

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1129 Session of 2018

INTRODUCED BY DiSANTO, APRIL 16, 2018

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 26, 2018

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 birth parent or putative
7 father unknown, further providing for consents necessary to
8 adoption and repealing provisions relating to consents not
9 naming adopting parents.

<--

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

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

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

18 * * *

19 "Denial of paternity." The written statement of a putative
20 father declaring all of the following:

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

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

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

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

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

9 * * *

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

13 Section 2. ~~Section 2503(a), (b)(3) and (d) of Title 23 are~~ <--
14 ~~amended and the section is amended by adding a subsection to~~
15 ~~read:~~ SECTIONS 2503(A), (B)(3) AND (D), 2511(A)(9) AND 2512(C) <--
16 OF TITLE 23 ARE AMENDED TO READ:

17 § 2503. Hearing.

18 (a) General rule.--Upon presentation of a petition prepared
19 pursuant to section 2501 (relating to relinquishment to agency)
20 or section 2502 (relating to relinquishment to adult intending
21 to adopt child), the court shall fix a time for hearing which
22 shall not be less than ten days, nor more than 30 days, after
23 filing of the petition[.] unless the petitioner requests a later
24 date, in which case the hearing shall be scheduled not later
25 than 40 days after filing of the petition. The petitioner must
26 appear at the hearing.

27 (b) Notice.--

28 * * *

29 (3) The [copy of the notice which is given to the] birth
30 father PARENT or a putative father shall [state that his <--

1 rights may also be subject to termination pursuant to
2 subsection (d) if he fails to file either an acknowledgment
3 of paternity or claim of paternity pursuant to section 5103
4 (relating to acknowledgment and claim of paternity) and fails
5 to either appear at the hearing for the purpose of objecting
6 to the termination of his rights or file a written objection
7 to such termination with the court prior to the hearing.] be
8 given notice in the form provided in section 2513(b)
9 (relating to hearing). If the identity or whereabouts of the
10 birth father PARENT or a putative father are unknown, notice <--
11 shall be given under section 2514(b) (relating to notice if
12 identity or whereabouts of birth parent or putative father
13 unknown). Notice under this paragraph shall state that the
14 birth father PARENT or a putative father's rights may also be <--
15 terminated under subsection (d) if any of the following
16 applies:

17 (i) He THE BIRTH PARENT OR PUTATIVE FATHER fails to <--
18 file with the court prior to the hearing a written
19 objection to the termination.

20 (ii) He THE BIRTH PARENT OR PUTATIVE FATHER fails to <--
21 appear at the hearing for the purpose of objecting to the
22 termination of his rights.

23 * * *

24 (d) [Putative father] Termination of putative father's
25 parental rights.--If a putative father [will not file a petition
26 to voluntarily relinquish his parental rights pursuant to
27 section 2501 (relating to relinquishment to agency) or 2502
28 (relating to relinquishment to adult intending to adopt child),]
29 has been given notice of the hearing being held pursuant to this
30 section [and], the court may enter a decree terminating his

1 parental rights, whether or not the putative father has filed a
2 claim of paternity under section 5103(b) (relating to
3 acknowledgment and claim of paternity), if the putative father
4 fails to [either]:

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

7 (2) appear at that hearing for the purpose of objecting
8 to termination of his parental rights [or file a written
9 objection to such termination with the court prior to the
10 hearing and has not filed an acknowledgment of paternity or
11 claim of paternity pursuant to section 5103, the court may
12 enter a decree terminating the parental rights of the
13 putative father pursuant to subsection (c)].

14 * * *

15 ~~(f) Redaction request form.~~ <--

16 ~~(1) At the time the decree of termination is transmitted~~
17 ~~to the parent whose rights are terminated, the court shall~~
18 ~~notify the parent, in writing, of all of the following:~~

19 ~~(i) The right to redact the parent's name from a~~
20 ~~noncertified copy of the original birth record issued to~~
21 ~~an adoptee under section 2937(a) (relating to original~~
22 ~~birth record).~~

23 ~~(ii) How to file a redaction request form under~~
24 ~~section 2937(c).~~

25 ~~(iii) The parent's right to request, at any time,~~
26 ~~that the Department of Health remove the name redaction~~
27 ~~request form from the adoption file of the adoptee under~~
28 ~~section 2937(c).~~

29 ~~(2) The court shall, at the same time that notice is~~
30 ~~provided under paragraph (1), provide copies of the~~

1 ~~Department of Health's name redaction request form to the~~
2 ~~parent.~~

3 ~~Section 3. Section 2504 of Title 23 is amended by adding a~~
4 ~~subsection to read:~~

