

## 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

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MARCH 12, 1990

## 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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22 The General Assembly of the Commonwealth of Pennsylvania  
23 hereby enacts as follows:

24 Section 1. Part IX of Title 23 of the Pennsylvania  
25 Consolidated Statutes is repealed.

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

28 TITLE 23

29 DOMESTIC RELATIONS

30 Part

- 1 I. General Provisions
- 2 II. Marriage
- 3 III. Adoption
- 4 IV. Divorce
- 5 V. Support, Property and Contracts
- 6 VI. Children and Minors
- 7 VII. Abuse of Family

8 PART I  
9 GENERAL PROVISIONS

10 Chapter

- 11 1. Preliminary Provisions

12 CHAPTER 1  
13 PRELIMINARY PROVISIONS

14 Sec.

15 101. Short title of title.

16 102. Definitions.

17 § 101. Short title of title.

18 This title shall be known and may be cited as the Domestic  
19 Relations Code.

20 § 102. Definitions.

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

27 "Clerk of court" or "clerk." The personnel of the office of  
28 the prothonotary or clerk of the division of the court having  
29 jurisdiction over the matter.

30 "Court." The court or district justice having jurisdiction

1 over the matter under Title 42 (relating to judiciary and  
2 judicial procedure) exercised as provided in Title 42 or as  
3 otherwise provided or prescribed by law.

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

11 PART II

12 MARRIAGE

13 Chapter

14 11. Preliminary Provisions

15 13. Marriage License

16 15. Marriage Ceremony

17 17. Miscellaneous Provisions Relating to Marriage

18 19. Abolition of Actions for Alienation of Affections and  
19 Breach of Promise to Marry

20 CHAPTER 11

21 PRELIMINARY PROVISIONS

22 Sec.

23 1101. Short title of part.

24 1102. Definitions.

25 1103. Common-law marriage.

26 1104. Forms.

27 1105. Fees.

28 1106. Records and statistics.

29 § 1101. Short title of part.

30 This part shall be known and may be cited as the Marriage

1 Law.

2 § 1102. Definitions.

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

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

7 "Marriage license" or "license." A license to marry issued  
8 under this part.

9 § 1103. Common-law marriage.

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

12 § 1104. Forms.

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

19 § 1105. Fees.

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

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

29 § 1106. Records and statistics.

30 (a) Filing transcript or record.--The county shall furnish

1 the department, not later than the 15th day of each month, with  
2 a transcript or record of each marriage license issued and each  
3 return of the celebration of a marriage received or filed during  
4 the preceding calendar month.

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

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

13 (d) Statistics.--The department shall from time to time  
14 compile and publish statistics derived from records furnished  
15 under this section.

## 16 CHAPTER 13

### 17 MARRIAGE LICENSE

18 Sec.

19 1301. Marriage license required.

20 1302. Application for license.

21 1303. Waiting period after application.

22 1304. Restrictions on issuance of license.

23 1305. Examination and tests for syphilis.

24 1306. Oral examination.

25 1307. Issuance of license.

26 1308. Judicial review of refusal to issue license.

27 1309. Filing applications and consent certificates.

28 1310. Duration and form of license.

29 § 1301. Marriage license required.

30 (a) General rule.--No person shall be joined in marriage in

1 this Commonwealth until a marriage license has been obtained.

2 (b) Place of marriage ceremony.--A license issued under this  
3 part shall authorize a marriage ceremony to be performed in any  
4 county of this Commonwealth.

5 (c) Identity of applicants.--Prior to issuance of the  
6 license, the person issuing the license must be satisfied as to  
7 the identity of both of the applicants.

8 § 1302. Application for license.

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

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

13 (1) The full name of the applicants.

14 (2) The race, occupation, birthplace, residence and age  
15 of the applicants.

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

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

20 (5) The full name, residence, race, occupation and  
21 birthplace of the parents of each applicant, including the  
22 maiden name of the mother of each applicant.

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

25 § 1303. Waiting period after application.

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

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

1 § 1304. Restrictions on issuance of license.

2 (a) Examinations and tests for syphilis.--No marriage  
3 license shall be issued until there has been compliance with  
4 section 1305 (relating to examination and tests for syphilis).

5 (b) Minors.--

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

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

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

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

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

4 A man may not marry his mother.

5 A man may not marry the sister of his father.

6 A man may not marry the sister of his mother.

7 A man may not marry his sister.

8 A man may not marry his daughter.

9 A man may not marry the daughter of his son or daughter.

10 A MAN MAY NOT MARRY HIS FIRST COUSIN. <—

11 A woman may not marry her father.

12 A woman may not marry the brother of her father.

13 A woman may not marry the brother of her mother.

14 A woman may not marry her brother.

15 A woman may not marry her son.

16 A woman may not marry the son of her son or daughter.

17 A WOMAN MAY NOT MARRY HER FIRST COUSIN. <—

18 § 1305. Examination and tests for syphilis.

19 (a) General rule.--No marriage license may be issued until  
20 there has been filed a statement or statements, signed by a  
21 licensed physician of this Commonwealth or of any other state or  
22 territory, a commissioned medical officer in the armed forces of  
23 the United States or a physician of the Public Health Service of  
24 the Federal Government, that each applicant within 30 days of  
25 the issuance of the marriage license has submitted to an  
26 examination to determine the existence or nonexistence of  
27 syphilis, which examination has included a standard serological  
28 test or tests for syphilis, and that, in the opinion of the  
29 examining physician, the applicant is not infected with syphilis  
30 or, if so infected, is not in a stage of that disease which is

1 likely to become communicable. The statement of the physician  
2 shall be accompanied by a statement from the person in charge of  
3 the laboratory making the test or from some other person  
4 authorized to make the statement setting forth the name of the  
5 test, the date the test was made, the exact name and address of  
6 the physician to whom a report was sent and the exact name and  
7 address of the person whose blood was tested and any other facts  
8 the department deems necessary to determine whether the  
9 applicant is infected with syphilis in a stage of that disease  
10 likely to become communicable. The statement from the laboratory  
11 shall not set forth the result of the test.

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

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

27 (d) Forms and confidentiality.--The statements of the  
28 physician who examined the applicant and the laboratory which  
29 made the serological test shall be uniform throughout this  
30 Commonwealth and shall be upon forms provided by the department.

1 These forms shall be filed separately from the applications for  
2 marriage licenses and shall be regarded as absolutely  
3 confidential by every person whose duty it may be to obtain,  
4 make, transmit or receive the information or report.

5 § 1306. Oral examination.

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

8 (1) The legality of the contemplated marriage.

9 (2) Any prior marriage or marriages and its or their  
10 dissolution.

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

13 (4) All the information required to be furnished on the  
14 application for license as prepared and approved by the  
15 department.

16 § 1307. Issuance of license.

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

24 § 1308. Judicial review of refusal to issue license.

25 (a) Certifying proceedings to court.--If the issuance of a  
26 marriage license is refused, upon request of the applicants, the  
27 proceedings shall immediately be certified to the court without  
28 formality or expense to the applicants.

29 (b) Prompt hearing.--The application for a marriage license  
30 shall be heard by a judge of the court, without a jury, in court

1 or in chambers at the earliest possible time.

2 § 1309. Filing applications and consent certificates.

3 The applications for marriage licenses and consent  
4 certificates shall be immediately filed and docketed as public  
5 records.

6 § 1310. Duration and form of license.

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

10 Commonwealth of Pennsylvania

11 ss: No. ....

12 County of (name)

13 To any person authorized by law to solemnize marriage:

14 You are hereby authorized to join together in holy state  
15 of matrimony, according to the laws of the Commonwealth of  
16 Pennsylvania, (name) and (name).

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

19 Signed .....

20 (Official Title)

21 CHAPTER 15

22 MARRIAGE CEREMONY

23 Sec.

24 1501. Form of marriage certificates.

25 1502. Forms where parties perform ceremony.

26 1503. Persons qualified to solemnize marriages.

27 1504. Returns of marriages.

28 § 1501. Form of marriage certificates.

29 The marriage license shall have appended to it two  
30 certificates, numbered to correspond with the license (one

1 marked original and one marked duplicate), which shall be in  
2 substantially the following form:

3 I hereby certify that on (date), at (city, borough or  
4 town), Pennsylvania, (name) and (name) were by me united in  
5 marriage, in accordance with license issued by the Court of  
6 Common Pleas of (name) numbered .....

7 Signed .....  
8 (Title of person solemnizing marriage)  
9 Address .....

10 § 1502. Forms where parties perform ceremony.

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

16 Commonwealth of Pennsylvania

17 ss: No. ....

18 County of (name)

19 To (name) and (name)

20 Legal evidence having been furnished to me, in accordance  
21 with law, this certifies that I am satisfied that there is no  
22 legal impediment to you joining yourselves together in  
23 marriage.

24 Signed .....  
25 (Official Title)

26 (b) Marriage certificates.--In lieu of the certificate set  
27 forth in section 1501 (relating to form of marriage  
28 certificates), there shall be appended to the declaration two  
29 certificates, numbered to correspond to the declaration, in the  
30 following form:



1 established church or congregation.

2 (b) Religious organizations.--Every religious society,  
3 religious institution or religious organization in this  
4 Commonwealth may join persons together in marriage when at least  
5 one of the persons is a member of the society, institution or  
6 organization, according to the rules and customs of the society,  
7 institution or organization.

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

12 § 1504. Returns of marriages.

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

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

27 CHAPTER 17

28 MISCELLANEOUS PROVISIONS RELATING TO MARRIAGE

29 Sec.

30 1701. Decree that spouse of applicant is presumed decedent.

1 1702. Marriage during existence of former marriage.

2 1703. Marriage within degree of consanguinity.

3 § 1701. Decree that spouse of applicant is presumed decedent.

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

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

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

24 (d) Notice to absentee.--The court may require advertisement  
25 in any newspapers as the court, according to the circumstances  
26 of the case, deems advisable of the fact of the application for  
27 the marriage license together with notice that at a specified  
28 time and place the court, OR A MASTER APPOINTED BY THE COURT, <—  
29 will hear evidence concerning the alleged absence, including the  
30 circumstances and duration thereof.

(e) Remarriage after decree of presumed death.--Even though the absentee spouse declared to be presumed dead is in fact alive, the remarriage of the spouse who has obtained a license to marry and a decree of presumed death of the former spouse shall be valid for all purposes as though the former marriage had been terminated by divorce, and all property of the presumed decedent shall be administered and disposed of as provided by Title 20 (relating to decedents, estates and fiduciaries).

§ 1702. Marriage during existence of former marriage.

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

(b) False rumor of death of spouse.--Where a remarriage has occurred upon false rumor of the death of a former spouse in appearance well-founded but there has been no decree of presumed death, the remarriage shall be void and subject to annulment by either party to the remarriage as provided by section 3304 (relating to grounds for annulment of void marriages), and the

1 returning spouse shall have cause for divorce as provided in  
2 section 3301 (relating to grounds for divorce).

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

6 § 1703. Marriage within degree of consanguinity.

7 All marriages within the prohibited degrees of consanguinity  
8 as set forth in this part are voidable, but, when any of these  
9 marriages have not been dissolved during the lifetime of the  
10 parties, the unlawfulness of the marriage shall not be inquired  
11 into after the death of either of the parties to the marriage.

## 12 CHAPTER 19

### 13 ABOLITION OF ACTIONS FOR ALIENATION OF AFFECTIONS

#### 14 AND BREACH OF PROMISE TO MARRY

15 Sec.

16 1901. Actions for alienation of affections abolished.

17 1902. Actions for breach of promise to marry abolished.

18 1903. Purpose of chapter.

19 1904. Filing or threatening to file actions prohibited.

20 1905. Instruments executed in satisfaction of abolished  
21 claims prohibited.

22 § 1901. Actions for alienation of affections abolished.

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

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

28 § 1902. Actions for breach of promise to marry abolished.

29 All causes of action for breach of contract to marry are  
30 abolished.

1 § 1903. Purpose of chapter.

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

5 (b) Contract to marry.--No contract to marry which is made  
6 within this Commonwealth shall give rise, either within or  
7 without this Commonwealth, to a cause of action for breach of  
8 the contract.

9 (c) Intention of section.--It is the intention of this  
10 section to fix the effect, status and character of such acts and  
11 contracts and to render them ineffective to support or give rise  
12 to any such causes of action, either within or without this  
13 Commonwealth.

14 § 1904. Filing or threatening to file actions prohibited.

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

21 § 1905. Instruments executed in satisfaction of abolished  
22 claims prohibited.

