
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1023 Session of
1989

INTRODUCED BY LASHINGER, HAGARTY, McVERRY, VEON, GRUITZA, REBER,
PICCOLA, MOEHLMANN, HECKLER, HAYDEN AND RITTER, APRIL 5, 1989

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 5, 1989

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to domestic
3 relations; making conforming amendments to Titles 18 and 42;
4 and repealing certain acts and parts of acts supplied by the
5 act or otherwise obsolete.

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16 § 6382. Guardian ad litem for child in court proceedings.
17 § 6383. Education and training.
18 § 6384. Legislative oversight.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Part IX of Title 23 of the Pennsylvania
22 Consolidated Statutes is repealed.

23 Section 2. Title 23 is amended by adding parts, chapters or
24 subchapters to read:

25 TITLE 23

26 DOMESTIC RELATIONS

27 Part

28 I. General Provisions

29 II. Marriage

30 III. Adoption

- 1 IV. Divorce
- 2 V. Support, Property and Contracts
- 3 VI. Children and Minors
- 4 VII. Abuse of Family

5 PART I

6 GENERAL PROVISIONS

7 Chapter

8 1. Preliminary Provisions

9 CHAPTER 1

10 PRELIMINARY PROVISIONS

11 Sec.

12 101. Short title of title.

13 102. Definitions.

14 § 101. Short title of title.

15 This title shall be known and may be cited as the Domestic
16 Relations Code.

17 § 102. Definitions.

18 (a) General rule.--Subject to additional definitions
19 contained in subsequent provisions of this title which are
20 applicable to specific provisions of this title, the following
21 words and phrases when used in this title shall have the
22 meanings given to them in this subsection unless the context
23 clearly indicates otherwise:

24 "Clerk of court" or "clerk." The personnel of the office of
25 the prothonotary or clerk of the division of the court having
26 jurisdiction over the matter.

27 "Court." The court or district justice having jurisdiction
28 over the matter under Title 42 (relating to judiciary and
29 judicial procedure) exercised as provided in Title 42 or as
30 otherwise provided or prescribed by law.

1 (b) Title 42 definitions.--Subject to additional definitions
2 contained in subsequent provisions of this title which are
3 applicable to specific provisions of this title, words and
4 phrases not defined in subsection (a) which are defined in 42
5 Pa.C.S. § 102 (relating to definitions) when used in this title
6 shall have the meanings given to them in Title 42 unless the
7 context clearly indicates otherwise.

8 PART II
9 MARRIAGE

10 Chapter

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- 13 15. Marriage Ceremony
- 14 17. Miscellaneous Provisions Relating to Marriage
- 15 19. Abolition of Actions for Alienation of Affections and
- 16 Breach of Promise to Marry

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18 PRELIMINARY PROVISIONS

19 Sec.

- 20 1101. Short title of part.
- 21 1102. Definitions.
- 22 1103. Common-law marriage.
- 23 1104. Forms.
- 24 1105. Fees.
- 25 1106. Records and statistics.

26 § 1101. Short title of part.

27 This part shall be known and may be cited as the Marriage
28 Law.

29 § 1102. Definitions.

30 The following words and phrases when used in this part shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Department." The Department of Health of the Commonwealth.

4 "Marriage license" or "license." A license to marry issued
5 under this part.

6 § 1103. Common-law marriage.

7 This part shall not be construed to change the existing law
8 with regard to common-law marriage.

9 § 1104. Forms.

10 Marriage license applications, consent certificates, marriage
11 licenses and other necessary forms shall be supplied at the
12 expense of the county and shall be uniform throughout this
13 Commonwealth as prescribed by the department. Statements of
14 physicians and laboratories relative to examinations for
15 syphilis shall be prepared and furnished by the department.

16 § 1105. Fees.

17 (a) General rule.--The fee to be charged for issuing a
18 marriage license or declaration and for returns thereof to the
19 department shall be \$3 of which \$2.50 shall be retained by the
20 county wherein the license is issued and 50¢ shall be remitted
21 to the Commonwealth.

22 (b) Transmitting Commonwealth moneys.--All moneys collected
23 under this section for the Commonwealth shall be transmitted to
24 the State Treasurer no later than the tenth day of the following
25 month.

26 § 1106. Records and statistics.

27 (a) Filing transcript or record.--The county shall furnish
28 the department, not later than the 15th day of each month, with
29 a transcript or record of each marriage license issued and each
30 return of the celebration of a marriage received or filed during

1 the preceding calendar month.

2 (b) Forms.--The transcripts or records required to be
3 furnished shall be made on forms prepared and furnished by the
4 department and shall contain such information as the department
5 may require.

6 (c) Confidentiality.--The records furnished to the
7 department under this section shall not be open to public
8 inspection except as authorized by the regulations of the
9 Advisory Health Board.

10 (d) Statistics.--The department shall from time to time
11 compile and publish statistics derived from records furnished
12 under this section.

13 CHAPTER 13

14 MARRIAGE LICENSE

15 Sec.

16 1301. Marriage license required.

17 1302. Application for license.

18 1303. Waiting period after application.

19 1304. Restrictions on issuance of license.

20 1305. Examination and tests for syphilis.

21 1306. Oral examination.

22 1307. Issuance of license.

23 1308. Judicial review of refusal to issue license.

24 1309. Filing applications and consent certificates.

25 1310. Duration and form of license.

26 § 1301. Marriage license required.

27 (a) General rule.--No person shall be joined in marriage in
28 this Commonwealth until a marriage license has been obtained.

29 (b) Place of marriage ceremony.--A license issued under this
30 part shall authorize a marriage ceremony to be performed in any

1 county of this Commonwealth.

2 (c) Identity of applicants.--Prior to issuance of the
3 license, the person issuing the license must be satisfied as to
4 the identity of both of the applicants.

5 § 1302. Application for license.

6 (a) General rule.--No marriage license shall be issued
7 except upon written and verified application made by both of the
8 parties intending to marry.

9 (b) Contents.--The application shall contain the following:

10 (1) The full name of the applicants.

11 (2) The race, occupation, birthplace, residence and age
12 of the applicants.

13 (3) Whether the marriage contemplated is the first,
14 second or other marriage of an applicant.

15 (4) A statement that neither of the applicants is
16 afflicted with transmissible disease.

17 (5) The full name, residence, race, occupation and
18 birthplace of the parents of each applicant, including the
19 maiden name of the mother of each applicant.

20 (6) Any other facts necessary to determine whether a
21 legal impediment to the proposed marriage exists.

22 § 1303. Waiting period after application.

23 (a) General rule.--No marriage license shall be issued prior
24 to the third day following the making of application therefor.

25 (b) Exception.--In case of emergency or extraordinary
26 circumstances, the court may authorize a license to be issued at
27 any time after the making of the application.

28 § 1304. Restrictions on issuance of license.

29 (a) Examinations and tests for syphilis.--No marriage
30 license shall be issued until there has been compliance with

1 section 1305 (relating to examination and tests for syphilis).

2 (b) Minors.--

3 (1) No marriage license may be issued if either of the
4 applicants for a license is under 16 years of age unless the
5 court decides that it is to the best interest of the
6 applicant and authorizes the issuance of the license.

7 (2) No marriage license may be issued if either of the
8 applicants is under 18 years of age unless the consent of a
9 parent or guardian of the applicant is personally given
10 before the person issuing the license or is certified under
11 the hand of a parent or guardian attested by two adult
12 witnesses and, in the latter case, the signature of the
13 parent or guardian is acknowledged before an officer
14 authorized by law to take acknowledgments. When the minor has
15 no guardian and a judge of the court is absent or not
16 accessible for any reason, the office issuing the license may
17 appoint a guardian pro hac vice for the minor.

18 (c) Incompetent persons.--No marriage license may be issued
19 if either of the applicants for a license is weak-minded,
20 insane, of unsound mind or is under guardianship as a person of
21 unsound mind unless the court decides that it is for the best
22 interest of the applicant and the general public to issue the
23 license and authorizes the issuance of the license.

24 (d) Persons under influence of alcohol or drugs.--No
25 marriage license may be issued if, at the time of making
26 application, either of the applicants is under the influence of
27 alcohol or drugs.

28 (e) Marriage to relatives.--No marriage license may be
29 issued to applicants within the prohibited degrees of
30 consanguinity which are as follows:

1 A man may not marry his mother.
2 A man may not marry the sister of his father.
3 A man may not marry the sister of his mother.
4 A man may not marry his sister.
5 A man may not marry his daughter.
6 A man may not marry the daughter of his son or daughter.
7 A woman may not marry her father.
8 A woman may not marry the brother of her father.
9 A woman may not marry the brother of her mother.
10 A woman may not marry her brother.
11 A woman may not marry her son.
12 A woman may not marry the son of her son or daughter.

13 § 1305. Examination and tests for syphilis.

14 (a) General rule.--No marriage license may be issued until
15 there has been filed a statement or statements, signed by a
16 licensed physician of this Commonwealth or of any other state or
17 territory, a commissioned medical officer in the armed forces of
18 the United States or a physician of the Public Health Service of
19 the Federal Government, that each applicant within 30 days of
20 the issuance of the marriage license has submitted to an
21 examination to determine the existence or nonexistence of
22 syphilis, which examination has included a standard serological
23 test or tests for syphilis, and that, in the opinion of the
24 examining physician, the applicant is not infected with syphilis
25 or, if so infected, is not in a stage of that disease which is
26 likely to become communicable. The statement of the physician
27 shall be accompanied by a statement from the person in charge of
28 the laboratory making the test or from some other person
29 authorized to make the statement setting forth the name of the
30 test, the date the test was made, the exact name and address of

1 the physician to whom a report was sent and the exact name and
2 address of the person whose blood was tested and any other facts
3 the department deems necessary to determine whether the
4 applicant is infected with syphilis in a stage of that disease
5 likely to become communicable. The statement from the laboratory
6 shall not set forth the result of the test.

7 (b) Authorization and payment.--For the purpose of this
8 section, a standard serological test for syphilis shall be a
9 test approved by the department and shall be made at a
10 laboratory approved by the department to make such tests.
11 Laboratory tests required to be made by this section shall, upon
12 request of the physician submitting the sample and certification
13 of the physician that the applicant is unable to pay, be made
14 without charge by the department.

15 (c) Administrative review of denial of statement.--Any
16 applicant for a marriage license having been denied a
17 physician's statement as required by this section shall have the
18 right of appeal to the department for a review of the case, and
19 the department shall, after appropriate investigation, issue or
20 refuse to issue a statement in lieu of the physician's statement
21 required by subsection (a).

22 (d) Forms and confidentiality.--The statements of the
23 physician who examined the applicant and the laboratory which
24 made the serological test shall be uniform throughout this
25 Commonwealth and shall be upon forms provided by the department.
26 These forms shall be filed separately from the applications for
27 marriage licenses and shall be regarded as absolutely
28 confidential by every person whose duty it may be to obtain,
29 make, transmit or receive the information or report.

30 § 1306. Oral examination.

1 Each of the applicants for a marriage license shall appear in
2 person and shall be examined under oath or affirmation as to:

3 (1) The legality of the contemplated marriage.

4 (2) Any prior marriage or marriages and its or their
5 dissolution.

6 (3) The restrictions set forth in section 1304 (relating
7 to restrictions on issuance of license).

8 (4) All the information required to be furnished on the
9 application for license as prepared and approved by the
10 department.

11 § 1307. Issuance of license.

12 The marriage license shall be issued if it appears from
13 properly completed applications on behalf of each of the parties
14 to the proposed marriage that there is no legal objection to the
15 marriage. Except as provided by section 1303(b) (relating to
16 waiting period after application), the license shall not be
17 issued prior to the third day following the date of the most
18 recent of the two applications therefor.

19 § 1308. Judicial review of refusal to issue license.

20 (a) Certifying proceedings to court.--If the issuance of a
21 marriage license is refused, upon request of the applicants, the
22 proceedings shall immediately be certified to the court without
23 formality or expense to the applicants.

24 (b) Prompt hearing.--The application for a marriage license
25 shall be heard by a judge of the court, without a jury, in court
26 or in chambers at the earliest possible time.

27 § 1309. Filing applications and consent certificates.

28 The applications for marriage licenses and consent
29 certificates shall be immediately filed and docketed as public
30 records.

1 § 1310. Duration and form of license.

2 The marriage license shall not be valid for a longer period
3 than 60 days from the date of issue and shall be in
4 substantially the following form:

5 Commonwealth of Pennsylvania

6 ss: No.

7 County of (name)

8 To any person authorized by law to solemnize marriage:

9 You are hereby authorized to join together in holy state
10 of matrimony, according to the laws of the Commonwealth of
11 Pennsylvania, (name) and (name).

12 Given under my hand and seal of the Court of Common Pleas
13 of (name), at (city, borough or town), on (date).

14 Signed

15 (Official Title)

16 CHAPTER 15

17 MARRIAGE CEREMONY

18 Sec.

19 1501. Form of marriage certificates.

20 1502. Forms where parties perform ceremony.

21 1503. Persons qualified to solemnize marriages.

22 1504. Returns of marriages.

23 § 1501. Form of marriage certificates.

24 The marriage license shall have appended to it two
25 certificates, numbered to correspond with the license (one
26 marked original and one marked duplicate), which shall be in
27 substantially the following form:

28 I hereby certify that on (date), at (city, borough or
29 town), Pennsylvania, (name) and (name) were by me united in
30 marriage, in accordance with license issued by the Court of

1 Common Pleas of (name) numbered

2 Signed

3 (Title of person solemnizing marriage)

4 Address

5 § 1502. Forms where parties perform ceremony.

6 (a) Declaration of authorization.--In all cases in which the
7 parties intend to solemnize their marriage by religious ceremony
8 without officiating clergy, the marriage shall not take place
9 until their right so to do is certified in a declaration in
10 substantially the following form:

11 Commonwealth of Pennsylvania

12 ss: No.

13 County of (name)

14 To (name) and (name)

15 Legal evidence having been furnished to me, in accordance
16 with law, this certifies that I am satisfied that there is no
17 legal impediment to you joining yourselves together in
18 marriage.

19 Signed

20 (Official Title)

21 (b) Marriage certificates.--In lieu of the certificate set
22 forth in section 1501 (relating to form of marriage
23 certificates), there shall be appended to the declaration two
24 certificates, numbered to correspond to the declaration, in the
25 following form:

26 We hereby certify that on (date), we united ourselves in
27 marriage, at (city, borough or town), County of (name),
28 Pennsylvania, having first obtained from the Court of Common
29 Pleas of (name) a declaration numbered that the court
30 was satisfied that there was no existing legal impediment to

1 our so doing.

2 Signed

3 Signed

4 We, the undersigned, were present at the solemnization of
5 the marriage of (name) and (name), as set forth in the
6 foregoing certificate.

7 Signed

8 Signed

9 § 1503. Persons qualified to solemnize marriages.

10 (a) General rule.--The following are authorized to solemnize
11 marriages between persons that produce a marriage license issued
12 under this part:

13 (1) A justice, judge or district justice of this
14 Commonwealth.

15 (2) A former or retired justice, judge or district
16 justice of this Commonwealth who is serving as a senior judge
17 or senior district justice as provided or prescribed by law.

18 (3) An active or senior judge or full-time magistrate of
19 the District Courts of the United States for the Eastern,
20 Middle or Western Districts of Pennsylvania.

21 (4) An active or senior judge of the United States Court
22 of Appeals for the Third Circuit who is a resident of this
23 Commonwealth.

24 (5) A mayor of any city or borough of this Commonwealth.

25 (6) A minister, priest or rabbi of any regularly
26 established church or congregation.

27 (b) Religious organizations.--Every religious society,
28 religious institution or religious organization in this
29 Commonwealth may join persons together in marriage when at least
30 one of the persons is a member of the society, institution or

1 organization, according to the rules and customs of the society,
2 institution or organization.

3 (c) Marriage license needed to officiate.--No person or
4 religious organization qualified to perform marriages shall
5 officiate at a marriage ceremony without the parties having
6 obtained a marriage license issued under this part.

7 § 1504. Returns of marriages.

8 (a) General rule.--The original marriage certificate shall
9 be signed by the person solemnizing the marriage and given to
10 the parties contracting the marriage. The duplicate certificate
11 shall be signed by the person or by a member of the religious
12 society, institution or organization solemnizing the marriage
13 and returned for recording within ten days to the court which
14 issued the license.

15 (b) Marriage performed by parties.--If the marriage was
16 solemnized by the parties themselves, the original certificate
17 shall be signed by the parties to the marriage, attested by two
18 witnesses and retained by the parties contracting the marriage.
19 The duplicate certificate shall be signed by the parties to the
20 marriage, attested by the same two witnesses and returned for
21 recording within ten days to the court issuing the license.

22 CHAPTER 17

23 MISCELLANEOUS PROVISIONS RELATING TO MARRIAGE

24 Sec.

25 1701. Decree that spouse of applicant is presumed decedent.

26 1702. Marriage during existence of former marriage.

27 1703. Marriage within degree of consanguinity.

28 § 1701. Decree that spouse of applicant is presumed decedent.

29 (a) Finding of death.--When the spouse of an applicant for a
30 marriage license has disappeared or is absent from the place of

1 residence of the spouse without being heard of after diligent
2 inquiry, the court, aided by the report of a master if
3 necessary, upon petition of the applicant for a marriage
4 license, may make a finding and decree that the absentee is dead
5 and the date of death if notice to the absentee has been given
6 as provided in subsection (d) and either of the applicants is
7 and for one year or more prior to the application has been a
8 resident of this Commonwealth.

9 (b) Presumption from absence.--When the death of the spouse
10 of an applicant for a marriage license is in issue, the
11 unexplained absence from the last known place of residence and
12 the fact that the absentee has been unheard of for seven years
13 may be sufficient ground for finding that the absentee died
14 seven years after the absentee was last heard from.

15 (c) Exposure to specific peril.--The fact that an absentee
16 spouse was exposed to a specific peril of death may be a
17 sufficient ground for finding that the absentee died less than
18 seven years after the absentee was last heard from.

19 (d) Notice to absentee.--The court may require advertisement
20 in any newspapers as the court, according to the circumstances
21 of the case, deems advisable of the fact of the application for
22 the marriage license together with notice that at a specified
23 time and place the court will hear evidence concerning the
24 alleged absence, including the circumstances and duration
25 thereof.

26 (e) Remarriage after decree of presumed death.--Even though
27 the absentee spouse declared to be presumed dead is in fact
28 alive, the remarriage of the spouse who has obtained a license
29 to marry and a decree of presumed death of the former spouse
30 shall be valid for all purposes as though the former marriage

1 had been terminated by divorce, and all property of the presumed
2 decedent shall be administered and disposed of as provided by
3 Title 20 (relating to decedents, estates and fiduciaries).

4 § 1702. Marriage during existence of former marriage.

5 (a) General rule.--If a married person, during the lifetime
6 of the other person with whom the marriage is in force, enters
7 into a subsequent marriage pursuant to the requirements of this
8 part and the parties to the marriage live together thereafter as
9 husband and wife, and the subsequent marriage was entered into
10 by one or both of the parties in good faith in the full belief
11 that the former spouse was dead or that the former marriage has
12 been annulled or terminated by a divorce, or without knowledge
13 of the former marriage, they shall, after the impediment to
14 their marriage has been removed by the death of the other party
15 to the former marriage or by annulment or divorce, if they
16 continue to live together as husband and wife in good faith on
17 the part of one of them, be held to have been legally married
18 from and immediately after the date of death or the date of the
19 decree of annulment or divorce.

20 (b) False rumor of death of spouse.--Where a remarriage has
21 occurred upon false rumor of the death of a former spouse in
22 appearance well-founded but there has been no decree of presumed
23 death, the remarriage shall be void and subject to annulment by
24 either party to the remarriage as provided by section 3304
25 (relating to grounds for annulment of void marriages), and the
26 returning spouse shall have cause for divorce as provided in
27 section 3301 (relating to grounds for divorce).

28 (c) Criminal penalties.--Where the remarriage was entered
29 into in good faith, neither party to the remarriage shall be
30 subject to criminal prosecution for bigamy.

1 § 1703. Marriage within degree of consanguinity.

2 All marriages within the prohibited degrees of consanguinity
3 as set forth in this part are voidable, but, when any of these
4 marriages have not been dissolved during the lifetime of the
5 parties, the unlawfulness of the marriage shall not be inquired
6 into after the death of either of the parties to the marriage.

7 CHAPTER 19

8 ABOLITION OF ACTIONS FOR ALIENATION OF AFFECTIONS

9 AND BREACH OF PROMISE TO MARRY

10 Sec.

11 1901. Actions for alienation of affections abolished.

12 1902. Actions for breach of promise to marry abolished.

13 1903. Purpose of chapter.

14 1904. Filing or threatening to file actions prohibited.

15 1905. Instruments executed in satisfaction of abolished
16 claims prohibited.

17 § 1901. Actions for alienation of affections abolished.

18 (a) General rule.--All civil causes of action for alienation
19 of affections of husband or wife are abolished.

20 (b) Exception.--Subsection (a) does not apply to cases where
21 the defendant is a parent, brother or sister or a person
22 formerly in loco parentis to the spouse of plaintiff.

23 § 1902. Actions for breach of promise to marry abolished.

24 All causes of action for breach of contract to marry are
25 abolished.

26 § 1903. Purpose of chapter.

27 (a) General rule.--No act done within this Commonwealth
28 shall give rise, either within or without this Commonwealth, to
29 a cause of action abolished by this chapter.

30 (b) Contract to marry.--No contract to marry which is made

1 within this Commonwealth shall give rise, either within or
2 without this Commonwealth, to a cause of action for breach of
3 the contract.

4 (c) Intention of section.--It is the intention of this
5 section to fix the effect, status and character of such acts and
6 contracts and to render them ineffective to support or give rise
7 to any such causes of action, either within or without this
8 Commonwealth.

9 § 1904. Filing or threatening to file actions prohibited.

10 It is unlawful for a person, either as litigant or attorney,
11 to file, cause to be filed, threaten to file or threaten to
12 cause to be filed in a court in this Commonwealth any pleading
13 or paper setting forth or seeking to recover upon any cause of
14 action abolished or barred by this chapter whether the cause of
15 action arose within or without this Commonwealth.

16 § 1905. Instruments executed in satisfaction of abolished
17 claims prohibited.

18 (a) Contracts and instruments void.--All contracts and
19 instruments of every kind executed within this Commonwealth in
20 payment, satisfaction, settlement or compromise of any claim or
21 cause of action abolished or barred by this chapter, whether the
22 claim or cause of action arose within or without this
23 Commonwealth, are contrary to the public policy of this
24 Commonwealth and void.

25 (b) Execution and use prohibited.--It is unlawful to cause,
26 induce or procure a person to execute a contract or instrument
27 proscribed by this chapter, or cause, induce or procure a person
28 to give, pay, transfer or deliver any money or thing of value in
29 payment, satisfaction, settlement or compromise of any such
30 claim or cause of action, or to receive, take or accept any such

1 money or thing of value in such payment, satisfaction,
2 settlement or compromise.

3 (c) Actions to enforce prohibited.--It is unlawful to
4 commence or cause to be commenced, either as litigant or
5 attorney, in a court of this Commonwealth any proceeding or
6 action seeking to enforce or recover upon a contract or
7 instrument proscribed by this chapter, knowing it to be such,
8 whether the contract or instrument was executed within or
9 without this Commonwealth.

10 (d) Exceptions.--This section does not apply to the payment,
11 satisfaction, settlement or compromise of any causes of action
12 which are not abolished or barred by this chapter or to the bona
13 fide holder in due course of a negotiable instrument.

14 PART III

15 ADOPTION

16 Chapter

17 25. Proceedings Prior to Petition to Adopt

18 CHAPTER 25

19 PROCEEDINGS PRIOR TO PETITION TO ADOPT

20 * * *

21 SUBCHAPTER E

22 PENNSYLVANIA ADOPTION COOPERATIVE EXCHANGE

23 Sec.

24 2551. Definitions.

25 2552. Pennsylvania Adoption Cooperative Exchange.

26 2553. Registration of children.

27 2554. Responsibilities of PACE.

28 2555. Responsibilities of public and private agencies.

29 2556. Related activities of agencies unaffected.

30 2557. Regulations and staff.

1 2558. Retroactive application of subchapter.

2 § 2551. Definitions.

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

6 "Department." The Department of Public Welfare of the
7 Commonwealth.

8 "PACE." The Pennsylvania Adoption Cooperative Exchange.

9 § 2552. Pennsylvania Adoption Cooperative.

10 There shall be a Pennsylvania Adoption Cooperative Exchange
11 in the Office of Children, Youth and Families of the Department
12 of Public Welfare.

13 § 2553. Registration of children.

14 (a) Mandatory registration.--PACE shall register and be
15 responsible for the review and referral of children for whom
16 parental rights have been terminated for 90 days and for whom no
17 report of intention to adopt has been filed in the court of
18 common pleas.

19 (b) Optional registration.--PACE may also register children
20 where restoration to the biological family is neither possible
21 nor appropriate, a petition to terminate parental rights has
22 been filed and adoption is planned pending identification of an
23 adoptive parent or parents. However, information about these
24 children shall not be publicized without prior approval by the
25 department, which shall ensure the anonymity of these children
26 until such time as parental rights are terminated.

27 (c) Children excluded from registration.--A child for whom
28 termination of parental rights is being appealed in a court
29 shall not be registered with PACE as available for adoption.
30 Identifying information of such children shall be forwarded to

1 PACE by the agency, with reference to the specific reason for
2 which the child is not to be placed on the listing service.

3 § 2554. Responsibilities of PACE.

4 PACE shall be responsible for the following:

5 (1) Registration of adoptive parent applicants who have
6 been approved by agencies.

7 (2) Accumulation and dissemination of statistical
8 information regarding all children registered with PACE.