5 ~~§ 2504. Alternative procedure for relinquishment.~~

6 ~~* * *~~

7 ~~(c) Redaction request form.~~

8 ~~(1) At the time the decree of termination is transmitted~~
9 ~~to the parent whose rights are terminated, the court shall~~
10 ~~notify the parent, in writing, of all of the following:~~

11 ~~(i) The right to redact the parent's name from a~~
12 ~~noncertified copy of the original birth record issued to~~
13 ~~an adoptee under section 2937(a) (relating to original~~
14 ~~birth record).~~

15 ~~(ii) How to file a redaction request form under~~
16 ~~section 2937(c).~~

17 ~~(iii) The parent's right to request, at any time,~~
18 ~~that the Department of Health remove the name redaction~~
19 ~~request form from the adoption file of the adoptee under~~
20 ~~section 2937(c).~~

21 ~~(2) The court shall, at the same time that notice is~~
22 ~~provided under paragraph (1), provide copies of the~~
23 ~~Department of Health's name redaction request form to the~~
24 ~~parent.~~

25 ~~Section 4. Section 2511(a) (9) of Title 23 is amended and the~~
26 ~~section is amended by adding a subsection to read:~~

27 § 2511. Grounds for involuntary termination.

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

1 * * *

2 (9) The parent has been convicted of one of the
3 following in which the victim was a child of the parent:

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

6 (ii) a felony under 18 Pa.C.S. § 2702 (relating to
7 aggravated assault)[;], 3121 (relating to rape), 3122.1
8 (relating to statutory sexual assault), 3123 (relating to
9 involuntary deviate sexual intercourse), 3124.1 (relating
10 to sexual assault) or 3125 (relating to aggravated
11 indecent assault);

12 (iii) a felony or misdemeanor under 18 Pa.C.S. §
13 3126 (relating to indecent assault);

14 [(iii)] (iv) an offense in another jurisdiction
15 equivalent to an offense in subparagraph (i) [or] (ii)
16 or (iii); or

17 [(iv)] (v) an attempt, solicitation or conspiracy to
18 commit an offense in subparagraph (i), (ii) [or] (iii)
19 or (iv).

20 * * *

21 ~~(d) Redaction request form.~~

<--

22 ~~(1) At the time the decree of termination is transmitted~~
23 ~~to the parent whose rights are terminated, the court shall~~
24 ~~notify the parent, in writing, of all of the following:~~

25 ~~(i) The right to redact the parent's name from a~~
26 ~~noncertified copy of the original birth record issued to~~
27 ~~an adoptee under section 2937(a) (relating to original~~
28 ~~birth record).~~

29 ~~(ii) How to file a redaction request form under~~
30 ~~section 2937(c).~~

1 ~~(iii) The parent's right to request, at any time,~~
2 ~~that the Department of Health remove the name redaction~~
3 ~~request form from the adoption file of the adoptee under~~
4 ~~section 2937(c).~~

5 ~~(2) The court shall, at the same time that notice is~~
6 ~~provided under paragraph (1), provide copies of the~~
7 ~~Department of Health's name redaction request form to the~~
8 ~~parent.~~

9 Section 5. ~~Section 2512(c) of Title 23 is amended to read:~~

10 § 2512. Petition for involuntary termination.

11 * * *

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

16 Section 6 3. Title 23 is amended by adding a section to <--
17 read:

18 ~~§ 2514. Notice if identity or whereabouts of birth parent or~~
19 ~~putative father unknown.~~

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

28 ~~(b) Notice by publication.~~

29 ~~(1) If the petitioner can establish that an unsuccessful~~
30 ~~diligent search has been made to identify or locate a birth~~

1 ~~parent or putative father, notice of the proceeding may be~~
2 ~~given to the birth parent or putative father by publication~~
3 ~~one time in both a newspaper of general circulation and in~~
4 ~~the county legal journal at least 10 days before the date of~~
5 ~~the hearing.~~

6 ~~(2) Proof of publication of the notice provided under~~
7 ~~this subsection must be submitted to the court.~~

8 (A) DILIGENT SEARCH.--

<--

9 (1) THE COURT SHALL DETERMINE UNDER SECTIONS 2501
10 (RELATING TO RELINQUISHMENT TO AGENCY), 2502 (RELATING TO
11 RELINQUISHMENT TO ADULT INTENDING TO ADOPT CHILD), 2504
12 (RELATING TO ALTERNATIVE PROCEDURE FOR RELINQUISHMENT) AND
13 2512 (RELATING TO PETITION FOR INVOLUNTARY TERMINATION)
14 WHETHER A DILIGENT SEARCH HAS BEEN MADE TO IDENTIFY AND
15 LOCATE A BIRTH PARENT OR PUTATIVE FATHER FOR THE PURPOSE OF
16 PROVIDING NOTICE IN A PROCEEDING UNDER THIS PART.

