

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1600 Session of
1987

INTRODUCED BY BORTNER, HAGARTY, YANDRISEVITS, SWEET, BALDWIN AND
McVERY, JUNE 24, 1987

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 24, 1987

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for legislative
3 intent; adding a definition; and further providing for
4 custody and visitation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 5301 of Title 23 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 5301. Declaration of policy.

10 The General Assembly declares that it is the public policy of
11 this Commonwealth, when in the best interest of the child, to
12 assure a reasonable and continuing contact of the child with
13 both parents after a separation or dissolution of the marriage
14 and the sharing of the rights and responsibilities of child
15 rearing by both parents and continuing contact of the child or
16 children with grandparents when a parent is deceased, divorced
17 or separated. The General Assembly also recognizes the
18 importance, when in the best interest of the child, of assuring

reasonable and continuing contact with the child's psychological parent after disruption of the relationship has occurred.

Section 2. Section 5302 of Title 23 is amended by adding a definition to read:

§ 5302. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

"Psychological parent." An individual:

(1) with whom the child resided for a period of at least 12 months and who, during that time, provided for the physical, emotional and social needs of the child;

(2) who evidences genuine care and concern for the child;

(3) for whom the child evidences genuine care and concern; and

(4) whose relationship with the child began with the consent of a parent of the child or pursuant to an order of court.

* * *

Section 3. Sections 5303, 5311, 5312 and 5313 of Title 23 are amended to read:

§ 5303. Award of sole custody.

(a) General rule.--In making an order for custody to either parent individually, the court shall consider, among other factors, which parent is more likely to encourage, permit and allow frequent and continuing contact and physical access between the noncustodial parent and the child. The court shall award sole custody when it is in the best interest of the child.

1 (b) Psychological parents.--A psychological parent has
2 standing to bring a petition for custody of a child. The court
3 shall award sole custody to the psychological parent when it is
4 in the best interest of the child. The court shall impose no
5 greater burden of proof upon a psychological parent than that
6 which is imposed upon a parent in a custody proceeding.

7 § 5311. When parent deceased.

8 If a parent of an unmarried child is deceased, the parents or
9 grandparents of the deceased parent or the psychological parent
10 of the child may be granted reasonable partial custody or
11 visitation rights, or both, to the unmarried child by the court
12 upon a finding that partial custody or visitation rights, or
13 both, would be in the best interest of the child and would not
14 interfere with the parent-child relationship. The court shall
15 consider the amount of personal contact between the [parents or]
16 grandparents [of the deceased parent], great-grandparents or
17 psychological parents and the child prior to the application.

18 § 5312. When parents' marriage is dissolved or parents are
19 separated.

20 In all proceedings for dissolution, subsequent to the
21 commencement of the proceeding and continuing thereafter or when
22 parents have been separated for six months or more, the court
23 may, upon application of the parent or grandparent of a party or
24 of a psychological parent of the child, grant reasonable partial
25 custody or visitation rights, or both, to the unmarried child if
26 it finds that visitation rights or partial custody, or both,
27 would be in the best interest of the child and would not
28 interfere with the parent-child relationship. The court shall
29 consider the amount of personal contact between the [parents or]
30 grandparents [of the party], great-grandparents or psychological

1 parents and the child prior to the application.

2 § 5313. When child has resided with grandparents.

3 If an unmarried child has resided with his grandparents [or],
4 great-grandparents or psychological parents for a period of 12
5 months or more and is subsequently removed from the home by his
6 parents, the grandparents [or], great-grandparents or
7 psychological parents may petition the court for an order
8 granting them reasonable partial custody or visitation rights,
9 or both, to the child. The court shall grant the petition if it
10 finds that visitation rights would be in the best interest of
11 the child and would not interfere with the parent-child
12 relationship.

13 Section 4. This act shall take effect in 60 days.