needs and welfare of  
2 the child.

3 (9) The parent has been convicted of one of the  
4 following in which the victim was a child of the parent or  
5 another child residing in the household of the parent:

6 (i) an offense under 18 Pa.C.S. Ch. 25 (relating to  
7 criminal homicide);

8 (ii) a felony under 18 Pa.C.S. § 2702 (relating to  
9 aggravated assault);

10 (iii) an offense under 18 Pa.C.S. § 3121(a)  
11 (relating to rape);

12 (iv) an offense under 18 Pa.C.S. § 3122.1 (relating  
13 to statutory sexual assault);

14 (v) an offense under 18 Pa.C.S. § 3123 (relating to  
15 involuntary deviate sexual intercourse);

16 (vi) an offense under 18 Pa.C.S. § 3124.1 (relating  
17 to sexual assault);

18 (vii) an offense under 18 Pa.C.S. § 3125 (relating  
19 to aggravated indecent assault);

20 (viii) an offense under 18 Pa.C.S. § 3126 (relating  
21 to indecent assault);

22 (ix) an offense under 18 Pa.C.S. § 4302 (relating to  
23 incest);

24 [(iii)] (x) an offense in another jurisdiction  
25 equivalent to an offense in subparagraph (i) [or], (ii),  
26 (iii), (iv), (v), (vi), (vii), (viii) or (ix); or

27 [(iv)] (xi) an attempt, solicitation or conspiracy  
28 to commit an offense in subparagraph (i), (ii) [or],  
29 (iii), (iv), (v), (vi), (vii), (viii), (ix) or (x).

30 (10) The identity or whereabouts of the parent or



1 putative father of the child is unknown, notice has been  
2 provided under section 2514 (relating to notice if identity  
3 or whereabouts of parent or putative father are unknown), and  
4 the parent or putative father fails to either:

5 (i) file a written objection to the termination with  
6 the court prior to the hearing; or

7 (ii) appear at that hearing for the purpose of  
8 objecting to the termination.

9 (11) The child, another child of the parent or another  
10 child residing in the parent's household has been the victim  
11 of physical abuse resulting in serious bodily injury, sexual  
12 violence or aggravated physical neglect by the parent.

13 \* \* \*

14 § 2512. Petition for involuntary termination.

15 \* \* \*

16 [(c) Father not identified.--If the petition does not  
17 identify the father of the child, it shall state whether a claim  
18 of paternity has been filed under section 8303 (relating to  
19 claim of paternity).]

20 Section 3. Title 23 is amended by adding a section to read:

21 § 2514. Notice if identity or whereabouts of parent or putative  
22 father unknown.

23 (a) Diligent search.--A petitioner under sections 2501  
24 (relating to relinquishment to agency), 2502 (relating to  
25 relinquishment to adult intending to adopt child), 2504  
26 (relating to alternative procedure for relinquishment) and 2512  
27 (relating to petition for involuntary termination) must  
28 establish that a diligent search has been made to identify or  
29 locate a parent or putative father for the purpose of providing  
30 notice in a proceeding under this part.

1     (b) Notice by publication.--If the petitioner can establish  
2 that an unsuccessful diligent search has been made to identify  
3 or locate a parent or putative father, notice of the proceeding  
4 may be given to the parent or putative father by publication one  
5 time in both a newspaper of general circulation and in the  
6 county legal journal at least ten days before the date of the  
7 hearing. Proof of publication of the notice provided under this  
8 subsection must be submitted to the court.

9     (c) Waiver of diligent search and publication of notice.--If  
10 the putative father knows or has reason to know of the child's  
11 birth, and the putative father has failed to make reasonable  
12 efforts to maintain substantial and continuing contact with the  
13 child and provide substantial financial support for the child,  
14 the court may waive the requirement for a diligent search and  
15 the publication of notice. Notice to a putative father shall be  
16 considered given under this section if the court waives the  
17 requirement for a diligent search and the publication of notice  
18 and makes a specific determination that additional efforts to  
19 locate or identify the putative father and provide notice do not  
20 serve the best interests of the child.

21     Section 4. Sections 2531(b)(6) and 2533(d) of Title 23 are  
22 amended to read:

23     § 2531. Report of intention to adopt.

24     \* \* \*

25     (b) Contents.--The report shall set forth:

26     \* \* \*

27     (6) The name, address and signature of the person or  
28 persons making the report. Immediately above the signature of  
29 the person or persons intending to adopt the child shall  
30 appear the following statement:

1 I acknowledge that I have been advised or know and  
2 understand that the birth father or putative father may  
3 revoke the consent to the adoption of this child within  
4 [30 days] five days after the later of the birth of the  
5 child or the date he has executed the consent to an  
6 adoption and that the birth mother may revoke the consent  
7 to an adoption of this child within [30 days] five days  
8 after the date she has executed the consent.

9 \* \* \*

10 § 2533. Report of intermediary.

11 \* \* \*

12 (d) Permissible reimbursement of expenses.--Payments made by  
13 the adoptive parents to an intermediary or a third party for  
14 reimbursement of the following expenses, calculated without  
15 regard to the income of the adoptive parents, are permissible  
16 and are not in violation of 18 Pa.C.S. § 4305 (relating to  
17 dealing in infant children):

18 (1) Medical and hospital expenses incurred by the  
19 natural mother for prenatal care and those medical and  
20 hospital expenses incurred by the natural mother and child  
21 incident to birth.

22 (2) Medical, hospital and foster care expenses incurred  
23 on behalf of the child prior to the decree of adoption.

24 (3) Reasonable expenses incurred by the agency or a  
25 third party for adjustment counseling and training services  
26 provided to the adoptive parents and for home studies or  
27 investigations.

