

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1073** Session of  
1975

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INTRODUCED BY ZEARFOSS AND MEBUS, APRIL 21, 1975

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REFERRED TO COMMITTEE ON HEALTH AND WELFARE, APRIL 22, 1975

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AN ACT

1 Providing for a determination of custody of children, imposing  
2 duties on parents and providing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Upon the separation of parents with a child or  
6 children under 18 years of age, the parent having possession of  
7 said child or children shall institute proceedings in the county  
8 where the child or children reside to determine custody, after  
9 the 21st day but before the 46th day of separation.

10 Section 2. (a) Custody of child or children shall be  
11 determined on the basis of the following considered factors:  
12 mutual love and affection between child and parent; ability to  
13 supervise, assist, control the child or children; home  
14 environment of the parent seeking custody; financial ability of  
15 the parent seeking custody to support himself or herself and the  
16 child or children; which parent is better suited physically,  
17 mentally, emotionally, and morally to provide proper care and  
18 upbringing of the child or children, present and past moral and

1 mental history of parent.

2 (b) Both parents shall have an equal right to seek and to be  
3 fully considered for custody, and both shall enter the  
4 proceedings as fit and competent until proven otherwise. Neither  
5 parent shall be presumed to have the right to custody, or to  
6 serve the best interest or welfare of the child or children  
7 better than the other parent merely because of their sex, or the  
8 sex and age of the child or children. One parent shall have  
9 primary custody and the other parent secondary custody; child or  
10 children shall reside with primary custodial parent.

11 (c) Provisions for continuing control shall be maintained in  
12 such matters as shared-joint custody or visitation. Arrangements  
13 shall provide that each parent shall be afforded opportunity to  
14 participate in the fulfillment and control of their child or  
15 children's lives irrespective of which parent may have primary  
16 custody, or the fact the parents are separated or divorced. Any  
17 limitation, reduction, or restriction of association or in the  
18 life of any child or children shall only be after proof for just  
19 reason and cause.

20 (d) If it is determined that neither parent is suitable to  
21 have custody, or wants custody, the authorities of the State  
22 shall have complete custody and control of the child or children  
23 until it or they become of legal age. Both parents shall be  
24 required to contribute to the cost of child support in  
25 accordance to their respective abilities.

26 Section 3. (a) In child support the basic concept to be  
27 followed shall be that the parent who is given primary custody  
28 shall have the primary obligation to support the child or  
29 children. The parent who does not have primary custody may be  
30 required to contribute to the support of the child or children

1 if conclusive proof is furnished the parent with primary custody  
2 needs financial support. In determining the extent of such  
3 support payments the guiding principle shall be, the ability of  
4 the parent to contribute; the necessities for livelihood of such  
5 parent, the requirements of his or her remarriage or other  
6 family obligations. The relative financial position of the  
7 mother as compared to that of the father shall be under  
8 continual review.

9 (b) In no event shall the parent who does not have primary  
10 custody be required to pay any part of child support after a  
11 child is married, reaches the age of 18, becomes a member of the  
12 armed services, or becomes self-supporting, except where the  
13 child is physically or mentally handicapped.

14 (c) Any parent or spouse who is contributing support or  
15 allowance may upon request once in each 12-month period, require  
16 an accounting of how the funds were spent.

17 Section 4. Any parent who fails to turn over any child or  
18 children for shared custody or visitation time shall be guilty  
19 of a misdemeanor of the third degree. The parent having primary  
20 custody may not change the residence of the child or children to  
21 another county without informing the parent with secondary  
22 custody and a hearing is held to investigate the reason for the  
23 move, which can only be for just and reasonable cause. The  
24 parent having secondary custody shall have the right to be  
25 informed of the living place and address of the child or  
26 children from all available records.

27 Section 5. All acts and parts of acts are repealed in so far  
28 as inconsistent.