

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 640

Session of
1979

INTRODUCED BY MESSRS. SCIRICA, BERSON, SPENCER, RHODES,
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LEVIN, LASHINGER, EARLEY, WACHOB, RICHARDSON, KUKOVICH
AND CHESS, MARCH 12, 1979

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 10, 1979

AN ACT

1 Consolidating, revising and amending the divorce and annulment
2 laws of the Commonwealth and making certain repeals.

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1 family rather than the vindication of private rights or the
2 punishment of matrimonial wrongs.

3 (4) Mitigate the harm to the spouses and their children
4 caused by the ~~process of~~ legal dissolution of the marriage. <—

5 (5) Seek causes rather than symptoms of family
6 disintegration and cooperate with and utilize the ~~services of~~ <—
7 resources ~~which are~~ available to deal with family problems. <—

8 (6) Effectuate economic justice between parties who are
9 divorced or separated and grant or withhold alimony according
10 to the actual need and ability to pay of the parties and
11 insure a fair and just determination and settlement of their
12 property rights.

13 (b) The objectives set forth in subsection (a) shall be
14 considered in construing provisions of this act and shall be
15 regarded as expressing the legislative intent.

16 Section 103. Construction.

17 The provisions of this act, so far as they are the same as
18 those of existing laws, are intended as a continuation of such
19 laws and not as new enactments. The provisions of this act shall
20 apply to all cases, whether the cause for divorce or annulment
21 arose prior or subsequent to enactment of this act. The
22 provisions of this act shall not affect any suit or action
23 pending, but the same may be proceeded with and concluded either
24 under the laws in existence when such suit or action was
25 instituted, notwithstanding the repeal of such laws by this act,
26 or, upon application granted, under the provisions of this act.
27 The provisions of this act shall not apply to any case in which
28 a decree has been rendered prior to the effective date of the
29 act. THIS ACT SHALL NOT AFFECT ANY MARITAL AGREEMENT EXECUTED <—
30 PRIOR TO THE EFFECTIVE DATE OF THIS ACT OR ANY AMENDMENT OR

1 MODIFICATION THERETO.

2 Section 104. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Act." The Divorce Code.

7 "Alimony." An order for support granted by this or any other
8 state to a spouse or former spouse in conjunction with a DECREE <—
9 GRANTING A divorce or annulment.

10 "Alimony pendente lite." An order for temporary support
11 granted to a spouse during the pendency of a divorce or
12 annulment proceeding.

13 "Court." The court of common pleas.

14 "Divorce." Divorce from the bonds of matrimony.

15 "Grounds for divorce." The grounds enumerated in section
16 201.

17 "Law." Includes both statutory and common law.

18 "Qualified professionals." Includes marriage counselors,
19 psychologists, psychiatrists, social workers, ministers,
20 priests, or rabbis, or other persons who, by virtue of their
21 training and experience, are able to provide counseling.

22 "SEPARATE AND APART." COMPLETE CESSATION OF ANY AND ALL <—
23 COHABITATION.

24 CHAPTER 2

25 DISSOLUTION OF MARITAL STATUS

26 Section 201. Grounds for divorce.

27 (a) It shall be lawful for the court to grant a divorce to
28 the innocent and injured spouse whenever it shall be judged that
29 the other spouse shall have:

30 (1) Committed willful and malicious desertion, and

1 absence from the habitation of the injured and innocent
2 spouse, without a reasonable cause, for the period of one or
3 more years.

4 (2) Committed adultery.

5 (3) By cruel and barbarous treatment, endangered the
6 life or health of the injured and innocent spouse.

7 (4) Knowingly entered into a bigamous marriage while a
8 former marriage still is subsisting.

9 (5) Been sentenced to imprisonment for a term of two or
10 more years upon conviction of having committed a ~~felony or~~ <—
11 ~~attempted felony or upon a plea of guilty or nolo contendere~~
12 ~~thereto~~ CRIME. <—

13 (6) Offered such indignities to the innocent and injured
14 spouse as to render his or her condition intolerable and life
15 burdensome.

16 (b) It shall be lawful for the court to grant a divorce upon
17 the ground that insanity or serious mental disorder has resulted
18 in confinement in a mental institution for at least three years
19 immediately before the filing of the complaint, and where there
20 is no reasonable prospect of the defendant spouse's being
21 discharged from inpatient care during the next three years
22 subsequent to the filing of the complaint. A presumption that no
23 such prospect of discharge exists shall be established by a
24 certificate of the superintendent of such institution to that
25 effect and which includes a supporting statement of a treating
26 physician.

27 (c) It shall also be lawful for the court to grant a divorce
28 where a complaint has been filed ~~specifying that the spouses are~~ <—
29 ~~living separate and apart because of estrangement due to marital~~
30 ~~difficulties and~~ ALLEGING THAT THE MARRIAGE IS IRRETRIEVABLY <—

1 BROKEN AND 90 DAYS HAVE ELAPSED FROM THE DATE OF FILING OF THE
2 COMPLAINT AND AN AFFIDAVIT HAS BEEN FILED BY EACH OF THE PARTIES
3 EVIDENCING THAT EACH OF THE PARTIES CONSENTS TO THE DIVORCE.