9 (3) Creation and administration of a public information
10 program designed to inform potential adoptive parents of the
11 need for adoptive homes for children registered with PACE.

12 (4) Preparation and distribution of a photographic
13 listing service on children registered with PACE.

14 (5) Preparation of annual reports concerning functions
15 of PACE regarding the children and the prospective parents
16 listed with PACE. The reports shall be submitted annually to
17 the Health and Welfare and Judiciary Committees of the House
18 of Representatives, to the Public Health and Welfare and
19 Judiciary Committees of the Senate and to the Governor.

20 (6) Coordination of its functions with other state,
21 regional and national adoption exchanges.

22 § 2555. Responsibilities of public and private agencies.

23 All public and licensed private child service agencies shall
24 register all children with PACE for whom parental rights have
25 been terminated for 90 days and for whom no report of intention
26 to adopt has been filed in the court of common pleas. A public
27 or licensed private agency may register other children as set
28 forth in section 2553(b) (relating to registration of children).

29 § 2556. Related activities of agencies unaffected.

30 This subchapter shall not be construed to limit or delay

1 actions by agencies or institutions to arrange for adoptions or
2 other related matters on their own initiative and shall not
3 alter or restrict the duties, authority and confidentiality of
4 the agencies and institutions in those matters.

5 § 2557. Regulations and staff.

6 The department shall promulgate necessary regulations and
7 shall hire the staff which is necessary to implement this
8 subchapter.

9 § 2558. Retroactive application of subchapter.

10 This subchapter shall apply retroactively to all children for
11 whom:

12 (1) Parental rights have been terminated and for whom no
13 report of intention to adopt has been filed in the court of
14 common pleas.

15 (2) Restoration to the biological family is neither
16 possible nor appropriate, a petition to terminate parental
17 rights has been filed and adoption is planned pending
18 identification of an adoptive parent or parents.

19 PART IV

20 DIVORCE

21 Chapter

22 31. Preliminary Provisions

23 33. Dissolution of Marital Status

24 35. Property Rights

25 37. Alimony and Support

26 CHAPTER 31

27 PRELIMINARY PROVISIONS

28 Sec.

29 3101. Short title of part.

30 3102. Legislative findings and intent.

1 3103. Definitions.

2 3104. Bases of jurisdiction.

3 3105. Effect of agreement between parties.

4 § 3101. Short title of part.

5 This part shall be known and may be cited as the Divorce
6 Code.

7 § 3102. Legislative findings and intent.

8 (a) Policy.--The family is the basic unit in society and the
9 protection and preservation of the family is of paramount public
10 concern. Therefore, it is the policy of the Commonwealth to:

11 (1) Make the law for legal dissolution of marriage
12 effective for dealing with the realities of matrimonial
13 experience.

14 (2) Encourage and effect reconciliation and settlement
15 of differences between spouses, especially where children are
16 involved.

17 (3) Give primary consideration to the welfare of the
18 family rather than the vindication of private rights or the
19 punishment of matrimonial wrongs.

20 (4) Mitigate the harm to the spouses and their children
21 caused by the legal dissolution of the marriage.

22 (5) Seek causes rather than symptoms of family
23 disintegration and cooperate with and utilize the resources
24 available to deal with family problems.

25 (6) Effectuate economic justice between parties who are
26 divorced or separated and grant or withhold alimony according
27 to the actual need and ability to pay of the parties and
28 insure a fair and just determination and settlement of their
29 property rights.

30 (b) Construction of part.--The objectives set forth in

1 subsection (a) shall be considered in construing provisions of
2 this part and shall be regarded as expressing the legislative
3 intent.

4 § 3103. Definitions.

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

8 "Alimony." An order for support granted by this Commonwealth
9 or any other state to a spouse or former spouse in conjunction
10 with a decree granting a divorce or annulment.

11 "Alimony pendente lite." An order for temporary support
12 granted to a spouse during the pendency of a divorce or
13 annulment proceeding.

14 "Divorce." Divorce from the bonds of matrimony.

15 "Grounds for divorce." The grounds enumerated in section
16 3301 (relating to grounds for divorce).

17 "Irretrievable breakdown." Estrangement due to marital
18 difficulties with no reasonable prospect of reconciliation.

19 "Qualified professionals." Includes marriage counselors,
20 psychologists, psychiatrists, social workers, ministers,
21 priests, rabbis or other persons who, by virtue of their
22 training and experience, are able to provide counseling.

23 "Separate and apart." Complete cessation of any and all
24 cohabitation, whether living in the same residence or not.

25 "Spousal support." Care, maintenance and financial
26 assistance.

27 § 3104. Bases of jurisdiction.

28 (a) Jurisdiction.--The courts shall have original
29 jurisdiction in cases of divorce and for the annulment of void
30 or voidable marriages and shall determine in conjunction with

1 any decree granting a divorce or annulment the following
2 matters, if raised in the pleadings, and issue appropriate
3 decrees or orders with reference thereto, and may retain
4 continuing jurisdiction thereof:

5 (1) The determination and disposition of property rights
6 and interests between spouses, including any rights created
7 by any antenuptial, postnuptial or separation agreement and
8 including the partition of property held as tenants by the
9 entireties or otherwise and any accounting between them, and
10 the order of any spousal support, alimony, alimony pendente
11 lite, counsel fees or costs authorized by law.

12 (2) The future care, custody and visitation rights as to
13 children of the marriage or purported marriage.

14 (3) Any support or assistance which shall be paid for
15 the benefit of any children of the marriage or purported
16 marriage.

17 (4) Any property settlement involving any of the matters
18 set forth in paragraphs (1), (2) and (3) as submitted by the
19 parties.

20 (5) Any other matters pertaining to the marriage and
21 divorce or annulment authorized by law and which fairly and
22 expeditiously may be determined and disposed of in such
23 action.

24 (b) Residence and domicile of parties.--No spouse is
25 entitled to commence an action for divorce or annulment under
26 this part unless at least one of the parties has been a bona
27 fide resident in this Commonwealth for at least six months
28 immediately previous to the commencement of the action. Both
29 parties shall be competent witnesses to prove their respective
30 residence, and proof of actual residence within this

1 Commonwealth for six months shall create a presumption of
2 domicile within this Commonwealth.

3 (c) Powers of court.--The court has authority to entertain
4 an action under this part notwithstanding the fact that the
5 marriage of the parties and the cause for divorce occurred
6 outside of this Commonwealth and that both parties were at the
7 time of the occurrence domiciled outside this Commonwealth. The
8 court also has the power to annul void or voidable marriages
9 celebrated outside this Commonwealth at a time when neither
10 party was domiciled within this Commonwealth.

11 (d) Foreign forum.--After the dissolution or annulment of a
12 marriage in a foreign forum where a matter under subsection (a)
13 has not been decided, a court of this Commonwealth shall have
14 jurisdiction to determine a matter under subsection (a) to the
15 fullest extent allowed under the Constitution of the United
16 States.

17 (e) Venue.--A proceeding for divorce or annulment may be
18 brought in the county:

19 (1) where the defendant resides;

20 (2) if the defendant resides outside of this
21 Commonwealth, where the plaintiff resides;

22 (3) of matrimonial domicile, if the plaintiff has
23 continuously resided in the county;

24 (4) prior to six months after the date of final
25 separation and with agreement of the defendant, where the
26 plaintiff resides or, if neither party continues to reside in
27 the county of matrimonial domicile, where either party
28 resides; or

29 (5) after six months after the date of final separation,
30 where either party resides.

1 § 3105. Effect of agreement between parties.

2 (a) Enforcement.--A party to an agreement regarding matters
3 within the jurisdiction of the court under this part, whether or
4 not the agreement has been merged or incorporated into the
5 decree, may utilize a remedy or sanction set forth in this part
6 to enforce the agreement to the same extent as though the
7 agreement had been an order of the court except as provided to
8 the contrary in the agreement.

9 (b) Certain provisions subject to modification.--A provision
10 of an agreement regarding child support, visitation or custody
11 shall be subject to modification by the court upon a showing of
12 changed circumstances.

13 (c) Certain provisions not subject to modification.--In the
14 absence of a specific provision to the contrary appearing in the
15 agreement, a provision regarding the disposition of existing
16 property rights and interests between the parties, alimony,
17 alimony pendente lite, counsel fees or expenses shall not be
18 subject to modification by the court.

19 CHAPTER 33

20 DISSOLUTION OF MARITAL STATUS

21 Subchapter

22 A. General Provisions

23 B. Procedure

24 C. Attacks Upon Decrees

25 SUBCHAPTER A

26 GENERAL PROVISIONS

27 Sec.

28 3301. Grounds for divorce.

29 3302. Counseling.

30 3303. Annulment of void and voidable marriages.

1 3304. Grounds for annulment of void marriages.
2 3305. Grounds for annulment of voidable marriages.
3 3306. Proceedings to determine marital status.
4 3307. Defenses.
5 3308. Action where defendant suffering from mental disorder.
6 3309. General appearance and collusion.
7 § 3301. Grounds for divorce.

8 (a) Fault.--The court may grant a divorce to the innocent
9 and injured spouse whenever it is judged that the other spouse
10 has:

11 (1) Committed willful and malicious desertion, and
12 absence from the habitation of the injured and innocent
13 spouse, without a reasonable cause, for the period of one or
14 more years.

15 (2) Committed adultery.

16 (3) By cruel and barbarous treatment, endangered the
17 life or health of the injured and innocent spouse.

18 (4) Knowingly entered into a bigamous marriage while a
19 former marriage is still subsisting.

20 (5) Been sentenced to imprisonment for a term of two or
21 more years upon conviction of having committed a crime.

22 (6) Offered such indignities to the innocent and injured
23 spouse as to render that spouse's condition intolerable and
24 life burdensome.

25 (b) Institutionalization.--The court may grant a divorce
26 from a spouse upon the ground that insanity or serious mental
27 disorder has resulted in confinement in a mental institution for
28 at least 18 months immediately before the commencement of an
29 action under this part and where there is no reasonable prospect
30 that the spouse will be discharged from inpatient care during

1 the 18 months subsequent to the commencement of the action. A
2 presumption that no prospect of discharge exists shall be
3 established by a certificate of the superintendent of the
4 institution to that effect and which includes a supporting
5 statement of a treating physician.

6 (c) Mutual consent.--The court may grant a divorce where it
7 is alleged that the marriage is irretrievably broken and 90 days
8 have elapsed from the date of commencement of an action under
9 this part and an affidavit has been filed by each of the parties
10 evidencing that each of the parties consents to the divorce.

11 (d) Irretrievable breakdown.--

12 (1) The court may grant a divorce where a complaint has
13 been filed alleging that the marriage is irretrievably broken
14 and an affidavit has been filed alleging that the parties
15 have lived separate and apart for a period of at least two
16 years and that the marriage is irretrievably broken and the
17 defendant either:

18 (i) Does not deny the allegations set forth in the
19 affidavit.

20 (ii) Denies one or more of the allegations set forth
21 in the affidavit but, after notice and hearing, the court
22 determines that the parties have lived separate and apart
23 for a period of at least two years and that the marriage
24 is irretrievably broken.

25 (2) If a hearing has been held pursuant to paragraph
26 (1)(ii) and the court determines that there is a reasonable
27 prospect of reconciliation, then the court shall continue the
28 matter for a period not less than 90 days nor more than 120
29 days unless the parties agree to a period in excess of 120
30 days. During this period, the court shall require counseling

1 as provided in section 3302 (relating to counseling). If the
2 parties have not reconciled at the expiration of the time
3 period and one party states under oath that the marriage is
4 irretrievably broken, the court shall determine whether the
5 marriage is irretrievably broken. If the court determines
6 that the marriage is irretrievably broken, the court shall
7 grant the divorce. Otherwise, the court shall deny the
8 divorce.

9 (e) No hearing required in certain cases.--If grounds for
10 divorce alleged in the complaint or counterclaim are established
11 under subsection (c) or (d), the court shall grant a divorce
12 without requiring a hearing on any other grounds.

13 § 3302. Counseling.

14 (a) Indignities.--Whenever indignities under section
15 3301(a)(6) (relating to grounds for divorce) is the ground for
16 divorce, the court shall require up to a maximum of three
17 counseling sessions where either of the parties requests it.

18 (b) Mutual consent.--Whenever mutual consent under section
19 3301(c) is the ground for divorce, the court shall require up to
20 a maximum of three counseling sessions within the 90 days
21 following the commencement of the action where either of the
22 parties requests it.

23 (c) Irretrievable breakdown.--Whenever the court orders a
24 continuation period as provided for irretrievable breakdown in
25 section 3301(d)(2), the court shall require up to a maximum of
26 three counseling sessions within the time period where either of
27 the parties requests it or may require such counseling where the
28 parties have at least one child under 16 years of age.

29 (d) Notification of availability of counseling.--Whenever
30 section 3301(a)(6), (c) or (d) is the ground for divorce, the

1 court shall, upon the commencement of an action under this part,
2 notify both parties of the availability of counseling and, upon
3 request, provide both parties a list of qualified professionals
4 who provide such services.

5 (e) Choice of qualified professionals unrestricted.--The
6 choice of a qualified professional shall be at the option of the
7 parties and the professional need not be selected from the list
8 provided by the court.

9 (f) Report.--Where the court requires counseling, a report
10 shall be made by the qualified professional stating that the
11 parties did or did not attend.

12 § 3303. Annulment of void and voidable marriages.

13 (a) General rule.--In all cases where a supposed or alleged
14 marriage has been contracted which is void or voidable under
15 this title or under applicable law, either party to the supposed
16 or alleged marriage may bring an action in annulment to have it
17 declared void in accordance with the procedures provided by this
18 part and prescribed by general rules.

19 (b) Common-law marriage.--In the case of a purported common-
20 law marriage where a party was under 18 years of age, a parent
21 or guardian of the minor may bring a declaratory judgment
22 proceeding during the party's minority to have the marriage
23 declared void.

24 § 3304. Grounds for annulment of void marriages.

25 (a) General rule.--Where there has been no confirmation by
26 cohabitation following the removal of an impediment, the
27 supposed or alleged marriage of a person shall be deemed void in
28 the following cases:

29 (1) Where either party at the time of such marriage had
30 an existing spouse and the former marriage had not been

1 annulled nor had there been a divorce except where that party
2 had obtained a decree of presumed death of the former spouse.

3 (2) Where the parties to such marriage are related
4 within the degrees of consanguinity prohibited by section
5 1304(e) (relating to restrictions on issuance of license).

6 (3) Where either party to such marriage was incapable of
7 consenting by reason of insanity or serious mental disorder
8 or otherwise lacked capacity to consent or did not intend to
9 consent to the marriage.

10 (4) Where either party to a purported common-law
11 marriage was under 18 years of age.

12 (b) Procedures.--In all cases of marriages which are void,
13 the marriage may be annulled as set forth in section 3303
14 (relating to annulment of void and voidable marriages) or its
15 invalidity may be declared in any collateral proceeding.
16 § 3305. Grounds for annulment of voidable marriages.

17 (a) General rule.--The marriage of a person shall be deemed
18 voidable and subject to annulment in the following cases:

19 (1) Where either party to the marriage was under 16
20 years of age unless the marriage was expressly authorized by
21 the court.

22 (2) Where either party was 16 or 17 years of age and
23 lacked the consent of parent or guardian or express
24 authorization of the court and has not subsequently ratified
25 the marriage upon reaching 18 years of age and an action for
26 annulment is commenced within 60 days after the marriage
27 ceremony.

28 (3) Where either party to the marriage was under the
29 influence of alcohol or drugs and an action for annulment is
30 commenced within 60 days after the marriage ceremony.

1 (4) Where either party to the marriage was at the time
2 of the marriage and still is naturally and incurably impotent
3 unless the condition was known to the other party prior to
4 the marriage.

5 (5) Where one party was induced to enter into the
6 marriage due to fraud, duress, coercion or force attributable
7 to the other party and there has been no subsequent voluntary
8 cohabitation after knowledge of the fraud or release from the
9 effects of fraud, duress, coercion or force.

10 (b) Status of voidable marriage.--In all cases of marriages
11 which are voidable, either party to the marriage may seek and
12 obtain an annulment of the marriage but, until a decree of
13 annulment is obtained from a court of competent jurisdiction,
14 the marriage shall be valid. The validity of a voidable marriage
15 shall not be subject to attack or question by any person if it
16 is subsequently confirmed by the parties to the marriage or if
17 either party has died.

18 § 3306. Proceedings to determine marital status.

19 When the validity of a marriage is denied or doubted, either
20 or both of the parties to the marriage may bring an action for a
21 declaratory judgment seeking a declaration of the validity or
22 invalidity of the marriage and, upon proof of the validity or
23 invalidity of the marriage, the marriage shall be declared valid
24 or invalid by decree of the court and, unless reversed upon
25 appeal, the declaration shall be conclusive upon all persons
26 concerned.

27 § 3307. Defenses.

28 (a) General rule.--Existing common-law defenses are retained
29 as to the grounds enumerated in section 3301(a) and (b)
30 (relating to grounds for divorce). The defenses of condonation,

1 connivance, collusion, recrimination and provocation are
2 abolished as to the grounds enumerated in section 3301(c) and
3 (d).

4 (b) Adultery.--In an action for divorce on the ground of
5 adultery, it is a good defense and a perpetual bar against the
6 action if the defendant alleges and proves, or if it appears in
7 the evidence, that the plaintiff:

8 (1) has been guilty of like conduct;

9 (2) has admitted the defendant into conjugal society or
10 embraces after the plaintiff knew of the fact;

11 (3) allowed the defendant's prostitution or received
12 hire from it; or

13 (4) exposed the defendant to lewd company whereby the
14 defendant became involved in the adultery.

15 § 3308. Action where defendant suffering from mental disorder.

16 If a spouse is insane or suffering from serious mental
17 disorder, an action may be commenced under this part against
18 that spouse upon any ground for divorce or annulment.

19 § 3309. General appearance and collusion.

20 The entry of a general appearance by, or in behalf of, a
21 defendant does not constitute collusion. Collusion shall be
22 found to exist only where the parties conspired to fabricate
23 grounds for divorce or annulment, agreed to and did commit
24 perjury or perpetrated fraud on the court. Negotiation and
25 discussion of terms of property settlement and other matters
26 arising by reason of contemplated divorce or annulment do not
27 constitute collusion.

28 SUBCHAPTER B

29 PROCEDURE

30 Sec.

1 3321. Hearing by master.

2 3322. Jury trial.

3 3323. Decree of court.

4 § 3321. Hearing by master.

5 The court may appoint a master to hear testimony on all or
6 some issues, except issues of custody and paternity, and return
7 the record and a transcript of the testimony together with a
8 report and recommendation as prescribed by general rules or a
9 judge of the court in chambers may appoint a master to hold a
10 nonrecord hearing and to make recommendations and return the
11 same to the court, in which case, either party may demand a
12 hearing de novo before the court.

13 § 3322. Jury trial.

14 (a) Application for jury trial.--After service of the
15 complaint in divorce or annulment on the defendant in the manner
16 prescribed by general rules or entry of a general appearance for
17 the defendant, if either of the parties desires any matter of
18 fact that is affirmed by one and denied by the other to be tried
19 by a jury, that party may take a rule upon the opposite party,
20 to be allowed by a judge of the court, to show cause why the
21 issues of fact set forth in the rule should not be tried by a
22 jury which rule shall be served upon the opposite party or
23 counsel for the opposite party.

24 (b) Disposition of application.--Upon the return of the
25 rule, after hearing, the court may discharge it, make it
26 absolute or frame issues itself. Only the issues ordered by the
27 court shall be tried. The rule shall not be made absolute when,
28 in the opinion of the court, a trial by jury cannot be had
29 without prejudice to the public morals.

30 § 3323. Decree of court.

1 (a) General rule.--In all matrimonial causes, the court may
2 either dismiss the complaint or enter a decree of divorce or
3 annulment of the marriage.

4 (b) Contents of decree.--A decree granting a divorce or an
5 annulment shall include, after a full hearing, where these
6 matters are raised in any pleadings, an order determining and
7 disposing of existing property rights and interests between the
8 parties, custody, partial custody and visitation rights, child
9 support, alimony, reasonable attorney fees, costs and expenses
10 and any other related matters, including the enforcement of
11 agreements voluntarily entered into between the parties. In the
12 enforcement of the rights of any party to any of these matters,
13 the court shall have all necessary powers, including, but not
14 limited to, the power of contempt and the power to attach wages.

15 (c) Bifurcation.--In the event that the court is unable for
16 any reason to determine and dispose of the matters provided for
17 in subsection (b) within 30 days after the report of the master
18 has been filed, it may enter a decree of divorce or annulment.
19 Upon the request of either party and after a hearing, the court
20 may order alimony pendente lite, reasonable counsel fees, costs
21 and expenses and may make a temporary order necessary to protect
22 the interests of the parties pending final disposition of the
23 matters in subsection (b).

24 (d) Substitution for deceased party.--If one of the parties
25 dies after the decree of divorce has been entered, but prior to
26 the final determination in such proceeding of the property
27 rights and interests of the parties under this part, the
28 personal representative of the deceased party shall be
29 substituted as a party as provided by law and the action shall
30 proceed.

1 (e) Costs.--The court may award costs to the party in whose
2 favor the order or decree shall be entered, or may order that
3 each party shall pay their own costs, or may order that costs be
4 divided equitably as it shall appear just and reasonable.

5 (f) Equity power and jurisdiction of the court.--In all
6 matrimonial causes, the court shall have full equity power and
7 jurisdiction and may issue injunctions or other orders which are
8 necessary to protect the interests of the parties or to
9 effectuate the purposes of this part, and may grant such other
10 relief or remedy as equity and justice require against either
11 party or against any third person over whom the court has
12 jurisdiction and who is involved in or concerned with the
13 disposition of the cause.

14 SUBCHAPTER C

15 ATTACKS UPON DECREES

16 Sec.

17 3331. Limitations on attacks upon decrees.

18 3332. Opening or vacating decrees.

19 3333. Res judicata and estoppel.

20 § 3331. Limitations on attacks upon decrees.

21 The validity of a decree of divorce or annulment issued by a
22 court shall not be questioned, except by appeal, in any court or
23 place in this Commonwealth after the death of either party to
24 the proceeding. If it is shown that a party who subsequently
25 attempts to question the validity of the decree had full
26 knowledge of the facts and circumstances later complained of at
27 the time of issuance of the decree or failed to take any action
28 despite this knowledge within two years after the date of the
29 decree, the party shall be barred from questioning the decree,
30 and it shall be valid in all courts and places within this

1 Commonwealth.

2 § 3332. Opening or vacating decrees.

3 A motion to open a decree of divorce or annulment may be made
4 only within the period limited by 42 Pa.C.S. § 5505 (relating to
5 modification of orders) and not thereafter. The motion may lie
6 where it is alleged that the decree was procured by intrinsic
7 fraud or that there is new evidence relating to the cause of
8 action which will sustain the attack upon its validity. A motion
9 to vacate a decree or strike a judgment alleged to be void
10 because of extrinsic fraud, lack of jurisdiction over the
11 subject matter or a fatal defect apparent upon the face of the
12 record must be made within five years after entry of the final
13 decree. Intrinsic fraud relates to a matter adjudicated by the
14 judgment, including perjury and false testimony, whereas
15 extrinsic fraud relates to matters collateral to the judgment
16 which have the consequence of precluding a fair hearing or
17 presentation of one side of the case.

18 § 3333. Res judicata and estoppel.

19 The validity of a divorce or annulment decree granted by a
20 court having jurisdiction over the subject matter may not be
21 questioned by a party who was subject to the personal
22 jurisdiction of the court except by direct appeal provided or
23 prescribed by law. A party who sought and obtained a decree,
24 financed or agreed to its procurement, or accepted a property
25 settlement, alimony pendente lite or alimony pursuant to the
26 terms of the decree, or who remarries after the decree, or is
27 guilty of laches, is barred from making a collateral attack upon
28 the validity of the decree unless by clear and convincing
29 evidence it is established that fraud by the other party
30 prevented the making of a timely appeal from the divorce or

1 annulment decree.

2

CHAPTER 35

3

PROPERTY RIGHTS

4 Sec.

5 3501. Definitions.

6 3502. Equitable division of marital property.

7 3503. Effect of divorce on property rights generally.

8 3504. Disposition of property after termination of marriage.

9 3505. Disposition of property to defeat obligations.

10 3506. Statement of reasons for distribution.

11 3507. Division of entireties property between divorced persons.

12 3508. Conveyance of entireties property to divorced spouse.

13 § 3501. Definitions.

14 (a) General rule.--As used in this chapter, "marital
15 property" means all property acquired by either party during the
16 marriage, including the increase in value prior to the date of
17 final separation of any nonmarital property acquired pursuant to
18 paragraphs (1) and (3), except:

19 (1) Property acquired prior to marriage or property
20 acquired in exchange for property acquired prior to the
21 marriage.

22 (2) Property excluded by valid agreement of the parties
23 entered into before, during or after the marriage.

24 (3) Property acquired by gift, except between spouses,
25 bequest, devise or descent.

26 (4) Property acquired after final separation until the
27 date of divorce, except for property acquired in exchange for
28 marital assets.

29 (5) Property which a party has sold, granted, conveyed
30 or otherwise disposed of in good faith and for value prior to

1 the date of final separation.

2 (6) Veterans' benefits exempt from attachment, levy or
3 seizure pursuant to the act of September 2, 1958 (Public Law
4 85-857, 72 Stat. 1229), as amended, except for those benefits
5 received by a veteran where the veteran has waived a portion
6 of his military retirement pay in order to receive veterans'
7 compensation.

8 (7) Property to the extent to which the property has
9 been mortgaged or otherwise encumbered in good faith for
10 value prior to the date of final separation.

11 (8) Any payment received as a result of an award or
12 settlement for any cause of action or claim which accrued
13 prior to the marriage or after the date of final separation
14 regardless of when the payment was received.

