

AMENDMENTS TO SENATE BILL NO. 78

Sponsor: SENATOR BAKER

Printer's No. 65

1 Amend Bill, page 3, by inserting between lines 6 and 7

2 "Household member." A spouse or an individual who has been a
3 spouse, an individual living as a spouse or who lived as a
4 spouse, a parent or child, another individual related by
5 consanguinity or affinity, a current or former sexual or
6 intimate partner or an individual who shares biological
7 parenthood, currently sharing a household with the child or a
8 party.

9 Amend Bill, page 3, line 9, by striking out "an agency or"

10 Amend Bill, page 3, lines 9 and 10, by striking out ", who is
11 not a licensed professional" and inserting a comma

12 Amend Bill, page 3, line 14, by striking out "licensed"

13 Amend Bill, page 3, line 14, by striking out "monitors" and
14 inserting

15 , with education and training on the dynamics of domestic
16 violence, sexual assault, child abuse and the impact of domestic
17 violence on children, oversees

18 Amend Bill, page 3, line 16, by striking out "child's"

19 Amend Bill, page 3, line 16, by inserting after "safety"
20 of the child

21 Amend Bill, page 3, by inserting between lines 17 and 18

22 * * *

23 "Temporary housing instability." A period not to exceed six
24 months from the date of the last incident of abuse as determined
25 by a court.

26 Amend Bill, page 3, line 28, by inserting after "or" where it
27 occurs the second time

1 a present

2 Amend Bill, page 4, line 3, by inserting after "as"

3 reasonably

4 Amend Bill, page 4, line 4, by striking out the bracket
5 before the period after "party"

6 Amend Bill, page 4, line 4, by striking out "], including:"
7 and inserting

8 The court shall include in the custody order the reason for
9 imposing the safety conditions, restrictions or safeguards and
10 an explanation why the safety conditions, restrictions or
11 safeguards are in the best interest of the child or the abused
12 party. If supervised contact is ordered, there shall be a review
13 of the risk of harm and need for continued supervision on at
14 least an annual basis. The safety conditions, restrictions or
15 safeguards may include any of the following:

16 Amend Bill, page 4, lines 11 through 21, by striking out
17 "Appoint a qualified professional specializing in" in line 11
18 and all of lines 12 through 21 and inserting

19 The appointment of a qualified professional specializing
20 in programming relating to the history of abuse or risk of
21 harm to provide batterer's intervention or harm prevention
22 programming. Batterer's intervention and harm prevention
23 programming may include programming designed to rehabilitate
24 the offending individual, including prioritizing a batterer's
25 intervention or harm prevention program, if available, or the
26 impacts of physical, sexual or domestic abuse on the victim.
27 The court may order an evaluation by the appointed qualified
28 professional under this paragraph to determine whether
29 additional programming is necessary.

30 Amend Bill, page 4, line 24, by inserting after "child"

31 or to protect a household member

32 Amend Bill, page 4, line 26, by striking out "subjected" and
33 inserting

34 abused

35 Amend Bill, page 4, line 27, by striking out "to abuse, the
36 court shall be presumed to" and inserting

37 , there shall be a rebuttable presumption that the court
38 shall

1 Amend Bill, page 4, line 30; page 5, lines 1 through 5; by
2 striking out "unless the court makes a" in line 30 on page 4 and
3 all of lines 1 through 5 on page 5 and inserting

4 . A court may find that an indicated report for physical or
5 sexual abuse under Chapter 63 (relating to child protective
6 services) is a basis for a finding of abuse under this
7 subsection only after a de novo review of the circumstances
8 leading to the indicated report. Notwithstanding the provisions
9 of this subsection, the court may award an alternative form of
10 custody if the court finds by a preponderance of the evidence
11 that:

12 (1) the party no longer poses a risk of abuse to the
13 child or any other household member; and

14 (2) another custody arrangement is in the best interest
15 of the child and will not jeopardize the health and safety of
16 the child.

17 Amend Bill, page 5, line 8, by striking out "the court shall
18 be presumed to" and inserting

19 there shall be a rebuttable presumption that the court shall

20 Amend Bill, page 5, lines 10 through 15, by striking out
21 "committed the abuse unless the court makes a" in line 10 and
22 all of lines 11 through 15 and inserting

23 poses the risk of abuse. A court may find that an indicated
24 report for physical or sexual abuse under Chapter 63 is a basis
25 for a finding of abuse under this subsection only after a de
26 novo review of the circumstances leading to the indicated
27 report. Notwithstanding the provisions of this subsection, the
28 court may award an alternative form of custody if the court
29 finds by a preponderance of the evidence that:

30 (1) the party no longer poses a risk of abuse to the
31 child or any other household member; and

32 (2) another custody arrangement is in the best interest
33 of the child and will not jeopardize the health and safety of
34 the child.

35 Amend Bill, page 5, lines 25 and 26, by striking out all of
36 said lines

37 Amend Bill, page 5, line 27, by striking out the parenthesis
38 after "(1)"

39 Amend Bill, page 5, by inserting between lines 29 and 30

1 (1) Which party is more likely to ensure the health and
2 safety of the child.

3 Amend Bill, page 6, line 10, by inserting after "orders"
4 where there has been a finding of abuse

5 Amend Bill, page 6, by inserting between lines 14 and 15

6 (2.4) The existence of a protection from abuse order
7 entered on consent of the parties, with no admission or
8 finding of abuse, if, upon review of the facts presented at
9 the custody hearing, the court finds that abuse occurred.