4 ~~(1) where an affidavit is filed by each of the parties~~ <—
5 ~~evidencing that each of the parties consents to the divorce~~
6 ~~and there has been testimony from a witness, other than a~~
7 ~~party to the complaint, that they have lived separate and~~
8 ~~apart for a period of at least three consecutive months~~
9 ~~immediately prior to the granting of the decree in divorce;~~
10 ~~or~~

11 ~~(2) when 12 months elapses from the date of the service~~
12 ~~of the complaint and an affidavit has been filed evidencing~~
13 ~~consent by only one of the parties and there has been~~
14 ~~testimony from a witness, other than the parties,~~
15 ~~corroborating that the parties have lived separate and apart~~
16 ~~for 12 consecutive months.~~

17 (D) THE COURT MAY ALSO GRANT A DIVORCE WHEN FOR A PERIOD OF <—
18 AT LEAST THREE YEARS IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF
19 THIS ACT THE PARTIES HAVE CONTINUOUSLY LIVED SEPARATE AND APART,
20 WITH COMPLETE CESSATION OF COHABITATION, WHICH MUST BE
21 ESTABLISHED BY AN AFFIDAVIT OF ONE OF THE PARTIES AND
22 CORROBORATED BY A WITNESS OTHER THAN THE PARTIES.

23 Section 202. Counseling.

24 ~~(a) Whenever section 201(c)(2) is the ground for divorce,~~ <—
25 ~~the court shall require up to a maximum of three counseling~~
26 ~~sessions within the first 90 days of the 12 month separation~~
27 ~~period where either of the parties requests it or may require~~
28 ~~such counseling where the couple has at least one child under 15~~
29 ~~years of age.~~

30 ~~(b) Whenever section 201(c)(1) or (2) is the ground for~~

1 ~~divorce, the court shall make available to both parties a list~~
2 ~~of qualified professionals who provide counseling services.~~

3 (A) WHENEVER SECTION 201(A)(6) IS THE GROUND FOR DIVORCE, <—
4 THE COURT SHALL REQUIRE UP TO A MAXIMUM OF THREE COUNSELING
5 SESSIONS WHERE EITHER OF THE PARTIES REQUESTS IT.

6 (B) WHENEVER SECTION 201(C) IS THE GROUND FOR DIVORCE, THE
7 COURT SHALL REQUIRE UP TO A MAXIMUM OF THREE COUNSELING SESSIONS
8 WITHIN THE 90 DAYS FOLLOWING THE FILING OF THE COMPLAINT WHERE
9 EITHER OF THE PARTIES REQUESTS IT.

10 (C) WHENEVER SECTION 201(A)(6) OR (C) IS THE GROUND FOR
11 DIVORCE, THE COURT SHALL UPON FILING OF THE COMPLAINT, NOTIFY
12 BOTH PARTIES OF THE AVAILABILITY OF COUNSELING AND UPON REQUEST,
13 PROVIDE BOTH PARTIES A LIST OF QUALIFIED PROFESSIONALS WHO
14 PROVIDE SUCH SERVICES.

15 ~~(e)~~ (D) The choice of a qualified professional shall be at <—
16 the option of the parties and such professional need not be
17 selected from the list provided by the court.

18 ~~(d)~~ (E) Where the court requires counseling, a report shall <—
19 be made by the qualified professional stating that the parties
20 did or did not attend.

21 Section 203. Annulment of void and voidable marriages.

22 In all cases where a supposed or alleged marriage shall have
23 been contracted which is void or voidable under this act or
24 under applicable law, either party to such supposed or alleged
25 marriage may bring an action in annulment to have it declared
26 null and void in accordance with the procedures provided for
27 under this act and the Rules of Civil Procedure.

28 Section 204. Annulment or invalidity of void marriages.

29 (a) Where there has been no confirmation by cohabitation
30 following the removal of an impediment, the supposed or alleged

1 marriage of any person shall be deemed void in the following
2 cases:

3 (1) Where either party at the time of such marriage had
4 an existing spouse and the former marriage had not been
5 annulled nor had there been a divorce, except where such
6 person had obtained a decree of presumed death of the former
7 spouse.

8 (2) Where the parties to such marriage are related
9 within the prohibited degrees of consanguinity, which degrees
10 are as follows:

11 A man may not marry his mother.

12 A man may not marry his father's sister.

13 A man may not marry his mother's sister.

14 A man may not marry his sister.

15 A man may not marry his daughter.

16 A man may not marry the daughter of his son or
17 daughter.

18 A woman may not marry her father.

19 A woman may not marry her father's brother.

20 A woman may not marry her mother's brother.

21 A woman may not marry her brother.

22 A woman may not marry her son.

23 A woman may not marry the son of her son or daughter.

24 (3) Where either party to such marriage was incapable of
25 consenting by reason of insanity or serious mental disorder,
26 or otherwise lacked capacity to consent or did not intend to
27 assent to such marriage ~~relationship~~. <—

28 (b) In all such cases of marriages which are void, the
29 marriage may be annulled as set forth in section 203, or its
30 invalidity may be declared in any collateral proceeding.

1 Section 205. Grounds for annulment of voidable marriages.

2 (a) The marriage of any person shall be deemed voidable and
3 subject to annulment in the following cases:

4 (1) Where either party to such marriage was under 16
5 years of age, unless such marriage was expressly authorized
6 by a judge of the court.

7 (2) Where either party was 16 or 17 years of age and
8 lacked the consent of parent or guardian or express
9 authorization of the court and has not subsequently ratified
10 such marriage upon reaching the age of 18 and such proceeding
11 for annulment is commenced within 60 days after the marriage
12 ceremony.

