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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1129 Session of  
2018

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INTRODUCED BY DiSANTO, APRIL 16, 2018

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REFERRED TO JUDICIARY, APRIL 16, 2018

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in adoption, further providing for  
3 definitions, for hearing, for grounds for involuntary  
4 termination and for petition for involuntary termination,  
5 providing for notice if identity or whereabouts of birth  
6 parent or putative father unknown, further providing for  
7 consents necessary to adoption and repealing provisions  
8 relating to consents not naming adopting parents.

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

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

13 § 2102. Definitions.

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

17 \* \* \*

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

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

21 (2) The individual does not acknowledge paternity of the

1 child.

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

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

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

8 \* \* \*

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

12 Section 2. Sections 2503(a), (b) (3) and (d), 2511(a) (9) and  
13 2512(c) of Title 23 are amended to read:

14 § 2503. Hearing.

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

24 (b) Notice.--

25 \* \* \*

26 (3) The [copy of the notice which is given to the] birth  
27 father or a putative father shall [state that his rights may  
28 also be subject to termination pursuant to subsection (d) if  
29 he fails to file either an acknowledgment of paternity or  
30 claim of 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 birth father  
7 or a putative father are unknown, notice shall be given under  
8 section 2514(b) (relating to notice if identity or  
9 whereabouts of birth parent or putative father unknown).  
10 Notice under this paragraph shall state that the birth father  
11 or a putative father's rights may also be terminated under  
12 subsection (d) if any of the following applies:

13 (i) He fails to file with the court prior to the  
14 hearing a written objection to the termination.

15 (ii) He fails to appear at the hearing for the  
16 purpose of objecting to the termination of his rights.

17 \* \* \*

18 (d) [Putative father] Termination of putative father's  
19 parental rights.--If a putative father [will not file a petition  
20 to voluntarily relinquish his parental rights pursuant to  
21 section 2501 (relating to relinquishment to agency) or 2502  
22 (relating to relinquishment to adult intending to adopt child),]  
23 has been given notice of the hearing being held pursuant to this  
24 section [and], the court may enter a decree terminating his  
25 parental rights, whether or not the putative father has filed a  
26 claim of paternity under section 5103(b) (relating to  
27 acknowledgment and claim of paternity), if the putative father  
28 fails to [either]:

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

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

8           \* \* \*

9 § 2511. Grounds for involuntary termination.

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

13           \* \* \*

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

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

18           (ii) a felony under 18 Pa.C.S. § 2702 (relating to  
19 aggravated assault) [;], 3121 (relating to rape), 3122.1  
20 (relating to statutory sexual assault), 3123 (relating to  
21 involuntary deviate sexual intercourse), 3124.1 (relating  
22 to sexual assault) or 3125 (relating to aggravated  
23 indecent assault);

24           (iii) a felony or misdemeanor under 18 Pa.C.S. §  
25 3126 (relating to indecent assault);

26           [(iii)] (iv) an offense in another jurisdiction  
27 equivalent to an offense in subparagraph (i) [or], (ii)  
28 or (iii); or

29           [(iv)] (v) an attempt, solicitation or conspiracy to  
30 commit an offense in subparagraph (i), (ii) [or], (iii)

1           or (iv).

2           \* \* \*

3 § 2512. Petition for involuntary termination.

4           \* \* \*

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

9           Section 3. Title 23 is amended by adding a section to read:

10 § 2514. Notice if identity or whereabouts of birth parent or  
11 putative father unknown.

12 (a) Diligent search.--A petitioner under sections 2501  
13 (relating to relinquishment to agency), 2502 (relating to  
14 relinquishment to adult intending to adopt child), 2504  
15 (relating to alternative procedure for relinquishment) and 2512  
16 (relating to petition for involuntary termination) must  
17 establish that a diligent search has been made to identify and  
18 locate a birth parent or putative father for the purpose of  
19 providing notice in a proceeding under this part.

20 (b) Notice by publication.--

21 (1) If the petitioner can establish that an unsuccessful  
22 diligent search has been made to identify or locate a birth  
23 parent or putative father, notice of the proceeding may be  
24 given to the birth parent or putative father by publication  
25 one time in both a newspaper of general circulation and in  
26 the county legal journal at least 10 days before the date of  
27 the hearing.

28 (2) Proof of publication of the notice provided under  
29 this subsection must be submitted to the court.

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

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

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