15 (b) Presumption.--All real or personal property acquired by
16 either party during the marriage is presumed to be marital
17 property regardless of whether title is held individually or by
18 the parties in some form of co-ownership such as joint tenancy,
19 tenancy in common or tenancy by the entirety. The presumption of
20 marital property is overcome by a showing that the property was
21 acquired by a method listed in subsection (a).

22 § 3502. Equitable division of marital property.

23 (a) General rule.--In an action for divorce or annulment,
24 the court shall, upon request of either party, equitably divide,
25 distribute or assign, in kind or otherwise, the marital property
26 between the parties without regard to marital misconduct in such
27 proportions and in such manner as the court deems just after
28 considering all relevant factors, including:

29 (1) The length of the marriage.

30 (2) Any prior marriage of either party.

1 (3) The age, health, station, amount and sources of
2 income, vocational skills, employability, estate, liabilities
3 and needs of each of the parties.

4 (4) The contribution by one party to the education,
5 training or increased earning power of the other party.

6 (5) The opportunity of each party for future
7 acquisitions of capital assets and income.

8 (6) The sources of income of both parties, including,
9 but not limited to, medical, retirement, insurance or other
10 benefits.

11 (7) The contribution or dissipation of each party in the
12 acquisition, preservation, depreciation or appreciation of
13 the marital property, including the contribution of a party
14 as homemaker.

15 (8) The value of the property set apart to each party.

16 (9) The standard of living of the parties established
17 during the marriage.

18 (10) The economic circumstances of each party, including
19 Federal, State and local tax ramifications, at the time the
20 division of property is to become effective.

21 (11) Whether the party will be serving as the custodian
22 of any dependent minor children.

23 (b) Lien.--The court may impose a lien or charge upon
24 property of a party as security for the payment of alimony or
25 any other award for the other party.

26 (c) Family home.--The court may award during the pendency of
27 the action or otherwise to one or both of the parties the right
28 to reside in the marital residence.

29 (d) Life insurance.--The court may direct the continued
30 maintenance and beneficiary designations of existing policies

1 insuring the life or health of either party which were
2 originally purchased during the marriage and owned by or within
3 the effective control of either party. Where it is necessary to
4 protect the interests of a party, the court may also direct the
5 purchase of, and beneficiary designations on, a policy insuring
6 the life or health of either party.

7 (e) Powers of the court.--If, at any time, a party has
8 failed to comply with an order of equitable distribution, as
9 provided for in this chapter, or with the terms of an agreement
10 as entered into between the parties, after hearing, the court
11 may, in addition to any other remedy available under this part,
12 in order to effect compliance with its order:

13 (1) enter judgment;

14 (2) authorize the taking and seizure of the goods and
15 chattels and collection of the rents and profits of the real
16 and personal, tangible and intangible property of the party;

17 (3) award interest on unpaid installments;

18 (4) order and direct the transfer or sale of any
19 property required in order to comply with the court's order;

20 (5) require security to insure future payments in
21 compliance with the court's order;

22 (6) issue attachment proceedings, directed to the
23 sheriff or other proper officer of the county, directing that
24 the person named as having failed to comply with the court
25 order be brought before the court, at such time as the court
26 may direct. If the court finds, after hearing, that the
27 person willfully failed to comply with the court order, it
28 may deem the person in civil contempt of court and, in its
29 discretion, make an appropriate order, including, but not
30 limited to, commitment of the person to the county jail for a

- 1 period not to exceed six months;
- 2 (7) award counsel fees and costs;
- 3 (8) attach wages; or
- 4 (9) find the party in contempt.

5 § 3503. Effect of divorce on property rights generally.

6 Whenever a decree or judgment is granted which nullifies or
7 absolutely terminates the bonds of matrimony, all property
8 rights which are dependent upon the marital relation, except
9 those which are vested rights, are terminated unless the court
10 expressly provides otherwise in its decree. All duties, rights
11 and claims accruing to either of the parties at any time
12 theretofore in pursuance of the marriage shall cease, and the
13 parties shall severally be at liberty to marry again as if they
14 had never been married.

15 § 3504. Disposition of property after termination of marriage.

16 Unless provided otherwise by the court, whenever a decree of
17 divorce or annulment is entered by a court of competent
18 jurisdiction, both parties whose marriage is terminated or
19 affected shall have complete freedom of disposition as to their
20 separate real and personal property and may mortgage, sell,
21 grant, convey or otherwise encumber or dispose of their separate
22 property, whether the property was acquired before, during or
23 after coverture, and neither need join in, consent to or
24 acknowledge a deed, mortgage or instrument of the other.

25 § 3505. Disposition of property to defeat obligations.

26 (a) Preliminary relief.--Where it appears to the court that
27 a party is about to leave the jurisdiction of the court or is
28 about to remove property of that party from the jurisdiction of
29 the court or is about to dispose of, alienate or encumber
30 property in order to defeat equitable distribution, alimony

1 pendente lite, alimony, child and spousal support or a similar
2 award, an injunction may issue to prevent the removal or
3 disposition and the property may be attached as prescribed by
4 general rules. The court may also issue a writ of ne exeat to
5 preclude the removal.

6 (b) Inventory of property.--Both parties shall submit to the
7 court an inventory and appraisal, which shall contain all of
8 the following:

9 (1) A list of the property owned or possessed by either
10 or both of them as of:

11 (i) the date of separation; and

12 (ii) thirty days prior to the date of hearing on
13 equitable distribution.

14 (2) A list of the value of the property owned or
15 possessed by either or both of them as of:

16 (i) the date of acquisition;

17 (ii) the date of separation; and

18 (iii) thirty days prior to the date of hearing on
19 equitable distribution.

20 (3) A list of the liabilities of either or both of them
21 as of 30 days prior to the date of hearing on equitable
22 distribution, whether or not the liabilities are related to
23 the property set forth in the inventory and appraisal.

24 (c) Discovery.--Discovery under this part shall be as
25 provided for all other civil actions under the Pennsylvania
26 Rules of Civil Procedure.

27 (d) Constructive trust for undisclosed assets.--If a party
28 fails to disclose information required by subsection (b) and in
29 consequence thereof an asset or assets with a fair market value
30 of \$500 or more is omitted from the final distribution of

1 property, the party aggrieved by the nondisclosure may at any
2 time petition the court granting the award to declare the
3 creation of a constructive trust as to all undisclosed assets
4 for the benefit of the parties and their minor or dependent
5 children, if any. The party in whose name the assets are held
6 shall be declared the constructive trustee, and the trust may
7 include any terms and conditions the court may determine. The
8 court shall grant the petition upon a finding of a failure to
9 disclose the assets as required under subsection (b).

10 (e) Encumbrance or disposition to third parties.--An
11 encumbrance or disposition of marital property to third persons
12 who paid wholly inadequate consideration for the property may be
13 deemed fraudulent and declared void.

14 § 3506. Statement of reasons for distribution.

15 In an order made under this chapter for the distribution of
16 property the court shall set forth the reason for the
17 distribution ordered.

18 § 3507. Division of entireties property between divorced
19 persons.

20 (a) General rule.--Whenever married persons holding property
21 as tenants by entireties are divorced, they shall, except as
22 otherwise provided by an order made under this chapter,
23 thereafter hold the property as tenants in common of equal one-
24 half shares in value and either of them may bring an action
25 against the other to have the property sold and the proceeds
26 divided between them.

27 (b) Division of proceeds.--Except as provided in subsection
28 (c), the proceeds of a sale under this section, after the
29 payment of the expenses of sale, shall be equally divided
30 between the parties.

1 (c) Liens.--The amount of any lien entered of record jointly
2 against both of the parties, together with any interest due on
3 the lien and docket costs, shall be deducted from the proceeds
4 of sale and the amount of the liens entered of record against
5 either of the parties, together with any interest due on the
6 liens and docket costs, shall be deducted from the share of the
7 party against whom the lien is filed and paid to the person or
8 persons to whom the amount of the lien is due and payable.

9 (d) Record of divorce decree.--No decree of divorce shall be
10 effective to change the existing law relating to liens upon
11 property held by tenants by the entirety except a decree of
12 divorce that is valid in this Commonwealth and not until the
13 decree of divorce or a certified copy of the decree is recorded
14 in the office of the recorder of deeds of the county where the
15 property is situate. The decree shall be indexed in the
16 grantor's index against each of the tenants by the entirety.
17 § 3508. Conveyance of entirety property to divorced spouse.

18 Whenever married persons have acquired real estate as tenants
19 by entirety and thereafter are divorced, either former spouse,
20 except as otherwise provided by an order made under this
21 chapter, may convey to the other without the joinder of the
22 other the grantor's interest in the real estate so that the
23 grantee holds the real estate in fee simple, freed from all
24 right, title and interest which the grantor had in the real
25 estate as a tenant by the entirety.

26 CHAPTER 37

27 ALIMONY AND SUPPORT

28 Sec.

29 3701. Alimony.

30 3702. Alimony pendente lite, counsel fees and expenses.

1 3703. Enforcement of arrearages.

2 3704. Payment of support, alimony and alimony pendente lite.

3 3705. Enforcement of foreign decrees.

4 3706. Bar to alimony.

5 3707. Effect of death of either party.

6 § 3701. Alimony.

7 (a) General rule.--Where a divorce decree has been entered,
8 the court may allow alimony, as it deems reasonable, to either
9 party only if it finds that alimony is necessary.

10 (b) Factors relevant.--In determining whether alimony is
11 necessary and in determining the nature, amount, duration and
12 manner of payment of alimony, the court shall consider all
13 relevant factors, including:

14 (1) The relative earnings and earning capacities of the
15 parties.

16 (2) The ages and the physical, mental and emotional
17 conditions of the parties.

18 (3) The sources of income of both parties, including,
19 but not limited to, medical, retirement, insurance or other
20 benefits.

21 (4) The expectancies and inheritances of the parties.

22 (5) The duration of the marriage.

23 (6) The contribution by one party to the education,
24 training or increased earning power of the other party.

25 (7) The extent to which the earning power, expenses or
26 financial obligations of a party will be affected by reason
27 of serving as the custodian of a minor child.

28 (8) The standard of living of the parties established
29 during the marriage.

30 (9) The relative education of the parties and the time

1 necessary to acquire sufficient education or training to
2 enable the party seeking alimony to find appropriate
3 employment.

4 (10) The relative assets and liabilities of the parties.

5 (11) The property brought to the marriage by either
6 party.

7 (12) The contribution of a spouse as homemaker.

8 (13) The relative needs of the parties.

9 (14) The marital misconduct of either of the parties
10 during the marriage. The marital misconduct of either of the
11 parties from the date of final separation shall not be
12 considered by the court in its determinations relative to
13 alimony.

14 (15) The Federal, State and local tax ramifications of
15 the alimony award.

16 (16) Whether the party seeking alimony lacks sufficient
17 property, including, but not limited to, property distributed
18 under Chapter 35 (relating to property rights), to provide
19 for the party's reasonable needs.

20 (17) Whether the party seeking alimony is incapable of
21 self-support through appropriate employment.

22 (c) Duration.--The court in ordering alimony shall determine
23 the duration of the order, which may be for a definite or an
24 indefinite period of time which is reasonable under the
25 circumstances.

26 (d) Statement of reasons.--In an order made under this
27 section the court shall set forth the reason for its denial or
28 award of alimony and the amount thereof.

29 (e) Modification and termination.--An order entered pursuant
30 to this section is subject to further order of the court upon

1 changed circumstances of either party of a substantial and
2 continuing nature whereupon the order may be modified,
3 suspended, terminated or reinstated or a new order made. Any
4 further order shall apply only to payments accruing subsequent
5 to the petition for the requested relief. Remarriage of the
6 party receiving alimony shall terminate the award of alimony.

7 (f) Status of agreement to pay alimony.--Whenever the court
8 approves an agreement for the payment of alimony voluntarily
9 entered into between the parties, the agreement shall constitute
10 the order of the court and may be enforced as provided in
11 section 3703 (relating to enforcement of arrearages).

12 § 3702. Alimony pendente lite, counsel fees and expenses.

13 In proper cases, upon petition, the court may allow a spouse
14 reasonable alimony pendente lite, spousal support and reasonable
15 counsel fees and expenses. Reasonable counsel fees and expenses
16 may be allowed pendente lite, and the court shall also have
17 authority to direct that adequate health and hospitalization
18 insurance coverage be maintained for the dependent spouse
19 pendente lite.

20 § 3703. Enforcement of arrearages.

21 If at any time a party is in arrears in the payment of
22 alimony or alimony pendente lite as provided for in sections
23 3701 (relating to alimony) and 3702 (relating to alimony
24 pendente lite, counsel fees and expenses), the court may, after
25 hearing, in order to effect payment of the arrearages:

26 (1) Enter judgment.

27 (2) Authorize the taking and seizure of the goods and
28 chattels and the collection of the rents and profits of the
29 real estate of the party.

30 (3) Attach no more than 50% of the wages of the party.

1 (4) Award interest on unpaid installments.

2 (5) Require security to insure future payments.

3 (6) Issue attachment proceedings, directed to the
4 sheriff or other proper officer of the county, directing that
5 the person named as having failed to comply with the court
6 order be brought before the court at such time as the court
7 may direct. If the court finds, after hearing, that the named
8 person willfully failed to comply with the court order, it
9 may declare the person in civil contempt of court and in its
10 discretion make an appropriate order, including, but not
11 limited to, commitment of the person to prison for a period
12 not to exceed six months.

13 (7) Award counsel fees and costs.

14 § 3704. Payment of support, alimony and alimony pendente lite.

15 When so ordered by the court, all payments of child and
16 spousal support, alimony or alimony pendente lite shall be made
17 to the domestic relations section of the court which issued the
18 order or the domestic relations section of the court at the
19 residence of the party entitled to receive the award. The
20 domestic relations section shall keep an accurate record of all
21 payments and shall notify the court immediately whenever a
22 person subject to a payment order is 30 days in arrears of
23 payment so that appropriate action may be taken to enforce the
24 order of the court. The domestic relations section shall
25 distribute the payments to the person entitled to them as soon
26 as possible after receipt.

27 § 3705. Enforcement of foreign decrees.

28 (a) General rule.--Whenever a person subject to a valid
29 decree of a sister state or territory for the distribution of
30 marital property or for the payment of alimony, temporary

1 alimony or alimony pendente lite, or the property of that person
2 is found within this Commonwealth, the obligee of the decree may
3 petition the court where the obligor or the property of the
4 obligor is found to register, adopt as its own and enforce the
5 decree as a properly issued and authenticated decree of a sister
6 state or territory. Upon registration and adoption, such relief
7 and process for enforcement as is provided or prescribed by law
8 in similar cases originally commenced in this Commonwealth shall
9 be available. A copy of the decree and order shall be forwarded
10 to the court of the state or territory which issued the original
11 decree. The obligor shall have whatever defenses and relief are
12 available to the obligor in the state or territory which issued
13 the original decree and may question the jurisdiction of that
14 court if not otherwise barred. Interest may be awarded on unpaid
15 installments and security may be required to insure future
16 payments as in cases originally commenced in this Commonwealth.
17 Where property of the obligor, but not the person of the
18 obligor, is found within this Commonwealth, there shall be
19 jurisdiction quasi in rem, and, upon registration and adoption
20 of the decree of the sister state or territory, relief and
21 enforcement of the decree shall be available as in other
22 proceedings which are quasi in rem.

23 (b) Optional procedure.--The right of a judgment creditor to
24 proceed under 42 Pa.C.S. § 4306 (relating to enforcement of
25 foreign judgments) or otherwise instead of proceeding under this
26 section remains unimpaired.

27 § 3706. Bar to alimony.

28 No petitioner is entitled to receive an award of alimony
29 where the petitioner, subsequent to the divorce pursuant to
30 which alimony is being sought, has entered into cohabitation

1 with a person of the opposite sex who is not a member of the
2 family of the petitioner within the degrees of consanguinity.
3 § 3707. Effect of death of either party.

4 Upon the death of the payee party, the right to receive
5 alimony pursuant to this chapter shall cease. Upon the death of
6 the payor party, the obligation to pay alimony shall cease
7 unless otherwise indicated in an agreement between the parties
8 or an order of court.

9 PART V

10 SUPPORT, PROPERTY AND CONTRACTS

11 Chapter

12 41. General Provisions

13 CHAPTER 41

14 GENERAL PROVISIONS

15 Sec.

16 4101. Liability for debts contracted before marriage.

17 4102. Liability for purchases by married person.

18 4103. Liability on judgment against married person.

19 4104. Right of married person to separate earnings.

20 4105. Loans between married persons.

21 4106. Construction of chapter.

22 § 4101. Liability for debts contracted before marriage.

23 (a) General rule.--A spouse is not liable for the debts of
24 the other spouse contracted before marriage, unless voluntarily
25 assumed in writing.

26 (b) Liability of property unaffected.--This chapter does not
27 protect the property of a married person from liability for
28 debts contracted by or in the name of the married person by any
29 person authorized to so contract.

30 § 4102. Liability for purchases by married person.

1 (a) General rule.--Except as provided in subsection (b),
2 married persons are not liable jointly for purchases by one of
3 them unless they voluntarily assume joint debts.

4 (b) Necessaries.--Married persons are jointly and severally
5 liable for debts contracted by one of them for necessities for
6 themselves or their children, except in cases where a child or
7 spousal support order has been entered or a written agreement
8 has been executed.

9 § 4103. Liability on judgment against married person.

10 A judgment against a married person individually before or
11 during marriage does not bind or constitute a lien upon the real
12 property of the other spouse.

13 § 4104. Right of married person to separate earnings.

14 A married person has the right to the separate benefit and
15 use of the separate earnings of that person except with respect
16 to legal support obligations due to other persons.

17 § 4105. Loans between married persons.

18 A married person may loan the other spouse money from the
19 separate estate of the married person and take in security
20 therefor a judgment or mortgage against the property of the
21 other spouse which shall be valid as otherwise provided by law.

22 § 4106. Construction of chapter.

23 This chapter shall not be construed to affect Part IV
24 (relating to divorce).

25 CHAPTER 43

26 SUPPORT MATTERS GENERALLY

27 * * *

28 SUBCHAPTER D

29 PROCEEDINGS AGAINST ENTIRETIES PROPERTY

30 Sec.

1 4361. Execution of support order against entireties property.

2 4362. Plaintiff's share of proceeds of sale.

3 4363. Trustee to distribute proceeds of sale.

4 4364. Credit to plaintiff who purchases property.

5 4365. Rights of divorced person in entireties property sold
6 for support.

7 4366. Other enforcement remedies preserved.

8 § 4361. Execution of support order against entireties property.

9 (a) Entry of order.--Whenever married persons hold real
10 property by the entireties and one spouse secures an order of
11 court against the other spouse for the support of the plaintiff
12 spouse or of a child of both persons or the defendant or for the
13 support of both the plaintiff spouse and child and a copy of the
14 order has been certified to the court of common pleas of the
15 county in this Commonwealth in which the property is situated,
16 the order shall be entered in that court as a judgment with the
17 same effect as if it had been recovered as a judgment of that
18 court.

19 (b) Execution on judgment.--Execution may be issued on the
20 judgment against the real property held by the entireties and
21 the property may be sold in the manner provided by law for the
22 sale of real property on execution issued on a judgment. In any
23 writs of execution on the judgment, the defendant shall not be
24 entitled to the benefit of 42 Pa.C.S. Ch. 81 Subch. B (relating
25 to exemptions from execution) or any other exemption statute.

26 (c) Title of purchaser.--The sale of real property under
27 this section conveys to the purchaser or purchasers thereof a
28 good and valid title to the property and vests in the purchaser
29 or purchasers the entire title of both the married persons in
30 the same manner and with the same effect as if both married

1 persons had joined in the conveyance of the property.

2 (d) Proceedings by obligor spouse prohibited.--The obligor
3 spouse shall not have the right to initiate proceedings under
4 this section.

5 § 4362. Plaintiff's share of proceeds of sale.

6 (a) General rule.--The plaintiff spouse shall be entitled to
7 one-half of the proceeds of the sale of real property by the
8 entirety which represents plaintiff's prior undivided one-half
9 interest in the property.

10 (b) Petition to court.--The plaintiff spouse may petition
11 the court of common pleas of the county where the real property
12 is situated, either before or after the sale of the property by
13 execution, setting forth plaintiff's claim, and the court shall
14 fix a date for a hearing on the petition.

15 (c) Hearing and decree.--After notice and hearing, the court
16 shall make such decree as shall be proper. At the hearing, both
17 spouses shall be competent witnesses.

18 § 4363. Trustee to distribute proceeds of sale.

19 (a) Appointment of trustee.--The court shall, at the time of
20 the hearing or thereafter, appoint a trustee who shall receive
21 from the sheriff the proceeds of the sale of the property after
22 the costs have been paid.

23 (b) Disposition of proceeds.--The trustee shall, out of the
24 proceeds, pay to the plaintiff spouse the sum of money the court
25 decreed as plaintiff's share in the property sold and also the
26 sums of money, and interest thereon from the time the respective
27 items making them up became due and payable, which are due and
28 payable under the order of support. The trustee shall also pay
29 to the plaintiff spouse any additional sums the plaintiff may be
30 entitled to under any order of court for the support of

1 plaintiff or the children of defendant.

2 (c) Compensation of trustee.--The trustee shall be
3 compensated as determined by the court from the proceeds of the
4 sale.

5 § 4364. Credit to plaintiff who purchases property.

6 (a) General rule.--If the plaintiff spouse becomes the
7 purchaser at the execution sale, the plaintiff shall be entitled
8 to a credit on the purchase price thereof for the sum of money
9 found by the court to represent the plaintiff's share in the
10 property and also for the sums of money due the plaintiff from
11 the defendant under the order of support upon which the
12 execution was issued at the time of the sale, together with
13 interest on the sums due the plaintiff for support from the time
14 the respective sums become due.

15 (b) Allowance or assignment of credit.--The credit shall be
16 allowed the plaintiff by the sheriff or the plaintiff may assign
17 the sums due the plaintiff to the purchaser of the property
18 whereupon credit shall be given to the purchaser by the sheriff
19 for the amount assigned.

20 § 4365. Rights of divorced person in entirety property sold
21 for support.

22 (a) General rule.--After the divorce of any spouse who is a
23 tenant by the entirety of real property with the former
24 spouse, the divorced spouse is entitled to all the rights and
25 remedies provided in this subchapter for the collection of any
26 sums of money ordered by a court to be paid to the divorced
27 spouse for the support of the children of the former spouse as
28 fully as if no divorce had occurred.

29 (b) Proceeds of sale.--Upon the sale of the real property
30 for the collection of any sums of money due the divorced spouse

1 under an order of court, the divorced spouse shall be entitled
2 to receive therefrom such sum of money as represents the share
3 of the divorced spouse in the property, as ordered by the court
4 under section 4362 (relating to plaintiff's share of proceeds of
5 sale), together with any sums which may be due to the divorced
6 spouse under an order of support against the former spouse.
7 § 4366. Other enforcement remedies preserved.

8 This subchapter and other provisions of this chapter do not
9 remove from the plaintiff the rights to any other existing
10 remedies to enforce a support order, including, but not limited
11 to, the right of the plaintiff to institute proceedings against
12 the real or personal property of the defendant.

13 PART VI

14 CHILDREN AND MINORS

15 Chapter

16 51. General Provisions

17 53. Custody

18 55. Liability for Tortious Acts of Children

19 CHAPTER 51

20 GENERAL PROVISIONS

21 Sec.

22 5101. Attainment of full age.

23 5102. Children declared to be legitimate.

24 5103. Acknowledgment and claim of paternity.

25 5104. Blood tests to determine paternity.

26 § 5101. Attainment of full age.

27 (a) Age for entering into contracts.--Any individual 18
28 years of age and older shall have the right to enter into
29 binding and legally enforceable contracts and the defense of
30 minority shall not be available to such individuals.

1 (b) Age for suing and being sued.--Except where otherwise
2 provided or prescribed by law, an individual 18 years of age and
3 older shall be deemed an adult and may sue and be sued as such.
4 § 5102. Children declared to be legitimate.

5 (a) General rule.--All children shall be legitimate
6 irrespective of the marital status of their parents, and, in
7 every case where children are born out of wedlock, they shall
8 enjoy all the rights and privileges as if they had been born
9 during the wedlock of their parents except as otherwise provided
10 in Title 20 (relating to decedents, estates and fiduciaries).

11 (b) Determination of paternity.--For purposes of prescribing
12 benefits to children born out of wedlock by, from and through
13 the father, paternity shall be determined by any one of the
14 following ways:

15 (1) If the parents of a child born out of wedlock have
16 married each other.

17 (2) If, during the lifetime of the child, it is
18 determined by clear and convincing evidence that the father
19 openly holds out the child to be his and either receives the
20 child into his home or provides support for the child.

21 (3) If there is clear and convincing evidence that the
22 man was the father of the child which may include a prior
23 court determination of paternity.

24 § 5103. Acknowledgment and claim of paternity.

25 (a) Acknowledgment of paternity.--The father of a child born
26 to an unmarried woman may file with the Department of Health on
27 forms prescribed by it an acknowledgment of paternity of the
28 child which shall include the consent of the mother of the child
29 supported by her affidavit. The department shall, upon receipt
30 of the acknowledgment, proceed as provided in section 603(a) of

1 the act of June 29, 1953 (P.L.304, No.66), known as the Vital
2 Statistics Law of 1953, and the father shall have all the rights
3 and duties as to the child which he would have had if he had
4 been married to the mother at the time of the birth of the
5 child, and the child shall have all the rights and duties as to
6 the father which the child would have had if the father had been
7 married to the mother at the time of birth. The acknowledgment
8 may also provide for the assumption by the child of the surname
9 of the father or other name desired by the parents.

