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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1768 Session of  
2017

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INTRODUCED BY YOUNGBLOOD, WATSON, CRUZ, DONATUCCI, CALTAGIRONE,  
V. BROWN, O'BRIEN, PICKETT, MILLARD, KINSEY, SOLOMON, WARREN,  
MCNEILL AND D. COSTA, SEPTEMBER 8, 2017

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 8, 2017

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in child custody, further providing  
3 for definitions, for standing for partial physical custody  
4 and supervised physical custody and for factors to consider  
5 when awarding custody; and making editorial changes.

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

8 Section 1. Section 5322(a) of Title 23 of the Pennsylvania  
9 Consolidated Statutes is amended by adding a definition to read:

10 § 5322. Definitions.

11 (a) This chapter.--The following words and phrases when used  
12 in this chapter shall have the meanings given to them in this  
13 subsection unless the context clearly indicates otherwise:

14 \* \* \*

15 "Sibling." A brother or sister of a child, related to the  
16 child by blood, adoption or marriage.

17 \* \* \*

18 Section 2. Sections 5323(b), 5325 and 5326 of Title 23 are  
19 amended to read:

1 § 5323. Award of custody.

2 \* \* \*

3 (b) Interim award.--The court may issue an interim award of  
4 custody to a party who has standing under section 5324 (relating  
5 to standing for any form of physical custody or legal custody)  
6 or [5325] 5325(a) (relating to standing for partial physical  
7 custody and supervised physical custody) in the manner  
8 prescribed by the Pennsylvania Rules of Civil Procedure  
9 governing special relief in custody matters.

10 \* \* \*

11 § 5325. Standing for partial physical custody and supervised  
12 physical custody.

13 (a) Grandparents and great-grandparents.--In addition to  
14 situations set forth in section 5324 (relating to standing for  
15 any form of physical custody or legal custody), grandparents and  
16 great-grandparents may file an action under this chapter for  
17 partial physical custody or supervised physical custody in the  
18 following situations:

19 (1) where the parent of the child is deceased, a parent  
20 or grandparent of the deceased parent may file an action  
21 under this section;

22 (2) where the parents of the child have been separated  
23 for a period of at least six months or have commenced and  
24 continued a proceeding to dissolve their marriage; or

25 (3) when the child has, for a period of at least 12  
26 consecutive months, resided with the grandparent or great-  
27 grandparent, excluding brief temporary absences of the child  
28 from the home, and is removed from the home by the parents,  
29 an action must be filed within six months after the removal  
30 of the child from the home.

1     (b) Siblings.--A sibling or, if a sibling is a minor, a  
2 parent, guardian or legal custodian of the sibling on the  
3 sibling's behalf, may file an action under this chapter for  
4 partial physical custody or supervised physical custody when the  
5 amount of personal contact between the child and the party prior  
6 to the filing of the action exceeds 12 consecutive months.

7 § 5326. Effect of adoption.

8     Any rights to seek physical custody or legal custody rights  
9 and any custody rights that have been granted under section 5324  
10 (relating to standing for any form of physical custody or legal  
11 custody) or [5325] 5325(a) (relating to standing for partial  
12 physical custody and supervised physical custody) to a  
13 grandparent or great-grandparent prior to the adoption of the  
14 child by an individual other than a stepparent, grandparent or  
15 great-grandparent shall be automatically terminated upon such  
16 adoption.

17     Section 3. Section 5328(c) of Title 23 is amended and the  
18 section is amended by adding a subsection to read:

19 § 5328. Factors to consider when awarding custody.

20     \* \* \*

21     (c) Grandparents and great-grandparents.--

22         (1) In ordering partial physical custody or supervised  
23 physical custody to a party who has standing under section  
24 [5325(1)] 5325(a)(1) or (2) (relating to standing for partial  
25 physical custody and supervised physical custody), the court  
26 shall consider the following:

27             (i) the amount of personal contact between the child  
28 and the party prior to the filing of the action;

29             (ii) whether the award interferes with any parent-  
30 child relationship; and

1 (iii) whether the award is in the best interest of  
2 the child.

3 (2) In ordering partial physical custody or supervised  
4 physical custody to a parent's parent or grandparent who has  
5 standing under section [5325(3)] 5325(a)(3), the court shall  
6 consider whether the award:

7 (i) interferes with any parent-child relationship;  
8 and

9 (ii) is in the best interest of the child.

10 (d) Siblings.--In ordering partial physical custody or  
11 supervised physical custody to a party who has standing under  
12 section 5325(b), the court shall consider, in addition to  
13 factors enumerated in subsection (a), the following:

14 (1) the amount of personal contact between the child and  
15 the party prior to the filing of the action;

16 (2) whether the award interferes with any parent-child  
17 relationship;

18 (3) whether a voluntary agreement for continuing contact  
19 exists for the child under Subchapter D of Chapter 27  
20 (relating to voluntary agreement for continuing contact); and

21 (4) whether the award is in the best interest of the  
22 child.

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