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

30 (b) Execution and use prohibited.--It is unlawful to cause,

1 induce or procure a person to execute a contract or instrument  
2 proscribed by this chapter, or cause, induce or procure a person  
3 to give, pay, transfer or deliver any money or thing of value in  
4 payment, satisfaction, settlement or compromise of any such  
5 claim or cause of action, or to receive, take or accept any such  
6 money or thing of value in such payment, satisfaction,  
7 settlement or compromise.

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

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

19 PART III

20 ADOPTION

21 Chapter

22 25. Proceedings Prior to Petition to Adopt

23 CHAPTER 25

24 PROCEEDINGS PRIOR TO PETITION TO ADOPT

25 \* \* \*

26 SUBCHAPTER E

27 PENNSYLVANIA ADOPTION COOPERATIVE EXCHANGE

28 Sec.

29 2551. Definitions.

30 2552. Pennsylvania Adoption Cooperative Exchange.

1 2553. Registration of children.  
2 2554. Responsibilities of PACE.  
3 2555. Responsibilities of public and private agencies.  
4 2556. Related activities of agencies unaffected.  
5 2557. Regulations and staff.  
6 2558. Retroactive application of subchapter.  
7 § 2551. Definitions.

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

11 "Department." The Department of Public Welfare of the  
12 Commonwealth.

13 "PACE." The Pennsylvania Adoption Cooperative Exchange.

14 § 2552. Pennsylvania Adoption Cooperative.

15 There shall be a Pennsylvania Adoption Cooperative Exchange  
16 in the Office of Children, Youth and Families of the Department  
17 of Public Welfare.

18 § 2553. Registration of children.

19 (a) Mandatory registration.--PACE shall register and be  
20 responsible for the review and referral of children for whom  
21 parental rights have been terminated for 90 days and for whom no  
22 report of intention to adopt has been filed in the court of  
23 common pleas.

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

1 until such time as parental rights are terminated.

2 (c) Children excluded from registration.--A child for whom  
3 termination of parental rights is being appealed in a court  
4 shall not be registered with PACE as available for adoption.  
5 Identifying information of such children shall be forwarded to  
6 PACE by the agency, with reference to the specific reason for  
7 which the child is not to be placed on the listing service.

8 § 2554. Responsibilities of PACE.

9 PACE shall be responsible for the following:

10 (1) Registration of adoptive parent applicants who have  
11 been approved by agencies.

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

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

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

19 (5) Preparation of annual reports concerning functions  
20 of PACE regarding the children and the prospective parents  
21 listed with PACE. The reports shall be submitted annually to  
22 the Health and Welfare and Judiciary Committees of the House  
23 of Representatives, to the Public Health and Welfare and  
24 Judiciary Committees of the Senate and to the Governor.

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

27 § 2555. Responsibilities of public and private agencies.

28 All public and licensed private child service agencies shall  
29 register all children with PACE for whom parental rights have  
30 been terminated for 90 days and for whom no report of intention

1 to adopt has been filed in the court of common pleas. A public  
2 or licensed private agency may register other children as set  
3 forth in section 2553(b) (relating to registration of children).

4 § 2556. Related activities of agencies unaffected.

5 This subchapter shall not be construed to limit or delay  
6 actions by agencies or institutions to arrange for adoptions or  
7 other related matters on their own initiative and shall not  
8 alter or restrict the duties, authority and confidentiality of  
9 the agencies and institutions in those matters.

10 § 2557. Regulations and staff.

11 The department shall promulgate necessary regulations and  
12 shall hire the staff which is necessary to implement this  
13 subchapter.

14 § 2558. Retroactive application of subchapter.

15 This subchapter shall apply retroactively to all children for  
16 whom:

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

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

24 PART IV

25 DIVORCE

26 Chapter

27 31. Preliminary Provisions

28 33. Dissolution of Marital Status

29 35. Property Rights

30 37. Alimony and Support

CHAPTER 31

PRELIMINARY PROVISIONS

Sec.

3101. Short title of part.

3102. Legislative findings and intent.

3103. Definitions.

3104. Bases of jurisdiction.

3105. Effect of agreement between parties.

§ 3101. Short title of part.

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

§ 3102. Legislative findings and intent.

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

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

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

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

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

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

(6) Effectuate economic justice between parties who are

1 divorced or separated and grant or withhold alimony according  
2 to the actual need and ability to pay of the parties and  
3 insure a fair and just determination and settlement of their  
4 property rights.

5 (b) Construction of part.--The objectives set forth in  
6 subsection (a) shall be considered in construing provisions of  
7 this part and shall be regarded as expressing the legislative  
8 intent.

9 § 3103. Definitions.

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

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

16 "Alimony pendente lite." An order for temporary support  
17 granted to a spouse during the pendency of a divorce or  
18 annulment proceeding.

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

20 "Grounds for divorce." The grounds enumerated in section  
21 3301 (relating to grounds for divorce).

22 "Irretrievable breakdown." Estrangement due to marital  
23 difficulties with no reasonable prospect of reconciliation.

24 "Qualified professionals." Includes marriage counselors,  
25 psychologists, psychiatrists, social workers, ministers,  
26 priests, rabbis or other persons who, by virtue of their  
27 training and experience, are able to provide counseling.

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

30 "Spousal support." Care, maintenance and financial

1 assistance.

2 § 3104. Bases of jurisdiction.

3 (a) Jurisdiction.--The courts shall have original  
4 jurisdiction in cases of divorce and for the annulment of void  
5 or voidable marriages and shall determine in conjunction with  
6 any decree granting a divorce or annulment the following  
7 matters, if raised in the pleadings, and issue appropriate  
8 decrees or orders with reference thereto, and may retain  
9 continuing jurisdiction thereof:

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

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

19 (3) Any support or assistance which shall be paid for  
20 the benefit of any children of the marriage or purported  
21 marriage.

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

25 (5) Any other matters pertaining to the marriage and  
26 divorce or annulment authorized by law and which fairly and  
27 expeditiously may be determined and disposed of in such  
28 action.

29 (b) Residence and domicile of parties.--No spouse is  
30 entitled to commence an action for divorce or annulment under

1 this part unless at least one of the parties has been a bona  
2 fide resident in this Commonwealth for at least six months  
3 immediately previous to the commencement of the action. Both  
4 parties shall be competent witnesses to prove their respective  
5 residence, and proof of actual residence within this  
6 Commonwealth for six months shall create a presumption of  
7 domicile within this Commonwealth.

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

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

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

24 (1) where the defendant resides;

25 (2) if the defendant resides outside of this  
26 Commonwealth, where the plaintiff resides;

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

29 (4) prior to six months after the date of final  
30 separation and with agreement of the defendant, where the

1 plaintiff resides or, if neither party continues to reside in  
2 the county of matrimonial domicile, where either party  
3 resides; or

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

6 § 3105. Effect of agreement between parties.

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

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

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

24 CHAPTER 33

25 DISSOLUTION OF MARITAL STATUS

26 Subchapter

27 A. General Provisions

28 B. Procedure

29 C. Attacks Upon Decrees

30 SUBCHAPTER A

GENERAL PROVISIONS

Sec.

3301. Grounds for divorce.

3302. Counseling.

3303. Annulment of void and voidable marriages.

3304. Grounds for annulment of void marriages.

3305. Grounds for annulment of voidable marriages.

3306. Proceedings to determine marital status.

3307. Defenses.

3308. Action where defendant suffering from mental disorder.

3309. General appearance and collusion.

§ 3301. Grounds for divorce.

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

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

(2) Committed adultery.

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

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

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

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

(b) Institutionalization.--The court may grant a divorce

1 from a spouse upon the ground that insanity or serious mental  
2 disorder has resulted in confinement in a mental institution for  
3 at least 18 months immediately before the commencement of an  
4 action under this part and where there is no reasonable prospect  
5 that the spouse will be discharged from inpatient care during  
6 the 18 months subsequent to the commencement of the action. A  
7 presumption that no prospect of discharge exists shall be  
8 established by a certificate of the superintendent of the  
9 institution to that effect and which includes a supporting  
10 statement of a treating physician.

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

16 (d) Irretrievable breakdown.--

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

23 (i) Does not deny the allegations set forth in the  
24 affidavit.

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

30 (2) If a hearing has been held pursuant to paragraph

(1)(ii) and the court determines that there is a reasonable prospect of reconciliation, then the court shall continue the matter for a period not less than 90 days nor more than 120 days unless the parties agree to a period in excess of 120 days. During this period, the court shall require counseling as provided in section 3302 (relating to counseling). If the parties have not reconciled at the expiration of the time period and one party states under oath that the marriage is irretrievably broken, the court shall determine whether the marriage is irretrievably broken. If the court determines that the marriage is irretrievably broken, the court shall grant the divorce. Otherwise, the court shall deny the divorce.

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

§ 3302. Counseling.

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

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

(c) Irretrievable breakdown.--Whenever the court orders a continuation period as provided for irretrievable breakdown in section 3301(d)(2), the court shall require up to a maximum of

1 three counseling sessions within the time period where either of  
2 the parties requests it or may require such counseling where the  
3 parties have at least one child under 16 years of age.

4 (d) Notification of availability of counseling.--Whenever  
5 section 3301(a)(6), (c) or (d) is the ground for divorce, the  
6 court shall, upon the commencement of an action under this part,  
7 notify both parties of the availability of counseling and, upon  
8 request, provide both parties a list of qualified professionals  
9 who provide such services.

10 (e) Choice of qualified professionals unrestricted.--The  
11 choice of a qualified professional shall be at the option of the  
12 parties and the professional need not be selected from the list  
13 provided by the court.

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

17 § 3303. Annulment of void and voidable marriages.

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

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

29 § 3304. Grounds for annulment of void marriages.

30 (a) General rule.--Where there has been no confirmation by

1 cohabitation following the removal of an impediment, the  
2 supposed or alleged marriage of a person shall be deemed void in  
3 the following cases:

4 (1) Where either party at the time of such marriage had  
5 an existing spouse and the former marriage had not been  
6 annulled nor had there been a divorce except where that party  
7 had obtained a decree of presumed death of the former spouse.

8 (2) Where the parties to such marriage are related  
9 within the degrees of consanguinity prohibited by section  
10 1304(e) (relating to restrictions on issuance of license).

11 (3) Where either party to such marriage was incapable of  
12 consenting by reason of insanity or serious mental disorder  
13 or otherwise lacked capacity to consent or did not intend to  
14 consent to the marriage.

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

17 (b) Procedures.--In all cases of marriages which are void,  
18 the marriage may be annulled as set forth in section 3303  
19 (relating to annulment of void and voidable marriages) or its  
20 invalidity may be declared in any collateral proceeding.

21 § 3305. Grounds for annulment of voidable marriages.

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

24 (1) Where either party to the marriage was under 16  
25 years of age unless the marriage was expressly authorized by  
26 the court.

27 (2) Where either party was 16 or 17 years of age and  
28 lacked the consent of parent or guardian or express  
29 authorization of the court and has not subsequently ratified  
30 the marriage upon reaching 18 years of age and an action for

annulment is commenced within 60 days after the marriage ceremony.

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

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

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

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

§ 3306. Proceedings to determine marital status.

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

1 concerned.

2 § 3307. Defenses.

3 (a) General rule.--Existing common-law defenses are retained  
4 as to the grounds enumerated in section 3301(a) and (b)  
5 (relating to grounds for divorce). The defenses of condonation,  
6 connivance, collusion, recrimination and provocation are  
7 abolished as to the grounds enumerated in section 3301(c) and  
8 (d).

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

13 (1) has been guilty of like conduct;

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

16 (3) allowed the defendant's prostitution or received  
17 hire from it; or

18 (4) exposed the defendant to lewd company whereby the  
19 defendant became involved in the adultery.

20 § 3308. Action where defendant suffering from mental disorder.

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

24 § 3309. General appearance and collusion.

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

1 arising by reason of contemplated divorce or annulment do not  
2 constitute collusion.

3 SUBCHAPTER B

4 PROCEDURE

5 Sec.

6 3321. Hearing by master.

7 3322. Jury trial.

8 3323. Decree of court.

9 § 3321. Hearing by master.

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

18 § 3322. Jury trial.

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

29 (b) Disposition of application.--Upon the return of the  
30 rule, after hearing, the court may discharge it, make it

1 absolute or frame issues itself. Only the issues ordered by the  
2 court shall be tried. The rule shall not be made absolute when,  
3 in the opinion of the court, a trial by jury cannot be had  
4 without prejudice to the public morals.

5 § 3323. Decree of court.