13 (3) Where either party to such marriage was under the
14 influence of intoxicating liquor or drugs and a proceeding
15 for annulment has been filed within 60 days after the
16 marriage ceremony.

17 (4) Where either party to such marriage still is and was
18 naturally and incurably impotent at the time of such
19 marriage, unless the condition was known to the other party
20 prior to the marriage.

21 (5) Where one party was induced to enter into such
22 marriage due to the fraud, duress, coercion, or force
23 attributable to the other party, and there has been no
24 subsequent voluntary cohabitation after knowledge of such
25 fraud or release from the effects of fraud, duress, coercion,
26 or forces.

27 (b) In all such cases of marriages which are voidable,
28 either party thereto may seek and obtain an annulment of such
29 marriage, but unless and until such decree is obtained from a
30 court of competent jurisdiction, such marriage shall be valid

1 and subsisting. The validity of such a voidable marriage shall
2 not be subject to attack or question by any person if it is
3 subsequently confirmed by the parties thereto or if either party
4 has died.

5 Section 206. Proceedings to determine marital status.

6 When the validity of any marriage shall be denied or doubted,
7 either or both of the parties to the marriage may bring an
8 action for a declaratory judgment seeking a declaration of the
9 validity or invalidity of the marriage, and, upon due proof of
10 the validity or invalidity thereof, it shall be declared valid
11 or invalid by decree of such court, and, unless reversed upon
12 appeal, such declaration shall be conclusive upon all persons
13 concerned.

14 Section 207. Defenses.

15 (a) Existing common law defenses are retained as to the
16 grounds enumerated in section 201(a) and (b). The defenses of
17 condonation, connivance, collusion; recrimination and
18 provocation are abolished as to the grounds enumerated in
19 section 201(c).

20 (b) In any action or suit for divorce for the cause of
21 adultery, if the defendant shall allege and prove, or it shall
22 appear in the evidence, that the plaintiff has been guilty of
23 the like offense, or has admitted the defendant into conjugal
24 society or embraces after he or she knew of the fact, or that
25 the said plaintiff allowed the defendant's prostitution, or
26 received hire from it, or exposed the defendant to lewd company
27 whereby he or she became ~~insnared~~ ENSNARED to the offense after <—
28 said, it shall be a good defense and a perpetual bar against the
29 same.

30 Section 208. Jurisdiction where defendant is insane or suffering

1 from serious mental disorder.

2 In cases where a spouse is insane or suffering from serious
3 mental disorder the court shall have jurisdiction to receive a
4 complaint for divorce in which such person is made the defendant
5 upon any ground set forth in section 201, and for annulment.

6 CHAPTER 3

7 PROCEDURE

8 Section 301. Jurisdiction.

9 (a) The courts of this Commonwealth as defined in section
10 104 shall have original jurisdiction of IN cases of divorce and <—
11 for the annulment of void or voidable marriages and, where they
12 have jurisdiction, shall determine in ~~the divorce action or in~~ <—
13 ~~one separate action~~ CONJUNCTION WITH ANY DECREE GRANTING A <—
14 DIVORCE OR ANNULMENT in the following matters, where raised in
15 the complaint or the answer and issue appropriate decrees or
16 orders with reference thereto and may retain continuing
17 jurisdiction thereof:

18 (1) The determination and disposition of property rights
19 and interests between spouses, including any rights created
20 by any antenuptial, postnuptial, or separation agreement and
21 including the partition of property held as tenants by the
22 entirety or otherwise and any accounting between them, and
23 the order of any alimony, alimony pendente lite, counsel
24 fees, or costs authorized by law.

25 (2) The future care, custody and visitation rights as to
26 children of such marriage or purported marriage.

27 (3) Any support or assistance which shall be paid for
28 the benefit of any children of such marriage or purported
29 marriage.

30 (4) ~~The approval of any~~ ANY property settlement, <—

1 involving any of the matters set forth in paragraphs (1), (2)
2 and (3) as submitted by the parties.

3 (5) Any other matters pertaining to such marriage and
4 divorce or annulment authorized by law and which fairly and
5 expeditiously may be determined and disposed of in such
6 action.

7 (b) The said courts having power to grant divorces shall
8 have authority to do so notwithstanding the fact that the
9 marriage of the parties and the cause for divorce occurred
10 outside of this Commonwealth and that both parties were at the
11 time of such occurrence, domiciled without this Commonwealth.
12 Said courts shall also have power to annul void or voidable
13 marriages notwithstanding the fact such were celebrated without
14 this Commonwealth at a time when neither party was domiciled
15 within this Commonwealth.

16 Section 302. Residence and domicile of parties.

17 No spouse shall be entitled to commence proceeding for
18 divorce or annulment by virtue of this act, unless at least one
19 of the parties has been a bona fide resident in this
20 Commonwealth for at least six months immediately previous to the
21 filing of the complaint. Both parties shall be competent
22 witnesses to prove his or her residence and proof of actual
23 residence within the Commonwealth for six months shall create a
24 presumption of domicile within the Commonwealth.

25 Section 303. General appearance and collusion.

26 The entry of a general appearance by, or in behalf of, a
27 defendant shall not be deemed collusion. Collusion shall be
28 found to exist only where the parties conspired to fabricate
29 grounds for divorce or annulment, agreed to and did commit
30 perjury, or perpetrated fraud on the court. Negotiation and

1 discussion of terms of property settlement and other matters
2 arising by reason of contemplated divorce or annulment shall not
3 be deemed to constitute collusion.

