
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. **414** Session of
2013

INTRODUCED BY O'NEILL, CALTAGIRONE, BAKER, V. BROWN, CARROLL,
 CLYMER, COHEN, D. COSTA, DeLUCA, FLECK, GINGRICH, GRELL,
 HARHART, C. HARRIS, KORTZ, MAHONEY, MAJOR, MILLARD,
 R. MILLER, PICKETT, ROCK, ROZZI, STEPHENS, TALLMAN, TOEPEL,
 YOUNGBLOOD, HESS, STERN, MURT, FRANKEL, HACKETT AND TOOHIL,
 JANUARY 29, 2013

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED, DECEMBER
 3, 2013

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
 2 Judicial Procedure) of the Pennsylvania Consolidated
 3 Statutes, in child custody, further providing for factors to
 4 consider when awarding custody; providing for consideration
 5 of child abuse and involvement with child protective
 6 services; in child protective services, further providing for
 7 release of information in confidential reports AND FOR COUNTY <--
 8 AGENCY REQUIREMENTS FOR GENERAL PROTECTIVE SERVICES; and, in <--
 9 juvenile matters, further providing for inspection of court
 10 files and records AND FOR LAW ENFORCEMENT RECORDS. <--

11 The General Assembly of the Commonwealth of Pennsylvania

12 hereby enacts as follows:

13 Section 1. Section 5328(a) of Title 23 of the Pennsylvania
 14 Consolidated Statutes is amended by adding a paragraph to read:

15 § 5328. Factors to consider when awarding custody.

16 (a) Factors.--In ordering any form of custody, the court
 17 shall determine the best interest of the child by considering
 18 all relevant factors, giving weighted consideration to those
 19 factors which affect the safety of the child, including the

1 following:

2 * * *

3 (2.1) The information set forth in section 5329.1(a)(1)
4 and (2) (relating to consideration of child abuse and
5 involvement with ~~child~~ protective services). <--

6 * * *

7 Section 2. Title 23 is amended by adding a section to read:

8 § 5329.1. Consideration of child abuse and involvement with
9 ~~child~~ protective services. <--

10 (a) Information sharing.--In accordance with section 6340(a)
11 (5.1) (relating to release of information in confidential
12 reports), where a party seeks any form of custody SUBJECT TO THE <--
13 EXAMINATION OF THE PARTIES, the court shall determine:

14 (1) With respect to child abuse under Chapter 63
15 (relating to child protective services) or a child who is a
16 victim of a crime under 18 Pa.C.S. (relating to crimes and
17 offenses) which would constitute abuse under Chapter 63:

18 (i) Whether the child is the subject of an indicated
19 or founded report of child abuse.

20 (ii) Whether a party or a member of the party's
21 household has been identified as the perpetrator in an
22 indicated or founded report of child abuse.

23 (iii) The date and circumstances of the child abuse.

24 (iv) The jurisdiction where the child abuse
25 investigation took place.

26 (2) With respect to CHILD PROTECTIVE SERVICES OR general <--
27 protective services under Chapter 63:

28 (i) Whether a party or a member of a party's
29 household has been provided ~~general~~ protective services. <--

30 (ii) The type of services provided.

1 (iii) The circumstances surrounding the provision of
2 services.

3 (iv) ~~Whether the services were effective~~ THE STATUS <--
4 OF SERVICES.

5 (v) The date the services were provided.

6 (vi) The jurisdiction where the services were
7 provided.

8 (b) Cooperation.--The following apply:

9 (1) The Department of Public Welfare and the county
10 children and youth social service agency shall fully
11 cooperate with the court and assist the court in fulfilling
12 its duties under this section.

13 (2) The Department of Public Welfare and the county
14 children and youth social service agency shall fully
15 cooperate with the governing authority in order to implement
16 the provisions of this section.

17 (3) The governing authority shall develop procedures to
18 implement the provisions of this section.

19 (4) As used in this subsection, the term "governing
20 authority" shall have the meaning given to it in 42 Pa.C.S. §
21 102 (relating to definitions).

22 Section 3. Section 6340(a)(5.1) of Title 23 is amended to
23 read:

24 § 6340. Release of information in confidential reports.