17 (2) A DILIGENT SEARCH FOR A BIRTH PARENT OR PUTATIVE
18 FATHER UNDER PARAGRAPH (1) SHALL INCLUDE, BUT NOT LIMITED TO,
19 THE FOLLOWING:

20 (I) AN INQUIRY TO THE UNITED STATES POSTAL SERVICE
21 TO DETERMINE A FORWARDING ADDRESS FOR THE INDIVIDUAL, IF
22 THE PETITIONER HAS A LAST KNOWN ADDRESS.

23 (II) AN INQUIRY TO OR SEARCH OF THE RECORDS OF THE
24 DEPARTMENT OF HUMAN SERVICES, OR ITS EQUIVALENT, IN THE
25 STATE IN WHICH THE PETITIONER HAS A REASONABLE BASIS TO
26 BELIEVE THE INDIVIDUAL MAY RESIDE.

27 (III) A SEARCH OF THE RECORDS THAT ARE AVAILABLE TO
28 THE GENERAL PUBLIC OF THE DEPARTMENT OF TRANSPORTATION,
29 OR ITS EQUIVALENT IN THE STATE IN WHICH THE PETITIONER
30 HAS A REASONABLE BASIS TO BELIEVE THE INDIVIDUAL MAY

1 RESIDE.

2 (IV) A SEARCH OF AT LEAST ONE PUBLICLY AVAILABLE
3 DATABASE TO LOCATED FEDERAL AND STATE INMATES.

4 (V) AN INQUIRY OR SEARCH OF PUBLICLY AVAILABLE
5 RECORDS OF PROTHONOTARY, DOCKETS OF THE CLERK OF COURTS
6 AND TAX RECORDS IN THE JURISDICTION IN WHICH THE
7 PETITIONER HAS A REASONABLE BASIS TO BELIEVE THE
8 INDIVIDUAL MAY RESIDE.

9 (VI) A REASONABLE SEARCH OF INTERNET SOURCES, WHICH
10 MAY INCLUDE A GENERAL QUERY, SOCIAL MEDIA OR OTHER
11 RESOURCES DESIGNED TO ASSIST IN LOCATING AN INDIVIDUAL.

12 (VII) ANY OTHER SOURCE THE COURT DETERMINES TO BE
13 NECESSARY TO IDENTIFY AND LOCATE A BIRTH PARENT OR
14 PUTATIVE FATHER FOR THE PURPOSE OF PROVIDING NOTICE IN AN
15 ADOPTION PROCEEDING.

16 (3) ANY INQUIRIES MADE UNDER PARAGRAPH (2) THAT ARE NOT
17 ANSWERED WITHING 45 DAYS SHALL BE CONSIDERED ANSWERED AS
18 HAVING NO RECORD AND COMPLETE, UNLESS THE COURT MAKES A
19 NEGATIVE DETERMINATION UNDER PARAGRAPH (4).

20 (4) THE COURT SHALL REVIEW THE EFFORTS MADE TO LOCATE
21 THE BIRTH PARENT OR PUTATIVE FATHER AND DETERMINE IF THOSE
22 EFFORTS WERE REASONABLE AND CARRIED OUT IN GOOD FAITH.

23 (B) NOTICE BY PUBLICATION.--IF THE COURT DETERMINES THAT AN
24 UNSUCCESSFUL DILIGENT SEARCH HAS BEEN MADE TO IDENTIFY OR LOCATE
25 A BIRTH PARENT OR PUTATIVE FATHER, NOTICE OF THE PROCEEDING MAY
26 BE PROVIDED IN A MANNER PRESCRIBED BY THE COURT THAT IS
27 CONSISTENT WITH PA.O.C. RULE NO. 15.6 (RELATING TO NOTICE TO
28 PERSONS; METHOD; NOTICE OF ORPHANS' COURT PROCEEDINGS FILED ON
29 DEPENDENCY DOCKET), OR ANY SUCCESSOR RULE.

30 (c) Waiver of diligent search and publication of notice.--

1 (1) If the birth father PARENT or a putative father <--
2 knows or has reason to know of the child's birth, and the
3 birth father PARENT or a putative father has failed to make <--
4 reasonable efforts to maintain substantial and continuing
5 contact with the child and provide substantial financial
6 support for the child, the court may waive the requirement
7 for a diligent search and the publication of notice.