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

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

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

29 (d) Substitution for deceased party.--If one of the parties  
30 dies after the decree of divorce has been entered, but prior to

1 the final determination in such proceeding of the property  
2 rights and interests of the parties under this part, the  
3 personal representative of the deceased party shall be  
4 substituted as a party as provided by law and the action shall  
5 proceed.

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

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

## 19 SUBCHAPTER C

### 20 ATTACKS UPON DECREES

21 Sec.

22 3331. Limitations on attacks upon decrees.

23 3332. Opening or vacating decrees.

24 3333. Res judicata and estoppel.

25 § 3331. Limitations on attacks upon decrees.

26 The validity of a decree of divorce or annulment issued by a  
27 court shall not be questioned, except by appeal, in any court or  
28 place in this Commonwealth after the death of either party to  
29 the proceeding. If it is shown that a party who subsequently  
30 attempts to question the validity of the decree had full

1 knowledge of the facts and circumstances later complained of at  
2 the time of issuance of the decree or failed to take any action  
3 despite this knowledge within two years after the date of the  
4 decree, the party shall be barred from questioning the decree,  
5 and it shall be valid in all courts and places within this  
6 Commonwealth.

7 § 3332. Opening or vacating decrees.

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

23 § 3333. Res judicata and estoppel.

24 The validity of a divorce or annulment decree granted by a  
25 court having jurisdiction over the subject matter may not be  
26 questioned by a party who was subject to the personal  
27 jurisdiction of the court except by direct appeal provided or  
28 prescribed by law. A party who sought and obtained a decree,  
29 financed or agreed to its procurement, or accepted a property  
30 settlement, alimony pendente lite or alimony pursuant to the

1 terms of the decree, or who remarries after the decree, or is  
2 guilty of laches, is barred from making a collateral attack upon  
3 the validity of the decree unless by clear and convincing  
4 evidence it is established that fraud by the other party  
5 prevented the making of a timely appeal from the divorce or  
6 annulment decree.

## 7 CHAPTER 35

### 8 PROPERTY RIGHTS

9 Sec.

10 3501. Definitions.

11 3502. Equitable division of marital property.

12 3503. Effect of divorce on property rights generally.

13 3504. Disposition of property after termination of marriage.

14 3505. Disposition of property to defeat obligations.

15 3506. Statement of reasons for distribution.

16 3507. Division of entireties property between divorced persons.

17 3508. Conveyance of entireties property to divorced spouse.

18 § 3501. Definitions.

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

24 (1) Property acquired prior to marriage or property  
25 acquired in exchange for property acquired prior to the  
26 marriage.

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

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

1           (4) Property acquired after final separation until the  
2           date of divorce, except for property acquired in exchange for  
3           marital assets.

4           (5) Property which a party has sold, granted, conveyed  
5           or otherwise disposed of in good faith and for value prior to  
6           the date of final separation.

7           (6) Veterans' benefits exempt from attachment, levy or  
8           seizure pursuant to the act of September 2, 1958 (Public Law  
9           85-857, 72 Stat. 1229), as amended, except for those benefits  
10          received by a veteran where the veteran has waived a portion  
11          of his military retirement pay in order to receive veterans'  
12          compensation.

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

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

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

27          § 3502. Equitable division of marital property.

28          (a) General rule.--In an action for divorce or annulment,  
29          the court shall, upon request of either party, equitably divide,  
30          distribute or assign, in kind or otherwise, the marital property

1 between the parties without regard to marital misconduct in such  
2 proportions and in such manner as the court deems just after  
3 considering all relevant factors, including:

4 (1) The length of the marriage.

5 (2) Any prior marriage of either party.

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

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

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

13 (6) The sources of income of both parties, including,  
14 but not limited to, medical, retirement, insurance or other  
15 benefits.

16 (7) The contribution or dissipation of each party in the  
17 acquisition, preservation, depreciation or appreciation of  
18 the marital property, including the contribution of a party  
19 as homemaker.

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

21 (9) The standard of living of the parties established  
22 during the marriage.

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

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

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

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

4 (d) Life insurance.--The court may direct the continued  
5 maintenance and beneficiary designations of existing policies  
6 insuring the life or health of either party which were  
7 originally purchased during the marriage and owned by or within  
8 the effective control of either party. Where it is necessary to  
9 protect the interests of a party, the court may also direct the  
10 purchase of, and beneficiary designations on, a policy insuring  
11 the life or health of either party.

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

18 (1) enter judgment;

19 (2) authorize the taking and seizure of the goods and  
20 chattels and collection of the rents and profits of the real  
21 and personal, tangible and intangible property of the party;

22 (3) award interest on unpaid installments;

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

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

27 (6) issue attachment proceedings, directed to the  
28 sheriff or other proper officer of the county, directing that  
29 the person named as having failed to comply with the court  
30 order be brought before the court, at such time as the court

1 may direct. If the court finds, after hearing, that the  
2 person willfully failed to comply with the court order, it  
3 may deem the person in civil contempt of court and, in its  
4 discretion, make an appropriate order, including, but not  
5 limited to, commitment of the person to the county jail for a  
6 period not to exceed six months;

7 (7) award counsel fees and costs;

8 (8) attach wages; or

9 (9) find the party in contempt.

10 § 3503. Effect of divorce on property rights generally.

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

20 § 3504. Disposition of property after termination of marriage.

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

30 § 3505. Disposition of property to defeat obligations.

1       (a) Preliminary relief.--Where it appears to the court that  
2 a party is about to leave the jurisdiction of the court or is  
3 about to remove property of that party from the jurisdiction of  
4 the court or is about to dispose of, alienate or encumber  
5 property in order to defeat equitable distribution, alimony  
6 pendente lite, alimony, child and spousal support or a similar  
7 award, an injunction may issue to prevent the removal or  
8 disposition and the property may be attached as prescribed by  
9 general rules. The court may also issue a writ of ne exeat to  
10 preclude the removal.

11       (b) Inventory of property.--Both parties shall submit to the  
12 court an inventory and appraisement, which shall contain all of  
13 the following:

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

16               (i) the date of separation; and

17               (ii) thirty days prior to the date of hearing on  
18 equitable distribution.

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

21               (i) the date of acquisition;

22               (ii) the date of separation; and

23               (iii) thirty days prior to the date of hearing on  
24 equitable distribution.

25           (3) A list of the liabilities of either or both of them  
26 as of 30 days prior to the date of hearing on equitable  
27 distribution, whether or not the liabilities are related to  
28 the property set forth in the inventory and appraisement.

29       (c) Discovery.--Discovery under this part shall be as  
30 provided for all other civil actions under the Pennsylvania

1 Rules of Civil Procedure.

2 (d) Constructive trust for undisclosed assets.--If a party  
3 fails to disclose information required by subsection (b) and in  
4 consequence thereof an asset or assets with a fair market value  
5 of \$500 or more is omitted from the final distribution of  
6 property, the party aggrieved by the nondisclosure may at any  
7 time petition the court granting the award to declare the  
8 creation of a constructive trust as to all undisclosed assets  
9 for the benefit of the parties and their minor or dependent  
10 children, if any. The party in whose name the assets are held  
11 shall be declared the constructive trustee, and the trust may  
12 include any terms and conditions the court may determine. The  
13 court shall grant the petition upon a finding of a failure to  
14 disclose the assets as required under subsection (b).

15 (e) Encumbrance or disposition to third parties.--An  
16 encumbrance or disposition of marital property to third persons  
17 who paid wholly inadequate consideration for the property may be  
18 deemed fraudulent and declared void.

19 § 3506. Statement of reasons for distribution.

20 In an order made under this chapter for the distribution of  
21 property the court shall set forth the reason for the  
22 distribution ordered.

23 § 3507. Division of entireties property between divorced  
24 persons.

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

1 divided between them.

2 (b) Division of proceeds.--Except as provided in subsection

3 (c), the proceeds of a sale under this section, after the

4 payment of the expenses of sale, shall be equally divided

5 between the parties.

6 (c) Liens.--The amount of any lien entered of record jointly

7 against both of the parties, together with any interest due on

8 the lien and docket costs, shall be deducted from the proceeds

9 of sale and the amount of the liens entered of record against

10 either of the parties, together with any interest due on the

11 liens and docket costs, shall be deducted from the share of the

12 party against whom the lien is filed and paid to the person or

13 persons to whom the amount of the lien is due and payable.

14 (d) Record of divorce decree.--No decree of divorce shall be

15 effective to change the existing law relating to liens upon

16 property held by tenants by the entirety except a decree of

17 divorce that is valid in this Commonwealth and not until the

18 decree of divorce or a certified copy of the decree is recorded

19 in the office of the recorder of deeds of the county where the

20 property is situate. The decree shall be indexed in the

21 grantor's index against each of the tenants by the entirety.

22 § 3508. Conveyance of entirety property to divorced spouse.

23 Whenever married persons have acquired real estate as tenants

24 by entirety and thereafter are divorced, either former spouse,

25 except as otherwise provided by an order made under this

26 chapter, may convey to the other without the joinder of the

27 other the grantor's interest in the real estate so that the

28 grantee holds the real estate in fee simple, freed from all

29 right, title and interest which the grantor had in the real

30 estate as a tenant by the entirety.

1 CHAPTER 37

2 ALIMONY AND SUPPORT

3 Sec.

4 3701. Alimony.

5 3702. Alimony pendente lite, counsel fees and expenses.

6 3703. Enforcement of arrearages.

7 3704. Payment of support, alimony and alimony pendente lite.

8 3705. Enforcement of foreign decrees.

9 3706. Bar to alimony.

10 3707. Effect of death of either party.

11 § 3701. Alimony.

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

15 (b) Factors relevant.--In determining whether alimony is  
16 necessary and in determining the nature, amount, duration and  
17 manner of payment of alimony, the court shall consider all  
18 relevant factors, including:

19 (1) The relative earnings and earning capacities of the  
20 parties.

21 (2) The ages and the physical, mental and emotional  
22 conditions of the parties.

23 (3) The sources of income of both parties, including,  
24 but not limited to, medical, retirement, insurance or other  
25 benefits.

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

27 (5) The duration of the marriage.

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

30 (7) The extent to which the earning power, expenses or

1 financial obligations of a party will be affected by reason  
2 of serving as the custodian of a minor child.

3 (8) The standard of living of the parties established  
4 during the marriage.

5 (9) The relative education of the parties and the time  
6 necessary to acquire sufficient education or training to  
7 enable the party seeking alimony to find appropriate  
8 employment.

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

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

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

13 (13) The relative needs of the parties.

14 (14) The marital misconduct of either of the parties  
15 during the marriage. The marital misconduct of either of the  
16 parties from the date of final separation shall not be  
17 considered by the court in its determinations relative to  
18 alimony.

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

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

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

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

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

(e) Modification and termination.--An order entered pursuant to this section is subject to further order of the court upon changed circumstances of either party of a substantial and continuing nature whereupon the order may be modified, suspended, terminated or reinstituted or a new order made. Any further order shall apply only to payments accruing subsequent to the petition for the requested relief. Remarriage of the party receiving alimony shall terminate the award of alimony.

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

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

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

§ 3703. Enforcement of arrearages.

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

1           (1) Enter judgment.

2           (2) Authorize the taking and seizure of the goods and  
3 chattels and the collection of the rents and profits of the  
4 real estate of the party.

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

6           (4) Award interest on unpaid installments.

7           (5) Require security to insure future payments.

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

18          (7) Award counsel fees and costs.

19 § 3704. Payment of support, alimony and alimony pendente lite.  
20 When so ordered by the court, all payments of child and  
21 spousal support, alimony or alimony pendente lite shall be made  
22 to the domestic relations section of the court which issued the  
23 order or the domestic relations section of the court at the  
24 residence of the party entitled to receive the award. The  
25 domestic relations section shall keep an accurate record of all  
26 payments and shall notify the court immediately whenever a  
27 person subject to a payment order is 30 days in arrears of  
28 payment so that appropriate action may be taken to enforce the  
29 order of the court. The domestic relations section shall  
30 distribute the payments to the person entitled to them as soon

1 as possible after receipt.

2 § 3705. Enforcement of foreign decrees.

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

28 (b) Optional procedure.--The right of a judgment creditor to  
29 proceed under 42 Pa.C.S. § 4306 (relating to enforcement of  
30 foreign judgments) or otherwise instead of proceeding under this

1 section remains unimpaired.

2 § 3706. Bar to alimony.

3 No petitioner is entitled to receive an award of alimony  
4 where the petitioner, subsequent to the divorce pursuant to  
5 which alimony is being sought, has entered into cohabitation  
6 with a person of the opposite sex who is not a member of the  
7 family of the petitioner within the degrees of consanguinity.