4 Section 304. Hearing by master.

5 A master may be appointed by the court to hear testimony on
6 all or some issues, except issues of custody, paternity, ~~child~~ <—
7 ~~and spousal support~~, property distribution and alimony, and
8 return the record and a transcript of the testimony together
9 with his report and recommendation as provided by the Rules of
10 Civil Procedure, or a judge of the court in chambers may appoint
11 a master to take testimony and return the same to the court.

12 Section 305. Jury trial.

13 (a) After service of the complaint in divorce or annulment
14 on the defendant in the manner provided by the Rules of Civil
15 Procedure, or entry of a general appearance for the defendant,
16 if either of the parties shall desire any matter of fact that is
17 affirmed by one and denied by the other to be tried by a jury,
18 he or she may take a rule upon the opposite party, to be allowed
19 by a judge of the court, to show cause why the issues of fact
20 set forth in such rule shall not be tried by a jury, which rule
21 shall be served upon the opposite party or his or her counsel.

22 (b) Upon the return of such rule, after hearing, the court
23 may discharge it, or make it absolute, or frame issues itself,
24 and only the issues so ordered by the court shall be tried
25 accordingly, but such rule shall not be made absolute when, in
26 the opinion of the court, a trial by jury cannot be had without
27 prejudice to the public morals.

28 CHAPTER 4

29 DECREE OF COURT; PROPERTY RIGHTS AND COSTS

30 Section 401. Decree of court.

1 (a) In all matrimonial causes, the court having jurisdiction
2 may either dismiss the complaint or enter a decree of divorce or
3 annulment of the marriage.

4 (b) Any decree granting a divorce or an annulment, shall
5 include after a full hearing, where these matters are raised in
6 the complaint, the answer or other petition, an order or orders
7 determining and disposing of existing property rights and
8 interests between the parties, custody and visitation rights,
9 child support, alimony and any other related matters including
10 the enforcement of separation agreements voluntarily entered
11 into between the parties. In the enforcement of the rights of
12 any party to any such matters, the court shall have all
13 necessary powers, including but not limited to, the power of
14 contempt and the power to attach wages. In the event that the
15 court is unable for any reason to determine and dispose of the
16 matters provided for in this subsection within 30 days after the
17 master's report has been filed, it may enter a decree of divorce
18 or annulment. The court may order alimony, reasonable counsel
19 fees and expenses pending final disposition of the matters
20 provided for in this subsection AND UPON FINAL DISPOSITION, THE <—
21 COURT MAY AWARD COSTS TO THE PARTY IN WHOSE FAVOR THE ORDER OR
22 DECREE SHALL BE ENTERED, OR MAY ORDER THAT EACH PARTY SHALL PAY
23 HIS OR HER OWN COSTS, AS IT SHALL APPEAR JUST AND REASONABLE.

24 (c) In all matrimonial causes, the court shall have full
25 equity power and jurisdiction and may issue injunctions or other
26 orders which are necessary to protect the interests of the
27 parties or to effectuate the purposes of this act, and may grant
28 such other relief or remedy as equity and justice require
29 against either party or against any third person over whom the
30 court has jurisdiction and who is involved in or concerned with

1 the disposition of the cause.

2 (d) In a proceeding for divorce or annulment, the court
3 shall, upon request of either party, equitably divide,
4 distribute or assign the marital property between the parties
5 without regard to marital misconduct in such proportions as the
6 court deems just after considering all relevant factors
7 including:

8 (1) The length of the marriage.

9 (2) Any prior marriage of either party.

10 (3) The age, health, station, amount and sources of
11 income, vocational skills, employability, estate, liabilities
12 and needs of each of the parties.

13 (4) The contribution by one party to the education,
14 training, or increased earning power of the other party.

15 (5) The opportunity of each party for future
16 acquisitions of capital assets and income.

17 (6) THE SOURCES OF INCOME OF BOTH PARTIES, INCLUDING BUT <—
18 NOT LIMITED TO MEDICAL, RETIREMENT, INSURANCE OR OTHER
19 BENEFITS.

20 ~~(6)~~ (7) The contribution or dissipation of each party in <—
21 the acquisition, preservation, depreciation or appreciation
22 of the marital property, including the contribution of a
23 party as homemaker.

24 ~~(7)~~ (8) The value of the property set apart to each <—
25 party.

26 ~~(8)~~ (9) The standard of living of the parties <—
27 established during the marriage.

28 ~~(9) The economic circumstances of each party at the time <—~~
29 ~~the division of property is to become effective, including~~
30 ~~the desirability of awarding the family home or the right to~~

1 ~~live therein for reasonable periods to the party with whom~~
2 ~~any children of the marriage will live.~~

3 ~~(10) The debts of the parties.~~

4 (10) THE ECONOMIC CIRCUMSTANCES OF EACH PARTY AT THE <—
5 TIME THE DIVISION OF PROPERTY IS TO BECOME EFFECTIVE.

6 (e) For purposes of this chapter only, "marital property"
7 means all property acquired by either party ~~subsequent to~~ DURING <—
8 the marriage except:

9 (1) Property acquired in exchange for property acquired
10 prior to the marriage except for the increase in value during
11 the marriage.

