
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 677 Session of
2007

INTRODUCED BY BENNINGHOFF, BELFANTI, CREIGHTON, DALLY,
DENLINGER, FAIRCHILD, FREEMAN, GIBBONS, HALUSKA, HENNESSEY,
HERSHEY, JAMES, KORTZ, KOTIK, LEVDANSKY, MILLARD, PYLE, RAPP,
REED, ROHRER, SAYLOR, SCHRODER AND SIPTROTH, MARCH 9, 2007

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 9, 2007

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for impounding of
3 adoption proceedings and access to records, for determination
4 of paternity and for visitation rights and partial custody
5 when there is a deceased parent.

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

8 Section 1. Sections 2905(a), 5104 heading and (a), (b), (c),
9 (d) and (g) and 5311 of Title 23 of the Pennsylvania

10 Consolidated Statutes, are amended to read:

11 § 2905. Impounding of proceedings and access to records.

12 (a) General rule.--All petitions, exhibits, reports, notes
13 of testimony, decrees, and other papers pertaining to any
14 proceeding under this part or former statutes relating to
15 adoption shall be kept in the files of the court as a permanent
16 record thereof and withheld from inspection except on an order
17 of court granted upon cause shown or except as otherwise
18 provided in this section. In the case of an adult adoptee who

1 [is assuming] assumes a name under section 2904 (relating to
2 name of adoptee), an order of court is not required for the
3 court to forward to the Pennsylvania State Police documentation
4 in accordance with 54 Pa.C.S. § 702 (relating to change by order
5 of court). Any report required to be filed under sections 2530
6 (relating to home study and preplacement report), 2531 (relating
7 to report of intention to adopt) and 2535 (relating to
8 investigation) shall be made available to parties to an adoption
9 proceeding only after all identifying names and addresses in the
10 report have been extirpated by the court.

11 * * *

12 § 5104. [Blood tests] Tests to determine paternity.

13 (a) [Short title of section.--This section shall be known
14 and may be cited as the Uniform Act on Blood Tests to Determine
15 Paternity.] Testing.--A test to determine paternity shall be
16 conducted in accordance with this section. The test shall be
17 conducted upon blood, deoxyribonucleic acid (DNA) or both.

18 (b) Scope of section.--

19 (1) Civil matters.--This section shall apply to all
20 civil matters.

21 (2) Criminal proceedings.--This section shall apply to
22 all criminal proceedings subject to the following limitations
23 and provisions:

24 (i) An order for the tests shall be made only upon
25 application of a party or on the initiative of the court.

26 (ii) The compensation of the experts shall be paid
27 by the party requesting the [blood] test or by the
28 county, as the court shall direct.

29 (iii) The court may direct a verdict of acquittal
30 upon the conclusions of all the experts under subsection

1 (f). Otherwise, the case shall be submitted for
2 determination upon all the evidence.

3 (iv) The refusal of a defendant to submit to the
4 tests may not be used in evidence against the defendant.

5 (c) Authority for test.--In any matter subject to this
6 section in which paternity, parentage or identity of a child is
7 a relevant fact, the court, upon its own initiative or upon
8 suggestion made by or on behalf of any person whose blood or DNA
9 is involved, may or, upon motion of any party to the action made
10 at a time so as not to delay the proceedings unduly, shall order
11 the mother, child and alleged father to submit to blood tests,
12 DNA tests or both. If any party refuses to submit to the tests,
13 the court may resolve the question of paternity, parentage or
14 identity of a child against the party or enforce its order if
15 the rights of others and the interests of justice so require.

16 (d) Selection of experts.--The tests shall be made by
17 experts qualified as examiners of blood types or DNA
18 identification, who shall be appointed by the court. The experts
19 shall be called by the court as witnesses to testify to their
20 findings and shall be subject to cross-examination by the
21 parties. Any party or person at whose suggestion the tests have
22 been ordered may demand that other experts qualified as
23 examiners of blood types or DNA identification perform
24 independent tests under order of court, the results of which may
25 be offered in evidence. The number and qualifications of experts
26 shall be determined by the court.

27 * * *

28 (g) Effect on presumption of [legitimacy] paternity.--The
29 presumption of [legitimacy] paternity of a child born during
30 wedlock as recognized in this Commonwealth is reaffirmed and

1 made subject to the following provisions:

2 (1) Upon petition for testing in an action in which
3 paternity of the child is an issue filed not later than five
4 years after the child's birth, the court shall permit testing
5 to rebut the presumption of paternity provided that the
6 overall interests of justice, including the best interests of
7 the child, would not be unreasonably harmed and:

8 (i) the parties subject to the presumption are
9 divorced or irreconcilably separated, and one or both
10 assert reasonable grounds to believe that application of
11 the presumption is likely to result in an incorrect
12 paternity determination; or

13 (ii) the parties subject to the presumption mutually
14 agree to submit to and be bound by the testing.

15 (2) The presumption of paternity is overcome if the
16 court finds that the conclusions of all the experts as
17 disclosed by the evidence based upon the tests show that the
18 husband is not the father of the child.

19 § 5311. When parent deceased.

20 (a) Parents and grandparents.--If a parent of an unmarried
21 child is deceased, the parents or grandparents of the deceased
22 parent may be granted reasonable partial custody or visitation
23 rights, or both, to the unmarried child by the court upon a
24 finding that partial custody or visitation rights, or both,
25 would be in the best interest of the child and would not
26 interfere with the parent-child relationship. The court shall
27 consider the amount of personal contact between the parents or
28 grandparents of the deceased parent and the child prior to the
29 application.

30 (b) Siblings.--If a parent of an unmarried child is the

1 victim of criminal homicide perpetrated by the other parent, the
2 siblings of the deceased parent may be granted reasonable
3 partial custody or visitation rights, or both, to the unmarried
4 child by the court upon a finding that partial custody or
5 visitation rights, or both, would be in the best interest of the
6 child and would not interfere with any order or determination
7 under section 5303 (relating to award of custody, partial
8 custody or visitation). The court shall consider the amount of
9 personal contact between the siblings of the deceased parent and
10 the child prior to the application.

11 Section 2. This act shall take effect in 60 days.