8 § 3707. Effect of death of either party.

9 Upon the death of the payee party, the right to receive  
10 alimony pursuant to this chapter shall cease. Upon the death of  
11 the payor party, the obligation to pay alimony shall cease  
12 unless otherwise indicated in an agreement between the parties  
13 or an order of court.

14 PART V

15 SUPPORT, PROPERTY AND CONTRACTS

16 Chapter

17 41. General Provisions

18 CHAPTER 41

19 GENERAL PROVISIONS

20 Sec.

21 4101. Liability for debts contracted before marriage.

22 ~~4102. Liability for purchases by married person.~~ <—

23 ~~4103. Liability on judgment against married person.~~

24 4102. PROCEEDINGS IN CASE OF DEBTS CONTRACTED FOR <—

25 NECESSARIES.

26 4103. (RESERVED)

27 4104. Right of married person to separate earnings.

28 4105. Loans between married persons.

29 4106. Construction of chapter.

30 § 4101. Liability for debts contracted before marriage.

1 (a) General rule.--A spouse is not liable for the debts of  
2 the other spouse contracted before marriage.,~~unless voluntarily~~ <—  
3 ~~assumed in writing.~~

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

8 ~~§ 4102. Liability for purchases by married person.~~ <—

9 ~~(a) General rule. Except as provided in subsection (b),~~  
10 ~~married persons are not liable jointly for purchases by one of~~  
11 ~~them unless they voluntarily assume joint debts.~~

12 ~~(b) Necessaries. Married persons are jointly and severally~~  
13 ~~liable for debts contracted by one of them for necessities for~~  
14 ~~themselves or their children, except in cases where a child or~~  
15 ~~spousal support order has been entered or a written agreement~~  
16 ~~has been executed.~~

17 ~~§ 4103. Liability on judgment against married person.~~

18 ~~A judgment against a married person individually before or~~  
19 ~~during marriage does not bind or constitute a lien upon the real~~  
20 ~~property of the other spouse.~~

21 ~~§ 4104. Right of married person to separate earnings.~~

22 ~~A married person has the right to the separate benefit and~~  
23 ~~use of the separate earnings of that person except with respect~~  
24 ~~to legal support obligations due to other persons.~~

25 § 4102. PROCEEDINGS IN CASE OF DEBTS CONTRACTED FOR <—

26 NECESSARIES.

27 IN ALL CASES WHERE DEBTS ARE CONTRACTED FOR NECESSARIES BY  
28 EITHER SPOUSE FOR THE SUPPORT AND MAINTENANCE OF THE FAMILY, IT  
29 SHALL BE LAWFUL FOR THE CREDITOR IN THIS CASE TO INSTITUTE SUIT  
30 AGAINST THE HUSBAND AND WIFE FOR THE PRICE OF SUCH NECESSARIES,

1 AND AFTER OBTAINING A JUDGMENT, HAVE AN EXECUTION AGAINST THE  
2 SPOUSE CONTRACTING THE DEBT ALONE; AND IF NO PROPERTY OF THAT  
3 SPOUSE IS FOUND, EXECUTION MAY BE LEVIED UPON AND SATISFIED OUT  
4 OF THE SEPARATE PROPERTY OF THE OTHER SPOUSE.

5 § 4103. (RESERVED)

6 § 4104. RIGHT OF MARRIED PERSON TO SEPARATE EARNINGS.

7 EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE SEPARATE  
8 EARNINGS OF ANY MARRIED PERSON OF THIS COMMONWEALTH, WHETHER  
9 THESE EARNINGS ARE WAGES FOR LABOR, SALARY, PROPERTY, BUSINESS  
10 OR OTHERWISE, SHALL ACCRUE TO AND ENURE TO THE SEPARATE BENEFIT  
11 AND USE OF THAT MARRIED PERSON INDEPENDENTLY OF THE OTHER  
12 SPOUSE, AND SO AS NOT TO BE SUBJECT TO ANY LEGAL CLAIM OF THE  
13 OTHER SPOUSE. HOWEVER, IN ANY ACTION IN WHICH THE OWNERSHIP OF  
14 SUCH PROPERTY IS IN DISPUTE, THE PERSON CLAIMING SUCH PROPERTY  
15 SHALL BE COMPELLED, IN THE FIRST INSTANCE, TO SHOW TITLE AND  
16 OWNERSHIP, IN THE PROPERTY.

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 ~~entireties which represents plaintiff's prior undivided one half~~  
9 ~~interest in the property.~~ OUT OF THE PROCEEDS OF THIS SALE TO <—  
10 SUCH SUMS OF MONEY AS REPRESENTS THE SHARE IN THE PROPERTY,  
11 BASED ON THE PROPORTIONATE PART OF THE ORIGINAL PURCHASE MONEY  
12 FURNISHED BY THE PLAINTIFF SPOUSE FOR THE PURCHASE OF THE  
13 PROPERTY.

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

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

22 § 4363. Trustee to distribute proceeds of sale.

23 (a) Appointment of trustee.--The court shall, at the time of  
24 the hearing or thereafter, appoint a trustee who shall receive  
25 from the sheriff the proceeds of the sale of the property after  
26 the costs have been paid.

27 (b) Disposition of proceeds.--The trustee shall, out of the  
28 proceeds, pay to the plaintiff spouse the sum of money the court  
29 decreed as plaintiff's share in the property sold and also the  
30 sums of money, and interest thereon from the time the respective

1 items making them up became due and payable, which are due and  
2 payable under the order of support. The trustee shall also pay  
3 to the plaintiff spouse any additional sums the plaintiff may be  
4 entitled to under any order of court for the support of  
5 plaintiff or the children of defendant.

6 ~~(c) Compensation of trustee. The trustee shall be~~ <—  
7 ~~compensated as determined by the court from the proceeds of the~~  
8 ~~sale.~~

9 § 4364. Credit to plaintiff who purchases property.

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

19 (b) Allowance or assignment of credit.--The credit shall be  
20 allowed the plaintiff by the sheriff or the plaintiff may assign  
21 the sums due the plaintiff to the purchaser of the property  
22 whereupon credit shall be given to the purchaser by the sheriff  
23 for the amount assigned.

24 § 4365. Rights of divorced person in entireties property sold  
25 for support.

26 (a) General rule.--After the divorce of any spouse who is a  
27 tenant by the entireties of real property with the former  
28 spouse, the divorced spouse is entitled to all the rights and  
29 remedies provided in this subchapter for the collection of any  
30 sums of money ordered by a court to be paid to the divorced

1 spouse for the support of the children of the former spouse as  
2 fully as if no divorce had occurred.

3 (b) Proceeds of sale.--Upon the sale of the real property  
4 for the collection of any sums of money due the divorced spouse  
5 under an order of court, the divorced spouse shall be entitled  
6 to receive therefrom such sum of money as represents the share  
7 of the divorced spouse in the property, as ordered by the court  
8 under section 4362 (relating to plaintiff's share of proceeds of  
9 sale), together with any sums which may be due to the divorced  
10 spouse under an order of support against the former spouse.  
11 § 4366. Other enforcement remedies preserved.

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

## 17 PART VI

### 18 CHILDREN AND MINORS

#### 19 Chapter

20 51. General Provisions

21 53. Custody

22 55. Liability for Tortious Acts of Children

#### 23 CHAPTER 51

#### 24 GENERAL PROVISIONS

25 Sec.

26 5101. Attainment of full age.

27 5102. Children declared to be legitimate.

28 5103. Acknowledgment and claim of paternity.

29 5104. Blood tests to determine paternity.

30 § 5101. Attainment of full age.

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

5 (b) Age for suing and being sued.--Except where otherwise  
6 provided or prescribed by law, an individual 18 years of age and  
7 older shall be deemed an adult and may sue and be sued as such.  
8 § 5102. Children declared to be legitimate.

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

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

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

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

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

28 § 5103. Acknowledgment and claim of paternity.

29 (a) Acknowledgment of paternity.--The father of a child born  
30 to an unmarried woman may file with the Department of Health on

1 forms prescribed by it an acknowledgment of paternity of the  
2 child which shall include the consent of the mother of the child  
3 supported by her affidavit. The department shall, upon receipt  
4 of the acknowledgment, proceed as provided in section 603(a) of  
5 the act of June 29, 1953 (P.L.304, No.66), known as the Vital  
6 Statistics Law of 1953, and the father shall have all the rights  
7 and duties as to the child which he would have had if he had  
8 been married to the mother at the time of the birth of the  
9 child, and the child shall have all the rights and duties as to  
10 the father which the child would have had if the father had been  
11 married to the mother at the time of birth. The acknowledgment  
12 may also provide for the assumption by the child of the surname  
13 of the father or other name desired by the parents.

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

22 § 5104. Blood tests to determine paternity.

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

26 (b) Scope of section.--

27 (1) Civil matters.--This section shall apply to all  
28 civil matters.

29 (2) Criminal proceedings.--This section shall apply to  
30 all criminal proceedings subject to the following limitations

1 and provisions:

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

4 (ii) The compensation of the experts shall be paid  
5 by the party requesting the blood test or by the county,  
6 as the court shall direct.

7 (iii) The court may direct a verdict of acquittal  
8 upon the conclusions of all the experts under subsection  
9 (f). Otherwise, the case shall be submitted for  
10 determination upon all the evidence.

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

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

24 (d) Selection of experts.--The tests shall be made by  
25 experts qualified as examiners of blood types, who shall be  
26 appointed by the court. The experts shall be called by the court  
27 as witnesses to testify to their findings and shall be subject  
28 to cross-examination by the parties. Any party or person at  
29 whose suggestion the tests have been ordered may demand that  
30 other experts qualified as examiners of blood types perform

1 independent tests under order of court, the results of which may  
2 be offered in evidence. The number and qualifications of experts  
3 shall be determined by the court.

4 (e) Compensation of experts.--The compensation of each  
5 expert witness appointed by the court shall be fixed at a  
6 reasonable amount. It shall be paid as the court shall order.  
7 Subject to general rules, the court may order that it be paid by  
8 the parties in such proportions and at such times as it shall  
9 prescribe or that the proportion of any party be paid by the  
10 county and that, after payment by the parties or the county, or  
11 both, all or part or none of it be taxed as costs in the action.  
12 Subject to general rules, the fee of an expert witness called by  
13 a party but not appointed by the court shall be paid by the  
14 party calling him, but shall not be taxed as costs in the  
15 action.

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

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

28 CHAPTER 53

29 CUSTODY

30 Subchapter

1 B. Child Custody Jurisdiction

2 SUBCHAPTER B

3 CHILD CUSTODY JURISDICTION

4 Sec.

5 5341. Short title of subchapter.

6 5342. Purposes and construction of subchapter.

7 5343. Definitions.

8 5344. Jurisdiction.

9 5345. Notice and opportunity to be heard.

10 5346. Notice to persons outside this Commonwealth; submission  
11 to jurisdiction.

12 5347. Simultaneous proceedings in other states.

13 5348. Inconvenient forum.

14 5349. Jurisdiction declined by reason of conduct.

15 5350. Information under oath to be submitted to the court.

16 5351. Additional parties.

17 5352. Appearance of parties and the child.

18 5353. Binding force and res judicata effect of custody decree.

19 5354. Recognition of out-of-State custody decrees.

20 5355. Modification of custody decree of another state.

21 5356. Filing and enforcement of custody decree of another  
22 state.

23 5357. Registry of out-of-State custody decrees and proceedings.

24 5358. Certified copies of custody decree.

25 5359. Taking testimony in another state.

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

27 5361. Assistance to courts of other states.

28 5362. Preservation of documents for use in other states.

29 5363. Request for court records of another state.

30 5364. Intrastate application.

1 5365. International application.

2 5366. Priority.

3 § 5341. Short title of subchapter.

4 This subchapter shall be known and may be cited as the  
5 Uniform Child Custody Jurisdiction Act.

6 § 5342. Purposes and construction of subchapter.

7 (a) Purposes.--The general purposes of this subchapter are  
8 to:

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

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

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

24 (4) Discourage continuing controversies over child  
25 custody in the interest of greater stability of home  
26 environment and of secure family relationships for the child.

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

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

1 (7) Facilitate the enforcement of custody decrees of  
2 other states.

3 (8) Promote and expand the exchange of information and  
4 other forms of mutual assistance between the courts of this  
5 Commonwealth and those of other states concerned with the  
6 same child.

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

9 § 5343. Definitions.

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

13 "Contestant." An institution or an individual, including a  
14 parent, who claims a right to custody or visitation rights with  
15 respect to a child.