12 (2) Property excluded by valid agreement of the parties
13 entered into before, DURING or after the marriage. <—

14 (3) Property acquired by gift, bequest, devise or
15 descent except for the increase in value during the marriage.

16 (4) Property acquired after separation until the date of
17 divorce, provided however, if the parties separate and
18 reconcile, all property acquired subsequent to the final
19 separation until their divorce.

20 (5) PROPERTY WHICH THE PARTY HAS MORTGAGED, SOLD, <—
21 GRANTED, CONVEYED OR OTHERWISE ENCUMBERED OR DISPOSED OF IN
22 GOOD FAITH AND FOR A FAIR CONSIDERATION PRIOR TO THE TIME
23 PROCEEDINGS FOR THE DIVORCE ARE COMMENCED.

24 (6) PROPERTY ACQUIRED WITH, OR RECEIVED IN EXCHANGE FOR
25 PROPERTY ACQUIRED WITH, FUNDS DERIVED FROM COMPENSATION,
26 PENSIONS, INCOME, OR OTHER PAYMENTS RECEIVED AS PAYMENT FOR
27 THE LOSS OR IMPAIRMENT OF PARTS OR FUNCTIONS OF THE BODY OF
28 THE PARTY WHO RECEIVED THE PAYMENT. THIS EXCLUSION INCLUDES
29 INCOME FROM AND INCREASES IN VALUE OF THE PROPERTY. THE
30 BURDEN OF PROOF SHALL BE ON THE PARTY CLAIMING THE EXCLUSION

1 PROVIDED BY THIS PARAGRAPH. THE PROPERTY EXCLUDED BY THIS
2 PARAGRAPH OR ANY INCREASE IN THE STANDARD OF LIVING PROVIDED
3 BY SUCH PROPERTY SHALL NOT BE CONSIDERED IN THE DISTRIBUTION
4 OF THE OTHER PROPERTY OR THE AWARD OF ALIMONY.

5 (f) All property, whether real or personal, acquired by
6 either party ~~subsequent to~~ DURING the marriage is presumed to be <—
7 marital property regardless of whether title is held
8 individually or by the parties in some form of co-ownership such
9 as joint tenancy, tenancy in common or tenancy by the entirety.
10 The presumption of marital property is overcome by a showing
11 that the property was acquired by a method listed in subsection
12 (e).

13 (g) The court may also impose a lien or charge upon the
14 marital property assigned to a party as security for the payment
15 of alimony or other award for the other party.

16 (H) THE COURT MAY AWARD TO ONE, EACH, OR BOTH OF THE PARTIES <—
17 THE RIGHT TO LIVE IN THE FAMILY HOME FOR REASONABLE PERIODS OF
18 TIME.

19 ~~(h)~~ (I) The court may also direct the continued maintenance <—
20 and beneficiary designations of existing policies insuring the
21 life of either party. The court's power under this subsection
22 shall extend only to policies originally purchased during the
23 marriage and owned by or within the effective control of either
24 party.

25 ~~(i)~~ (J) Whenever a decree or judgment is granted which <—
26 nullifies or absolutely terminates the bonds of matrimony, any
27 and all property rights which are dependent upon such marital
28 relation, save those which are vested rights, are terminated
29 unless the court otherwise expressly provides in its decree in
30 accordance with subsection (b). All duties, rights, and claims

1 accruing to either of said parties at any time heretofore in
2 pursuance of the said marriage, shall cease and the parties
3 shall, severally, be at liberty to marry again in like manner as
4 if they had never been married, except where otherwise provided
5 by law.

6 Section 402. Disposition of realty and personalty after
7 termination of marriage.

8 Unless otherwise provided by the court, whenever a decree of
9 annulment or divorce is decreed by a court of competent
10 jurisdiction, both parties whose marriage is so terminated or
11 affected, shall have complete freedom of disposition as to their
12 separate property and may mortgage, sell, grant, convey, or
13 otherwise encumber or dispose of such realty or personalty,
14 whether such separate property was acquired before, during, or
15 after coverture, and neither need join in, consent to, or
16 acknowledge any deed, mortgage, or instrument of the other.

17 Section 403. Injunction against disposition of property
18 pending suit and decree rendering fraudulent
19 transfers null and void.

20 (a) Where it appears to the court that a party is about to
21 remove himself or his property from the jurisdiction of the
22 court or is about to dispose of, alienate, or encumber property
23 in order to defeat alimony pendente lite, alimony, child AND <—
24 SPOUSAL support, or similar award, an injunction may issue to
25 prevent such removal or disposition and such property may be
26 attached as provided by the Rules of Civil Procedure. The court
27 may also issue a writ of ne exeat to preclude such removal.

28 (b) Both parties shall submit to the court an inventory and
29 appraisalment of all property owned or possessed at the time
30 action was commenced.

1 (c) If any party deliberately or negligently fails to
2 disclose information required by subsection (b) and in
3 consequence thereof any asset or assets with a fair market value
4 of \$500 or more is omitted from the final distribution of
5 property, the party aggrieved by such nondisclosure may at any
6 time petition the court granting the annulment OR divorce ~~or~~ <—
7 ~~legal separation~~ to declare the creation of a constructive trust
8 as to all undisclosed assets, for the benefit of the parties and
9 their minor or dependent children, if any, with the party in
10 whose name the assets are held declared the constructive
11 trustee, said trust to include such terms and conditions as the
12 court may determine. The court shall grant the petition upon a
13 finding of a failure to disclose such assets as required under
14 subsection (b).

