
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 decreed.] 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

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

3 (d) Contents of consent.--

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

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

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

14 I understand such child will be placed for adoption.

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

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