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

20 "Custody proceeding." Includes proceedings in which a  
21 custody determination is one of several issues, such as an  
22 action for divorce or separation, and includes child neglect and  
23 dependency proceedings.

24 "Decree" or "custody decree." A custody determination  
25 contained in a judicial decree or order made in a custody  
26 proceeding, and includes an initial decree and a modification  
27 decree.

28 "Home state." The state in which the child immediately  
29 preceding the time involved lived with his parents, a parent or  
30 a person acting as parent, or in an institution, for at least

1 six consecutive months, and, in the case of a child less than  
2 six months old, the state in which the child lived from birth  
3 with any of the persons mentioned. Periods of temporary absence  
4 of any of the named persons are counted as part of the six-month  
5 or other period.

6 "Initial decree." The first custody decree concerning a  
7 particular child.

8 "Modification decree." A custody decree which modifies or  
9 replaces a prior decree, whether made by the court which  
10 rendered the prior decree or by another court.

11 "Person acting as parent." A person, including an  
12 institution other than a parent, who has physical custody of a  
13 child and who has either been awarded custody by a court or  
14 claims a right to custody.

15 "Physical custody." Actual possession and control of a  
16 child.

17 § 5344. Jurisdiction.

18 (a) General rule.--A court of this Commonwealth which is  
19 competent to decide child custody matters has jurisdiction to  
20 make a child custody determination by initial or modification  
21 decree if:

22 (1) this Commonwealth:

23 (i) is the home state of the child at the time of  
24 commencement of the proceeding; or

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

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

3           (i) the child and his parents, or the child and at  
4 least one contestant, have a significant connection with  
5 this Commonwealth; and

6           (ii) there is available in this Commonwealth  
7 substantial evidence concerning the present or future  
8 care, protection, training and personal relationships of  
9 the child;

10          (3) the child is physically present in this  
11 Commonwealth, and:

12           (i) the child has been abandoned; or

13           (ii) it is necessary in an emergency to protect the  
14 child because he has been subjected to or threatened with  
15 mistreatment or abuse or is otherwise neglected or  
16 dependent;

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

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

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

30          (b) Physical presence insufficient.--Except under subsection

1 (a)(3) and (4), physical presence in this Commonwealth of the  
2 child, or of the child and one of the contestants, is not alone  
3 sufficient to confer jurisdiction on a court of this  
4 Commonwealth to make a child custody determination.

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

8 § 5345. Notice and opportunity to be heard.

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

17 § 5346. Notice to persons outside this Commonwealth; submission  
18 to jurisdiction.

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

23 (1) by personal delivery outside this Commonwealth in  
24 the manner prescribed for service of process within this  
25 Commonwealth;

26 (2) in the manner prescribed by the law of the place in  
27 which the service is made for service of process in that  
28 place in an action in any of its courts of general  
29 jurisdiction;

30 (3) by any form of mail addressed to the person to be

1 served and requesting a receipt; or

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

4 (b) Duration.--Notice under this section shall be served,  
5 mailed or delivered or last published at least ten days before  
6 any hearing in this Commonwealth.

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

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

16 § 5347. Simultaneous proceedings in other states.

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

25 (b) Procedure.--Before hearing the petition in a custody  
26 proceeding, the court shall examine the pleadings and other  
27 information supplied by the parties under section 5350 (relating  
28 to information under oath to be submitted to the court) and  
29 shall consult the child custody registry established under  
30 section 5357 (relating to registry of out-of-State custody

1 decrees and proceedings) concerning the pendency of proceedings  
2 with respect to the child in other states. If the court has  
3 reason to believe that proceedings may be pending in another  
4 state, it shall direct an inquiry to the state court  
5 administrator or other appropriate official of the other state.

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

23 § 5348. Inconvenient forum.

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

30 (b) Moving party.--A finding of inconvenient forum may be

1 made upon the court's own motion or upon motion of a party or a  
2 guardian ad litem or other representative of the child.

3 (c) Factors to be considered.--In determining if it is an  
4 inconvenient forum, the court shall consider if it is in the  
5 interest of the child that another state assume jurisdiction.  
6 For this purpose it may take into account the following factors,  
7 among others:

8 (1) If another state is or recently was the home state  
9 of the child.

10 (2) If another state has a closer connection with the  
11 child and his family or with the child and one or more of the  
12 contestants.

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

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

18 (5) If the exercise of jurisdiction by a court of this  
19 Commonwealth would contravene any of the purposes stated in  
20 section 5342 (relating to purposes and construction of  
21 subchapter).

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

29 (e) Disposition.--If the court finds that it is an  
30 inconvenient forum and that a court of another state is a more

1 appropriate forum, it may dismiss the proceedings, or it may  
2 stay the proceedings upon condition that a custody proceeding be  
3 promptly commenced in another named state or upon any other  
4 conditions which may be just and proper, including the condition  
5 that a moving party stipulate his consent and submission to the  
6 jurisdiction of the other forum.

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

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

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

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

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

28 (i) Registry of out-of-State stay; notice of assumption of  
29 jurisdiction.--Any communication received from another state  
30 informing this Commonwealth of a finding of inconvenient forum

1 because a court of this Commonwealth is the more appropriate  
2 forum shall be filed in the custody registry of the appropriate  
3 court. Upon assuming jurisdiction, the court of this  
4 Commonwealth shall inform the original court of this fact.

5 § 5349. Jurisdiction declined by reason of conduct.

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

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

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

30 § 5350. Information under oath to be submitted to the court.

1 (a) General rule.--Every party in a custody proceeding in  
2 his first pleading or in an affidavit attached to that pleading  
3 shall give information under oath as to the present address of  
4 the child, the places where the child has lived within the last  
5 five years, and the names and present addresses of the persons  
6 with whom the child has lived during that period. In this  
7 pleading or affidavit every party shall further declare under  
8 oath whether:

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

12 (2) he has information of any custody proceeding  
13 concerning the child pending in a court of this or any other  
14 state; and

15 (3) he knows of any person not a party to the  
16 proceedings who has physical custody of the child or claims  
17 to have custody or visitation rights with respect to the  
18 child.

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

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

30 § 5351. Additional parties.

1        If the court learns from information furnished by the parties  
2 pursuant to section 5350 (relating to information under oath to  
3 be submitted to the court) or from other sources that a person  
4 not a party to the custody proceeding has physical custody of  
5 the child or claims to have custody or visitation rights with  
6 respect to the child, it shall order that person to be joined as  
7 a party and to be duly notified of the pendency of the  
8 proceeding and of his joinder as a party. If the person joined  
9 as a party is outside this Commonwealth, he shall be served with  
10 process or otherwise notified in accordance with section 5346  
11 (relating to notice to persons outside this Commonwealth;  
12 submission to jurisdiction).

13    § 5352. Appearance of parties and the child.

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

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

27        (c) Costs and expenses.--If a party to the proceeding who is  
28 outside this Commonwealth is directed to appear under subsection  
29 (b) or desires to appear personally before the court with or  
30 without the child, the court may require another party to pay

1 travel and other necessary expenses of the party so appearing  
2 and of the child if this is just and proper under the  
3 circumstances.

4 § 5353. Binding force and res judicata effect of custody  
5 decree.

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

18 § 5354. Recognition of out-of-State custody decrees.

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

27 § 5355. Modification of custody decree of another state.

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

1           (1) it appears to the court of this Commonwealth that  
2       the court which rendered the decree does not now have  
3       jurisdiction under jurisdictional prerequisites substantially  
4       in accordance with this subchapter or has declined to assume  
5       jurisdiction to modify the decree; and

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

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

15   § 5356. Filing and enforcement of custody decree of another  
16           state.

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

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

1 § 5357. Registry of out-of-State custody decrees and  
2 proceedings.

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

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

7 (2) Communications as to the pendency of custody  
8 proceedings in other states.

9 (3) Communications concerning a finding of inconvenient  
10 forum by a court of another state.

11 (4) Other communications or documents concerning custody  
12 proceedings in another state which may affect the  
13 jurisdiction of a court of this Commonwealth or the  
14 disposition to be made by it in a custody proceeding.

15 § 5358. Certified copies of custody decree.

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

21 § 5359. Taking testimony in another state.

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

30 § 5360. Hearings and studies in another state; orders to

1 appear.

2 (a) Hearings and studies.--A court of this Commonwealth may  
3 request the appropriate court of another state to hold a hearing  
4 to adduce evidence, to order a party to produce or give evidence  
5 under other procedures of that state, or to have social studies  
6 made with respect to the custody of a child involved in  
7 proceedings pending in the court of this Commonwealth; and to  
8 forward to the court of this Commonwealth certified copies of  
9 the transcript of the record of the hearing, the evidence  
10 otherwise adduced, or any social studies prepared in compliance  
11 with the request. Subject to general rules, the cost of the  
12 services may be assessed against the parties or, if necessary,  
13 ordered paid by the county.

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

22 § 5361. Assistance to courts of other states.

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

1 any psychological studies and any social studies prepared shall  
2 be forwarded to the requesting court.

3 (b) Voluntary testimony.--A person within this Commonwealth  
4 may voluntarily give his testimony or statement in this  
5 Commonwealth for use in a custody proceeding outside this  
6 Commonwealth.

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

14 § 5362. Preservation of documents for use in other states.

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

22 § 5363. Request for court records of another state.

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

30 § 5364. Intrastate application.

1 (a) General rule.--Except as otherwise provided in this  
2 section, the provisions of this subchapter allocating  
3 jurisdiction and functions between and among courts of different  
4 states shall also allocate jurisdiction and functions between  
5 and among the courts of common pleas of this Commonwealth.

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

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

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

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

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

27 (1) If it is just and proper under the circumstances,  
28 when the petitioner for an initial decree has wrongfully  
29 taken the child from another jurisdiction or has engaged in  
30 improper conduct intending to benefit his position in a

1 custody proceeding, upon presentation of the petition, the  
2 court shall decline to exercise jurisdiction or shall  
3 exercise jurisdiction only to issue an order, pending a full  
4 hearing in the appropriate jurisdiction, returning the  
5 parties to the custodial status quo existing prior to the  
6 improper conduct or wrongful taking unless the petitioner can  
7 show that conditions in the former custodial household are  
8 physically or emotionally harmful to the child.

9 (2) Unless required in the interest of the child, the  
10 court shall not exercise its jurisdiction to modify a custody  
11 decree of another court if the petitioner, without consent of  
12 the person entitled to custody has:

13 (i) improperly removed the child from the physical  
14 custody of the person entitled to custody;

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

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

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

29 (3) Subject to general rules, in appropriate cases a  
30 court dismissing a petition under this subsection may charge

1 the petitioner with necessary travel and other expenses,  
2 including attorney fees, incurred by other parties or their  
3 witnesses.

4 (g) Statewide orders.--A court may under section 5352(a)  
5 (relating to appearance of parties and the child) issue orders  
6 to any party to the proceeding who is in any judicial district  
7 of this Commonwealth.

8 (h) Modification of custody decrees.--

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

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

26 § 5365. International application.

27 The general policies of this subchapter, extend to the  
28 international area. The provisions of this subchapter relating  
29 to the recognition and enforcement of custody decrees of other  
30 states apply to custody decrees and decrees involving legal

1 institutions similar in nature to custody institutions rendered  
2 by appropriate authorities of other nations if reasonable notice  
3 and opportunity to be heard were given to all affected persons.  
4 § 5366. Priority.

5 Upon the request of a party to a custody proceeding which  
6 raises a question of existence or exercise of jurisdiction under  
7 this subchapter, the case shall be given calendar priority and  
8 handled expeditiously.

9 CHAPTER 55

10 LIABILITY FOR TORTIOUS ACTS OF CHILDREN

11 Sec.

12 5501. Definitions.

13 5502. Liability of parents.

14 5503. Establishing liability in criminal or juvenile  
15 proceedings.

16 5504. Establishing liability in civil proceedings.

17 5505. Monetary limits of liability.

18 5506. Double recovery for same injury prohibited.

19 5507. Indemnity or contribution from child prohibited.

20 5508. Liability of parent not having custody or control of  
21 child.

22 5509. Other liability of parent or child unaffected.

23 § 5501. Definitions.

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

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

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

30 "Parent." Includes natural or adoptive parents.

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

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

3 § 5502. Liability of parents.

4 Any parent whose child is found liable or is adjudged guilty  
5 by a court of competent jurisdiction of a tortious act shall be  
6 liable to the person who suffers the injury to the extent set  
7 forth in this chapter.

8 § 5503. Establishing liability in criminal or juvenile  
9 proceedings.