10 (b) Claim of paternity.--If the mother of the child fails or
11 refuses to join in the acknowledgment of paternity provided for
12 in subsection (a), the Department of Health shall index it as a
13 claim of paternity. The filing and indexing of a claim of
14 paternity shall not confer upon the putative father any rights
15 as to the child except that the putative father shall be
16 entitled to notice of any proceeding brought to terminate any
17 parental rights as to the child.

18 § 5104. Blood tests to determine paternity.

19 (a) Short title of section.--This section shall be known and
20 may be cited as the Uniform Act on Blood Tests to Determine
21 Paternity.

22 (b) Scope of section.--

23 (1) Civil matters.--This section shall apply to all
24 civil matters.

25 (2) Criminal proceedings.--This section shall apply to
26 all criminal proceedings subject to the following limitations
27 and provisions:

28 (i) An order for the tests shall be made only upon
29 application of a party or on the initiative of the court.

30 (ii) The compensation of the experts shall be paid

1 by the party requesting the blood test or by the county,
2 as the court shall direct.

3 (iii) The court may direct a verdict of acquittal
4 upon the conclusions of all the experts under subsection
5 (f). Otherwise, the case shall be submitted for
6 determination upon all the evidence.

7 (iv) The refusal of a defendant to submit to the
8 tests may not be used in evidence against the defendant.

9 (c) Authority for test.--In any matter subject to this
10 section in which paternity, parentage or identity of a child is
11 a relevant fact, the court, upon its own initiative or upon
12 suggestion made by or on behalf of any person whose blood is
13 involved, may or, upon motion of any party to the action made at
14 a time so as not to delay the proceedings unduly, shall order
15 the mother, child and alleged father to submit to blood tests.
16 If any party refuses to submit to the tests, the court may
17 resolve the question of paternity, parentage or identity of a
18 child against the party or enforce its order if the rights of
19 others and the interests of justice so require.

20 (d) Selection of experts.--The tests shall be made by
21 experts qualified as examiners of blood types, who shall be
22 appointed by the court. The experts shall be called by the court
23 as witnesses to testify to their findings and shall be subject
24 to cross-examination by the parties. Any party or person at
25 whose suggestion the tests have been ordered may demand that
26 other experts qualified as examiners of blood types perform
27 independent tests under order of court, the results of which may
28 be offered in evidence. The number and qualifications of experts
29 shall be determined by the court.

30 (e) Compensation of experts.--The compensation of each

1 expert witness appointed by the court shall be fixed at a
2 reasonable amount. It shall be paid as the court shall order.
3 Subject to general rules, the court may order that it be paid by
4 the parties in such proportions and at such times as it shall
5 prescribe or that the proportion of any party be paid by the
6 county and that, after payment by the parties or the county, or
7 both, all or part or none of it be taxed as costs in the action.
8 Subject to general rules, the fee of an expert witness called by
9 a party but not appointed by the court shall be paid by the
10 party calling him, but shall not be taxed as costs in the
11 action.

12 (f) Effect of test results.--If the court finds that the
13 conclusions of all the experts as disclosed by the evidence
14 based upon the tests are that the alleged father is not the
15 father of the child, the question of paternity, parentage or
16 identity of a child shall be resolved accordingly. If the
17 experts disagree in their findings or conclusions, the question
18 shall be submitted upon all the evidence.

19 (g) Effect on presumption of legitimacy.--The presumption of
20 legitimacy of a child born during wedlock is overcome if the
21 court finds that the conclusions of all the experts as disclosed
22 by the evidence based upon the tests show that the husband is
23 not the father of the child.

24 CHAPTER 53

25 CUSTODY

26 Subchapter

27 B. Child Custody Jurisdiction

28 SUBCHAPTER B

29 CHILD CUSTODY JURISDICTION

30 Sec.

- 1 5341. Short title of subchapter.
- 2 5342. Purposes and construction of subchapter.
- 3 5343. Definitions.
- 4 5344. Jurisdiction.
- 5 5345. Notice and opportunity to be heard.
- 6 5346. Notice to persons outside this Commonwealth; submission
- 7 to jurisdiction.
- 8 5347. Simultaneous proceedings in other states.
- 9 5348. Inconvenient forum.
- 10 5349. Jurisdiction declined by reason of conduct.
- 11 5350. Information under oath to be submitted to the court.
- 12 5351. Additional parties.
- 13 5352. Appearance of parties and the child.
- 14 5353. Binding force and res judicata effect of custody decree.
- 15 5354. Recognition of out-of-State custody decrees.
- 16 5355. Modification of custody decree of another state.
- 17 5356. Filing and enforcement of custody decree of another
- 18 state.
- 19 5357. Registry of out-of-State custody decrees and proceedings.
- 20 5358. Certified copies of custody decree.
- 21 5359. Taking testimony in another state.
- 22 5360. Hearings and studies in another state; orders to appear.
- 23 5361. Assistance to courts of other states.
- 24 5362. Preservation of documents for use in other states.
- 25 5363. Request for court records of another state.
- 26 5364. Intrastate application.
- 27 5365. International application.
- 28 5366. Priority.
- 29 § 5341. Short title of subchapter.

30 This subchapter shall be known and may be cited as the

1 Uniform Child Custody Jurisdiction Act.

2 § 5342. Purposes and construction of subchapter.

3 (a) Purposes.--The general purposes of this subchapter are
4 to:

5 (1) Avoid jurisdictional competition and conflict with
6 courts of other states in matters of child custody which have
7 in the past resulted in the shifting of children from state
8 to state with harmful effects on their well-being.

9 (2) Promote cooperation with the courts of other states
10 to the end that a custody decree is rendered in that state
11 which can best decide the case in the interest of the child.

12 (3) Assure that litigation concerning the custody of a
13 child takes place ordinarily in the state with which the
14 child and his family have the closest connection and where
15 significant evidence concerning his care, protection,
16 training and personal relationships is most readily
17 available, and that courts of this Commonwealth decline the
18 exercise of jurisdiction when the child and his family have a
19 closer connection with another state.

20 (4) Discourage continuing controversies over child
21 custody in the interest of greater stability of home
22 environment and of secure family relationships for the child.

23 (5) Deter abductions and other unilateral removals of
24 children undertaken to obtain custody awards.

25 (6) Avoid relitigation of custody decisions of other
26 states in this Commonwealth insofar as feasible.

27 (7) Facilitate the enforcement of custody decrees of
28 other states.

29 (8) Promote and expand the exchange of information and
30 other forms of mutual assistance between the courts of this

1 Commonwealth and those of other states concerned with the
2 same child.

3 (b) Construction.--This subchapter shall be construed to
4 promote the general purposes stated in this section.

5 § 5343. Definitions.

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

9 "Contestant." An institution or an individual, including a
10 parent, who claims a right to custody or visitation rights with
11 respect to a child.

12 "Custody determination." A court decision and court orders
13 and instructions providing for the custody of a child, including
14 visitation rights. The term does not include a decision relating
15 to child support or any other monetary obligation of any person.

16 "Custody proceeding." Includes proceedings in which a
17 custody determination is one of several issues, such as an
18 action for divorce or separation, and includes child neglect and
19 dependency proceedings.

20 "Decree" or "custody decree." A custody determination
21 contained in a judicial decree or order made in a custody
22 proceeding, and includes an initial decree and a modification
23 decree.

24 "Home state." The state in which the child immediately
25 preceding the time involved lived with his parents, a parent or
26 a person acting as parent, or in an institution, for at least
27 six consecutive months, and, in the case of a child less than
28 six months old, the state in which the child lived from birth
29 with any of the persons mentioned. Periods of temporary absence
30 of any of the named persons are counted as part of the six-month

1 or other period.

2 "Initial decree." The first custody decree concerning a
3 particular child.

4 "Modification decree." A custody decree which modifies or
5 replaces a prior decree, whether made by the court which
6 rendered the prior decree or by another court.

7 "Person acting as parent." A person, including an
8 institution other than a parent, who has physical custody of a
9 child and who has either been awarded custody by a court or
10 claims a right to custody.

11 "Physical custody." Actual possession and control of a
12 child.

13 § 5344. Jurisdiction.

14 (a) General rule.--A court of this Commonwealth which is
15 competent to decide child custody matters has jurisdiction to
16 make a child custody determination by initial or modification
17 decree if:

18 (1) this Commonwealth:

19 (i) is the home state of the child at the time of
20 commencement of the proceeding; or

21 (ii) had been the home state of the child within six
22 months before commencement of the proceeding and the
23 child is absent from this Commonwealth because of his
24 removal or retention by a person claiming his custody or
25 for other reasons, and a parent or person acting as
26 parent continues to live in this Commonwealth;

27 (2) it is in the best interest of the child that a court
28 of this Commonwealth assume jurisdiction because:

29 (i) the child and his parents, or the child and at
30 least one contestant, have a significant connection with

1 this Commonwealth; and

2 (ii) there is available in this Commonwealth
3 substantial evidence concerning the present or future
4 care, protection, training and personal relationships of
5 the child;

6 (3) the child is physically present in this
7 Commonwealth, and:

8 (i) the child has been abandoned; or

9 (ii) it is necessary in an emergency to protect the
10 child because he has been subjected to or threatened with
11 mistreatment or abuse or is otherwise neglected or
12 dependent;

13 (4) (i) it appears that no other state would have
14 jurisdiction under prerequisites substantially in
15 accordance with paragraph (1), (2) or (3), or another
16 state has declined to exercise jurisdiction on the ground
17 that this Commonwealth is the more appropriate forum to
18 determine the custody of the child; and

19 (ii) it is in the best interest of the child that
20 the court assume jurisdiction; or

21 (5) the child welfare agencies of the counties wherein
22 the contestants for the child live, have made an
23 investigation of the home of the person to whom custody is
24 awarded and have found it to be satisfactory for the welfare
25 of the child.

26 (b) Physical presence insufficient.--Except under subsection
27 (a)(3) and (4), physical presence in this Commonwealth of the
28 child, or of the child and one of the contestants, is not alone
29 sufficient to confer jurisdiction on a court of this
30 Commonwealth to make a child custody determination.

1 (c) Physical presence unnecessary.--Physical presence of the
2 child, while desirable, is not a prerequisite for jurisdiction
3 to determine his custody.

4 § 5345. Notice and opportunity to be heard.

5 Before making a decree under this subchapter, reasonable
6 notice and opportunity to be heard shall be given to the
7 contestants, any parent whose parental rights have not been
8 previously terminated and any person who has physical custody of
9 the child. If any of these persons is outside this Commonwealth,
10 notice and opportunity to be heard shall be given pursuant to
11 section 5346 (relating to notice to persons outside this
12 Commonwealth; submission to jurisdiction).

13 § 5346. Notice to persons outside this Commonwealth; submission
14 to jurisdiction.

15 (a) General rule.--Notice required for the exercise of
16 jurisdiction over a person outside this Commonwealth shall be
17 given in a manner reasonably calculated to give actual notice,
18 and may be:

19 (1) by personal delivery outside this Commonwealth in
20 the manner prescribed for service of process within this
21 Commonwealth;

22 (2) in the manner prescribed by the law of the place in
23 which the service is made for service of process in that
24 place in an action in any of its courts of general
25 jurisdiction;

26 (3) by any form of mail addressed to the person to be
27 served and requesting a receipt; or

28 (4) as directed by the court, including publication, if
29 other means of notification are ineffective.

30 (b) Duration.--Notice under this section shall be served,

1 mailed or delivered or last published at least ten days before
2 any hearing in this Commonwealth.

3 (c) Proof of service.--Proof of service outside this
4 Commonwealth may be made by affidavit of the individual who made
5 the service, or in the manner prescribed by the law of this
6 Commonwealth, the order pursuant to which the service is made,
7 or the law of the place in which the service is made. If service
8 is made by mail, proof may be a receipt signed by the addressee
9 or other evidence of delivery to the addressee.

10 (d) Submission to jurisdiction.--Notice is not required if a
11 person submits to the jurisdiction of the court.

12 § 5347. Simultaneous proceedings in other states.

13 (a) General rule.--A court of this Commonwealth shall not
14 exercise its jurisdiction under this subchapter if, at the time
15 of filing the petition, a proceeding concerning the custody of
16 the child was pending in a court of another state exercising
17 jurisdiction substantially in conformity with this subchapter,
18 unless the proceeding is stayed by the court of the other state
19 because this Commonwealth is a more appropriate forum or for
20 other reasons.

21 (b) Procedure.--Before hearing the petition in a custody
22 proceeding, the court shall examine the pleadings and other
23 information supplied by the parties under section 5350 (relating
24 to information under oath to be submitted to the court) and
25 shall consult the child custody registry established under
26 section 5357 (relating to registry of out-of-State custody
27 decrees and proceedings) concerning the pendency of proceedings
28 with respect to the child in other states. If the court has
29 reason to believe that proceedings may be pending in another
30 state, it shall direct an inquiry to the state court

1 administrator or other appropriate official of the other state.

2 (c) Stay; communication with other court.--If the court is
3 informed during the course of the proceeding that a proceeding
4 concerning the custody of the child was pending in another state
5 before the court assumed jurisdiction, it shall stay the
6 proceeding and communicate with the court in which the other
7 proceeding is pending to the end that the issue may be litigated
8 in the more appropriate forum and that information be exchanged
9 in accordance with sections 5360 (relating to hearings and
10 studies in another state; orders to appear) through 5363
11 (relating to request for court records of another state). If a
12 court of this Commonwealth has made a custody decree before
13 being informed of a pending proceeding in a court of another
14 state, it shall immediately inform that court of the fact. If
15 the court is informed that a proceeding was commenced in another
16 state after it assumed jurisdiction, it shall likewise inform
17 the other court to the end that the issues may be litigated in
18 the more appropriate forum.

19 § 5348. Inconvenient forum.

20 (a) General rule.--A court which has jurisdiction under this
21 subchapter to make an initial or modification decree may decline
22 to exercise its jurisdiction any time before making a decree if
23 it finds that it is an inconvenient forum to make a custody
24 determination under the circumstances of the case and that a
25 court of another state is a more appropriate forum.

26 (b) Moving party.--A finding of inconvenient forum may be
27 made upon the court's own motion or upon motion of a party or a
28 guardian ad litem or other representative of the child.

29 (c) Factors to be considered.--In determining if it is an
30 inconvenient forum, the court shall consider if it is in the

1 interest of the child that another state assume jurisdiction.
2 For this purpose it may take into account the following factors,
3 among others:

4 (1) If another state is or recently was the home state
5 of the child.

6 (2) If another state has a closer connection with the
7 child and his family or with the child and one or more of the
8 contestants.

9 (3) If substantial evidence concerning the present or
10 future care, protection, training and personal relationships
11 of the child is more readily available in another state.

12 (4) If the parties have agreed on another forum which is
13 no less appropriate.

14 (5) If the exercise of jurisdiction by a court of this
15 Commonwealth would contravene any of the purposes stated in
16 section 5342 (relating to purposes and construction of
17 subchapter).

18 (d) Communication with other court.--Before determining
19 whether to decline or retain jurisdiction, the court may
20 communicate with a court of another state and exchange
21 information pertinent to the assumption of jurisdiction by
22 either court with a view to assuring that jurisdiction will be
23 exercised by the more appropriate court and that a forum will be
24 available to the parties.

25 (e) Disposition.--If the court finds that it is an
26 inconvenient forum and that a court of another state is a more
27 appropriate forum, it may dismiss the proceedings, or it may
28 stay the proceedings upon condition that a custody proceeding be
29 promptly commenced in another named state or upon any other
30 conditions which may be just and proper, including the condition

1 that a moving party stipulate his consent and submission to the
2 jurisdiction of the other forum.

3 (f) Effect on divorce or other proceeding.--The court may
4 decline to exercise its jurisdiction under this subchapter if a
5 custody determination is incidental to an action for divorce or
6 another proceeding while retaining jurisdiction over the divorce
7 or other proceeding.

8 (g) Costs and expenses.--Subject to general rules:

9 (1) If it appears to the court that it is clearly an
10 inappropriate forum, it may require the party who commenced
11 the proceedings to pay, in addition to the costs of the
12 proceedings in this Commonwealth, necessary travel and other
13 expenses, including attorney fees, incurred by other parties
14 or their witnesses.

15 (2) Payment is to be made to the office of the clerk of
16 the court of common pleas for remittance to the proper party.

17 (h) Notice of disposition.--Upon dismissal or stay of
18 proceedings under this section, the court shall inform the court
19 found to be the more appropriate forum of this fact or, if the
20 court which would have jurisdiction in the other state is not
21 certainly known, shall transmit the information to the court
22 administrator or other appropriate official of the other state
23 for forwarding to the appropriate court.

24 (i) Registry of out-of-State stay; notice of assumption of
25 jurisdiction.--Any communication received from another state
26 informing this Commonwealth of a finding of inconvenient forum
27 because a court of this Commonwealth is the more appropriate
28 forum shall be filed in the custody registry of the appropriate
29 court. Upon assuming jurisdiction, the court of this
30 Commonwealth shall inform the original court of this fact.

1 § 5349. Jurisdiction declined by reason of conduct.

2 (a) General rule.--If the petitioner for an initial decree
3 has wrongfully taken the child from another state or has engaged
4 in conduct intending to benefit his position in a custody
5 hearing, the court may decline to exercise jurisdiction if this
6 is just and proper under the circumstances.

7 (b) Restriction on modification of foreign decree.--Unless
8 required in the interest of the child, the court shall not
9 exercise its jurisdiction to modify a custody decree of another
10 state if the petitioner, without consent of the person entitled
11 to custody, has improperly removed the child from the physical
12 custody of the person entitled to custody or has improperly
13 retained the child after a visit or other temporary
14 relinquishment of physical custody. If the petitioner has
15 violated any other provision of a custody decree of another
16 state, the court may decline to exercise its jurisdiction unless
17 the petitioner can show that conditions in the custodial
18 household are physically or emotionally harmful to the child,
19 the burden of proof being on the petitioner requesting the court
20 to take jurisdiction.

21 (c) Costs and expenses.--Subject to general rules, in
22 appropriate cases a court dismissing a petition under this
23 section may charge the petitioner with necessary travel and
24 other expenses, including attorney fees, incurred by other
25 parties or their witnesses.

26 § 5350. Information under oath to be submitted to the court.

27 (a) General rule.--Every party in a custody proceeding in
28 his first pleading or in an affidavit attached to that pleading
29 shall give information under oath as to the present address of
30 the child, the places where the child has lived within the last

1 five years, and the names and present addresses of the persons
2 with whom the child has lived during that period. In this
3 pleading or affidavit every party shall further declare under
4 oath whether:

5 (1) he has participated (as a party, witness, or in any
6 other capacity) in any other litigation concerning the
7 custody of the same child in this or any other state;

8 (2) he has information of any custody proceeding
9 concerning the child pending in a court of this or any other
10 state; and

11 (3) he knows of any person not a party to the
12 proceedings who has physical custody of the child or claims
13 to have custody or visitation rights with respect to the
14 child.

15 (b) Additional information.--If the declaration as to any of
16 the items set forth in subsection (a) is in the affirmative, the
17 declarant shall give additional information under oath as
18 required by the court. The court may examine the parties under
19 oath as to details of the information furnished and as to other
20 matters pertinent to the jurisdiction of the court and the
21 disposition of the case.

22 (c) Continuing duty.--Each party has a continuing duty to
23 inform the court of any custody proceeding concerning the child
24 in this Commonwealth or any other state of which he obtained
25 information during proceedings under this subchapter.

26 § 5351. Additional parties.

27 If the court learns from information furnished by the parties
28 pursuant to section 5350 (relating to information under oath to
29 be submitted to the court) or from other sources that a person
30 not a party to the custody proceeding has physical custody of

1 the child or claims to have custody or visitation rights with
2 respect to the child, it shall order that person to be joined as
3 a party and to be duly notified of the pendency of the
4 proceeding and of his joinder as a party. If the person joined
5 as a party is outside this Commonwealth, he shall be served with
6 process or otherwise notified in accordance with section 5346
7 (relating to notice to persons outside this Commonwealth;
8 submission to jurisdiction).

9 § 5352. Appearance of parties and the child.

10 (a) General rule.--The court may order any party to the
11 proceeding who is in this Commonwealth to appear personally
12 before the court. If that party has physical custody of the
13 child, the court may order that he appear personally with the
14 child.

15 (b) Out-of-State persons.--If a party to the proceeding
16 whose presence is desired by the court is outside this
17 Commonwealth with or without the child, the court may order that
18 the notice given under section 5346 (relating to notice to
19 persons outside this Commonwealth; submission to jurisdiction)
20 include a statement directing that party to appear personally
21 with or without the child and declaring that failure to appear
22 may result in a decision adverse to that party.

23 (c) Costs and expenses.--If a party to the proceeding who is
24 outside this Commonwealth is directed to appear under subsection
25 (b) or desires to appear personally before the court with or
26 without the child, the court may require another party to pay
27 travel and other necessary expenses of the party so appearing
28 and of the child if this is just and proper under the
29 circumstances.

30 § 5353. Binding force and res judicata effect of custody

1 decree.

2 A custody decree rendered by a court of this Commonwealth
3 which had jurisdiction under section 5344 (relating to
4 jurisdiction) binds all parties who have been served in this
5 Commonwealth or notified in accordance with section 5346
6 (relating to notice to persons outside this Commonwealth;
7 submission to jurisdiction) or who have submitted to the
8 jurisdiction of the court, and who have been given an
9 opportunity to be heard. As to these parties, the custody decree
10 is conclusive as to all issues of law and fact decided and as to
11 the custody determination made unless and until that
12 determination is modified pursuant to law, including the
13 provisions of this subchapter.

14 § 5354. Recognition of out-of-State custody decrees.

15 The courts of this Commonwealth shall recognize and enforce
16 an initial or modification decree of a court of another state
17 which had assumed jurisdiction under statutory provisions
18 substantially in accordance with this subchapter or which was
19 made under factual circumstances meeting the jurisdictional
20 standards of this subchapter, so long as the decree has not been
21 modified in accordance with jurisdictional standards
22 substantially similar to those of this subchapter.

23 § 5355. Modification of custody decree of another state.

24 (a) General rule.--If a court of another state has made a
25 custody decree, a court of this Commonwealth shall not modify
26 that decree unless:

27 (1) it appears to the court of this Commonwealth that
28 the court which rendered the decree does not now have
29 jurisdiction under jurisdictional prerequisites substantially
30 in accordance with this subchapter or has declined to assume

1 jurisdiction to modify the decree; and

2 (2) the court of this Commonwealth has jurisdiction.

3 (b) Consideration of out-of-State record.--If a court of
4 this Commonwealth is authorized under subsection (a) and section
5 5349 (relating to jurisdiction declined by reason of conduct) to
6 modify a custody decree of another state, it shall give due
7 consideration to the transcript of the record and other
8 documents of all previous proceedings submitted to it in
9 accordance with section 5363 (relating to request for court
10 records of another state).

11 § 5356. Filing and enforcement of custody decree of another
12 state.

13 (a) General rule.--A certified copy of a custody decree of
14 another state whose decrees are recognized under section 5354
15 (relating to recognition of out-of-State custody decrees) may be
16 filed in any office of the clerk of the court of common pleas of
17 this Commonwealth. The clerk shall treat the decree in the same
18 manner as a custody decree of a court of common pleas of this
19 Commonwealth. A custody decree so filed has the same effect and
20 shall be enforced in like manner as a custody decree rendered by
21 a court of this Commonwealth.

22 (b) Costs and expenses.--A person violating a custody decree
23 of another state which makes it necessary to enforce the decree
24 in this Commonwealth may be required to pay necessary travel and
25 other expenses, including attorney fees, incurred by the party
26 entitled to the custody or his witnesses.

27 § 5357. Registry of out-of-State custody decrees and
28 proceedings.

29 Each office of the clerk of the court of common pleas shall
30 maintain a registry in which it shall enter the following:

1 (1) Certified copies of custody decrees of other states
2 received for filing.

3 (2) Communications as to the pendency of custody
4 proceedings in other states.

5 (3) Communications concerning a finding of inconvenient
6 forum by a court of another state.

7 (4) Other communications or documents concerning custody
8 proceedings in another state which may affect the
9 jurisdiction of a court of this Commonwealth or the
10 disposition to be made by it in a custody proceeding.

11 § 5358. Certified copies of custody decree.

12 The office of the clerk of the court of common pleas, at the
13 request of the court of another state or at the request of any
14 person who is affected by or has a legitimate interest in a
15 custody decree, shall certify and forward a copy of the decree
16 to that court or person.

17 § 5359. Taking testimony in another state.

18 In addition to other procedural devices available to a party,
19 any party to the proceeding or a guardian ad litem or other
20 representative of the child may adduce testimony of witnesses,
21 including parties and the child, by deposition or otherwise, in
22 another state. The court on its own motion may direct that the
23 testimony of a person be taken in another state and may
24 prescribe the manner in which and the terms upon which the
25 testimony shall be taken.

26 § 5360. Hearings and studies in another state; orders to
27 appear.

28 (a) Hearings and studies.--A court of this Commonwealth may
29 request the appropriate court of another state to hold a hearing
30 to adduce evidence, to order a party to produce or give evidence

1 under other procedures of that state, or to have social studies
2 made with respect to the custody of a child involved in
3 proceedings pending in the court of this Commonwealth; and to
4 forward to the court of this Commonwealth certified copies of
5 the transcript of the record of the hearing, the evidence
6 otherwise adduced, or any social studies prepared in compliance
7 with the request. Subject to general rules, the cost of the
8 services may be assessed against the parties or, if necessary,
9 ordered paid by the county.

10 (b) Order to appear.--A court of this Commonwealth may
11 request the appropriate court of another state to order a party
12 to custody proceedings pending in the court of this Commonwealth
13 to appear in the proceedings, and, if that party has physical
14 custody of the child, to appear with the child. The request may
15 state that travel and other necessary expenses of the party and
16 of the child whose appearance is desired will be assessed
17 against another party or will otherwise be paid.