10 Amend Bill, page 6, line 15, by striking out "present and
11 past"

12 Amend Bill, page 6, line 15, by striking out the bracket
13 before "duties"

14 Amend Bill, page 6, lines 15 and 16, by striking out "] and
15 caretaker duties"

16 Amend Bill, page 6, line 19, by inserting after "child"
17 or a party

18 Amend Bill, page 6, line 24, by inserting after "paragraph,"
19 if the court finds that

20 Amend Bill, page 6, line 25, by inserting after "party" where
21 it occurs the first time

22 is

23 Amend Bill, page 6, line 25, by inserting after "party's"
24 actual and

25 Amend Bill, page 6, line 26, by inserting after "interest"
26 , the finding

27 Amend Bill, page 6, line 27, by striking out "well-reasoned"

28 Amend Bill, page 6, line 29, by striking out "abuse" and
29 inserting

30 abuse

31 Amend Bill, page 7, line 2, by inserting after "harm."

1 A party's reasonable concerns for a child's health and
2 welfare and the party's reasonable efforts to protect the
3 child shall not be considered attempts to turn the child
4 against the other party. A child's deficient or negative
5 relationship with a party shall not be presumed to be caused
6 by the other party.

7 Amend Bill, page 7, lines 3 through 8, by striking out all of
8 said lines

9 Amend Bill, page 7, line 28, by striking out "None of the
10 factors in" and inserting

11 A factor under

12 Amend Bill, page 7, line 29, by inserting after "shall"
13 not

14 Amend Bill, page 7, lines 29 and 30, by striking out "that
15 party or the" in line 29 and all of line 30 and inserting

16 the circumstances related to the factor were in response to
17 abuse or necessary to protect the child or the abused party from
18 harm and the party alleging abuse does not pose a risk to the
19 health and safety of the child at the time of the custody
20 hearing. Temporary housing instability as a result of abuse
21 shall not be considered against the party alleging abuse.

22 (a.2) Determination.--No single factor under subsection
23 (a) shall by itself be determinative in the awarding of custody.
24 The court shall examine the totality of the circumstances,
25 giving weighted consideration to the factors that affect the
26 health and safety of the child, when issuing a custody order
27 that is in the best interest of the child.

28 Amend Bill, page 8, line 3, by inserting after "amended"

29 and the section is amended by adding a subsection

30 Amend Bill, page 9, line 20, by striking out "infighting" and
31 inserting

32 fighting

33 Amend Bill, page 10, by inserting between lines 13 and 14

34 (a.1) Determination.--A criminal conviction specified under
35 subsection (a) shall not by itself be determinative in the
36 awarding of custody. The court shall examine the totality of the
37 circumstances when issuing a custody order that is in the best
38 interest of the child.

39 Amend Bill, page 10, lines 15 and 16, by striking out all of

1 said lines and inserting

2 Section 6. Section 5334(c) of Title 23 is amended and the
3 section is amended by adding a subsection to read:

4 Amend Bill, page 10, line 23, by inserting after "or]"

5 and

6 Amend Bill, page 10, line 25, by striking out the bracket
7 before the period after "appointment"

8 Amend Bill, page 10, lines 25 through 30; page 11, lines 1
9 and 2; by striking out "]" in line 25, all of lines 26 through
10 30 on page 10 and all of lines 1 and 2 on page 11

11 Amend Bill, page 11, by inserting between lines 3 and 4

12 (f) Education and training.--A court appointing a guardian
13 ad litem under this section shall make reasonable efforts to
14 appoint a guardian ad litem who received evidence-based
15 education and training relating to child abuse, including child
16 sexual abuse, domestic abuse education and the effect of child
17 sexual abuse and domestic abuse on children.

18 Section 7. Sections 5335(b) and 5339 of Title 23 are amended
19 to read:

20 Amend Bill, page 11, line 11, by striking out "(a) Award.--"

21 Amend Bill, page 11, line 14, by inserting a bracket before
22 the comma after "vexatious"

23 Amend Bill, page 11, line 14, by inserting after "vexatious,"

24] or

25 Amend Bill, page 11, line 14, by inserting a bracket before
26 "or"

27 Amend Bill, page 11, line 14, by inserting a bracket after
28 "faith"

29 Amend Bill, page 11, lines 17 through 23, by striking out all
30 of said lines

31 Amend Bill, page 11, line 24, by striking out "7" and

1 inserting

2 8

3 Amend Bill, page 11, lines 27 through 30; page 12, lines 1
4 through 12; by striking out all of said lines on said pages and
5 inserting

6 (a) Program.--The Administrative Office of Pennsylvania
7 Courts may develop and implement an ongoing education and
8 training program for judges, magisterial district judges and
9 relevant court personnel, including guardians ad litem, counsel
10 for children, masters and mediators regarding child abuse. The
11 education and training program shall include all aspects of the
12 maltreatment of children, including all of the following:

13 (1) Sexual abuse.

14 (2) Physical abuse.

15 (3) Implicit and explicit bias.

16 (4) Trauma and neglect.

17 (5) The impact of child abuse and domestic violence on
18 children.

19 (b) Best practices.--The education and training program
20 under subsection (a) shall include the latest best practices
21 from evidence-based, peer-reviewed research by recognized
22 experts in the types of child abuse specified under subsection
23 (a). The Administrative Office of Pennsylvania Courts shall
24 design the education and training program under subsection (a)
25 to educate and train relevant court personnel on all of the
26 factors listed under 23 Pa.C.S. § 5328(a) (relating to factors
27 to consider when awarding custody) and improve the ability of
28 courts to make appropriate custody decisions that are in the
29 best interest of the child, including education and training
30 regarding the impact of child abuse, domestic abuse and trauma
31 on a victim, specifically a child, and situations when one party
32 attempts to turn a child against another party.

33 Amend Bill, page 12, line 13, by striking out "8" and
34 inserting

35 9

36 Amend Bill, page 12, line 13, by striking out "60" and
37 inserting

38 120