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

18 (b) Noncompliance with direction of court.--If the parents  
19 fail to comply with the direction of the court, the amount may  
20 be recovered in a civil action against the parents or either of  
21 them.

22 § 5504. Establishing liability in civil proceedings.

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

29 (b) Answer and trial.--The parent may file an answer to the  
30 petition, and, if there is any dispute as to unlitigated facts,

1 the case shall be set down for trial.

2 (c) Judgment.--If there is no dispute as to the unlitigated  
3 facts, the court shall authorize the entry of a judgment against  
4 the parent. In no case shall the judgment against the parent  
5 exceed the limitations set forth in section 5505 (relating to  
6 monetary limits of liability).

7 § 5505. Monetary limits of liability.

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

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

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

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

28 (c) Joint acts by children of same parent.--The limitations  
29 on liability set forth in subsections (a) and (b) shall be  
30 applicable when two or more children of the same parent engage

1 jointly in the commission of one tortious act or series of  
2 tortious acts.

3 § 5506. Double recovery for same injury prohibited.

4 In no case shall there be a double recovery for one injury.  
5 Any judgment against a child resulting from a tortious act for  
6 which a parent makes payment under this chapter shall be reduced  
7 by the amount paid by the parent.

8 § 5507. Indemnity or contribution from child prohibited.

9 The parent shall have no right of indemnity or contribution  
10 against the child.

11 § 5508. Liability of parent not having custody or control of  
12 child.

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

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

20 § 5509. Other liability of parent or child unaffected.

21 The liability imposed upon parents by this chapter shall not  
22 limit the common-law liability of parents for damages caused by  
23 a child and shall be separate and apart from any liability which  
24 may be imposed upon the child.

25 PART VII

26 ABUSE OF FAMILY

27 Chapter

28 61. Protection From Abuse

29 63. Child Protective Services

30 CHAPTER 61

PROTECTION FROM ABUSE

Sec.

6101. Short title of chapter.

6102. Definitions.

6103. Effect of departure to avoid abuse.

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6106. Commencement of proceedings.

6107. Hearings.

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6112. Disclosure of addresses.

6113. Arrest for violation of order.

6114. Contempt for violation of order or agreement.

6115. Reporting abuse and immunity.

6116. Confidentiality.

6117. Procedure and other remedies.

§ 6101. Short title of chapter.

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

§ 6102. Definitions.

(A) GENERAL RULE.--The following words and phrases when used  
in this chapter shall have the meanings given to them in this  
section unless the context clearly indicates otherwise:

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

(1) Attempting to cause or intentionally, knowingly or

recklessly causing bodily injury, serious bodily injury,  
rape, spousal sexual assault or involuntary deviate sexual  
intercourse with or without a deadly weapon.

(2) Placing by physical menace another in fear of  
imminent serious bodily injury.

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

(4) Physically or sexually abusing minor children, <—  
INCLUDING SUCH TERMS AS DEFINED IN CHAPTER 63 (RELATING TO  
CHILD PROTECTIVE SERVICES).

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

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

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

"Domestic violence counselor/advocate." An individual who is  
engaged in a domestic violence program, who provides services to

1 victims of domestic violence, who has undergone 40 hours of  
2 training and who is under the control of a direct services  
3 supervisor of a domestic violence program, the primary purpose  
4 of which is the rendering of counseling or assistance to victims  
5 of domestic violence.

6 "Domestic violence program." A nonprofit organization or  
7 program whose primary purpose is to provide services to domestic  
8 violence victims which include, but are not limited to, crisis  
9 hotline; safe homes or shelters; community education; counseling  
10 systems intervention and interface; transportation, information  
11 and referral; and victim assistance.

12 "Family or household members." Spouses or persons who have  
13 been spouses, persons living as spouses or who lived as spouses,  
14 parents and children, other persons related by consanguinity or  
15 affinity, current or former sexual or intimate partners or  
16 persons who share biological parenthood.

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

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

20 (B) OTHER TERMS.--TERMS NOT OTHERWISE DEFINED IN THIS <—  
21 CHAPTER SHALL HAVE THE MEANING GIVEN TO THEM IN 18 PA.C.S.  
22 (RELATING TO CRIMES AND OFFENSES).

23 § 6103. Effect of departure to avoid abuse.

24 THE COURT SHALL HAVE JURISDICTION OVER ALL PROCEEDINGS UNDER <—  
25 THIS CHAPTER. The right of plaintiff to relief under this  
26 chapter shall not be affected by plaintiff leaving the residence  
27 or household to avoid further abuse.

28 § 6104. Registration of order.

29 (a) Registry.--The prothonotary shall maintain a registry in  
30 which it shall enter certified copies of orders entered by

1 courts from other jurisdictions in this Commonwealth pursuant to  
2 this chapter.

3 (b) Registration of order in any county.--A plaintiff who  
4 obtains a valid order under this chapter may register that order  
5 in any county within this Commonwealth where the plaintiff  
6 believes enforcement may be necessary. A court shall recognize  
7 and enforce a valid order under this chapter which has been  
8 issued by another court but properly registered with a county  
9 within the judicial district of the court where enforcement is  
10 sought.

11 (c) Certified copy.--A valid order under this chapter may be  
12 registered by the plaintiff in a county other than the issuing  
13 county by obtaining a certified copy of the order of the issuing  
14 court endorsed by the prothonotary of that court and presenting  
15 that certified order to the prothonotary where the order is to  
16 be registered.

17 (d) Proof of registration.--Upon receipt of a certified  
18 order for registration, the prothonotary shall provide the  
19 plaintiff with a copy bearing the proof of registration to be  
20 filed with the appropriate law enforcement agency.

21 § 6105. Responsibilities of local law enforcement agencies.

22 The police department of each municipal corporation shall  
23 insure that all its officers and employees are familiar with the  
24 provisions of this chapter. Instruction concerning protection  
25 from abuse shall be made a part of the training curriculum for  
26 all trainee officers.

27 § 6106. Commencement of proceedings.

28 (a) General rule.--An adult or an emancipated minor may seek  
29 relief under this chapter for that person or any parent, adult  
30 household member or guardian ad litem may seek relief under this

chapter on behalf of minor children, or a guardian of the person of an adult who has been declared incompetent under 20 Pa.C.S. Ch. 51 Subch. B (relating to appointment of guardian) may seek relief on behalf of the incompetent adult, by filing a petition with the court alleging abuse by the defendant.

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

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

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

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

1 (f) Service of petition and orders.--The petition and orders  
2 shall be served upon the defendant, and orders shall be served  
3 upon the police departments with appropriate jurisdiction to  
4 enforce the orders. Orders shall be promptly served on the  
5 police. Failure to serve shall not stay the effect of a valid  
6 order.

7 (g) Assistance and advice to plaintiff.--The courts,  
8 district justices, the Philadelphia Municipal Court and bail  
9 commissioners shall:

10 (1) Provide simplified forms and clerical assistance in  
11 English and Spanish to help with the writing and filing of  
12 the petition for a protection order for an individual not  
13 represented by counsel.

14 (2) Advise a plaintiff not represented by counsel of the  
15 right to file an affidavit stating that the plaintiff does  
16 not have funds available to pay the costs of filing and  
17 service and assist with the writing and filing of the  
18 affidavit.

19 § 6107. Hearings.

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

25 (b) Temporary orders.--If a plaintiff petitions for  
26 temporary order for protection from abuse and alleges immediate  
27 and present danger of abuse to the plaintiff or minor children,  
28 the court shall conduct an ex-parte proceeding. The court may  
29 enter such a temporary order as it deems necessary to protect  
30 the plaintiff or minor children when it finds they are in

1 immediate and present danger of abuse.

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

5 (d) Costs.--If the plaintiff prevails, the court shall  
6 assign costs to the defendant unless the parties agree  
7 otherwise. If the defendant is indigent, costs shall be waived.  
8 § 6108. Relief.

9 (a) General rule.--The court may grant any protection order  
10 or approve any consent agreement to bring about a cessation of  
11 abuse of the plaintiff or minor children. The order or agreement  
12 may include:

13 (1) Directing the defendant to refrain from abusing the  
14 plaintiff or minor children.

15 (2) Granting possession to the plaintiff of the  
16 residence or household to the exclusion of the defendant by  
17 evicting the defendant or restoring possession to the  
18 plaintiff when the residence or household is jointly owned or  
19 leased by the parties, is owned or leased by the entireties  
20 or is owned or leased solely by the plaintiff.

21 (3) When the defendant has a duty to support the  
22 plaintiff or minor children living in the residence or  
23 household and the defendant is the sole owner or lessee,  
24 granting possession to the plaintiff of the residence or  
25 household to the exclusion of the defendant by evicting the  
26 defendant or restoring possession to the plaintiff or, by  
27 consent agreement, allowing the defendant to provide suitable  
28 alternate housing.

29 (4) Awarding temporary custody of or establishing  
30 temporary visitation rights with regard to minor children. A

1 defendant shall not be granted custody or partial custody  
2 where it is alleged in the petition, and the court finds  
3 after a hearing under this chapter, that the defendant abused  
4 the minor children of the parties or where the defendant has  
5 been convicted of violating 18 Pa.C.S. § 2904 (relating to  
6 interference with custody of children) within two calendar  
7 years prior to the filing of the petition for protection  
8 order. If a plaintiff petitions for a temporary order under  
9 section 6107(b) (relating to hearings) and the defendant has  
10 partial, shared or full custody of the minor children of the  
11 parties by order of court or written agreement of the  
12 parties, the custody shall not be disturbed or changed unless  
13 the court finds that the defendant is likely to inflict abuse  
14 upon the children or to remove the children from the  
15 jurisdiction of the court prior to the hearing under section  
16 6107(a). Nothing in this paragraph shall bar either party  
17 from filing a petition for custody under 23 Pa.C.S. Ch. 53  
18 (relating to custody) or under the Pennsylvania Rules of  
19 Civil Procedure. The court shall consider, and may impose on  
20 a custody award, conditions necessary to assure the safety of  
21 the plaintiff and minor children from abuse.

22 (5) After a hearing in accordance with section 6107(a),  
23 directing the defendant to pay financial support to those  
24 persons the defendant has a duty to support. The support  
25 order shall be temporary, and any beneficiary of the order  
26 must file a complaint for support under the provisions of  
27 Chapters 43 (relating to support matters generally) and 45  
28 (relating to reciprocal enforcement of support orders) within  
29 two weeks of the date of the issuance of the protection  
30 order. If a complaint for support is not filed, that portion

1 of the protection order requiring the defendant to pay  
2 support is void. When there is a subsequent ruling on a  
3 complaint for support, the portion of the protection order  
4 requiring the defendant to pay support expires.

5 (6) Prohibiting the defendant from having any contact  
6 with the plaintiff, including, but not limited to,  
7 restraining the defendant from entering the place of  
8 employment or business or school of the plaintiff and from  
9 harassing the plaintiff or plaintiff's relatives or minor  
10 children.

11 (7) Ordering the defendant to temporarily relinquish to  
12 the sheriff the defendant's weapons which have been used or  
13 been threatened to be used in an incident of abuse against  
14 the plaintiff or the minor children. The court's order shall  
15 provide for the return of the weapons to the defendant  
16 subject to any restrictions and conditions as the court shall  
17 deem appropriate to protect the plaintiff or minor children  
18 from further abuse through the use of weapons.

19 (8) Directing the defendant to pay the plaintiff for  
20 reasonable losses suffered as a result of the abuse,  
21 including medical, dental, relocation and moving expenses;  
22 counseling; loss of earnings or support; and other out-of-  
23 pocket losses for injuries sustained. In addition to out-of-  
24 pocket losses, the court may direct the defendant to pay  
25 reasonable attorney fees.

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

1 (c) Title to real property unaffected.--No order or  
2 agreement under this chapter shall in any manner affect title to  
3 any real property.

4 § 6109. Service of orders.

5 (a) Issuance.--A copy of an order under this chapter shall  
6 be issued to the plaintiff, the defendant and the police  
7 department with appropriate jurisdiction to enforce the order or  
8 agreement in accordance with the provisions of this chapter or  
9 as ordered by the court, district justice, the Philadelphia  
10 Municipal Court or bail commissioners.

11 (b) Placement in county registry.--Upon receipt of an order,  
12 the police department shall immediately place the order in a  
13 county registry of protection orders. The police department  
14 shall assure that the registry is current at all times and that  
15 orders are removed upon expiration thereof.

16 § 6110. Emergency relief by minor judiciary.

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

1 the plaintiff or minor children shall constitute good cause for  
2 the purposes of this subsection.