25 (a) General rule.--Reports specified in section 6339
26 (relating to confidentiality of reports) shall only be made
27 available to:

28 * * *

29 (5.1) A court of common pleas in connection with any
30 matter involving custody of a child[. The department shall

1 provide to the court any reports and files which the court
2 considers relevant.] as set forth in sections 5328 (relating
3 to factors to consider when awarding custody) and 5329.1
4 (relating to consideration of child abuse and involvement
5 with child protective services). <--

6 * * *

7 ~~Section 4. Section 6307(a) of Title 42 is amended by adding~~ <--
8 ~~a paragraph to read:~~

9 SECTION 4. SECTION 6375 OF TITLE 23 IS AMENDED BY ADDING A <--
10 SUBSECTION TO READ:

11 § 6375. COUNTY AGENCY REQUIREMENTS FOR GENERAL PROTECTIVE
12 SERVICES.

13 * * *

14 (O) AVAILABILITY OF INFORMATION.--INFORMATION RELATED TO
15 REPORTS OF A CHILD IN NEED OF GENERAL PROTECTIVE SERVICES SHALL
16 BE AVAILABLE TO INDIVIDUALS AND ENTITIES AUTHORIZED TO RECEIVE
17 INFORMATION UNDER SECTION 6340 (RELATING TO RELEASE OF
18 INFORMATION IN CONFIDENTIAL REPORTS).

19 SECTION 5. SECTIONS 6307(A) AND 6308(A) OF TITLE 42 ARE
20 AMENDED BY ADDING PARAGRAPHS TO READ:

21 § 6307. Inspection of court files and records.

22 (a) General rule.--All files and records of the court in a
23 proceeding under this chapter are open to inspection only by:

24 * * *

25 (4.1) A court in determining custody, as provided in 23
26 Pa.C.S. §§ 5328 (relating to factors to consider when
27 awarding custody) and 5329.1 (relating to consideration of
28 child abuse and involvement with child protective services). <--

29 * * *

30 (6.5) THE DEPARTMENT OF PUBLIC WELFARE FOR USE IN <--

1 DETERMINING WHETHER AN INDIVIDUAL NAMED AS THE PERPETRATOR OF
2 AN INDICATED REPORT OF CHILD ABUSE SHOULD BE EXPUNGED FROM
3 THE STATEWIDE DATABASE PURSUANT TO THIS CHAPTER.

4 * * *

5 § 6308. LAW ENFORCEMENT RECORDS.

6 (A) GENERAL RULE.--LAW ENFORCEMENT RECORDS AND FILES
7 CONCERNING A CHILD SHALL BE KEPT SEPARATE FROM THE RECORDS AND
8 FILES OF ARRESTS OF ADULTS. UNLESS A CHARGE OF DELINQUENCY IS
9 TRANSFERRED FOR CRIMINAL PROSECUTION UNDER SECTION 6355
10 (RELATING TO TRANSFER TO CRIMINAL PROCEEDINGS), THE INTEREST OF
11 NATIONAL SECURITY REQUIRES, OR THE COURT OTHERWISE ORDERS IN THE
12 INTEREST OF THE CHILD, THE RECORDS AND FILES SHALL NOT BE OPEN
13 TO PUBLIC INSPECTION OR THEIR CONTENTS DISCLOSED TO THE PUBLIC
14 EXCEPT AS PROVIDED IN SUBSECTION (B); BUT INSPECTION OF THE
15 RECORDS AND FILES IS PERMITTED BY:

16 * * *

17 (6) THE DEPARTMENT OF PUBLIC WELFARE FOR USE IN
18 DETERMINING WHETHER AN INDIVIDUAL NAMED AS THE PERPETRATOR OF
19 AN INDICATED REPORT OF CHILD ABUSE SHOULD BE EXPUNGED FROM
20 THE STATEWIDE DATABASE PURSUANT TO THIS CHAPTER.

21 * * *

22 Section ~~5~~ 6. The amendment or addition of 23 Pa.C.S. §§ <--
23 5328(a)(2.1), 5329.1 and ~~6340(a)(5.1)~~ and ~~42 Pa.C.S. §~~ <--
24 ~~6307(a)(4.1)~~, 6340(A)(5.1) AND 6375(O) AND 42 PA.C.S. §§ 6307(A) <--
25 (4.1) AND (6.5) AND 6308(A)(6) shall apply to:

26 (1) Any action regarding custody of a child under 23
27 Pa.C.S. Ch. 53 that is filed on or after the effective date
28 of this ~~act~~ SECTION. <--

29 (2) Any petition to modify a custody order under 23
30 Pa.C.S. Ch. 53 that is filed on or after the effective date

1 of this ~~act~~ SECTION. <--
2 Section ~~6~~ 7. This act shall take effect ~~in 60 days~~ JANUARY <--
3 1, 2014, OR IMMEDIATELY, WHICHEVER OCCURS LATER.