15 (d) Any encumbrance or disposition of property to third
16 persons who had notice of the pendency of the matrimonial action
17 or who paid wholly inadequate consideration for such property
18 may be deemed fraudulent and declared null and void.

19 ~~Section 404. Costs.~~ <—

20 ~~The court may award costs to the party in whose favor the~~
21 ~~order or decree shall be entered, or may order that each party~~
22 ~~shall pay his or her own costs, as to it shall appear just and~~
23 ~~reasonable.~~

24 SECTION 404. STATEMENT OF REASONS FOR DISTRIBUTION. <—

25 IN AN ORDER MADE UNDER THIS CHAPTER FOR THE DISTRIBUTION OF
26 PROPERTY THE COURT SHALL SET FORTH THE REASON OR REASONS FOR THE
27 DISTRIBUTION ORDERED.

28 CHAPTER 5

29 ALIMONY AND SUPPORT

30 Section 501. Alimony.

1 (a) The court may allow alimony, as it deems reasonable, to
2 either party, only if it finds that the party seeking alimony:

3 (1) lacks sufficient property, including but not limited
4 to any property distributed pursuant to Chapter 4, to provide
5 for his or her reasonable needs; and

6 (2) is unable to support himself or herself through
7 appropriate employment.

8 (b) In determining whether alimony is necessary, and in
9 determining the nature, amount, DURATION, and manner of payment <—
10 of alimony, the court shall consider all relevant factors, <—
11 ~~without regard to marital misconduct,~~ including:

12 (1) The relative earnings and earning capacities of the
13 parties.

14 (2) The ages, and the physical, mental and emotional
15 conditions of the parties.

16 ~~(3) The retirement or other benefits of the parties.~~ <—

17 (3) THE SOURCES OF INCOME OF BOTH PARTIES INCLUDING BUT <—
18 NOT LIMITED TO MEDICAL, RETIREMENT, INSURANCE OR OTHER
19 BENEFITS.

20 (4) The expectancies and inheritances of the parties.

21 (5) The duration of the marriage.

22 (6) The contribution by one party to the education,
23 training or increased earning power of the OTHER party. <—

24 (7) The extent to which it would be inappropriate for a
25 party, because said party will be custodian of a minor child,
26 to seek employment outside the home.

27 (8) The standard of living of the parties established
28 during the marriage.

29 (9) The relative education of the parties and the time
30 necessary to acquire sufficient education or training to

1 enable the party seeking alimony to find appropriate
2 employment.

3 (10) The relative assets and liabilities of the parties.

4 (11) The property brought to the marriage by either
5 party.

6 (12) The contribution of a spouse as homemaker.

7 (13) The relative needs of the parties.

8 (14) THE MARITAL MISCONDUCT OF EITHER OF THE PARTIES <—
9 DURING THE MARRIAGE; HOWEVER, THE MARITAL MISCONDUCT OF
10 EITHER OF THE PARTIES DURING SEPARATION SUBSEQUENT TO THE
11 FILING OF A DIVORCE COMPLAINT SHALL NOT BE CONSIDERED BY THE
12 COURT IN ITS DETERMINATIONS RELATIVE TO ALIMONY.

13 (C) DURATION.--UNLESS THE ABILITY OF THE PARTY SEEKING THE
14 ALIMONY TO PROVIDE FOR HIS OR HER REASONABLE NEEDS THROUGH
15 EMPLOYMENT IS SUBSTANTIALLY DIMINISHED BY REASON OF AGE,
16 PHYSICAL, MENTAL OR EMOTIONAL CONDITION, CUSTODY OF MINOR
17 CHILDREN, OR OTHER COMPELLING IMPEDIMENT TO GAINFUL EMPLOYMENT,
18 THE COURT IN ORDERING ALIMONY SHALL LIMIT THE DURATION OF THE
19 ORDER TO A PERIOD OF TIME WHICH IS REASONABLE FOR THE PURPOSE OF
20 ALLOWING THE PARTY SEEKING ALIMONY TO MEET HIS OR HER REASONABLE
21 NEEDS BY:

22 (1) OBTAINING APPROPRIATE EMPLOYMENT; OR

23 (2) DEVELOPING AN APPROPRIATE EMPLOYABLE SKILL.

24 (D) IN AN ORDER MADE UNDER THIS SECTION THE COURT SHALL SET
25 FORTH THE REASON OR REASONS FOR ITS DENIAL OR AWARD OF ALIMONY
26 AND THE AMOUNT THEREOF.

27 ~~(C)~~ (E) Any order entered pursuant to this section is <—
28 subject to further order of the court upon changed circumstances
29 of either party of a substantial and continuing nature whereupon
30 such order may be modified, suspended, terminated, reinstituted,

1 or a new order made. Any such further order shall apply only to
2 payment accruing subsequent to the petition for the requested
3 relief. Remarriage of the party receiving alimony shall
4 terminate the award of alimony.

5 Section 502. Alimony pendente lite, counsel fees and expenses.

6 The court may, upon petition, in proper cases, allow a spouse
7 reasonable alimony pendente lite and reasonable counsel fees and
8 expenses.

9 Section 503. Enforcement of arrearages.

10 If at any time a party is in arrears in the payment of
11 alimony OR alimony pendente lite ~~or counsel fees and expenses,~~ <—
12 as provided for in sections 501 and 502, after hearing, the
13 court may, in order to effect payment of the arrearages:

14 (1) Enter judgment.