3 (b) Expiration of order.--An order issued under subsection  
4 (a) shall expire as of the resumption of business of the court  
5 at the beginning of the next business day, at which time the  
6 court shall schedule hearings on protection orders entered by  
7 district justices, bail commissioners or Philadelphia Municipal  
8 Court Judges under subsection (a) and shall review and continue  
9 in effect protection orders that are necessary to protect the  
10 plaintiff or minor children from abuse until the hearing, at  
11 which time the plaintiff may seek a temporary order from the  
12 court.

13 (c) Certification of order to court.--An emergency order  
14 issued under this section and any documentation in support  
15 thereof shall be immediately certified to the court. The  
16 certification to the court shall have the effect of commencing  
17 proceedings under section 6106 (relating to commencement of  
18 proceedings) and invoking the other provisions of this chapter.  
19 If it is not already alleged in a petition for an emergency  
20 order, the plaintiff shall file a verified statement setting  
21 forth the abuse of defendant at least five days prior to the  
22 hearing. Service of the verified statement shall be made subject  
23 to section 6106.

24 (d) Instructions regarding the commencement of  
25 proceedings.--Upon issuance of an emergency order, the district  
26 justice, bail commissioner or Philadelphia Municipal Court Judge  
27 shall provide the plaintiff instructions regarding the  
28 commencement of proceedings in the court of common pleas at the  
29 beginning of the next business day and regarding the procedures  
30 for initiating a contempt charge should the defendant violate

1 the emergency order. The district justice, a bail commissioner  
2 or Philadelphia Municipal Court Judge shall also advise the  
3 plaintiff of the existence of programs for victims of domestic  
4 violence in the county or in nearby counties and inform the  
5 plaintiff of the availability of legal assistance without cost  
6 if the plaintiff is unable to pay for them.

7 § 6111. Domestic violence counselor/advocate.

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

10 § 6112. Disclosure of addresses.

11 During the course of a proceeding under this chapter, the  
12 court, district justice, Philadelphia Municipal Court Judge or  
13 bail commissioner may consider whether the plaintiff or  
14 plaintiff's family is endangered by disclosure of the permanent  
15 or temporary address of the plaintiff or minor children. Neither  
16 in the pleadings nor during proceedings or hearings under this  
17 chapter shall the court, district justice, Philadelphia  
18 Municipal Court Judge or bail commissioner require disclosure of  
19 the address of a domestic violence program.

20 § 6113. Arrest for violation of order.

21 (a) General rule.--An arrest for violation of an order  
22 issued pursuant to this chapter may be without warrant upon  
23 probable cause whether or not the violation is committed in the  
24 presence of the police officer. The police officer may verify,  
25 if necessary, the existence of a protection order by telephone  
26 or radio communication with the appropriate police department,  
27 county registry or issuing authority.

28 (b) Seizure of weapons.--Subsequent to an arrest, the police  
29 officer shall seize all weapons used or threatened to be used  
30 during the violation of the protection order or during prior

1 incidents of abuse. As soon as it is reasonably possible, the  
2 arresting officer shall deliver the confiscated weapons to the  
3 office of the sheriff. The sheriff shall maintain possession of  
4 the weapons until the court issues an order specifying the  
5 weapons to be relinquished and the persons to whom the weapons  
6 shall be relinquished.

7 (c) Procedure following arrest.--Subsequent to an arrest,  
8 the defendant shall be taken by the police officer without  
9 unnecessary delay before the court in the judicial district  
10 where the contempt is alleged to have occurred. When that court  
11 is unavailable, the police officer shall convey the defendant to  
12 a district justice designated as appropriate by local rules of  
13 court, the Philadelphia Municipal Court or designated bail  
14 commissioner.

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

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

20 (f) Hearing.--A hearing on a charge or allegation of  
21 indirect criminal contempt shall not preclude a hearing on other  
22 criminal charges underlying the contempt, nor shall a hearing on  
23 other criminal charges preclude a hearing on a charge of  
24 indirect criminal contempt.

25 (g) Notice.--Notice shall be given to the defendant, in  
26 orders issued pursuant to section 6108 (relating to relief), of  
27 the possible ramifications of resumption of residence in the  
28 family domicile contrary to court order. Resumption of co-  
29 residence on the part of the plaintiff and defendant shall not  
30 nullify the provisions of the court order directing the

1 defendant to refrain from abusing the plaintiff or minor  
2 children.

3 § 6114. Contempt for violation of order or agreement.

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

8 (b) Trial and punishment.--A sentence for contempt under  
9 this chapter may include imprisonment up to six months or a fine  
10 not to exceed \$1,000, or both, and may include other relief set  
11 forth in this chapter. The defendant shall not have a right to a  
12 jury trial on such a charge; however, the defendant shall be  
13 entitled to counsel.

14 § 6115. Reporting abuse and immunity.

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

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

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

25 § 6116. Confidentiality.

26 Unless a victim waives the privilege in a signed writing  
27 prior to testimony or disclosure, a domestic violence  
28 counselor/advocate shall not be competent nor permitted to  
29 testify or to otherwise disclose confidential communications  
30 made to or by the counselor/advocate by or to a victim. The

1 privilege shall terminate upon the death of the victim. Neither  
2 the domestic violence counselor/advocate nor the victim shall  
3 waive the privilege of confidential communications by reporting  
4 facts of physical or sexual assault under Chapter 63 (relating  
5 to child protective services), a Federal or State mandatory  
6 reporting statute; or a local mandatory reporting ordinance.  
7 § 6117. Procedure and other remedies.

8 Unless otherwise indicated in this chapter, a proceeding  
9 under this chapter shall be in accordance with applicable  
10 general rules and shall be in addition to any other available  
11 civil or criminal remedies.

## 12 CHAPTER 63

### 13 CHILD PROTECTIVE SERVICES

#### 14 Subchapter

##### 15 A. Preliminary Provisions

##### 16 B. Reporting Suspected Child Abuse

##### 17 C. Powers and Duties of Department

##### 18 D. Organization and Responsibilities of Child Protective 19 Service

##### 20 E. Miscellaneous Provisions

### 21 SUBCHAPTER A

#### 22 PRELIMINARY PROVISIONS

23 Sec.

24 6301. Short title of chapter.

25 6302. Finding and purpose of chapter.

26 6303. Definitions.

27 § 6301. Short title of chapter.

28 This chapter shall be known and may be cited as the Child  
29 Protective Services Law.

30 § 6302. Finding and purpose of chapter.

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

4 (b) Purpose.--It is the purpose of this chapter to encourage  
5 more complete reporting of suspected child abuse and to  
6 establish in each county a child protective service capable of  
7 investigating such reports swiftly and competently, providing  
8 protection for children from further abuse and providing  
9 rehabilitative services for children and parents involved so as  
10 to ensure the well-being of the child and to preserve and  
11 stabilize family life wherever appropriate.

12 (c) Effect on rights of parents.--This chapter does not  
13 restrict the generally recognized existing rights of parents to  
14 use reasonable supervision and control when raising their  
15 children.

16 § 6303. Definitions.

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

20 "Child abuse." Serious physical or mental injury which is  
21 not explained by the available medical history as being  
22 accidental, sexual abuse, sexual exploitation or serious  
23 physical neglect of a child under 18 years of age if the injury,  
24 abuse or neglect has been caused by the acts or omissions of the  
25 child's parents or by a person responsible for the child's  
26 welfare, or any individual residing in the same home as the  
27 child, or a paramour of the child's parent. No child shall be  
28 deemed to be physically or mentally abused for the sole reason  
29 the child is in good faith being furnished treatment by  
30 spiritual means through prayer alone in accordance with the

1 tenets and practices of a recognized church or religious  
2 denomination by an accredited practitioner thereof or is not  
3 provided specified medical treatment in the practice of  
4 religious beliefs, or solely on the grounds of environmental  
5 factors which are beyond the control of the person responsible  
6 for the welfare of the child such as inadequate housing,  
7 furnishings, income, clothing and medical care.

8 "Child-care services." Child day-care centers, group and  
9 family day-care homes, foster homes, adoptive parents, boarding  
10 homes for children, juvenile detention center services or  
11 programs for delinquent or dependent children; mental health,  
12 mental retardation and drug and alcohol services for children;  
13 and any other child-care services which are provided by or  
14 subject to approval, licensure, registration or certification by  
15 the department or a county social services agency or which are  
16 provided pursuant to a contract with these departments or a  
17 county social services agency. The term does not include such  
18 services or programs which may be offered by public and private  
19 schools, intermediate units or area vocational-technical  
20 schools.

21 "Child protective service." That section of each county  
22 children and youth social service agency required to be  
23 established by section 6361 (relating to organization of child  
24 protective service).

25 "Cooperation with an investigation." Includes, but is not  
26 limited to, a school or school district which permits authorized  
27 personnel from the department or child protection services to  
28 interview a student while the student is in attendance at  
29 school.

30 "Department." The Department of Public Welfare of the

1 Commonwealth.

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

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

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

10 "Indicated report." A report made pursuant to this chapter  
11 if an investigation by the child protective service determines  
12 that substantial evidence of the alleged abuse exists based on  
13 any of the following:

14 (1) Available medical evidence.

15 (2) The child protective service investigation.

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

18 "Secretary." The Secretary of Public Welfare of the  
19 Commonwealth.

20 "Sexual abuse." The obscene or pornographic photographing,  
21 filming or depiction of children for commercial purposes or the  
22 rape, molestation, incest, prostitution or other forms of sexual  
23 exploitation of children under circumstances which indicate that  
24 the child's health or welfare is harmed or threatened thereby,  
25 as determined in accordance with regulations of the department.

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

29 "Under investigation." A report pursuant to this chapter  
30 which is being investigated to determine whether it is

1 "founded," "indicated" or "unfounded."

2 "Unfounded report." Any report made pursuant to this chapter  
3 unless the report is a "founded report" or unless an  
4 investigation by the appropriate child protective service  
5 determines that the report is an "indicated report."

6 SUBCHAPTER B

7 REPORTING SUSPECTED CHILD ABUSE

8 Sec.

9 6311. Persons required to report suspected child abuse.

10 6312. Persons permitted to report suspected child abuse.

11 6313. Reporting procedure.

12 6314. Photographs and X-rays of child subject to report.

13 6315. Taking child into protective custody.

14 6316. Admission to private and public hospitals.

15 6317. Reporting and postmortem investigation of deaths.

16 6318. Immunity from liability.

17 6319. Penalties for failure to report.

18 § 6311. Persons required to report suspected child abuse.

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

1       (b) Enumeration of persons required to report.--Persons  
2 required to report under subsection (a) include, but are not  
3 limited to, any licensed physician, osteopath, medical examiner,  
4 coroner, funeral director, dentist, optometrist, chiropractor,  
5 podiatrist, intern, registered nurse, licensed practical nurse,  
6 hospital personnel engaged in the admission, examination, care  
7 or treatment of persons, a Christian Science practitioner,  
8 school administrator, school teacher, school nurse, social  
9 services worker, day-care center worker or any other child-care  
10 or foster-care worker, mental health professional, peace officer  
11 or law enforcement official.

12       (c) Staff members of institutions, etc.--Whenever a person  
13 is required to report under subsection (b) in the capacity as a  
14 member of the staff of a medical or other public or private  
15 institution, school, facility or agency, that person shall  
16 immediately notify the person in charge of the institution,  
17 school, facility or agency or the designated agent of the person  
18 in charge. Upon notification, the person in charge or the  
19 designated agent, if any, shall assume the responsibility and  
20 have the legal obligation to report or cause a report to be made  
21 in accordance with section 6313. This chapter does not require  
22 more than one report from any such institution, school, facility  
23 or agency.

24       (d) Civil action for discrimination against person filing  
25 report.--Any person who, under this section, is required to  
26 report or cause a report of suspected child abuse to be made and  
27 who, in good faith, makes or causes the report to be made and,  
28 as a result thereof, is discharged from his employment or in any  
29 other manner is discriminated against with respect to  
30 compensation, hire, tenure, terms, conditions or privileges of

1 employment, may commence an action in the court of common pleas  
2 of the county in which the alleged unlawful discharge or  
3 discrimination occurred for appropriate relief. If the court  
4 finds that the person is an individual who, under this section,  
5 is required to report or cause a report of suspected child abuse  
6 to be made and who, in good faith, made or caused to be made a  
7 report of suspected child abuse and, as a result thereof, was  
8 discharged or discriminated against with respect to  
9 compensation, hire, tenure, terms, conditions or privileges of  
10 employment, it may issue an order granting appropriate relief,  
11 including but not limited to reinstatement with back pay. The  
12 department may intervene in any action commenced under this  
13 subsection.