8 (2) Notice to the birth father PARENT or a putative <--
9 father shall be considered given under this section if the
10 court waives the requirement for a diligent search and OR the <--
11 publication of notice, OR BOTH, and makes a specific <--
12 determination that additional efforts to locate or identify
13 the birth father PARENT or a putative father and provide <--
14 notice do not serve the best interests of the child.

15 ~~(d) Definitions. As used in this section, the following~~ <--
16 ~~words and phrases shall have the meanings given to them in this~~
17 ~~subsection unless the context clearly indicates otherwise:~~

18 ~~"Diligent search." A search made to identify and locate a~~
19 ~~birth parent or putative father for the purpose of providing~~
20 ~~notice in an adoption proceeding. A diligent search shall~~
21 ~~include, but not be limited to, all of the following:~~

22 ~~(1) An inquiry to the United States Postal Service to~~
23 ~~determine the last known address of the individual.~~

24 ~~(2) An inquiry to or search of the records of the~~
25 ~~Department of Human Services, or its equivalent in the state~~
26 ~~in which the individual may reside, including public~~
27 ~~assistance or benefits, child support payments and any other~~
28 ~~records maintained by the Department of Human Services that~~
29 ~~may contain a last known address for the subject of the~~
30 ~~inquiry.~~

1 ~~(3) An inquiry to or search of the records of the~~
2 ~~Department of Transportation, or its equivalent in the state~~
3 ~~in which the individual may reside, relating to personal~~
4 ~~identification, driver's licensing, vehicle registration,~~
5 ~~traffic violations and other driving or vehicle related~~
6 ~~records that may contain a last known address for the subject~~
7 ~~of the inquiry.~~

8 ~~(4) An inquiry to or search of the records of the~~
9 ~~Department of Corrections, the Department of State and the~~
10 ~~Department of Revenue, or their equivalents in the state in~~
11 ~~which the individual may reside, that may contain a last~~
12 ~~known address for the subject of the inquiry.~~

13 ~~(5) A search of marriage and divorce records, wills and~~
14 ~~estates, deeds and land records and any other public records~~
15 ~~filed with the jurisdiction in which the individual may~~
16 ~~reside.~~

17 ~~(6) Inquiries to local law enforcement agencies and~~
18 ~~databases in the jurisdiction in which the individual may~~
19 ~~reside.~~

20 ~~(7) An inquiry to the Pennsylvania State Police or other~~
21 ~~statewide law enforcement entities in the state where the~~
22 ~~person may reside.~~

23 ~~(8) An inquiry to or search of the records of the armed~~
24 ~~forces of the United States as to whether there is any~~
25 ~~information as to the person.~~

26 ~~(9) An Internet search, including online search engines,~~
27 ~~social media, genealogy websites and any other online source~~
28 ~~that may provide the current residence or whereabouts of the~~
29 ~~subject of the inquiry.~~

30 ~~(10) An inquiry to the United States Department of~~

1 ~~Homeland Security.~~

2 ~~(11) An inquiry to the United States Department of~~
3 ~~State.~~

4 ~~(12) Any other source the court determines to be~~
5 ~~necessary to identify and locate a parent or putative father~~
6 ~~for the purpose of providing notice in an adoption~~
7 ~~proceeding.~~

8 Section 7 4. Section 2711(c) of Title 23 is amended and the <--
9 section is amended by adding subsections to read:

10 § 2711. Consents necessary to adoption.

11 * * *

12 (c) Validity of consent.--

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

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

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

1 executed.

2 (4) A consent to an adoption may only be revoked as set
3 forth in this subsection. The revocation of a consent shall
4 be in writing and shall be served upon the agency or adult to
5 whom the child was relinquished. [The following apply:]

6 (c.1) Nature of consent.--

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

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

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

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

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

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

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

24 (B) Thirty days after the entry of the adoption
25 decree.

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

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

3 * * *

4 (e) Waiver of notice requirements.--

5 (1) A birth parent or putative father who has consented
6 to an adoption may execute a waiver of notice of all legal
7 proceedings concerning the child.

8 (2) A person who has executed a waiver of further notice
9 under this subsection shall be provided with the advisement
10 required by section 2504(d) (relating to alternative
11 procedure for relinquishment) of the continuing right to file
12 personal and medical history pursuant to Subchapter B of
13 Chapter 29 (relating to records and access to information).

14 Section 5. Section 2712 of Title 23 is repealed: <--

15 [§ 2712. Consents not naming adopting parents.

16 A consent to a proposed adoption meeting all the requirements
17 of this part but which does not name or otherwise identify the
18 adopting parent or parents shall be valid if it contains a
19 statement that it is voluntarily executed without disclosure of
20 the name or other identification of the adopting parent or
21 parents.]

22 Section 6. This act shall take effect in 60 days. <--