15 (2) Authorize the taking and seizure of the goods and
16 chattels and collection of the rents and profits of the real
17 estate of the party.

18 (3) Attach no more than 50% of the wages of the party.

19 (4) AWARD INTEREST ON UNPAID INSTALLMENTS. <—

20 (5) REQUIRE SECURITY TO INSURE FUTURE PAYMENTS.

21 ~~(4)~~ (6) Issue attachment proceedings, directed to the <—
22 sheriff or other proper officer of the county, directing that
23 the person named as having failed to comply with the court
24 order be brought before the court at such time as the court
25 may direct. If the court finds, after hearing, that the said
26 person willfully failed to comply with the court order, it
27 may deem said person in civil contempt of court and in its
28 discretion make an appropriate order including, but not
29 limited to, commitment of said person to the county jail for
30 a period not to exceed six months.

1 Section 504. Payment of support, alimony and alimony pendente
2 lite.

3 When so ordered by the court, all payments of child and
4 spousal support, alimony or alimony pendente lite, shall be made
5 to the domestic relations section of the court which issued the
6 order or such section of the court at the residence of the party
7 entitled to receive such an award. The domestic relations
8 section shall keep an accurate record of all such payments and
9 shall notify the court immediately whenever any person subject
10 to a payment order is 30 days in arrears in such payment so that
11 appropriate action may be taken to enforce the order of the
12 court. It shall be the duty of the domestic relations section to
13 distribute such payments to the person entitled thereto as soon
14 as possible after receipt.

15 Section 505. Alimony where a foreign ex parte divorce or
16 annulment.

17 Whenever a person who was a resident of this Commonwealth at
18 the time such person was a defendant or respondent in a foreign
19 ex parte action for annulment or divorce petitions a court of
20 this Commonwealth for alimony and establishes the need therefor,
21 such court, if it has jurisdiction over the person or property
22 of the other party, may order that such alimony be paid in the
23 same manner and under the same conditions and limitations which
24 pertain when alimony is sought as provided in this chapter. In
25 the event that the other party from whom such alimony is sought
26 cannot be located within this Commonwealth, the court may attach
27 such of the tangible or intangible property of said party as is
28 within the jurisdiction of the court in the manner provided by
29 the Rules of Civil Procedure, except that no exemption shall
30 apply. Such property shall thereupon be subject to the payment

1 of alimony in the same manner as provided by law in actions for
2 nonsupport.

3 Section 506. Enforcement of foreign decrees.

4 Whenever a person subject to a valid decree of a sister state
5 or territory for the payment of alimony, temporary alimony, or
6 alimony ~~pendent~~ PENDENTE lite, or his or her property is found <—
7 within this Commonwealth, the obligee of such a decree may
8 petition the court, where the obligor or his or her property is
9 found, to register, adopt as its own, and to enforce the said
10 decree as a duly issued and authenticated decree of a sister
11 state or territory. Upon registration and adoption, such relief
12 and process for enforcement as is provided for at law, in
13 equity, or by court rule, in similar cases originally commenced
14 in this Commonwealth, shall be available, and a copy of the
15 decree and order shall be forwarded to the court of the state or
16 territory which issued the original decree. The obligor, in such
17 actions to register, adopt, and enforce, shall have such
18 defenses and relief as are available to him in the state or
19 territory which issued the original decree and may question the
20 jurisdiction of that court if not otherwise barred. Interest may
21 be awarded on unpaid installments and security may be required
22 to insure future payments as in such cases originally commenced
23 in this Commonwealth. Where property of the obligor, but not his
24 person, is found within this Commonwealth, there shall be
25 jurisdiction quasi in rem and, upon registration and adoption of
26 the decree of the sister state or territory, such relief and
27 enforcement of the decree shall be available as in other
28 proceedings which are quasi in rem.

29 SECTION 507. BAR TO ANY ALIMONY. <—

30 NO PETITIONER SHALL BE ENTITLED TO RECEIVE ANY AWARD OF

1 ALIMONY WHERE SUCH PETITIONER HAS ENTERED INTO COHABITATION WITH
2 A PERSON OF THE OPPOSITE SEX WHO IS NOT A MEMBER OF THE
3 PETITIONER'S IMMEDIATE FAMILY WITHIN THE DEGREES OF
4 CONSANGUINITY SUBSEQUENT TO THE DIVORCE PURSUANT TO WHICH
5 ALIMONY IS BEING SOUGHT.

6 CHAPTER 6

7 APPEALS AND ATTACKS UPON DECREES

8 Section 601. Limitations on attacks upon decrees.

9 The validity of any decree of divorce or annulment issued by
10 a court shall not be questioned, except by appeal, in any court
11 or place in this Commonwealth after the death of either party to
12 such proceeding and if it is shown that a party who subsequently
13 attempts to question the validity of such a decree had full
14 knowledge of the facts and circumstances later complained of, at
15 the time of issuance of said decree, or failed to take any
16 action, despite such knowledge, within two years after the date
17 of such decree, said party shall be barred from questioning such
18 decree and it shall be deemed valid in all courts and places
19 within this Commonwealth.