18 § 5361. Assistance to courts of other states.

19 (a) General rule.--Upon request of the court of another
20 state, the courts of this Commonwealth which are competent to
21 hear custody matters may order a person in this Commonwealth to
22 appear at a hearing to adduce evidence or to produce or give
23 evidence under other procedures available in this Commonwealth
24 or may order social studies to be made for use in a custody
25 proceeding in another state. A certified copy of the transcript
26 of the record of the hearing or the evidence otherwise adduced,
27 any psychological studies and any social studies prepared shall
28 be forwarded to the requesting court.

29 (b) Voluntary testimony.--A person within this Commonwealth
30 may voluntarily give his testimony or statement in this

1 Commonwealth for use in a custody proceeding outside this
2 Commonwealth.

3 (c) Appearance in other state.--Upon request of the court of
4 another state, a competent court of this Commonwealth may order
5 a person in this Commonwealth to appear alone or with the child
6 in a custody proceeding in another state. The court may
7 condition compliance with the request upon assurance by the
8 other state that travel and other necessary expenses will be
9 advanced or reimbursed.

10 § 5362. Preservation of documents for use in other states.

11 In any custody proceeding in this Commonwealth, the court
12 shall preserve the pleadings, orders and decrees, any record
13 that has been made of its hearings, social studies and other
14 pertinent documents until the child reaches 18 years of age.
15 Upon appropriate request of the court of another state, the
16 court shall forward to the other court certified copies of any
17 or all of such documents.

18 § 5363. Request for court records of another state.

19 If a custody decree has been rendered in another state
20 concerning a child involved in a custody proceeding pending in a
21 court of this Commonwealth, the court of this Commonwealth upon
22 taking jurisdiction of the case shall request of the court of
23 the other state a certified copy of the transcript of any court
24 record and other documents mentioned in section 5362 (relating
25 to preservation of documents for use in other states).

26 § 5364. Intrastate application.

27 (a) General rule.--Except as otherwise provided in this
28 section, the provisions of this subchapter allocating
29 jurisdiction and functions between and among courts of different
30 states shall also allocate jurisdiction and functions between

1 and among the courts of common pleas of this Commonwealth.

2 (b) Home jurisdiction.--For the purposes of the definition
3 of "home state" in section 5343 (relating to definitions), a
4 period of temporary absence of the child from the physical
5 custody of the parent, person acting as parent or institution
6 shall not affect the six months or other period.

7 (c) Petitioner.--As used in this subchapter, insofar as
8 relates to the allocation of jurisdiction and functions between
9 and among the courts of common pleas of this Commonwealth, the
10 term "petitioner" means anyone seeking change in the status of
11 custody of a child either by an affirmative action brought in a
12 court or as a defense to a custody action brought by a person
13 acting as parent who had previously been awarded custody of the
14 child.

15 (d) Effect of agency investigation.--Section 5344(a)(5)
16 (relating to jurisdiction) shall not be applicable for the
17 purposes of this section.

18 (e) Period of notice.--Notice under section 5346 (relating
19 to notice to persons outside this Commonwealth; submission to
20 jurisdiction) shall be served, mailed, delivered or last
21 published at least 20 days before any hearing.

22 (f) Jurisdiction declined by reason of conduct.--

23 (1) If it is just and proper under the circumstances,
24 when the petitioner for an initial decree has wrongfully
25 taken the child from another jurisdiction or has engaged in
26 improper conduct intending to benefit his position in a
27 custody proceeding, upon presentation of the petition, the
28 court shall decline to exercise jurisdiction or shall
29 exercise jurisdiction only to issue an order, pending a full
30 hearing in the appropriate jurisdiction, returning the

1 parties to the custodial status quo existing prior to the
2 improper conduct or wrongful taking unless the petitioner can
3 show that conditions in the former custodial household are
4 physically or emotionally harmful to the child.

5 (2) Unless required in the interest of the child, the
6 court shall not exercise its jurisdiction to modify a custody
7 decree of another court if the petitioner, without consent of
8 the person entitled to custody has:

9 (i) improperly removed the child from the physical
10 custody of the person entitled to custody;

11 (ii) improperly retained the child after a visit or
12 other temporary relinquishment of physical custody; or

13 (iii) removed the child from the jurisdiction of the
14 court entering the decree without 20 days' written notice
15 to the court entering the decree and any party entitled
16 to custody or visitation rights under the terms of the
17 decree.

18 If the petitioner has violated any provision of a custody
19 decree of another court, the court shall decline to exercise
20 its jurisdiction unless the contestant can show that
21 conditions in the custodial household are physically or
22 emotionally harmful to the child. The burden of proof on this
23 issue is on the contestant requesting the court to take
24 jurisdiction.

25 (3) Subject to general rules, in appropriate cases a
26 court dismissing a petition under this subsection may charge
27 the petitioner with necessary travel and other expenses,
28 including attorney fees, incurred by other parties or their
29 witnesses.

30 (g) Statewide orders.--A court may under section 5352(a)

1 (relating to appearance of parties and the child) issue orders
2 to any party to the proceeding who is in any judicial district
3 of this Commonwealth.

4 (h) Modification of custody decrees.--

5 (1) If another court has made a custody decree, a court
6 before which a petition for modification is pending shall not
7 modify the decree of the other court unless it appears to the
8 court before which the petition is pending that the other
9 court which rendered the decree does not have jurisdiction
10 under jurisdictional prerequisites substantially in
11 accordance with this subchapter or has declined to assume
12 jurisdiction to modify its decree and the provisions of
13 subsection (f)(2) will not be violated by an exercise of
14 jurisdiction by the court before which the petition is
15 pending.

16 (2) If a court of this Commonwealth is authorized under
17 paragraph (1) to modify a custody decree of another court, it
18 shall give due consideration to the transcript of the record
19 and other documents of all previous proceedings submitted to
20 it in accordance with section 5363 (relating to request for
21 court records of another state).

22 § 5365. International application.

23 The general policies of this subchapter, extend to the
24 international area. The provisions of this subchapter relating
25 to the recognition and enforcement of custody decrees of other
26 states apply to custody decrees and decrees involving legal
27 institutions similar in nature to custody institutions rendered
28 by appropriate authorities of other nations if reasonable notice
29 and opportunity to be heard were given to all affected persons.

30 § 5366. Priority.

1 Upon the request of a party to a custody proceeding which
2 raises a question of existence or exercise of jurisdiction under
3 this subchapter, the case shall be given calendar priority and
4 handled expeditiously.

5 CHAPTER 55

6 LIABILITY FOR TORTIOUS ACTS OF CHILDREN

7 Sec.

8 5501. Definitions.

9 5502. Liability of parents.

10 5503. Establishing liability in criminal or juvenile
11 proceedings.

12 5504. Establishing liability in civil proceedings.

13 5505. Monetary limits of liability.

14 5506. Double recovery for same injury prohibited.

15 5507. Indemnity or contribution from child prohibited.

16 5508. Liability of parent not having custody or control of
17 child.

18 5509. Other liability of parent or child unaffected.

19 § 5501. Definitions.

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

23 "Child." An individual under 18 years of age.

24 "Injury." Includes injury to the person and theft,
25 destruction or loss of property.

26 "Parent." Includes natural or adoptive parents.

27 "Person." Includes government units and Federal agencies.

28 "Tortious act." A willful tortious act resulting in injury.

29 § 5502. Liability of parents.

30 Any parent whose child is found liable or is adjudged guilty

1 by a court of competent jurisdiction of a tortious act shall be
2 liable to the person who suffers the injury to the extent set
3 forth in this chapter.

4 § 5503. Establishing liability in criminal or juvenile
5 proceedings.

6 (a) General rule.--In any criminal proceeding against a
7 child and in any proceeding against a child under 42 Pa.C.S. Ch.
8 63 (relating to juvenile matters), the court shall ascertain the
9 amount sufficient to fully reimburse any person who has suffered
10 injury because of the tortious act of the child and direct the
11 parents to make payment in the amount not to exceed the
12 limitations set forth in section 5505 (relating to monetary
13 limits of liability).

14 (b) Noncompliance with direction of court.--If the parents
15 fail to comply with the direction of the court, the amount may
16 be recovered in a civil action against the parents or either of
17 them.

18 § 5504. Establishing liability in civil proceedings.

19 (a) Petition.--If a judgment has been rendered against the
20 child in a civil action for injury because of the tortious act
21 of the child and the judgment has not been satisfied within a
22 period of 30 days, the injured person may petition the court for
23 a rule to show cause why judgment should not be entered against
24 the parent.

25 (b) Answer and trial.--The parent may file an answer to the
26 petition, and, if there is any dispute as to unlitigated facts,
27 the case shall be set down for trial.

28 (c) Judgment.--If there is no dispute as to the unlitigated
29 facts, the court shall authorize the entry of a judgment against
30 the parent. In no case shall the judgment against the parent

1 exceed the limitations set forth in section 5505 (relating to
2 monetary limits of liability).

3 § 5505. Monetary limits of liability.

4 (a) General rule.--Liability of the parents under this
5 chapter shall be limited to:

6 (1) The sum of \$300 for injuries suffered by any one
7 person as a result of one tortious act or continuous series
8 of tortious acts.

9 (2) The sum of \$1,000 regardless of the number of
10 persons who suffer injury as a result of one tortious act or
11 continuous series of tortious acts.

12 (b) Proceedings where loss exceeds liability.--In the event
13 that actual loss as ascertained by the court or the judgment
14 against the child exceeds \$1,000, the parents shall be
15 discharged from further liability by the payment of \$1,000 into
16 court. The court shall cause all aggrieved parties to submit
17 itemized statements of loss in writing and shall make
18 distribution proportionately, whether the claims be for injuries
19 to the person or for theft, destruction or loss of property. The
20 court may take testimony to assist it in making proper
21 distribution and may appoint a master to accomplish this
22 purpose. All costs and fees incurred in these proceedings shall
23 be paid from the \$1,000 paid into court.

24 (c) Joint acts by children of same parent.--The limitations
25 on liability set forth in subsections (a) and (b) shall be
26 applicable when two or more children of the same parent engage
27 jointly in the commission of one tortious act or series of
28 tortious acts.

29 § 5506. Double recovery for same injury prohibited.

30 In no case shall there be a double recovery for one injury.

1 Any judgment against a child resulting from a tortious act for
2 which a parent makes payment under this chapter shall be reduced
3 by the amount paid by the parent.

4 § 5507. Indemnity or contribution from child prohibited.

5 The parent shall have no right of indemnity or contribution
6 against the child.

7 § 5508. Liability of parent not having custody or control of
8 child.

9 (a) General rule.--No liability may be imposed upon a parent
10 under this chapter if, at the time of commission of the tortious
11 act, the parent has neither custody of the child nor is entitled
12 to custody of the child or if the child is institutionalized or
13 emancipated.

14 (b) Exception.--No parent is absolved of liability due to
15 the desertion of the child by the parent.

16 § 5509. Other liability of parent or child unaffected.

17 The liability imposed upon parents by this chapter shall not
18 limit the common-law liability of parents for damages caused by
19 a child and shall be separate and apart from any liability which
20 may be imposed upon the child.

21 PART VII

22 ABUSE OF FAMILY

23 Chapter

24 61. Protection From Abuse

25 63. Child Protective Services

26 CHAPTER 61

27 PROTECTION FROM ABUSE

28 Sec.

29 6101. Short title of chapter.

30 6102. Definitions.

- 1 6103. Effect of departure to avoid abuse.
2 6104. Registration of order.
3 6105. Responsibilities of local law enforcement agencies.
4 6106. Commencement of proceedings.
5 6107. Hearings.
6 6108. Relief.
7 6109. Service of orders.
8 6110. Emergency relief by minor judiciary.
9 6111. Domestic violence counselor/advocate.
10 6112. Disclosure of addresses.
11 6113. Arrest for violation of order.
12 6114. Contempt for violation of order or agreement.
13 6115. Reporting abuse and immunity.
14 6116. Confidentiality.
15 6117. Procedure and other remedies.
16 § 6101. Short title of chapter.

17 This chapter shall be known and may be cited as the
18 Protection From Abuse Act.

19 § 6102. Definitions.

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

23 "Abuse." The occurrence of one or more of the following acts
24 between family or household members, sexual or intimate partners
25 or persons who share biological parenthood:

26 (1) Attempting to cause or intentionally, knowingly or
27 recklessly causing bodily injury, serious bodily injury,
28 rape, spousal sexual assault or involuntary deviate sexual
29 intercourse with or without a deadly weapon.

30 (2) Placing by physical menace another in fear of

1 imminent serious bodily injury.

2 (3) The infliction of false imprisonment pursuant to 18
3 Pa.C.S. § 2903 (relating to false imprisonment).

4 (4) Physically or sexually abusing minor children.

5 "Adult." An individual who is 18 years of age or older.

6 "Bail commissioners." Bail commissioners of the Philadelphia
7 Municipal Court.

8 "Confidential communications." Information, whether written
9 or spoken, transmitted between a victim and a domestic violence
10 counselor or advocate in the course of the relationship and in
11 confidence by a means which, insofar as the victim is aware,
12 discloses the information to no third person other than to those
13 who are present to further the interest of the victim in the
14 consultation or assistance, to those who are coparticipants in
15 the counseling service or to those to whom disclosure is
16 reasonably necessary for the transmission of the information or
17 an accomplishment of the purpose for which the domestic violence
18 counselor or advocate is consulted. The term includes
19 information received or given by the domestic violence counselor
20 or advocate in the course of the relationship, as well as
21 advice, reports or working papers given or made in the course of
22 the relationship.

23 "Domestic violence counselor/advocate." An individual who is
24 engaged in a domestic violence program, who provides services to
25 victims of domestic violence, who has undergone 40 hours of
26 training and who is under the control of a direct services
27 supervisor of a domestic violence program, the primary purpose
28 of which is the rendering of counseling or assistance to victims
29 of domestic violence.

30 "Domestic violence program." A nonprofit organization or

1 program whose primary purpose is to provide services to domestic
2 violence victims which include, but are not limited to, crisis
3 hotline; safe homes or shelters; community education; counseling
4 systems intervention and interface; transportation, information
5 and referral; and victim assistance.

6 "Family or household members." Spouses or persons who have
7 been spouses, persons living as spouses or who lived as spouses,
8 parents and children, other persons related by consanguinity or
9 affinity, current or former sexual or intimate partners or
10 persons who share biological parenthood.

11 "Minor." An individual who is not an adult.

12 "Victim." A person who is physically or sexually abused by a
13 family or household member.

14 § 6103. Effect of departure to avoid abuse.

15 The right of plaintiff to relief under this chapter shall not
16 be affected by plaintiff leaving the residence or household to
17 avoid further abuse.

18 § 6104. Registration of order.

19 (a) Registry.--The prothonotary shall maintain a registry in
20 which it shall enter certified copies of orders entered by
21 courts from other jurisdictions in this Commonwealth pursuant to
22 this chapter.

23 (b) Registration of order in any county.--A plaintiff who
24 obtains a valid order under this chapter may register that order
25 in any county within this Commonwealth where the plaintiff
26 believes enforcement may be necessary. A court shall recognize
27 and enforce a valid order under this chapter which has been
28 issued by another court but properly registered with a county
29 within the judicial district of the court where enforcement is
30 sought.

1 (c) Certified copy.--A valid order under this chapter may be
2 registered by the plaintiff in a county other than the issuing
3 county by obtaining a certified copy of the order of the issuing
4 court endorsed by the prothonotary of that court and presenting
5 that certified order to the prothonotary where the order is to
6 be registered.

7 (d) Proof of registration.--Upon receipt of a certified
8 order for registration, the prothonotary shall provide the
9 plaintiff with a copy bearing the proof of registration to be
10 filed with the appropriate law enforcement agency.

11 § 6105. Responsibilities of local law enforcement agencies.

12 The police department of each municipal corporation shall
13 insure that all its officers and employees are familiar with the
14 provisions of this chapter. Instruction concerning protection
15 from abuse shall be made a part of the training curriculum for
16 all trainee officers.

17 § 6106. Commencement of proceedings.

18 (a) General rule.--An adult or an emancipated minor may seek
19 relief under this chapter for that person or any parent, adult
20 household member or guardian ad litem may seek relief under this
21 chapter on behalf of minor children, or a guardian of the person
22 of an adult who has been declared incompetent under 20 Pa.C.S.
23 Ch. 51 Subch. B (relating to appointment of guardian) may seek
24 relief on behalf of the incompetent adult, by filing a petition
25 with the court alleging abuse by the defendant.

26 (b) Affidavit of insufficient funds for fees.--If the
27 plaintiff files an affidavit stating that plaintiff does not
28 have funds available to pay the fees for filing and service, the
29 petition shall be filed and service shall be made without
30 payment of fees, and leave of court to proceed in forma pauperis

1 shall not be required.

2 (c) Determination of indigency.--When the petition is filed
3 without payment of fees, the court shall determine at the
4 hearing on the petition whether the plaintiff is able to pay the
5 costs of filing and service. If the plaintiff is unable to pay
6 the costs of filing and service, the court may waive the payment
7 of costs or, if the plaintiff prevails in the action, assign
8 them to the defendant. This subsection and subsection (b) apply
9 to courts of common pleas, the Philadelphia Municipal Court,
10 bail commissioners and district justices.

11 (d) Court to adopt means of service.--The court shall adopt
12 a means of prompt and effective service in those instances where
13 the plaintiff avers that service cannot be safely effected by an
14 adult individual other than a law enforcement officer or where
15 the court so orders.

16 (e) Service by sheriff.--If the plaintiff files an affidavit
17 stating that the plaintiff does not have funds available to pay
18 the costs of filing and service or if the court so orders, the
19 sheriff or other designated agency or individual shall serve the
20 petition and order without prepayment of costs.

21 (f) Service of petition and orders.--The petition and orders
22 shall be served upon the defendant, and orders shall be served
23 upon the police departments with appropriate jurisdiction to
24 enforce the orders. Orders shall be promptly served on the
25 police. Failure to serve shall not stay the effect of a valid
26 order.

27 (g) Assistance and advice to plaintiff.--The courts,
28 district justices, the Philadelphia Municipal Court and bail
29 commissioners shall:

30 (1) Provide simplified forms and clerical assistance in

1 English and Spanish to help with the writing and filing of
2 the petition for a protection order for an individual not
3 represented by counsel.

4 (2) Advise a plaintiff not represented by counsel of the
5 right to file an affidavit stating that the plaintiff does
6 not have funds available to pay the costs of filing and
7 service and assist with the writing and filing of the
8 affidavit.

9 § 6107. Hearings.

10 (a) General rule.--Within ten days of the filing of a
11 petition under this chapter, a hearing shall be held before the
12 court, at which the plaintiff must prove the allegation of abuse
13 by a preponderance of the evidence. The court shall advise the
14 defendant of the right to be represented by counsel.

15 (b) Temporary orders.--If a plaintiff petitions for
16 temporary order for protection from abuse and alleges immediate
17 and present danger of abuse to the plaintiff or minor children,
18 the court shall conduct an ex-parte proceeding. The court may
19 enter such a temporary order as it deems necessary to protect
20 the plaintiff or minor children when it finds they are in
21 immediate and present danger of abuse.

22 (c) Continued hearings.--If a hearing under subsection (a)
23 is continued, the court may make or extend such temporary orders
24 under subsection (b) as it deems necessary.

25 (d) Costs.--If the plaintiff prevails, the court shall
26 assign costs to the defendant unless the parties agree
27 otherwise. If the defendant is indigent, costs shall be waived.

28 § 6108. Relief.

29 (a) General rule.--The court may grant any protection order
30 or approve any consent agreement to bring about a cessation of

1 abuse of the plaintiff or minor children. The order or agreement
2 may include:

3 (1) Directing the defendant to refrain from abusing the
4 plaintiff or minor children.

5 (2) Granting possession to the plaintiff of the
6 residence or household to the exclusion of the defendant by
7 evicting the defendant or restoring possession to the
8 plaintiff when the residence or household is jointly owned or
9 leased by the parties, is owned or leased by the entireties
10 or is owned or leased solely by the plaintiff.

11 (3) When the defendant has a duty to support the
12 plaintiff or minor children living in the residence or
13 household and the defendant is the sole owner or lessee,
14 granting possession to the plaintiff of the residence or
15 household to the exclusion of the defendant by evicting the
16 defendant or restoring possession to the plaintiff or, by
17 consent agreement, allowing the defendant to provide suitable
18 alternate housing.

19 (4) Awarding temporary custody of or establishing
20 temporary visitation rights with regard to minor children. A
21 defendant shall not be granted custody or partial custody
22 where it is alleged in the petition, and the court finds
23 after a hearing under this chapter, that the defendant abused
24 the minor children of the parties or where the defendant has
25 been convicted of violating 18 Pa.C.S. § 2904 (relating to
26 interference with custody of children) within two calendar
27 years prior to the filing of the petition for protection
28 order. If a plaintiff petitions for a temporary order under
29 section 6107(b) (relating to hearings) and the defendant has
30 partial, shared or full custody of the minor children of the

1 parties by order of court or written agreement of the
2 parties, the custody shall not be disturbed or changed unless
3 the court finds that the defendant is likely to inflict abuse
4 upon the children or to remove the children from the
5 jurisdiction of the court prior to the hearing under section
6 6107(a). Nothing in this paragraph shall bar either party
7 from filing a petition for custody under 23 Pa.C.S. Ch. 53
8 (relating to custody) or under the Pennsylvania Rules of
9 Civil Procedure. The court shall consider, and may impose on
10 a custody award, conditions necessary to assure the safety of
11 the plaintiff and minor children from abuse.

12 (5) After a hearing in accordance with section 6107(a),
13 directing the defendant to pay financial support to those
14 persons the defendant has a duty to support. The support
15 order shall be temporary, and any beneficiary of the order
16 must file a complaint for support under the provisions of
17 Chapters 43 (relating to support matters generally) and 45
18 (relating to reciprocal enforcement of support orders) within
19 two weeks of the date of the issuance of the protection
20 order. If a complaint for support is not filed, that portion
21 of the protection order requiring the defendant to pay
22 support is void. When there is a subsequent ruling on a
23 complaint for support, the portion of the protection order
24 requiring the defendant to pay support expires.

25 (6) Prohibiting the defendant from having any contact
26 with the plaintiff, including, but not limited to,
27 restraining the defendant from entering the place of
28 employment or business or school of the plaintiff and from
29 harassing the plaintiff or plaintiff's relatives or minor
30 children.

1 (7) Ordering the defendant to temporarily relinquish to
2 the sheriff the defendant's weapons which have been used or
3 been threatened to be used in an incident of abuse against
4 the plaintiff or the minor children. The court's order shall
5 provide for the return of the weapons to the defendant
6 subject to any restrictions and conditions as the court shall
7 deem appropriate to protect the plaintiff or minor children
8 from further abuse through the use of weapons.

9 (8) Directing the defendant to pay the plaintiff for
10 reasonable losses suffered as a result of the abuse,
11 including medical, dental, relocation and moving expenses;
12 counseling; loss of earnings or support; and other out-of-
13 pocket losses for injuries sustained. In addition to out-of-
14 pocket losses, the court may direct the defendant to pay
15 reasonable attorney fees.

16 (b) Duration and amendment of order or agreement.--A
17 protection order or approved consent agreement shall be for a
18 fixed period of time not to exceed one year. The court may amend
19 its order or agreement at any time upon subsequent petition
20 filed by either party.

21 (c) Title to real property unaffected.--No order or
22 agreement under this chapter shall in any manner affect title to
23 any real property.

24 § 6109. Service of orders.

25 (a) Issuance.--A copy of an order under this chapter shall
26 be issued to the plaintiff, the defendant and the police
27 department with appropriate jurisdiction to enforce the order or
28 agreement in accordance with the provisions of this chapter or
29 as ordered by the court, district justice, the Philadelphia
30 Municipal Court or bail commissioners.

1 (b) Placement in county registry.--Upon receipt of an order,
2 the police department shall immediately place the order in a
3 county registry of protection orders. The police department
4 shall assure that the registry is current at all times and that
5 orders are removed upon expiration thereof.

6 § 6110. Emergency relief by minor judiciary.

7 (a) General rule.--When, in counties with less than four
8 judges, the court is unavailable during the business day by
9 reason of duties outside the county, illness or vacation, and
10 when, in counties with at least four judges, the court deems
11 itself unavailable from the close of business at the end of each
12 day to the resumption of business the next morning or from the
13 end of the business week to the beginning of the business week,
14 a petition may be filed before a district justice, bail
15 commissioner or judge of the Philadelphia Municipal Court who
16 may grant relief in accordance with section 6108(a)(1) and (2)
17 or (1) and (3) (relating to relief) if the district justice,
18 bail commissioner or judge deems it necessary to protect the
19 plaintiff or minor children from abuse upon good cause shown in
20 an ex parte proceeding. Immediate and present danger of abuse to
21 the plaintiff or minor children shall constitute good cause for
22 the purposes of this subsection.

23 (b) Expiration of order.--An order issued under subsection
24 (a) shall expire as of the resumption of business of the court
25 at the beginning of the next business day, at which time the
26 court shall schedule hearings on protection orders entered by
27 district justices, bail commissioners or Philadelphia Municipal
28 Court Judges under subsection (a) and shall review and continue
29 in effect protection orders that are necessary to protect the
30 plaintiff or minor children from abuse until the hearing, at

1 which time the plaintiff may seek a temporary order from the
2 court.

3 (c) Certification of order to court.--An emergency order
4 issued under this section and any documentation in support
5 thereof shall be immediately certified to the court. The
6 certification to the court shall have the effect of commencing
7 proceedings under section 6106 (relating to commencement of
8 proceedings) and invoking the other provisions of this chapter.
9 If it is not already alleged in a petition for an emergency
10 order, the plaintiff shall file a verified statement setting
11 forth the abuse of defendant at least five days prior to the
12 hearing. Service of the verified statement shall be made subject
13 to section 6106.