28 (4) Reasonable administrative expenses incurred by the  
29 agency, to include overhead costs and attorney fees.

30 (5) Reasonable living expenses incurred by the natural

1 mother three months prior to the due date of the child and 60  
2 days after the birth of the child. Living expenses shall  
3 include food, rent, utilities, maternity clothing and an  
4 amount not to exceed \$300 for expenses and transportation  
5 costs associated with prenatal, maternity and postmaternity  
6 care.

7 Section 5. Section 2711(c) and (d) of Title 23 are amended  
8 and the section is amended by adding a subsection to read:

9 § 2711. Consents necessary to adoption.

10 \* \* \*

11 (c) Validity of consent.--

12 (1) No consent shall be valid if it was executed prior  
13 to or within 72 hours after the birth of the child[. A],  
14 except that the presumptive father or putative father may  
15 execute a consent or a denial of paternity at any time after  
16 receiving notice of the expected or actual birth of the  
17 child.

18 (2) If consent is executed by the putative father prior  
19 to the birth of the child, the child shall be named "Baby  
20 (Mother's Last Name)" for the purpose of the consent. Further  
21 notice as required by section 2721 (relating to notice of  
22 hearing) to the putative father is not necessary if consent  
23 is executed prior to the birth of the child. Further notice  
24 as required by section 2721 is not required to the natural  
25 mother or her husband if consent is valid.

26 (3) Any consent given outside this Commonwealth shall be  
27 valid for purposes of this section if it was given in  
28 accordance with the laws of the jurisdiction where it was  
29 executed.

30 (4) A consent to an adoption may only be revoked as set

1       forth in this subsection. The revocation of a consent shall  
2       be in writing and shall be served upon the agency or adult to  
3       whom the child was relinquished. [The following apply:]

4       (c.1) Nature of consent.--

5           (1) Except as otherwise provided in paragraph (3):

6               (i) For a consent to an adoption executed by a birth  
7               father or a putative father, the consent is irrevocable  
8               more than [30 days] five days after the birth of the  
9               child or the execution of the consent, whichever occurs  
10              later.

11              (ii) For a consent to an adoption executed by a  
12              birth mother, the consent is irrevocable more than [30  
13              days] five days after the execution of the consent.

14           (2) An individual may not waive the revocation period  
15       under paragraph (1).

16           (3) Notwithstanding paragraph (1), the following apply:

17               (i) An individual who executed a consent to an  
18               adoption may challenge the validity of the consent only  
19               by filing a petition alleging fraud or duress [within the  
20               earlier of the following time frames:

21                   (A) Sixty days after the birth of the child or  
22                   the execution of the consent, whichever occurs later.

23                   (B) Thirty days after the entry of the adoption  
24                   decree.] prior to the entry of the decree terminating  
25                   parental rights.

26               (ii) A consent to an adoption may be invalidated  
27               only if the alleged fraud or duress under subparagraph  
28               (i) is proven by:

29                   (A) a preponderance of the evidence in the case  
30                   of consent by a person 21 years of age or younger; or

(B) clear and convincing evidence in all other cases.

(d) Contents of consent.--

(1) The consent of a parent of an adoptee under 18 years of age shall set forth the name, age and marital status of the parent, the relationship of the consenter to the child, the name of the other parent or parents of the child and the following:

I hereby voluntarily and unconditionally consent to the adoption of the above named child.

I understand that by signing this consent I indicate my intent to permanently give up all rights to this child.

I understand such child will be placed for adoption.

I understand I may revoke this consent to permanently give up all rights to this child by placing the revocation in writing and serving it upon the agency or adult to whom the child was relinquished.

If I am the birth father or putative father of the child, I understand that this consent to an adoption is irrevocable unless I revoke it within [30 days] five days after either the birth of the child or my execution of the consent, whichever occurs later, by delivering a written revocation to (insert the name and address of the agency coordinating the adoption) or (insert the name and address of an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child) or (insert the court of the county in which the voluntary relinquishment form was or will be filed).

1           If I am the birth mother of the child, I understand  
2           that this consent to an adoption is irrevocable unless I  
3           revoke it within [30 days] five days after executing it  
4           by delivering a written revocation to (insert the name  
5           and address of the agency coordinating the adoption) or  
6           (insert the name and address of an attorney who  
7           represents the individual relinquishing parental rights  
8           or prospective adoptive parent of the child) or (insert  
9           the court of the county in which the voluntary  
10          relinquishment form was or will be filed).

11          I have read and understand the above and I am signing  
12          it as a free and voluntary act.

13          (2) The consent shall include the date and place of its  
14          execution and names and addresses and signatures of at least  
15          two persons who witnessed its execution and their  
16          relationship to the consenter.

17          (e) Waiver of notice requirements.--A natural mother, father  
18          or putative father who has consented to an adoption may execute  
19          a waiver of notice of all legal proceedings concerning the  
20          child. A person who has executed a waiver of further notice  
21          under this subsection shall be provided with the advisement  
22          required by section 2504(d) (relating to alternative procedure  
23          for relinquishment) of the continuing right to file personal and  
24          medical history pursuant to Subchapter B of Chapter 29 (relating  
25          to records and access to information).

26          Section 6. Section 2712 of Title 23 is repealed:

27          [§ 2712. Consents not naming adopting parents.

28          A consent to a proposed adoption meeting all the requirements  
29          of this part but which does not name or otherwise identify the  
30          adopting parent or parents shall be valid if it contains a

1 statement that it is voluntarily executed without disclosure of  
2 the name or other identification of the adopting parent or  
3 parents.]

4 Section 7. This act shall take effect in 60 days.