20 Section 602. Opening or vacating divorce decrees.

21 A motion to open a decree of divorce or annulment may be made
22 only within 30 days after entry of the decree and not
23 thereafter. Such motion may lie where it is alleged that the
24 decree was procured by intrinsic fraud or that there is new
25 evidence relating to the cause of action which will sustain the
26 attack upon its validity. A motion to vacate a decree or strike
27 a judgment alleged to be void because of extrinsic fraud, lack
28 of jurisdiction over the subject matter or because of a fatal
29 defect apparent upon the face of the record, must be made within
30 five years after entry of the final decree. Intrinsic fraud is

1 such as relates to a matter adjudicated by the judgment,
2 including perjury and false testimony, whereas extrinsic fraud
3 relates to matters collateral to the judgment which have the
4 consequence of precluding a fair hearing or presentation of one
5 side of the case.

6 Section 603. Plaintiff a competent witness.

7 In all proceedings for divorce, the plaintiff shall be fully
8 competent to prove all the facts, as long as the defendant has
9 been served as provided by the Rules of Civil Procedure.

10 Section 604. Rules of court.

11 The court is hereby authorized to make and adopt such rules
12 and practices as may be necessary to carry this act into effect
13 which are ~~not inconsistent~~ CONSISTENT with the Rules of Civil
14 Procedure, and to regulate proceedings before masters, and to
15 fix their fees.

<—

16 Section 605. Res judicata and estoppel.

17 The validity of any divorce or annulment decree granted by a
18 court having jurisdiction over the subject matter may not be
19 questioned by any party who was subject to the personal
20 jurisdiction of such court except by such direct appeal as is
21 provided by law. A party who sought and obtained such decree,
22 financed or agreed to its procurement, or accepted a property
23 settlement, alimony pendente lite or alimony pursuant to the
24 terms of such decree, or who remarries after such decree, or is
25 guilty of laches, is barred from making a collateral attack upon
26 the validity of such decree unless by clear and convincing
27 evidence it is established that fraud by the other party
28 prevented him from making a timely appeal from such divorce or
29 annulment decree.

30

CHAPTER 7

MISCELLANEOUS PROVISIONS

Section 701. Marriage upon false rumor of spouse's death.

(a) The remarriage of a spouse who has obtained a license to marry and a decree of presumed death of the former spouse shall be valid for all intents and purposes as though the former marriage had been terminated by divorce, and any and all property of the presumed decedent shall be administered and disposed of as provided by Title 20 of the Pennsylvania Consolidated Statutes (relating to decedents, estates and fiduciaries).

(b) Where a remarriage has occurred upon false rumor of the death of a former spouse, in appearance well founded, but there has been no decree of presumed death, the remarriage shall be deemed void and subject to annulment by either party to such remarriage as provided by section 204 and the returning spouse shall have cause for divorce as provided in section 201.

(c) Where the remarriage was entered into in good faith, neither party to such remarriage shall be subject to criminal prosecution therefore.

(d) If the former spouse dies or procures a divorce the parties to the remarriage shall be deemed to be lawfully married from the date of such death or decree.

Section 702. Resumption of prior name.

It shall be lawful for any person who has heretofore been or shall hereafter be divorced, or whose marriage is annulled, to retake and thereafter use his or her prior name. Every such person who elects to resume his or her prior name shall file a written notice avowing such intention in the office of the prothonotary of the court in which such decree of divorce or annulment was entered, showing the caption and number and term

1 of the proceeding in divorce or annulment, and duly acknowledged
2 before a notary public. Where a person has a decree of divorce
3 or annulment granted to him or her, or his or her spouse, in a
4 foreign jurisdiction, a certified copy of such foreign divorce
5 or annulment decree shall be filed with the prothonotary where
6 the affiant resides, and thereafter such person desiring to
7 resume his or her prior name may file a written notice ~~so to do~~ <—
8 TO DO SO by making full reference therein to the filing of the <—
9 foreign divorce or annulment decree with the prothonotary of the
10 county where the affiant resides. A copy of the written notice
11 in either case, so filed, duly certified by the prothonotary,
12 shall be competent evidence for all purposes of right and duty
13 of such person to use such prior name thereafter.

14 Section 703. Privileged communications.

15 Communications of a confidential character made by a spouse
16 to an attorney, or a qualified professional, shall be privileged
17 and inadmissible in evidence in any MATRIMONIAL cause unless the <—
18 party concerned waives such immunity.

19 CHAPTER 8

20 REPEALS AND EFFECTIVE DATE

21 Section 801. Repeals.

22 (a) The following acts and parts of acts and all amendments
23 thereto are repealed to the extent specified:

24 Sections V, VI and IX, act of March 13, 1815 (P.L.150,
25 Ch. CIX), entitled "An act concerning divorces," insofar as
26 supplied by this act.

27 The act of May 2, 1929 (P.L.1237, No.320), known as "The
28 Divorce Law," absolutely.

29 ~~The act of May 25, 1939 (P.L.192, No.100), entitled "An~~ <—
30 ~~act authorizing women who have been divorced from the bonds~~

1 ~~of matrimony to retake and use their maiden names; and making~~
2 ~~certified copies of their election evidence in all cases,"~~
3 ~~absolutely.~~

4 Clause (h) of section 5, act of August 22, 1953
5 (P.L.1344, No.383), known as "The Marriage Law."

6 (b) All other acts and parts of acts, general, local and
7 special, are repealed insofar as they are inconsistent herewith.
8 Section 802. Effective date.

9 This act shall take effect in 90 days.