14 (d) Instructions regarding the commencement of
15 proceedings.--Upon issuance of an emergency order, the district
16 justice, bail commissioner or Philadelphia Municipal Court Judge
17 shall provide the plaintiff instructions regarding the
18 commencement of proceedings in the court of common pleas at the
19 beginning of the next business day and regarding the procedures
20 for initiating a contempt charge should the defendant violate
21 the emergency order. The district justice, a bail commissioner
22 or Philadelphia Municipal Court Judge shall also advise the
23 plaintiff of the existence of programs for victims of domestic
24 violence in the county or in nearby counties and inform the
25 plaintiff of the availability of legal assistance without cost
26 if the plaintiff is unable to pay for them.

27 § 6111. Domestic violence counselor/advocate.

28 A domestic violence counselor/advocate may accompany a party
29 to a hearing under this chapter.

30 § 6112. Disclosure of addresses.

1 During the course of a proceeding under this chapter, the
2 court, district justice, Philadelphia Municipal Court Judge or
3 bail commissioner may consider whether the plaintiff or
4 plaintiff's family is endangered by disclosure of the permanent
5 or temporary address of the plaintiff or minor children. Neither
6 in the pleadings nor during proceedings or hearings under this
7 chapter shall the court, district justice, Philadelphia
8 Municipal Court Judge or bail commissioner require disclosure of
9 the address of a domestic violence program.

10 § 6113. Arrest for violation of order.

11 (a) General rule.--An arrest for violation of an order
12 issued pursuant to this chapter may be without warrant upon
13 probable cause whether or not the violation is committed in the
14 presence of the police officer. The police officer may verify,
15 if necessary, the existence of a protection order by telephone
16 or radio communication with the appropriate police department,
17 county registry or issuing authority.

18 (b) Seizure of weapons.--Subsequent to an arrest, the police
19 officer shall seize all weapons used or threatened to be used
20 during the violation of the protection order or during prior
21 incidents of abuse. As soon as it is reasonably possible, the
22 arresting officer shall deliver the confiscated weapons to the
23 office of the sheriff. The sheriff shall maintain possession of
24 the weapons until the court issues an order specifying the
25 weapons to be relinquished and the persons to whom the weapons
26 shall be relinquished.

27 (c) Procedure following arrest.--Subsequent to an arrest,
28 the defendant shall be taken by the police officer without
29 unnecessary delay before the court in the judicial district
30 where the contempt is alleged to have occurred. When that court

1 is unavailable, the police officer shall convey the defendant to
2 a district justice designated as appropriate by local rules of
3 court, the Philadelphia Municipal Court or designated bail
4 commissioner.

5 (d) Preliminary arraignment.--The defendant shall be
6 afforded a preliminary arraignment without unnecessary delay.

7 (e) Other emergency powers unaffected.--This section shall
8 not be construed to in any way limit any of the other powers for
9 emergency relief provided in this chapter.

10 (f) Hearing.--A hearing on a charge or allegation of
11 indirect criminal contempt shall not preclude a hearing on other
12 criminal charges underlying the contempt, nor shall a hearing on
13 other criminal charges preclude a hearing on a charge of
14 indirect criminal contempt.

15 (g) Notice.--Notice shall be given to the defendant, in
16 orders issued pursuant to section 6108 (relating to relief), of
17 the possible ramifications of resumption of residence in the
18 family domicile contrary to court order. Resumption of co-
19 residence on the part of the plaintiff and defendant shall not
20 nullify the provisions of the court order directing the
21 defendant to refrain from abusing the plaintiff or minor
22 children.

23 § 6114. Contempt for violation of order or agreement.

24 (a) General rule.--Upon violation of a protection order
25 issued under this chapter or a court-approved consent agreement,
26 the court may hold the defendant in indirect criminal contempt
27 and punish the defendant in accordance with law.

28 (b) Trial and punishment.--A sentence for contempt under
29 this chapter may include imprisonment up to six months or a fine
30 not to exceed \$1,000, or both, and may include other relief set

1 forth in this chapter. The defendant shall not have a right to a
2 jury trial on such a charge; however, the defendant shall be
3 entitled to counsel.

4 § 6115. Reporting abuse and immunity.

5 (a) Reporting.--A person having reasonable cause to believe
6 that a person is being abused may report the information to the
7 local police department.

8 (b) Contents of report.--The report should contain the name
9 and address of the abused person, information regarding the
10 nature and extent of the abuse and information which the
11 reporter believes may be helpful to prevent further abuse.

12 (c) Immunity.--A person who makes a report shall be immune
13 from a civil or criminal liability on account of the report
14 unless the person acted in bad faith or with malicious purpose.

15 § 6116. Confidentiality.

16 Unless a victim waives the privilege in a signed writing
17 prior to testimony or disclosure, a domestic violence
18 counselor/advocate shall not be competent nor permitted to
19 testify or to otherwise disclose confidential communications
20 made to or by the counselor/advocate by or to a victim. The
21 privilege shall terminate upon the death of the victim. Neither
22 the domestic violence counselor/advocate nor the victim shall
23 waive the privilege of confidential communications by reporting
24 facts of physical or sexual assault under Chapter 63 (relating
25 to child protective services), a Federal or State mandatory
26 reporting statute; or a local mandatory reporting ordinance.

27 § 6117. Procedure and other remedies.

28 Unless otherwise indicated in this chapter, a proceeding
29 under this chapter shall be in accordance with applicable
30 general rules and shall be in addition to any other available

1 civil or criminal remedies.

2 CHAPTER 63

3 CHILD PROTECTIVE SERVICES

4 Subchapter

5 A. Preliminary Provisions

6 B. Reporting Suspected Child Abuse

7 C. Powers and Duties of Department

8 D. Organization and Responsibilities of Child Protective
9 Service

10 E. Miscellaneous Provisions

11 SUBCHAPTER A

12 PRELIMINARY PROVISIONS

13 Sec.

14 6301. Short title of chapter.

15 6302. Finding and purpose of chapter.

16 6303. Definitions.

17 § 6301. Short title of chapter.

18 This chapter shall be known and may be cited as the Child
19 Protective Services Law.

20 § 6302. Finding and purpose of chapter.

21 (a) Finding.--Abused children are in urgent need of an
22 effective child protective service to prevent them from
23 suffering further injury and impairment.

24 (b) Purpose.--It is the purpose of this chapter to encourage
25 more complete reporting of suspected child abuse and to
26 establish in each county a child protective service capable of
27 investigating such reports swiftly and competently, providing
28 protection for children from further abuse and providing
29 rehabilitative services for children and parents involved so as
30 to ensure the well-being of the child and to preserve and

1 stabilize family life wherever appropriate.

2 (c) Effect on rights of parents.--This chapter does not
3 restrict the generally recognized existing rights of parents to
4 use reasonable supervision and control when raising their
5 children.

6 § 6303. Definitions.

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

10 "Child abuse." Serious physical or mental injury which is
11 not explained by the available medical history as being
12 accidental, sexual abuse, sexual exploitation or serious
13 physical neglect of a child under 18 years of age if the injury,
14 abuse or neglect has been caused by the acts or omissions of the
15 child's parents or by a person responsible for the child's
16 welfare, or any individual residing in the same home as the
17 child, or a paramour of the child's parent. No child shall be
18 deemed to be physically or mentally abused for the sole reason
19 the child is in good faith being furnished treatment by
20 spiritual means through prayer alone in accordance with the
21 tenets and practices of a recognized church or religious
22 denomination by an accredited practitioner thereof or is not
23 provided specified medical treatment in the practice of
24 religious beliefs, or solely on the grounds of environmental
25 factors which are beyond the control of the person responsible
26 for the welfare of the child such as inadequate housing,
27 furnishings, income, clothing and medical care.

28 "Child-care services." Child day-care centers, group and
29 family day-care homes, foster homes, adoptive parents, boarding
30 homes for children, juvenile detention center services or

1 programs for delinquent or dependent children; mental health,
2 mental retardation and drug and alcohol services for children;
3 and any other child-care services which are provided by or
4 subject to approval, licensure, registration or certification by
5 the department or a county social services agency or which are
6 provided pursuant to a contract with these departments or a
7 county social services agency. The term does not include such
8 services or programs which may be offered by public and private
9 schools, intermediate units or area vocational-technical
10 schools.

11 "Child protective service." That section of each county
12 children and youth social service agency required to be
13 established by section 6361 (relating to organization of child
14 protective service).

15 "Cooperation with an investigation." Includes, but is not
16 limited to, a school or school district which permits authorized
17 personnel from the department or child protection services to
18 interview a student while the student is in attendance at
19 school.

20 "Department." The Department of Public Welfare of the
21 Commonwealth.

22 "Expunge." To strike out or obliterate entirely so that the
23 expunged information may not be stored, identified or later
24 recovered by any mechanical or electronic means or otherwise.

25 "Family members." Spouses, parents and children or other
26 persons related by consanguinity or affinity.

27 "Founded report." A report made pursuant to this chapter if
28 there has been any judicial adjudication based on a finding that
29 a child who is a subject of the report has been abused.

30 "Indicated report." A report made pursuant to this chapter

1 if an investigation by the child protective service determines
2 that substantial evidence of the alleged abuse exists based on
3 any of the following:

4 (1) Available medical evidence.

5 (2) The child protective service investigation.

6 (3) An admission of the acts of abuse by the parent of
7 the child or person responsible for the welfare of the child.

8 "Secretary." The Secretary of Public Welfare of the
9 Commonwealth.

10 "Sexual abuse." The obscene or pornographic photographing,
11 filming or depiction of children for commercial purposes or the
12 rape, molestation, incest, prostitution or other forms of sexual
13 exploitation of children under circumstances which indicate that
14 the child's health or welfare is harmed or threatened thereby,
15 as determined in accordance with regulations of the department.

16 "Subject of the report." Any child reported to the central
17 register of child abuse and a parent, guardian or other
18 responsible person also named in the report.

19 "Under investigation." A report pursuant to this chapter
20 which is being investigated to determine whether it is
21 "founded," "indicated" or "unfounded."

22 "Unfounded report." Any report made pursuant to this chapter
23 unless the report is a "founded report" or unless an
24 investigation by the appropriate child protective service
25 determines that the report is an "indicated report."

26 SUBCHAPTER B

27 REPORTING SUSPECTED CHILD ABUSE

28 Sec.

29 6311. Persons required to report suspected child abuse.

30 6312. Persons permitted to report suspected child abuse.

- 1 6313. Reporting procedure.
- 2 6314. Photographs and X-rays of child subject to report.
- 3 6315. Taking child into protective custody.
- 4 6316. Admission to private and public hospitals.
- 5 6317. Reporting and postmortem investigation of deaths.
- 6 6318. Immunity from liability.
- 7 6319. Penalties for failure to report.

8 § 6311. Persons required to report suspected child abuse.

9 (a) General rule.--Persons who, in the course of their
10 employment, occupation or practice of their profession, come
11 into contact with children shall report or cause a report to be
12 made in accordance with section 6313 (relating to reporting
13 procedure) when they have reason to believe, on the basis of
14 their medical, professional or other training and experience,
15 that a child coming before them in their professional or
16 official capacity is an abused child. The privileged
17 communication between any professional person required to report
18 and the patient or client of that person shall not apply to
19 situations involving child abuse and shall not constitute
20 grounds for failure to report as required by this chapter.

21 (b) Enumeration of persons required to report.--Persons
22 required to report under subsection (a) include, but are not
23 limited to, any licensed physician, osteopath, medical examiner,
24 coroner, funeral director, dentist, optometrist, chiropractor,
25 podiatrist, intern, registered nurse, licensed practical nurse,
26 hospital personnel engaged in the admission, examination, care
27 or treatment of persons, a Christian Science practitioner,
28 school administrator, school teacher, school nurse, social
29 services worker, day-care center worker or any other child-care
30 or foster-care worker, mental health professional, peace officer

1 or law enforcement official.

2 (c) Staff members of institutions, etc.--Whenever a person
3 is required to report under subsection (b) in the capacity as a
4 member of the staff of a medical or other public or private
5 institution, school, facility or agency, that person shall
6 immediately notify the person in charge of the institution,
7 school, facility or agency or the designated agent of the person
8 in charge. Upon notification, the person in charge or the
9 designated agent, if any, shall assume the responsibility and
10 have the legal obligation to report or cause a report to be made
11 in accordance with section 6313. This chapter does not require
12 more than one report from any such institution, school, facility
13 or agency.

14 (d) Civil action for discrimination against person filing
15 report.--Any person who, under this section, is required to
16 report or cause a report of suspected child abuse to be made and
17 who, in good faith, makes or causes the report to be made and,
18 as a result thereof, is discharged from his employment or in any
19 other manner is discriminated against with respect to
20 compensation, hire, tenure, terms, conditions or privileges of
21 employment, may commence an action in the court of common pleas
22 of the county in which the alleged unlawful discharge or
23 discrimination occurred for appropriate relief. If the court
24 finds that the person is an individual who, under this section,
25 is required to report or cause a report of suspected child abuse
26 to be made and who, in good faith, made or caused to be made a
27 report of suspected child abuse and, as a result thereof, was
28 discharged or discriminated against with respect to
29 compensation, hire, tenure, terms, conditions or privileges of
30 employment, it may issue an order granting appropriate relief,

1 including but not limited to reinstatement with back pay. The
2 department may intervene in any action commenced under this
3 subsection.

4 § 6312. Persons permitted to report suspected child abuse.

5 In addition to those persons and officials required to report
6 suspected child abuse, any person may make such a report if that
7 person has reasonable cause to suspect that a child is an abused
8 child.

9 § 6313. Reporting procedure.

10 (a) General rule.--Reports from persons required to report
11 under section 6311 (relating to persons required to report
12 suspected child abuse) shall be made immediately by telephone
13 and in writing within 48 hours after the oral report.

14 (b) Oral reports.--Oral reports shall be made to the
15 department pursuant to Subchapter C (relating to powers and
16 duties of department) and may be made to the appropriate child
17 protective service. When oral reports of suspected child abuse
18 are initially received at the child protective service, the
19 child protective service shall, after seeing to the immediate
20 safety of the child and other children in the home, immediately
21 notify the department of the receipt of the report, which is to
22 be held in the pending complaint file as provided in Subchapter
23 C. The initial child abuse report summary shall be supplemented
24 with a written report when a determination is made as to whether
25 a report of suspected child abuse is a founded report, an
26 unfounded report or an indicated report.

27 (c) Written reports.--Written reports from persons required
28 to report under section 6311 shall be made to the appropriate
29 child protective service in a manner and on forms the department
30 prescribes by regulation. The written reports shall include the

1 following information if available:

2 (1) The names and addresses of the child and the parents
3 or other person responsible for the care of the child if
4 known.

5 (2) Where the suspected abuse occurred.

6 (3) The age and sex of the child.

7 (4) The nature and extent of the suspected child abuse
8 including any evidence of prior abuse to the child or
9 siblings of the child.

10 (5) The name of the person or persons responsible for
11 causing the suspected abuse if known.

12 (6) Family composition.

13 (7) The relationship of the suspected perpetrator to the
14 child.

15 (8) The source of the report.

16 (9) The person making the report and where that person
17 can be reached.

18 (10) The actions taken by the reporting source including
19 the taking of photographs and X-rays, removal or keeping of
20 the child or notifying the medical examiner or coroner.

21 (11) Any other information which the department may
22 require by regulation.

23 (d) Failure to confirm oral report.--The failure of a person
24 reporting cases of suspected child abuse to confirm an oral
25 report in writing within 48 hours shall not relieve the child
26 protective service from any duties prescribed by this chapter.
27 In such event, the child protective service shall proceed as if
28 a written report were actually made.

29 § 6314. Photographs and X-rays of child subject to report.

30 A person or official required to report cases of suspected

1 child abuse may take or cause to be taken photographs of the
2 areas of trauma visible on a child who is subject to a report
3 and, if medically indicated, cause to be performed a
4 radiological examination on the child. Medical summaries or
5 reports of the photographs or X-rays taken shall be sent to the
6 child protective service at the time the written report is sent
7 or as soon thereafter as possible. Child protective services
8 shall have access to the actual photographs and X-rays and may
9 obtain them or duplicates of them upon request.

10 § 6315. Taking child into protective custody.

11 (a) General rule.--A child may be taken into protective
12 custody:

13 (1) As provided by 42 Pa.C.S. § 6324 (relating to taking
14 into custody).

15 (2) By a physician examining or treating the child or by
16 the director, or a person specifically designated in writing
17 by the director, of any hospital or other medical institution
18 where the child is being treated if protective custody is
19 immediately necessary to protect the child from further
20 serious physical injury, sexual abuse or serious physical
21 neglect.

22 (b) Duration of custody.--No child may be held in protective
23 custody for more than 24 hours unless the appropriate child
24 protective service is immediately notified that the child has
25 been taken into custody and the child protective service obtains
26 an order from a court of competent jurisdiction permitting the
27 child to be held in custody for a longer period. Each court
28 shall insure that a judge is available 24 hours a day, 365 days
29 a year to accept and decide the actions brought by a child
30 protective service under this subsection within the 24-hour

1 period.

2 (c) Notice of custody.--An individual taking a child into
3 protective custody under this chapter shall immediately, and
4 within 24 hours in writing, notify the parent, guardian or other
5 custodian of the child of the whereabouts of the child and the
6 reasons for the need to take the child into protective custody
7 and shall immediately notify the appropriate child protective
8 service in order that proceedings under 42 Pa.C.S. Ch. 63
9 (relating to juvenile matters) may be initiated, if appropriate.

10 (d) Detention hearing.--In no case shall protective custody
11 under this chapter be maintained longer than 72 hours without a
12 detention hearing. If at the detention hearing it is determined
13 that protective custody shall be continued, the child protective
14 service shall within 48 hours file a petition with the court
15 under 42 Pa.C.S. Ch. 63.

16 (e) Place of detention.--No child taken into protective
17 custody under this chapter may be detained during the protective
18 custody except in an appropriate medical facility, foster home
19 or other appropriate facility approved by the department for
20 this purpose.

21 (f) Conference with parent or other custodian.--A conference
22 between the parent, guardian or other custodian of the child
23 taken into temporary protective custody pursuant to this section
24 and the case worker designated by the child protection service
25 to be responsible for the child shall be held within 48 hours of
26 the time that the child is taken into custody for the purpose
27 of:

28 (1) Explaining to the parent, guardian or other
29 custodian the reasons for the temporary detention of the
30 child and the whereabouts of the child.

1 (2) Expediting, wherever possible, the return of the
2 child to the custody of the parent, guardian or other
3 custodian where custody is no longer necessary.

4 § 6316. Admission to private and public hospitals.

5 (a) General rule.--Children appearing to suffer any physical
6 or mental trauma which may constitute child abuse shall be
7 admitted to and treated in appropriate facilities of private and
8 public hospitals on the basis of medical need and shall not be
9 refused or deprived in any way of proper medical treatment and
10 care.

11 (b) Failure of hospital to admit child.--The failure of a
12 hospital to admit and properly treat and care for a child
13 pursuant to subsection (a) shall be cause for the department to
14 order immediate admittance, treatment and care by the hospital
15 which shall be enforceable, if necessary, by the prompt
16 institution of a civil action by the department. The child,
17 through an attorney, shall also have the additional and
18 independent right to seek immediate injunctive relief and
19 institute an appropriate civil action for damages against the
20 hospital.

21 § 6317. Reporting and postmortem investigation of deaths.

22 A person or official required to report cases of suspected
23 child abuse, including employees of a county children and youth
24 social service agency and its child protective service, who has
25 reasonable cause to suspect that a child died as a result of
26 child abuse shall report that fact to the coroner. The coroner
27 shall accept the report for investigation and shall report his
28 finding to the police, the district attorney, the appropriate
29 child protective service and, if the report is made by a
30 hospital, the hospital.

1 § 6318. Immunity from liability.

2 (a) General rule.--A person, hospital, institution, school,
3 facility or agency participating in good faith in the making of
4 a report, cooperating with an investigation or testifying in a
5 proceeding arising out of an instance of suspected child abuse,
6 the taking of photographs or the removal or keeping of a child
7 pursuant to section 6315 (relating to taking child into
8 protective custody) shall have immunity from any civil or
9 criminal liability that might otherwise result by reason of
10 those actions.

11 (b) Presumption of good faith.--For the purpose of any civil
12 or criminal proceeding, the good faith of a person required to
13 report pursuant to section 6311 (relating to persons required to
14 report suspected child abuse) shall be presumed.

15 § 6319. Penalties for failure to report.

16 A person or official required by this chapter to report a
17 case of suspected child abuse who willfully fails to do so
18 commits a summary offense for the first violation and a
19 misdemeanor of the third degree for a second or subsequent
20 violation.

21 SUBCHAPTER C

22 POWERS AND DUTIES OF DEPARTMENT

23 Sec.

24 6331. Establishment of pending complaint file and Statewide
25 central register.

26 6332. Establishment of Statewide toll-free telephone number.

27 6333. Continuous availability of department.

28 6334. Disposition of complaints received.

29 6335. Information in pending complaint file.

30 6336. Information in Statewide central register.

- 1 6337. Disposition of unfounded reports.
- 2 6338. Disposition of founded and indicated reports.
- 3 6339. Confidentiality of reports.
- 4 6340. Release of information in confidential reports.
- 5 6341. Amendment, sealing or expungement of information.
- 6 6342. Studies of data in records.
- 7 6343. Investigating performance of child protective service.
- 8 6344. Information relating to prospective child-care
9 personnel.
- 10 6345. Audits by Attorney General.
- 11 6346. Cooperation of other agencies.
- 12 6347. Annual reports to Governor and General Assembly.
- 13 6348. Regulations.
- 14 6349. Penalties.
- 15 § 6331. Establishment of pending complaint file and Statewide
16 central register.

17 There shall be established in the department:

18 (1) A pending complaint file of child abuse reports
19 under investigation.

20 (2) A Statewide central register of child abuse which
21 shall consist of founded and indicated reports of child
22 abuse.

23 § 6332. Establishment of Statewide toll-free telephone number.

24 (a) General rule.--The department shall establish a single
25 Statewide toll-free telephone number that all persons, whether
26 mandated by law or not, may use to report cases of suspected
27 child abuse. A child protective service may use the Statewide
28 toll-free telephone number for determining the existence of
29 prior founded or indicated reports of child abuse in the
30 Statewide central register or reports under investigation in the

1 pending complaint file.

2 (b) Limitation on use.--A child protective service may only
3 request and receive information pursuant to this subsection
4 either on its own behalf because it has received a report of
5 suspected child abuse or on behalf of a physician examining or
6 treating a child or on behalf of the director or a person
7 specifically designated in writing by the director of any
8 hospital or other medical institution where a child is being
9 treated, where the physician or the director or a person
10 specifically designated in writing by the director suspects the
11 child of being an abused child.

12 § 6333. Continuous availability of department.

13 The department shall be capable of receiving oral reports of
14 child abuse made pursuant to this chapter and report summaries
15 of child abuse from child protective services and shall be
16 capable of immediately identifying prior reports of child abuse
17 in the Statewide central register and reports under
18 investigation in the pending complaint file and of monitoring
19 the provision of child protective services 24 hours a day, seven
20 days a week.

21 § 6334. Disposition of complaints received.

22 (a) Notice to child protective service.--Upon receipt of a
23 complaint of suspected child abuse, the department shall
24 immediately transmit orally to the appropriate child protective
25 service notice that the complaint of suspected child abuse has
26 been received and the substance of the complaint. If the
27 Statewide central register or the pending complaint file
28 contains information indicating a prior report or a current
29 investigation concerning a subject of the report, the department
30 shall immediately notify the appropriate child protective

1 service of this fact.

2 (b) Referral for services or investigation.--If the
3 complaint received does not suggest suspected child abuse but
4 does suggest a need for social services or other services or
5 investigation, the department shall transmit the information to
6 the county children and youth social service agency or other
7 public agency for appropriate action. The information shall not
8 be considered a child abuse report unless the agency to which
9 the information was referred has reason to believe after
10 investigation that abuse occurred. If the agency has reason to
11 believe that abuse occurred, the agency shall notify the
12 department, and the initial complaint shall be considered to
13 have been a child abuse report.

14 (c) Recording in pending complaint file.--Upon receipt of a
15 complaint of suspected child abuse, the department shall
16 maintain a record of the complaint of suspected child abuse in
17 the pending complaint file.

18 § 6335. Information in pending complaint file.

19 (a) Information authorized.--No information other than that
20 permitted to be retained in the Statewide central register in
21 section 6336 (relating to information in Statewide central
22 register) shall be retained in the pending complaint file or
23 otherwise by the department.

24 (b) Access to information.--Except as provided in sections
25 6332 (relating to establishment of Statewide toll-free telephone
26 number), 6334 (relating to disposition of complaints received),
27 6340 (relating to release of information in confidential
28 reports) and 6342 (relating to studies of data in records), no
29 person, other than an employee of the department in the course
30 of official duties in connection with the responsibilities of

1 the department under this chapter, shall at any time have access
2 to any information in the pending complaint file or Statewide
3 central register.

4 § 6336. Information in Statewide central register.

5 (a) Information authorized.--The Statewide central register
6 shall include and shall be limited to the following information:

7 (1) The names, Social Security numbers, age and sex of
8 the subjects of the reports.

9 (2) The date or dates and the nature and extent of the
10 alleged instances of suspected child abuse.

11 (3) The home addresses of the subjects of the report.

12 (4) The county in which the suspected abuse occurred.

13 (5) Family composition.

14 (6) The name and relationship to the abused child of the
15 person or persons responsible for causing the abuse.

16 (7) The source of the report.

17 (8) Services planned or provided.

18 (9) Whether the report is a founded report or an
19 indicated report.

20 (10) The progress of any legal proceedings brought on
21 the basis of the report of suspected child abuse.

22 No information other than that permitted in this subsection
23 shall be retained in the Statewide central register, the pending
24 complaint file or otherwise by the department.

25 (b) Type of information released.--Except as provided in
26 sections 6334 (relating to disposition of complaints received),
27 6335 (relating to information in pending complaint file), 6340
28 (relating to release of information in confidential reports) and
29 6342 (relating to studies of data in records), persons receiving
30 information from the Statewide central register or pending

1 complaint file may be informed only as to:

2 (1) Whether the report is a founded or indicated abuse
3 or is under investigation.

4 (2) The number of founded and indicated reports.

5 (3) The nature and extent of the alleged or actual
6 instances of suspected child abuse.

7 (4) The county in which the reports are investigated.

8 (c) Limitation on release of information.--Except as
9 provided in sections 6334, 6335, 6340 and 6342, no information
10 shall be released from the Statewide central register or pending
11 complaint file unless pursuant to section 6332 (relating to
12 establishment of Statewide toll-free telephone number) and
13 unless the department has positively identified the
14 representative of the child protective service requesting the
15 information and the department has inquired into and is
16 satisfied that the representative has a legitimate need, within
17 the scope of official duties and the provisions of section 6332,
18 to obtain the information. Information in the Statewide central
19 register or pending complaint file shall not be released for any
20 purpose or to any individual not specified in section 6340.

21 § 6337. Disposition of unfounded reports.

22 (a) General rule.--When a report of suspected child abuse is
23 determined by the appropriate child protective service to be an
24 unfounded report, the information concerning that report of
25 suspected child abuse shall be expunged from the pending
26 complaint file within 12 months of the date the report was
27 received by the department, and no information other than that
28 authorized by subsection (b), which shall not include any
29 identifying information on any subject of the report, shall be
30 retained by the department.

1 (b) Absence of other determination.--If an investigation of
2 a report of suspected child abuse conducted by the appropriate
3 child protective service pursuant to this chapter does not
4 determine within 60 days of the date of the initial report of
5 the instance of suspected child abuse that the report is an
6 indicated report or an unfounded report, or unless within that
7 same 60-day period court action has been initiated and is
8 responsible for the delay, the report shall be considered to be
9 an unfounded report, and all information identifying the
10 subjects of the report shall be expunged within 12 months. The
11 agency shall advise the department that court action has been
12 initiated so that the pending complaint file is kept current
13 regarding the status of all legal proceedings and expungement
14 delayed. Nothing in this subsection shall in any way limit the
15 powers and duties of the department as provided in section 6343
16 (relating to investigating performance of child protective
17 service).

18 (c) Expungement of information.--All information identifying
19 the subjects of any report of suspected child abuse determined
20 to be an unfounded report shall be expunged from the pending
21 complaint file within 12 months of the date the report was
22 received by the department. The expungement shall be mandated
23 and guaranteed by the department.

24 § 6338. Disposition of founded and indicated reports.

25 (a) General rule.--When a report of suspected child abuse is
26 determined by the appropriate child protective service to be a
27 founded report or an indicated report, the information
28 concerning that report of suspected child abuse shall be
29 expunged immediately from the pending complaint file, and an
30 appropriate entry shall be made in the Statewide central

1 register. Notice of the determination must be given to the
2 subjects of the report, other than the abused child, along with
3 an explanation of the implications of the determination. Notice
4 given to subjects of the report shall include notice that their
5 ability to obtain employment in a child-care facility or program
6 may be adversely affected by entry of the report in the
7 Statewide central register. The notice shall also inform the
8 subject of the report of his right, at any time, to request the
9 secretary to amend, seal or expunge information contained in the
10 Statewide central register and his right to a hearing if the
11 request is denied.

12 (b) Expungement of information when child attains 18 years
13 of age.--All information identifying the subjects of all
14 indicated reports and all information identifying the subject
15 child of all founded reports shall be expunged when the subject
16 child reaches the age of 18 years, unless another report is
17 received involving the same child, his sibling or offspring, or
18 another child in the care of the persons responsible for the
19 subject child's welfare. The identifying information may then be
20 maintained in the register for five years after the subsequent
21 case or report is closed. The expungement shall be mandated and
22 guaranteed by the department.

23 § 6339. Confidentiality of reports.

24 Except as otherwise provided in this subchapter, reports made
25 pursuant to this chapter including, but not limited to, report
26 summaries of child abuse and written reports made pursuant to
27 section 6313(b) and (c) (relating to reporting procedure) as
28 well as any other information obtained, reports written or
29 photographs or X-rays taken concerning alleged instances of
30 child abuse in the possession of the department, a county

1 children and youth social service agency or a child protective
2 service shall be confidential.

3 § 6340. Release of information in confidential reports.

4 (a) General rule.--Reports specified in section 6339
5 (relating to confidentiality of reports) shall only be made
6 available to:

7 (1) An authorized official of a child protective service
8 in the course of official duties, multidisciplinary team
9 members assigned to the case and duly authorized persons
10 providing services pursuant to section 6370(a) (relating to
11 services for protection of child at home or in custody).

12 (2) A physician examining or treating a child or the
13 director or a person specifically designated in writing by
14 the director of any hospital or other medical institution
15 where a child is being treated when the physician or the
16 director or the designee of the director suspect the child of
17 being an abused child.

18 (3) A guardian ad litem for the child.

19 (4) An authorized official or agent of the department in
20 accordance with department regulations or in accordance with
21 the conduct of a performance audit as authorized by section
22 6343 (relating to investigating performance of child
23 protective service).

24 (5) A court of competent jurisdiction pursuant to a
25 court order.

26 (6) A standing committee of the General Assembly, as
27 specified in section 6384 (relating to legislative
28 oversight).

29 (7) The Attorney General.

30 (8) Federal auditors if required for Federal financial

1 participation in funding of agencies except that Federal
2 auditors may not have access to identifiable reports.

3 (9) Law enforcement officials in the course of
4 investigating cases of:

5 (i) Homicide, sexual abuse, sexual exploitation or
6 serious bodily injury perpetrated by persons whether or
7 not related to the victim.

8 (ii) Child abuse perpetrated by persons who are not
9 family members.

10 (iii) Repeated physical injury to a child under
11 circumstances which indicate that the child's health or
12 welfare is harmed or threatened.

13 (10) Law enforcement officials who shall receive reports
14 of abuse in which the initial review gives evidence that the
15 abuse is homicide, sexual abuse, sexual exploitation or
16 serious bodily injury perpetrated by persons whether or not
17 related to the victim, or child abuse perpetrated by persons
18 who are not family members. Reports referred to law
19 enforcement officials shall be on forms provided by and
20 according to regulations promulgated by the department.

21 (11) County commissioners, to whom the department shall
22 forward specific files upon request, for review when
23 investigating the competence of county children and youth
24 employees.

25 (12) A mandated reporter of child abuse as defined in
26 section 6311 (relating to persons required to report
27 suspected child abuse) who made a report of abuse involving
28 the subject child, but the information permitted to be
29 released to the mandated reporter shall be limited to the
30 following:

1 (i) The final status of the report following the
2 investigation, whether it be indicated, founded or
3 unfounded.

4 (ii) Any services provided, arranged for or to be
5 provided by the child protective service to protect the
6 child from further abuse.

7 (b) Release of information to subject child.--At any time
8 and upon written request, a subject of a report may receive a
9 copy of all information, except that prohibited from being
10 disclosed by subsection (c), contained in the Statewide central
11 register or in any report filed pursuant to section 6313
12 (relating to reporting procedure).

13 (c) Protecting identity of person making report.--The
14 release of data that would identify the person who made a report
15 of suspected child abuse or the person who cooperated in a
16 subsequent investigation is prohibited unless the secretary
17 finds that the release will not be detrimental to the safety of
18 that person.

19 (d) Definition.--As used in this section, "serious bodily
20 injury" means bodily injury which creates a substantial risk of
21 death or which causes serious permanent disfigurement or
22 protracted loss or impairment of the function of any bodily
23 member or organ.

24 § 6341. Amendment, sealing or expungement of information.

25 (a) General rule.--At any time:

26 (1) The secretary may amend, seal or expunge any record
27 upon good cause shown and notice to the appropriate subjects
28 of the report.

29 (2) A subject of a report may request the secretary to
30 amend, seal or expunge information contained in the Statewide

1 central register on the grounds that it is inaccurate or it
2 is being maintained in a manner inconsistent with this
3 chapter.

4 (b) Review of grant of request.--If the secretary grants the
5 request under subsection (a)(2), the Statewide central register,
6 appropriate child protective service agency and all subjects
7 shall be so advised within seven days from the date of the
8 decision. The child protective service agency and any subject
9 have 45 days in which to file an appeal with the secretary. If
10 an appeal is received, the secretary or his designated agent
11 shall schedule a hearing pursuant to Article IV of the act of
12 June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code,
13 and attending departmental regulations. If no appeal is received
14 within the designated time period, the Statewide central
15 register shall comply with the decision of the secretary and
16 advise the child protective service agency to amend, seal or
17 expunge the information in their records so that the records are
18 consistent at both the State and local levels.

19 (c) Review of refusal of request.--If the secretary refuses
20 the request under subsection (a)(2) or does not act within a
21 reasonable time, but in no event later than 30 days after
22 receipt of the request, the subject shall have the right to a
23 hearing before the secretary or a designated agent of the
24 secretary to determine whether the summary in the Statewide
25 central register or the contents of any report filed pursuant to
26 section 6313 should be amended, sealed or expunged on the
27 grounds that it is inaccurate or that it is being maintained in
28 a manner inconsistent with this chapter. The appropriate child
29 protective service shall be given notice of the hearing. The
30 burden of proof in the hearing shall be on the appropriate child

1 protective service. The department shall assist the child
2 protective service as necessary. In the hearings, the fact that
3 there was a court finding of child abuse shall be presumptive
4 evidence that the report was substantiated.

5 (d) Order.--The secretary or designated agent may make any
6 appropriate order respecting the amendment or expungement of
7 such records to make them accurate or consistent with the
8 requirements of this chapter.

9 (e) Notice of expungement.--Written notice of an expungement
10 of any record, made pursuant to the provisions of this chapter,
11 shall be served upon the subject of the record who was
12 responsible for the abuse and the appropriate child protective
13 service. The latter, upon receipt of the notice, shall take
14 appropriate, similar action in regard to the local child abuse
15 records and inform, for the same purpose, the appropriate
16 coroner if that officer has received reports pursuant to section
17 6367 (relating to reports to department and coroner). Whenever
18 the investigation reveals that the report is unfounded but that
19 the subjects need services and voluntarily accept services, the
20 county children and youth social service agency may retain those
21 portions of its records which do not specifically identify the
22 source of the investigation or report as suspected child abuse.

23 (f) Access to sealed record.--Once sealed, a record shall
24 not be otherwise available except as provided in section 6342
25 (relating to studies of data in records) or except if the
26 secretary, upon notice to the subjects of the report, gives
27 personal approval for an appropriate reason.

28 § 6342. Studies of data in records.

29 The department may conduct or authorize the conducting of
30 studies of the data contained in the pending complaint file and

1 the Statewide central register and county agencies and
2 distribute the results of the studies. No study may contain the
3 name or other information by which a subject of a report could
4 be identified. The department may allow Federal auditors access
5 to nonidentifiable duplicates of reports in the pending
6 complaint file and the Statewide central register if required
7 for Federal financial participation in funding of agencies.

8 § 6343. Investigating performance of child protective service.

9 (a) General rule.--If within 30 days from the date of an
10 initial report of suspected child abuse the appropriate child
11 protective service has not properly investigated the report and
12 informed the department that the report is an indicated report
13 or an unfounded report, or unless within that same 30-day period
14 the report is determined to be a founded report, the department
15 shall immediately begin an inquiry into the performance of the
16 child protective service which inquiry may include a performance
17 audit of the child protective service as provided in subsection
18 (b). On the basis of that inquiry, the department shall take
19 appropriate action to require that the provisions of this
20 chapter be strictly followed, which action may include, without
21 limitation, the institution of appropriate legal action and the
22 withholding of reimbursement for all or part of the activities
23 of the county children and youth social service agency.

24 (b) Performance audit.--Notwithstanding any other provision
25 of this chapter, the secretary or a designee of the secretary
26 may direct, at their discretion, a performance audit of any
27 activity engaged in pursuant to this chapter.

28 § 6344. Information relating to prospective child-care
29 personnel.

30 (a) Applicability.--This section applies to all prospective

1 employees of child-care services, prospective foster parents,
2 prospective adoptive parents, prospective self-employed family
3 day-care providers and other persons seeking to provide child-
4 care services under contract with a child-care facility or
5 program. This section does not apply to administrative or other
6 support personnel unless their duties will involve direct
7 contact with children.

8 (b) Information submitted by prospective employees.--
9 Administrators of child-care services shall require applicants
10 to submit with their applications the following information
11 obtained within the preceding one-year period:

12 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
13 history record information), a report of criminal history
14 record information from the Pennsylvania State Police or a
15 statement from the Pennsylvania State Police that the State
16 Police central repository contains no such information
17 relating to that person. The criminal history record
18 information shall be limited to that which is disseminated
19 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general
20 regulations).

21 (2) A certification from the department as to whether
22 the applicant is named in the central register as the
23 perpetrator of a founded or indicated report of child abuse.
24 An indicated report shall not be included until the
25 department adopts regulations specifying the manner in which
26 the investigation required by sections 6366 (relating to
27 continuous availability to receive reports) through 6372
28 (relating to protecting well-being of children detained
29 outside home) is to be conducted.

30 (3) Where the applicant is not a resident of this

1 Commonwealth, administrators shall require the applicant to
2 submit with the application for employment a report of
3 Federal criminal history record information pursuant to the
4 Federal Bureau of Investigation appropriation of the
5 Department of Justice Appropriation Act of 1973 (Public Law
6 92-544, 86 Stat. 1116), and the department shall be the
7 intermediary for the purposes of this section.

8 For the purposes of this subsection, an applicant may submit a
9 copy of the required information with an application for
10 employment. Administrators shall maintain a copy of the required
11 information and shall require applicants to produce the original
12 document prior to employment.

13 (c) Grounds for denying employment.--In no case shall an
14 administrator hire an applicant where the department has
15 verified that the applicant is named in the central register as
16 the perpetrator of a founded report of child abuse committed
17 within the five-year period immediately preceding verification
18 pursuant to this section. In no case shall an administrator hire
19 an applicant if the applicant's criminal history record
20 information indicates the applicant has been convicted, within
21 five years immediately preceding the date of the report, of one
22 or more of the following offenses under Title 18 (relating to
23 crimes and offenses):

24 Chapter 25 (relating to criminal homicide).

25 Section 2702 (relating to aggravated assault).

26 Section 2901 (relating to kidnapping).

27 Section 2902 (relating to unlawful restraint).

28 Section 3121 (relating to rape).

29 Section 3122 (relating to statutory rape).

30 Section 3123 (relating to involuntary deviate sexual

1 intercourse).

2 Section 3126 (relating to indecent assault).

3 Section 3127 (relating to indecent exposure).

4 Section 4303 (relating to concealing death of child born
5 out of wedlock).

6 Section 4304 (relating to endangering welfare of
7 children).

8 Section 4305 (relating to dealing in infant children).

9 A felony offense under section 5902(b) (relating to
10 prostitution and related offenses).

11 Section 5903(c) or (d) (relating to obscene and other
12 sexual materials).

13 Section 6301 (relating to corruption of minors).

14 Section 6312 (relating to sexual abuse of children).

15 (d) Prospective adoptive or foster parents.--With regard to
16 prospective adoptive or prospective foster parents, the
17 following shall apply:

18 (1) In the course of causing an investigation to be made
19 pursuant to section 2535(a) (relating to investigation), an
20 agency or person designated by the court to conduct the
21 investigation shall require prospective adoptive parents to
22 submit the information set forth in subsection (b)(1) and (2)
23 for review in accordance with this section.

24 (2) In the course of approving a prospective foster
25 parent, a foster family care agency shall require prospective
26 foster parents to submit the information set forth in
27 subsection (b)(1) and (2) for review by the foster family
28 care agency in accordance with this section.

29 (e) Self-employed family day-care providers.--Self-employed
30 family day-care providers who apply for a certificate of

1 registration with the department shall submit with their
2 registration application a report of criminal history record
3 information and shall also obtain certification from the
4 department as to whether the applicant is named in the central
5 register as the perpetrator of a founded report of child abuse.

6 (f) Submissions by operators of child-care services.--The
7 department shall require persons seeking to operate child-care
8 services to submit the information set forth in subsection
9 (b)(1) and (2) for review in accordance with this section.

10 (g) Regulations.--The department shall promulgate the
11 regulations necessary to carry out this section. These
12 regulations shall:

13 (1) Set forth criteria for unsuitability for employment
14 in a child-care service in relation to criminal history
15 record information which may include criminal history record
16 information in addition to that set forth above. The criteria
17 shall be reasonably related to the prevention of child abuse.

18 (2) Set forth sanctions for administrators who willfully
19 hire applicants in violation of this section or in violation
20 of the regulations promulgated under this section.

21 (3) Provide for the confidentiality of information
22 obtained pursuant to subsection (b).

23 (h) Fees.--The department may charge a fee not to exceed \$10
24 in order to conduct the certification as required in subsection
25 (b)(2).

26 (i) Time limit for certification.--The department shall
27 comply with certification requests no later than 14 days from
28 the receipt of the request.

29 (j) Voluntary certification of child caretakers.--The
30 department shall develop a procedure for the voluntary

1 certification of child caretakers to allow persons to apply to
2 the department for a certificate indicating the person has met
3 the requirements of subsection (b). The department shall also
4 provide for the biennial recertification of child caretakers.

5 (k) Existing or transferred employees.--A person employed in
6 child-care services on January 1, 1986, shall not be required to
7 obtain the information required in subsection (b)(1) and (2) as
8 a condition of continued employment. A person who has once
9 obtained the information required under subsection (b)(1) and
10 (2) may transfer to another child-care service established and
11 supervised by the same organization and shall not be required to
12 obtain additional reports before making the transfer.

13 (l) Temporary employees under special programs.--The
14 requirements of this section do not apply to employees of child-
15 care services who meet all the following requirements:

- 16 (1) They are under 21 years of age.
17 (2) They are employed for periods of 90 days or less.
18 (3) They are a part of a job development or job training
19 program funded, in whole or in part, by public or private
20 sources.

21 Once employment of a person who meets these conditions extends
22 beyond 90 days, all requirements of this section shall take
23 effect.

24 (m) Provisional employees for limited periods.--
25 Notwithstanding subsection (b), administrators may employ
26 applicants on a provisional basis for a single period not to
27 exceed 30 days or, for out-of-State applicants, a period of 90
28 days, if all of the following conditions are met:

- 29 (1) The applicant has applied for the information
30 required under subsection (b) and the applicant provides a

1 copy of the appropriate completed request forms to the
2 administrator.

3 (2) The administrator has no knowledge of information
4 pertaining to the applicant which would disqualify him from
5 employment pursuant to subsection (c).

6 (3) The applicant swears or affirms in writing that he
7 is not disqualified from employment pursuant to subsection
8 (c).

9 (4) If the information obtained pursuant to subsection
10 (b) reveals that the applicant is disqualified from
11 employment pursuant to subsection (c), the applicant shall be
12 immediately dismissed by the administrator.

13 (5) The administrator requires that the applicant not be
14 permitted to work alone with children and that the applicant
15 work in the immediate vicinity of a permanent employee.

16 § 6345. Audits by Attorney General.

17 The Attorney General shall conduct a mandated audit done
18 randomly but at least once during each year on an unannounced
19 basis to ensure that the expungement requirements of this
20 chapter are being fully and properly conducted.

21 § 6346. Cooperation of other agencies.

22 The secretary may request and shall receive from Commonwealth
23 agencies, political subdivisions, an authorized agency or any
24 other agency providing services under the local child protective
25 services plan any assistance and data that will enable the
26 department and the child protective services to fulfill their
27 responsibilities properly, including law enforcement personnel
28 when assistance is needed in conducting an investigation of
29 alleged child abuse. School districts shall cooperate with the
30 department and the agency by providing them upon request with

1 such information as is consistent with law.

2 § 6347. Annual reports to Governor and General Assembly.

3 No later than April 15 of every year, the secretary shall
4 prepare and transmit to the Governor and the General Assembly a
5 report on the operations of the central register of child abuse
6 and the various child protective services. The report shall
7 include a full statistical analysis of the reports of suspected
8 child abuse made to the department together with a report on the
9 implementation of this chapter and its total cost to the
10 Commonwealth, the evaluation of the secretary of services
11 offered under this chapter and recommendations for repeal or for
12 additional legislation to fulfill the purposes of this chapter.
13 All such recommendations should contain an estimate of increased
14 or decreased costs resulting therefrom. The report shall also
15 include an explanation of services provided to children who were
16 the subjects of founded or indicated reports of child abuse
17 while receiving child-care services. The department shall also
18 describe its actions in respect to the perpetrators of the
19 abuse.

20 § 6348. Regulations.

21 The department shall adopt regulations necessary to implement
22 this chapter.

23 § 6349. Penalties.

24 (a) Failure to amend or expunge information.--

25 (1) A person or official authorized to keep the records
26 mentioned in section 6337 (relating to disposition of
27 unfounded reports) or 6338 (relating to disposition of
28 founded and indicated reports) who willfully fails to expunge
29 the information when required commits a summary offense for
30 the first violation and a misdemeanor of the third degree for

1 a second or subsequent violation.

2 (2) A person who willfully fails to obey a final order
3 of the secretary or designated agent of the secretary to
4 amend or expunge the summary of the report in the Statewide
5 central register or the contents of any report filed pursuant
6 to section 6313 (relating to reporting procedure) commits a
7 summary offense.

8 (b) Unauthorized release of information.--A person who
9 willfully releases or permits the release of any data and
10 information contained in the pending complaint file, the
11 Statewide central register or the child welfare records required
12 by this chapter, including records maintained by any county
13 children and youth social service agency and any child
14 protective service, to persons or agencies not permitted by this
15 chapter commits a misdemeanor of the third degree.

16 (c) Noncompliance with child-care personnel regulations.--An
17 administrator, or other person responsible for employment
18 decisions in a child-care facility or program, who willfully
19 fails to comply with the provisions of section 6344 (relating to
20 information relating to prospective child-care personnel)
21 commits a violation of this chapter and shall be subject to a
22 civil penalty as provided in this subsection. The department
23 shall have jurisdiction to determine violations of section 6344
24 and may, following a hearing, assess a civil penalty not to
25 exceed \$2,500. The civil penalty shall be payable to the
26 Commonwealth.

27 SUBCHAPTER D

28 ORGANIZATION AND RESPONSIBILITIES OF

29 CHILD PROTECTIVE SERVICE

30 Sec.

- 1 6361. Organization of child protective service.
- 2 6362. Responsibilities of child protective service.
- 3 6363. Local plan for child protective services.
- 4 6364. Purchasing services of other agencies.
- 5 6365. Services for prevention and treatment of child abuse.
- 6 6366. Continuous availability to receive reports.
- 7 6367. Reports to department and coroner.
- 8 6368. Investigation of reports.
- 9 6369. Taking child into protective custody.
- 10 6370. Services for protection of child at home or in custody.
- 11 6371. Rehabilitative services for child and family.
- 12 6372. Protecting well-being of children detained outside home.

13 § 6361. Organization of child protective service.

14 (a) Establishment.--Unless the department finds it is
15 unfeasible, every county children and youth social service
16 agency shall establish a "Child Protective Service" within the
17 agency. The department may waive the requirement that a county
18 establish a separate child protective service upon a showing by
19 the county that:

20 (1) A separate child protective service:

21 (i) would not be conducive to the best interests of
22 all children within the county who need public child
23 welfare services; and

24 (ii) would not be feasible or economical.

25 (2) The goals and objectives of this chapter will
26 continue to be met if a waiver is granted.

27 If the department grants a waiver under this subsection, the
28 county shall be bound by all other provisions of this chapter,
29 including requirements concerning the maintenance and disclosure
30 of confidential information and records.

1 (b) Staff and organization.--The child protective service
2 shall have a sufficient staff of sufficient qualifications to
3 fulfill the purposes of this chapter and be organized in such a
4 way as to maximize the continuity of responsibility, care and
5 services of individual workers toward individual children and
6 families.

7 (c) Functions authorized.--The child protective service
8 shall perform those functions assigned by this chapter to it and
9 only such others that would further the purposes of this
10 chapter.

11 § 6362. Responsibilities of child protective service.

12 (a) General rule.--The child protective service shall be the
13 sole civil agency responsible for receiving and investigating
14 all reports of child abuse made pursuant to this chapter
15 specifically including, but not limited to, reports of child
16 abuse in facilities operated by the department and other public
17 agencies, for the purpose of providing protective services to
18 prevent further abuses to children and to provide or arrange for
19 and monitor the provision of those services necessary to
20 safeguard and ensure the well-being and development of the child
21 and to preserve and stabilize family life wherever appropriate.

22 (b) Assumption of responsibility by department.--When the
23 suspected abuse has been committed by the county children and
24 youth social service agency or any of its agents or employees,
25 the department shall assume the role of the agency with regard
26 to the investigation and directly refer the child for services.

27 (c) Action by agencies for abuse by agents or employees.--
28 Where suspected child abuse has occurred and an employee or
29 agent of the department or the county children and youth social
30 service agency or a private or public institution is a subject

1 of the report, the department, agency or institution shall be
2 informed of the investigation so that it may take appropriate
3 action.

4 § 6363. Local plan for child protective services.

5 (a) General rule.--No later than once each year as required
6 by the department each county agency child protective service
7 shall prepare and submit a local plan for the provision of child
8 protective services. The local plan may be a component of a
9 county human service plan or a children and youth plan which may
10 be required by the act of June 13, 1967 (P.L.31, No.21), known
11 as the Public Welfare Code.

12 (b) Certification by department.--The department shall
13 certify whether or not the local plan fulfills the purposes of
14 and meets the requirements set forth in this chapter. If the
15 department certifies that the local plan does not do so, the
16 department shall state the reasons therefor and may withhold
17 reimbursement for all or part of the activities of the agency.
18 If the department finds that a proposed local plan does not meet
19 the requirements set forth in this chapter, the child protective
20 service shall revise the local plan in accordance with the
21 reasons of the department for disapproval.

22 § 6364. Purchasing services of other agencies.

23 Any other provision of law notwithstanding but consistent
24 with sections 6361 (relating to organization of child protective
25 service) and 6362 (relating to responsibilities of child
26 protective service), the county children and youth social
27 service agency, based upon the local plan of services as
28 provided in section 6363 (relating to local plan for child
29 protective services), may purchase and utilize the services of
30 any appropriate public or private agency.

1 § 6365. Services for prevention and treatment of child abuse.

2 Each child protective service shall make available among its
3 services for the prevention and treatment of child abuse
4 multidisciplinary teams, instruction and education for
5 parenthood, protective and preventive social counseling,
6 emergency caretaker services, emergency shelter care, emergency
7 medical services and the establishment of groups organized by
8 former abusing parents to encourage self-reporting and self-
9 treatment of present abusers.

10 § 6366. Continuous availability to receive reports.

11 Each child protective service shall receive 24 hours a day,
12 seven days a week, all reports, both oral and written, of
13 suspected child abuse in accordance with this chapter, the local
14 plan for the provision of child protective services and the
15 regulations of the department.

16 § 6367. Reports to department and coroner.

17 (a) Reports to department.--Upon the receipt of each report
18 of suspected child abuse made pursuant to this chapter, the
19 child protective service shall immediately transmit a child
20 abuse report summary as provided in section 6313 (relating to
21 reporting procedure) to the department. Supplemental reports
22 shall be made at regular intervals thereafter in a manner and
23 form the department prescribes by regulation to the end that the
24 department is kept fully informed and up-to-date concerning the
25 status of reports of child abuse.

26 (b) Reports to coroner.--The child protective service shall
27 give telephone notice and forward immediately a copy of reports
28 made pursuant to this chapter which involve the death of a child
29 to the appropriate coroner pursuant to section 6317 (relating to
30 reporting and postmortem investigation of deaths).

1 § 6368. Investigation of reports.

2 (a) General rule.--Upon receipt of each report of suspected
3 child abuse, the child protective service shall commence within
4 24 hours an appropriate investigation which shall include a
5 determination of the risk to the child or children if they
6 continue to remain in the existing home environment as well as a
7 determination of the nature, extent and cause of any condition
8 enumerated in the report and, after seeing to the safety of the
9 child or children, immediately notify the subjects of the report
10 in writing of the existence of the report and their rights
11 pursuant to this chapter in regard to amendment or expungement.

12 (b) Conditions outside home environment.--The investigation
13 shall determine whether the child is being harmed by factors
14 beyond the control of the parent or other person responsible for
15 the welfare of the child, and, if so determined, the child
16 protective service shall promptly take all available steps to
17 remedy and correct these conditions including but not limited to
18 the coordination of social services for the child and the
19 family.

20 (c) Limitation of actions.--The investigation shall be
21 completed within 30 days. The child protective service shall
22 determine, within 30 days, whether the report is "founded,"
23 "indicated" or "unfounded."

24 § 6369. Taking child into protective custody.

25 Pursuant to the provisions of section 6315 (relating to
26 taking child into protective custody) and after court order, the
27 child protective service shall take a child into protective
28 custody for protection from further abuse. No child protective
29 service worker may enter the home of any individual for this
30 purpose without judicial authorization.

1 § 6370. Services for protection of child at home or in custody.

2 (a) General rule.--Based on the investigation and evaluation
3 conducted pursuant to this chapter, the child protective service
4 shall provide or contract with private or public agencies for
5 the protection of the child at home whenever possible and those
6 services necessary for adequate care of the child when placed in
7 protective custody. Prior to offering these services to a
8 family, the agency shall explain that it has no legal authority
9 to compel the family to receive the services but may inform the
10 family of the obligations and authority of the child protective
11 service to initiate appropriate court proceedings.

12 (b) Initiation of court proceedings.--In those cases in
13 which an appropriate offer of service is refused and the child
14 protective service determines, or if the service for any other
15 appropriate reason determines, that the best interests of the
16 child require court action, the child protective service shall
17 initiate the appropriate court proceeding. The child protective
18 service shall assist the court during all stages of the court
19 proceeding in accordance with the purposes of this chapter.

20 § 6371. Rehabilitative services for child and family.

21 The child protective service shall provide or arrange for and
22 monitor rehabilitative services for children and their families
23 on a voluntary basis or under a final or intermediate order of
24 the court.

25 § 6372. Protecting well-being of children detained outside
26 home.

27 The child protective service shall be as equally vigilant of
28 the status, well-being and conditions under which a child is
29 living and being maintained in a facility other than that of a
30 parent, custodian or guardian from which the child has been

1 removed as the service is of the conditions in the dwelling of
2 the parent, custodian or guardian. Where the child protective
3 service finds that the placement for any temporary or permanent
4 custody, care or treatment is for any reason inappropriate or
5 harmful to the physical or mental well-being of the child, it
6 shall take immediate steps to remedy these conditions including
7 petitioning the court.

8 SUBCHAPTER E

9 MISCELLANEOUS PROVISIONS

10 Sec.

11 6381. Evidence in court proceedings.

12 6382. Guardian ad litem for child in court proceedings.

13 6383. Education and training.

14 6384. Legislative oversight.

15 § 6381. Evidence in court proceedings.

16 (a) General rule.--In addition to the rules of evidence
17 provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters),
18 the rules of evidence in this section shall govern in child
19 abuse proceedings in court.

20 (b) Reports of unavailable persons.--Whenever a person
21 required to report under this chapter is unavailable due to
22 death or removal from the jurisdiction of the court, the written
23 report of that person shall be admissible in evidence in any
24 proceedings arising out of child abuse other than proceedings
25 under Title 18 (relating to crimes and offenses). Any hearsay
26 contained in the reports shall be given such weight, if any, as
27 the court determines to be appropriate under all of the
28 circumstances. However, any hearsay contained in a written
29 report shall not of itself be sufficient to support an
30 adjudication based on abuse.

1 (c) Privileged communications.--Except for privileged
2 communications between a lawyer and a client and between a
3 minister and a penitent, a privilege of confidential
4 communication between husband and wife or between any
5 professional person, including, but not limited to, physicians,
6 psychologists, counselors, employees of hospitals, clinics, day-
7 care centers and schools and their patients or clients, shall
8 not constitute grounds for excluding evidence at any proceeding
9 regarding child abuse or the cause of child abuse.

10 (d) Prima facie evidence of abuse.--Evidence that a child
11 has suffered serious physical injury, sexual abuse or serious
12 physical neglect of such a nature as would ordinarily not be
13 sustained or exist except by reason of the acts or omissions of
14 the parent or other person responsible for the welfare of the
15 child shall be prima facie evidence of child abuse by the parent
16 or other person responsible for the welfare of the child.

17 § 6382. Guardian ad litem for child in court proceedings.

18 (a) Appointment.--When a proceeding has been initiated
19 alleging child abuse, the court shall appoint a guardian ad
20 litem for the child. The guardian ad litem shall be an attorney
21 at law.

22 (b) Powers and duties.--The guardian ad litem shall be given
23 access to all reports relevant to the case and to any reports of
24 examination of the parents or other custodian of the child
25 pursuant to this chapter. The guardian ad litem shall be charged
26 with the representation of the best interests of the child at
27 every stage of the proceeding and shall make such further
28 investigation necessary to ascertain the facts, interview
29 witnesses, examine and cross-examine witnesses, make
30 recommendations to the court and participate further in the

1 proceedings to the degree appropriate for adequately
2 representing the child.

3 (c) Duty of court.--The court shall, upon consideration of
4 the petition of any attorney for the child, order a local child
5 protective service or other agency to establish and implement,
6 fully and promptly, appropriate services, treatment and plans
7 for a child found in need of them. The court shall also, upon
8 consideration of the petition of an attorney for the child,
9 terminate or alter the conditions of any temporary or permanent
10 placement of a child.

11 § 6383. Education and training.

12 The department and each child protective service, both
13 jointly and individually, shall conduct a continuing publicity
14 and education program for the citizens of this Commonwealth
15 aimed at the prevention of child abuse, the identification of
16 abused children and the provision of necessary ameliorative
17 services to abused children and their families. In addition, the
18 department and each child protective service shall conduct an
19 ongoing training and education program for local staff, persons
20 required to make reports and other appropriate persons in order
21 to familiarize those persons with the reporting and
22 investigative procedures for cases of suspected child abuse and
23 the rehabilitative services that are available to children and
24 families.

25 § 6384. Legislative oversight.

26 A committee of the Senate designated by the President pro
27 tempore of the Senate and a committee of the House of
28 Representatives designated by the Speaker of the House of
29 Representatives, either jointly or separately, shall review the
30 manner in which this chapter has been administered at the State

1 and local level for the following purposes:

2 (1) Providing information that will aid the General
3 Assembly in its oversight responsibilities.

4 (2) Enabling the General Assembly to determine whether
5 the programs and services mandated by this chapter are
6 effectively meeting the goals of this chapter.

7 (3) Assisting the General Assembly in measuring the
8 costs and benefits of this program and the effects and side-
9 effects of mandated program services.

10 (4) Permitting the General Assembly to determine whether
11 the confidentiality of records mandated by this chapter is
12 being maintained at the State and local level.

13 (5) Providing information that will permit State and
14 local program administrators to be held accountable for the
15 administration of the programs mandated by this chapter.

16 Section 3. Amendments to Title 18.--Section 2711(d) of Title
17 18 is amended to read:

18 § 2711. Probable cause arrests in domestic violence cases.

19 * * *

20 (d) Notice of rights.--

21 Upon responding to a domestic violence case, the police
22 officer shall, orally or in writing, notify the victim of the
23 availability of a shelter, including its telephone number, or
24 other services in the community. Said notice shall include
25 the following statement: "If you are the victim of domestic
26 violence, you have the right to go to court and file a
27 petition requesting an order for protection from domestic
28 abuse pursuant to [the act of October 7, 1976 (P.L.1090,
29 No.218), known as the Protection From Abuse Act,] 23 Pa.C.S.
30 Ch. 61 (relating to protection from abuse) which could

1 include the following:

2 (1) An order restraining the abuser from further
3 acts of abuse.

4 (2) An order directing the abuser to leave your
5 household.

6 (3) An order preventing the abuser from entering
7 your residence, school, business or place of employment.

8 (4) An order awarding you or the other parent
9 temporary custody of or temporary visitation with your
10 child or children.

11 (5) An order directing the abuser to pay support to
12 you and the minor children if the abuser has a legal
13 obligation to do so."

14 Section 4. Amendments to Title 42.--Sections 1725.1(c),
15 4136, 5924, 5945, 7541(c) and 8127 of Title 42 are amended and
16 the title is amended by adding a section to read:

17 § 1725.1. Costs.

18 * * *

19 (c) Unclassified costs or charges.--The costs to be charged
20 by the minor judiciary in the following instances not readily
21 classifiable shall be as follows:

22 (1) Entering transcript of judgment from another member
23 of the minor judiciary..... \$ 3.00

24 (2) Marrying each couple, making record thereof, and
25 certificate to the parties..... \$10.00

26 (3) Granting emergency relief pursuant to [the act of
27 October 7, 1976 (P.L.1090, No.218), known as the "Protection
28 From Abuse Act"] 23 Pa.C.S. Ch. 61 (relating to protection
29 from abuse)..... \$10.00

30 (4) Issuing a search warrant (except as provided in

1 subsection (d))..... \$10.00
2 (5) Any other issuance not otherwise provided for in
3 this subsection..... \$10.00

4 * * *

5 § 4136. Rights of persons charged with certain indirect
6 criminal contempts.

7 (a) General rule.--A person charged with indirect criminal
8 contempt for violation of a restraining order or injunction
9 issued by a court shall enjoy:

10 (1) The rights to bail that are accorded to persons
11 accused of crime.

12 (2) The right to be notified of the accusation and a
13 reasonable time to make a defense, if the alleged contempt is
14 not committed in the immediate view or presence of the court.

15 (3) (i) Upon demand, the right to a speedy and public
16 trial by an impartial jury of the judicial district
17 wherein the contempt is alleged to have been committed.

18 (ii) The requirement of subparagraph (i) shall not
19 be construed to apply to contempts:

20 (A) [~~committed~~] Committed in the presence of the
21 court or so near thereto as to interfere directly
22 with the administration of justice, or to apply to
23 the misbehavior, misconduct, or disobedience of any
24 officer of the court in respect to the writs, orders,
25 or process of the court[; or].

26 (B) Subject to 23 Pa.C.S. § 6110 (relating to
27 contempt for violation of order or agreement).

28 [(B) subject] (C) Subject to 75 Pa.C.S. §
29 4108(c) (relating to nonjury criminal contempt
30 proceedings).

1 (4) The right to file with the court a demand for the
2 withdrawal of the judge sitting in the proceeding, if the
3 alleged contempt arises from an attack upon the character or
4 conduct of such judge, and if the attack occurred otherwise
5 than in open court. Upon the filing of any such demand, the
6 judge shall thereupon proceed no further but another judge
7 shall be designated by the court. The demand shall be filed
8 prior to the hearing in the contempt proceeding.

9 (b) Punishment.--Except as otherwise provided in this title
10 or by statute hereafter enacted, punishment for a contempt
11 specified in subsection (a) may be by fine not exceeding \$100 or
12 by imprisonment not exceeding 15 days in the jail of the county
13 where the court is sitting, or both, in the discretion of the
14 court. Where a person is committed to jail for the nonpayment of
15 such a fine, he shall be discharged at the expiration of 15
16 days, but where he is also committed for a definite time, the 15
17 days shall be computed from the expiration of the definite time.
18 § 5924. Spouses as witnesses against each other.

19 (a) General rule.--In a civil matter neither husband nor
20 wife shall be competent or permitted to testify against each
21 other.

22 (b) Exception.--Subsection (a) shall not apply in an action
23 or proceeding:

24 (1) For divorce, including ancillary proceedings for the
25 partition or division of property.

26 (2) For support or relating to the protection or
27 recovery of marital or separate property.

28 (3) For custody or care of children, including actions
29 or proceedings relating to visitation rights and similar
30 matters.

1 (4) Arising under [the act of October 7, 1976 (P.L.1090,
2 No.218), known as the "Protection From Abuse Act."] 23
3 Pa.C.S. Ch. 61 (relating to protection from abuse).

4 (5) When a statute heretofore or hereafter enacted
5 applicable to the action or proceeding provides either
6 expressly or by necessary implication that spouses may
7 testify therein against each other.

8 § 5945. Confidential communications to school personnel.

9 (a) General rule.--No guidance counselor, school nurse,
10 school psychologist, or home and school visitor in the public
11 schools or in private or parochial schools or other educational
12 institutions providing elementary or secondary education,
13 including any clerical worker of such schools and institutions,
14 who, while in the course of his professional or clerical duties
15 for a guidance counselor, home and school visitor, school nurse
16 or school psychologist, has acquired information from a student
17 in confidence shall be compelled or allowed:

18 (1) without the consent of the student, if the student
19 is 18 years of age or over; or

20 (2) without the consent of his parent or guardian, if
21 the student is under the age of 18 years;

22 to disclose such information in any legal proceeding, trial, or
23 investigation before any government unit.

24 (b) Exemption.--Notwithstanding subsection (a), no such
25 person shall be excused or prevented from complying with [the
26 act of November 26, 1975 (P.L.438, No.124), known as the "Child
27 Protective Services Law."] 23 Pa.C.S. Ch. 63 (relating to child
28 protective services).

29 § 5948. Confidential communications to qualified professionals.

30 Communications of a confidential character made by a spouse

1 to a qualified professional as defined in 23 Pa.C.S. § 3103
2 (relating to definitions) shall be privileged and inadmissible
3 in evidence in any matter under 23 Pa.C.S. Pt. IV (relating to
4 divorce) or VI (relating to children and minors) unless the
5 party concerned waives this privilege.

6 § 7541. Construction of subchapter.

7 * * *

8 (c) Exceptions.--Relief shall not be available under this
9 subchapter with respect to any:

10 (1) Action wherein a divorce or annulment of marriage is
11 sought except as provided by 23 Pa.C.S. § 3306 (relating to
12 proceedings to determine marital status).

13 (2) Proceeding within the exclusive jurisdiction of a
14 tribunal other than a court.

15 (3) Proceeding involving an appeal from an order of a
16 tribunal.

17 § 8127. Personal earnings exempt from process.

18 The wages, salaries and commissions of individuals shall
19 while in the hands of the employer be exempt from any
20 attachment, execution or other process except upon an action or
21 proceeding:

22 (1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

23 [(1)] (2) For support.

24 [(2)] (3) For board for four weeks or less.

25 [(3)] (4) Under the act of August 7, 1963 (P.L.549,
26 No.290), referred to as the Pennsylvania Higher Education
27 Assistance Agency Act.

28 Section 5. Construction of Divorce Code.--The provisions of
29 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all
30 cases, whether the cause for divorce or annulment arose prior or

1 subsequent to the enactment of this act. The provisions of 23
2 Pa.C.S. Pt. IV shall not affect any suit or action pending on
3 the effective date of the Divorce Code of 1980, but the suit or
4 action may be proceeded with and concluded either under the laws
5 in existence when the suit or action was instituted,
6 notwithstanding the repeal of such laws, or, upon application
7 granted, under the provisions of 23 Pa.C.S. Pt. IV. The
8 provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in
9 which a decree has been rendered prior to the effective date of
10 the Divorce Code of 1980. The provisions of 23 Pa.C.S. Pt. IV
11 shall not affect any marital agreement executed prior to the
12 effective date of the Divorce Code of 1980 or any amendment or
13 modification thereto.

14 Section 6. Repeals.--(a) The following acts and parts of
15 acts are repealed:

16 Act of March 13, 1815 (P.L.150, No.109), entitled "An act
17 concerning divorces."

18 Act of April 11, 1848 (P.L.536, No.372), entitled "A
19 supplement to an act, entitled 'An Act relative to the Le
20 Raysville Phalanx,' passed March, Anno Domini one thousand eight
21 hundred and forty-seven, and relative to obligors and obligees,
22 to secure the right of married women, in relation to
23 defalcation, and to extend the boundaries of the borough of
24 Ligonier."

25 Act of April 15, 1851 (P.L.669, No.358), entitled "An act to
26 incorporate a company to erect a bridge over the river
27 Schuylkill at Spring Mill, in Montgomery county, relative to the
28 nineteenth section of 'An act regulating certain election
29 districts, &c,' approved March twenty-ninth, eighteen hundred
30 and fifty-one, to school directors in Philadelphia county, to

1 actions for damages sustained by injuries done to the person by
2 negligence or default, relative to the accounts of John Humes,
3 deceased, to authorize the trustees of the Seventh Presbyterian
4 church of Philadelphia to convey certain real estate, to
5 security for moneys loaned by wives to husbands, to unpaid
6 school taxes in Bradford county, and relative to service or
7 process on agents of joint stock companies."

8 Act of May 14, 1857 (P.L.507, No.567), entitled "An act to
9 Legitimate Children Born out of Lawful Wedlock."

10 Act of April 21, 1858 (P.L.413, No.444), entitled "An act
11 relating to Illegitimate Children."

12 Act of March 22, 1865 (P.L.30, No.14), entitled, as amended,
13 "An act to authorize minor husbands and wives, seventeen years
14 of age and older, to join in conveyances of their adult spouses'
15 real estate, and to validate such conveyances heretofore made."

16 Act of April 6, 1868 (P.L.67, No.31), entitled "An act to
17 validate certain marriages and legitimize the issue thereof."

18 Act of June 2, 1871 (P.L.283, No.263), entitled "An act to
19 authorize married women owning capital stock of any railroad
20 company to sell and transfer the same."

21 Act of April 3, 1872 (P.L.35, No.24), entitled "An act
22 securing to married women their separate earnings."

23 Act of April 1, 1874 (P.L.49, No.9), entitled "An act to
24 authorize married women owning loans of this commonwealth, or of
25 the city of Philadelphia, or capital stock of any corporation of
26 this commonwealth, to sell and transfer the same."

27 Act of May 15, 1874 (P.L.179, No.110), entitled "An act to
28 prevent traffic in children."

29 Act of June 26, 1895 (P.L.316, No.232), entitled "An act
30 relating to husband and wife who are the parents of minor

1 children, enlarging and extending the power, control and
2 authority of the mother over their minor children, under certain
3 circumstances."

4 Act of June 11, 1913 (P.L.468, No.313), entitled "An act to
5 provide for the execution of orders of the court of quarter
6 sessions, or other court of competent jurisdiction, for support
7 and maintenance of a wife or children, or both, and for the
8 execution of judgment entered upon contracts for such support
9 and maintenance, by subjecting estates owned by the husband and
10 wife by entireties, and the rents, issues and profits thereof,
11 to such executions; defining the title of the purchaser at the
12 sheriff's sale on such executions; and providing for the
13 application of the proceeds of such sales."

14 Act of April 18, 1919 (P.L.67, No.52), entitled "An act to
15 give to women, married and single, the same right as men to be
16 incorporators, and, in furtherance of their interests as
17 stockholders, to serve as directors and officers of corporations
18 for profit."

19 Act of May 24, 1923 (P.L.446, No.238), entitled "An act
20 authorizing the sale of real estate held by entireties by
21 husband and wife when an order of support has been secured
22 against the husband who has neglected to comply with the same,
23 or whose whereabouts is unknown, or who has absented himself
24 from this Commonwealth; prescribing the procedure to be
25 followed; permitting husband and wife to testify; providing for
26 the disposition of the proceeds of such sale; and granting a
27 divorced woman the same rights under this act as a wife.

28 Act of April 11, 1927 (P.L.181, No.151), entitled "An act
29 authorizing a married woman, granted a divorce from bed and
30 board, to convey and encumber her real estate, without the

1 joinder of her husband."

2 Act of May 10, 1927 (P.L.884, No.451), entitled, as amended,
3 "An act modifying the common-law rule relating to property
4 hereafter acquired by husband and wife as tenants by entireties,
5 where such husband and wife are subsequently divorced; creating
6 a tenancy in common in such cases; providing for the sale of
7 property held by husband and wife as tenants by entireties where
8 they have been divorced; and directing the distribution of the
9 proceeds of such sale."

10 Act of June 22, 1935 (P.L.450, No.189), entitled "An act to
11 promote public morals; abolishing civil causes of action for
12 alienation of affections, except in certain cases, and breach of
13 promise to marry; making it unlawful to file, cause to be filed,
14 threaten to file, or threaten to cause to be filed any such
15 action; fixing a time for the commencement of such causes of
16 action heretofore accrued; declaring void all future contracts
17 in settlement of such actions; making it unlawful to induce the
18 execution of such a contract or payment thereunder or
19 institution of suit thereon; and providing penalties."

20 Act of May 13, 1949 (P.L.1319, No.390), entitled "An act
21 authorizing the conveyance of the interest of either former
22 spouse after a divorce to the other without the joinder of the
23 other, of such former spouse's interest in real estate which is
24 held by them as tenants by the entireties, and validating such
25 conveyances formerly made."

26 Act of August 22, 1953 (P.L.1344, No.383), known as The
27 Marriage Law.

28 Act of December 17, 1959 (P.L.1916, No.695), entitled "An act
29 relating to the legitimacy of children born of void or voidable
30 marriages."

1 Act of August 7, 1961 (P.L.961, No.426), entitled "An act
2 authorizing minor spouses to join their adult spouse in the
3 conveyance or mortgaging of their real estate and to execute
4 bonds or other obligations in connection therewith and
5 validating such action taken."

6 Act of July 27, 1967 (P.L.186, No.58), entitled "An act
7 imposing liability upon parents for personal injury, or theft,
8 destruction, or loss of property caused by the wilful, tortious
9 acts of children under eighteen years of age, setting forth
10 limitations, and providing procedure for recovery."

11 Act of June 16, 1972 (P.L.472, No.151), entitled "An act
12 authorizing persons eighteen years of age and older to enter
13 into contracts."

14 Act of December 6, 1972 (P.L.1404, No.300), entitled "An act
15 making a person eighteen and older an adult for the purpose of
16 suing and being sued."

17 Act of November 26, 1975 (P.L.438, No.124), known as the
18 Child Protective Services Law.

19 Act of October 7, 1976 (P.L.1090, No.218), known as the
20 Protection From Abuse Act.

21 Act of April 2, 1980 (P.L.63, No.26), known as the Divorce
22 Code.

23 Act of May 24, 1984 (P.L.326, No.64), known as the
24 Pennsylvania Adoption Cooperative Exchange Act.

25 42 Pa.C.S. Ch. 53, Subch. C (relating to child custody
26 jurisdiction).

27 42 Pa.C.S. Ch. 61, Subch. C (relating to blood tests to
28 determine paternity).

29 (b) Nothing in this act shall repeal, modify or supplant
30 section 7 of the act of February 12, 1988 (P.L.66, No.13),

1 entitled "An act amending the act of April 2, 1980 (P.L.63,
2 No.26), entitled 'An act consolidating, revising and amending
3 the divorce and annulment laws of the Commonwealth and making
4 certain repeals,' further providing for grounds for divorce,
5 enforcement of foreign decrees, procedure, jurisdiction, marital
6 property, relief and alimony; providing for agreements between
7 parties; making editorial changes; and making a repeal."

8 (c) All other acts and parts of acts are repealed insofar as
9 they are inconsistent with this act.

10 Section 7. Effective date.--This act shall take effect in 90
11 days.