14 § 6312. Persons permitted to report suspected child abuse.

15 In addition to those persons and officials required to report  
16 suspected child abuse, any person may make such a report if that  
17 person has reasonable cause to suspect that a child is an abused  
18 child.

19 § 6313. Reporting procedure.

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

24 (b) Oral reports.--Oral reports shall be made to the  
25 department pursuant to Subchapter C (relating to powers and  
26 duties of department) and may be made to the appropriate child  
27 protective service. When oral reports of suspected child abuse  
28 are initially received at the child protective service, the  
29 child protective service shall, after seeing to the immediate  
30 safety of the child and other children in the home, immediately

1 notify the department of the receipt of the report, which is to  
2 be held in the pending complaint file as provided in Subchapter  
3 C. The initial child abuse report summary shall be supplemented  
4 with a written report when a determination is made as to whether  
5 a report of suspected child abuse is a founded report, an  
6 unfounded report or an indicated report.

7 (c) Written reports.--Written reports from persons required  
8 to report under section 6311 shall be made to the appropriate  
9 child protective service in a manner and on forms the department  
10 prescribes by regulation. The written reports shall include the  
11 following information if available:

12 (1) The names and addresses of the child and the parents  
13 or other person responsible for the care of the child if  
14 known.

15 (2) Where the suspected abuse occurred.

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

17 (4) The nature and extent of the suspected child abuse  
18 including any evidence of prior abuse to the child or  
19 siblings of the child.

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

22 (6) Family composition.

23 (7) The relationship of the suspected perpetrator to the  
24 child.

25 (8) The source of the report.

26 (9) The person making the report and where that person  
27 can be reached.

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

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

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

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

A person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the areas of trauma visible on a child who is subject to a report and, if medically indicated, cause to be performed a radiological examination on the child. Medical summaries or reports of the photographs or X-rays taken shall be sent to the child protective service at the time the written report is sent or as soon thereafter as possible. Child protective services shall have access to the actual photographs and X-rays and may obtain them or duplicates of them upon request.

§ 6315. Taking child into protective custody.

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

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

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

1 neglect.

2 (b) Duration of custody.--No child may be held in protective  
3 custody for more than 24 hours unless the appropriate child  
4 protective service is immediately notified that the child has  
5 been taken into custody and the child protective service obtains  
6 an order from a court of competent jurisdiction permitting the  
7 child to be held in custody for a longer period. Each court  
8 shall insure that a judge is available 24 hours a day, 365 days  
9 a year to accept and decide the actions brought by a child  
10 protective service under this subsection within the 24-hour  
11 period.

12 (c) Notice of custody.--An individual taking a child into  
13 protective custody under this chapter shall immediately, and  
14 within 24 hours in writing, notify the parent, guardian or other  
15 custodian of the child of the whereabouts of the child and the  
16 reasons for the need to take the child into protective custody  
17 and shall immediately notify the appropriate child protective  
18 service in order that proceedings under 42 Pa.C.S. Ch. 63  
19 (relating to juvenile matters) may be initiated, if appropriate.

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

26 (e) Place of detention.--No child taken into protective  
27 custody under this chapter may be detained during the protective  
28 custody except in an appropriate medical facility, foster home  
29 or other appropriate facility approved by the department for  
30 this purpose.

1 (f) Conference with parent or other custodian.--A conference  
2 between the parent, guardian or other custodian of the child  
3 taken into temporary protective custody pursuant to this section  
4 and the case worker designated by the child protection service  
5 to be responsible for the child shall be held within 48 hours of  
6 the time that the child is taken into custody for the purpose  
7 of:

8 (1) Explaining to the parent, guardian or other  
9 custodian the reasons for the temporary detention of the  
10 child and the whereabouts of the child.

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

14 § 6316. Admission to private and public hospitals.

15 (a) General rule.--Children appearing to suffer any physical  
16 or mental trauma which may constitute child abuse shall be  
17 admitted to and treated in appropriate facilities of private and  
18 public hospitals on the basis of medical need and shall not be  
19 refused or deprived in any way of proper medical treatment and  
20 care.

21 (b) Failure of hospital to admit child.--The failure of a  
22 hospital to admit and properly treat and care for a child  
23 pursuant to subsection (a) shall be cause for the department to  
24 order immediate admittance, treatment and care by the hospital  
25 which shall be enforceable, if necessary, by the prompt  
26 institution of a civil action by the department. The child,  
27 through an attorney, shall also have the additional and  
28 independent right to seek immediate injunctive relief and  
29 institute an appropriate civil action for damages against the  
30 hospital.

1 § 6317. Reporting and postmortem investigation of deaths.

2 A person or official required to report cases of suspected  
3 child abuse, including employees of a county children and youth  
4 social service agency and its child protective service, who has  
5 reasonable cause to suspect that a child died as a result of  
6 child abuse shall report that fact to the coroner. The coroner  
7 shall accept the report for investigation and shall report his  
8 finding to the police, the district attorney, the appropriate  
9 child protective service and, if the report is made by a  
10 hospital, the hospital.

11 § 6318. Immunity from liability.

12 (a) General rule.--A person, hospital, institution, school,  
13 facility or agency participating in good faith in the making of  
14 a report, cooperating with an investigation or testifying in a  
15 proceeding arising out of an instance of suspected child abuse,  
16 the taking of photographs or the removal or keeping of a child  
17 pursuant to section 6315 (relating to taking child into  
18 protective custody) shall have immunity from any civil or  
19 criminal liability that might otherwise result by reason of  
20 those actions.

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

25 § 6319. Penalties for failure to report.

26 A person or official required by this chapter to report a  
27 case of suspected child abuse who willfully fails to do so  
28 commits a summary offense for the first violation and a  
29 misdemeanor of the third degree for a second or subsequent  
30 violation.

SUBCHAPTER C

POWERS AND DUTIES OF DEPARTMENT

Sec.

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§ 6331. Establishment of pending complaint file and Statewide central register.

There shall be established in the department:

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

(2) A Statewide central register of child abuse which

1 shall consist of founded and indicated reports of child  
2 abuse.

3 § 6332. Establishment of Statewide toll-free telephone number.

4 (a) General rule.--The department shall establish a single  
5 Statewide toll-free telephone number that all persons, whether  
6 mandated by law or not, may use to report cases of suspected  
7 child abuse. A child protective service may use the Statewide  
8 toll-free telephone number for determining the existence of  
9 prior founded or indicated reports of child abuse in the  
10 Statewide central register or reports under investigation in the  
11 pending complaint file.

12 (b) Limitation on use.--A child protective service may only  
13 request and receive information pursuant to this subsection  
14 either on its own behalf because it has received a report of  
15 suspected child abuse or on behalf of a physician examining or  
16 treating a child or on behalf of the director or a person  
17 specifically designated in writing by the director of any  
18 hospital or other medical institution where a child is being  
19 treated, where the physician or the director or a person  
20 specifically designated in writing by the director suspects the  
21 child of being an abused child.

22 § 6333. Continuous availability of department.

23 The department shall be capable of receiving oral reports of  
24 child abuse made pursuant to this chapter and report summaries  
25 of child abuse from child protective services and shall be  
26 capable of immediately identifying prior reports of child abuse  
27 in the Statewide central register and reports under  
28 investigation in the pending complaint file and of monitoring  
29 the provision of child protective services 24 hours a day, seven  
30 days a week.

1 § 6334. Disposition of complaints received.

2 (a) Notice to child protective service.--Upon receipt of a  
3 complaint of suspected child abuse, the department shall  
4 immediately transmit orally to the appropriate child protective  
5 service notice that the complaint of suspected child abuse has  
6 been received and the substance of the complaint. If the  
7 Statewide central register or the pending complaint file  
8 contains information indicating a prior report or a current  
9 investigation concerning a subject of the report, the department  
10 shall immediately notify the appropriate child protective  
11 service of this fact.

12 (b) Referral for services or investigation.--If the  
13 complaint received does not suggest suspected child abuse but  
14 does suggest a need for social services or other services or  
15 investigation, the department shall transmit the information to  
16 the county children and youth social service agency or other  
17 public agency for appropriate action. The information shall not  
18 be considered a child abuse report unless the agency to which  
19 the information was referred has reason to believe after  
20 investigation that abuse occurred. If the agency has reason to  
21 believe that abuse occurred, the agency shall notify the  
22 department, and the initial complaint shall be considered to  
23 have been a child abuse report.

24 (c) Recording in pending complaint file.--Upon receipt of a  
25 complaint of suspected child abuse, the department shall  
26 maintain a record of the complaint of suspected child abuse in  
27 the pending complaint file.

28 § 6335. Information in pending complaint file.

29 (a) Information authorized.--No information other than that  
30 permitted to be retained in the Statewide central register in

1 section 6336 (relating to information in Statewide central  
2 register) shall be retained in the pending complaint file or  
3 otherwise by the department.

4 (b) Access to information.--Except as provided in sections  
5 6332 (relating to establishment of Statewide toll-free telephone  
6 number), 6334 (relating to disposition of complaints received),  
7 6340 (relating to release of information in confidential  
8 reports) and 6342 (relating to studies of data in records), no  
9 person, other than an employee of the department in the course  
10 of official duties in connection with the responsibilities of  
11 the department under this chapter, shall at any time have access  
12 to any information in the pending complaint file or Statewide  
13 central register.

14 § 6336. Information in Statewide central register.

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

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

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

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

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

23 (5) Family composition.

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

26 (7) The source of the report.

27 (8) Services planned or provided.

28 (9) Whether the report is a founded report or an  
29 indicated report.

30 (10) The progress of any legal proceedings brought on

1 the basis of the report of suspected child abuse.  
2 No information other than that permitted in this subsection  
3 shall be retained in the Statewide central register, the pending  
4 complaint file or otherwise by the department.

5 (b) Type of information released.--Except as provided in  
6 sections 6334 (relating to disposition of complaints received),  
7 6335 (relating to information in pending complaint file), 6340  
8 (relating to release of information in confidential reports) and  
9 6342 (relating to studies of data in records), persons receiving  
10 information from the Statewide central register or pending  
11 complaint file may be informed only as to:

12 (1) Whether the report is a founded or indicated abuse  
13 or is under investigation.

14 (2) The number of ~~founded and indicated~~ SUCH reports. <—

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

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

18 (c) Limitation on release of information.--Except as  
19 provided in sections 6334, 6335, 6340 and 6342, no information  
20 shall be released from the Statewide central register or pending  
21 complaint file unless pursuant to section 6332 (relating to  
22 establishment of Statewide toll-free telephone number) and  
23 unless the department has positively identified the  
24 representative of the child protective service requesting the  
25 information and the department has inquired into and is  
26 satisfied that the representative has a legitimate need, within  
27 the scope of official duties and the provisions of section 6332,  
28 to obtain the information. Information in the Statewide central  
29 register or pending complaint file shall not be released for any  
30 purpose or to any individual not specified in section 6340.

1 § 6337. Disposition of unfounded reports.

2 (a) General rule.--When a report of suspected child abuse is  
3 determined by the appropriate child protective service to be an  
4 unfounded report, the information concerning that report of  
5 suspected child abuse shall be expunged from the pending  
6 complaint file within 12 months of the date the report was  
7 received by the department, and no information other than that  
8 authorized by subsection (b), which shall not include any  
9 identifying information on any subject of the report, shall be  
10 retained by the department.

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

28 (c) Expungement of information.--All information identifying  
29 the subjects of any report of suspected child abuse determined  
30 to be an unfounded report shall be expunged from the pending

1 complaint file within 12 months of the date the report was  
2 received by the department. The expungement shall be mandated  
3 and guaranteed by the department.

4 § 6338. Disposition of founded and indicated reports.

5 (a) General rule.--When a report of suspected child abuse is  
6 determined by the appropriate child protective service to be a  
7 founded report or an indicated report, the information  
8 concerning that report of suspected child abuse shall be  
9 expunged immediately from the pending complaint file, and an  
10 appropriate entry shall be made in the Statewide central  
11 register. Notice of the determination must be given to the  
12 subjects of the report, other than the abused child, along with  
13 an explanation of the implications of the determination. Notice  
14 given to subjects of the report shall include notice that their  
15 ability to obtain employment in a child-care facility or program  
16 may be adversely affected by entry of the report in the  
17 Statewide central register. The notice shall also inform the  
18 subject of the report of his right, at any time, to request the  
19 secretary to amend, seal or expunge information contained in the  
20 Statewide central register and his right to a hearing if the  
21 request is denied.

22 (b) Expungement of information when child attains 18 years  
23 of age.--All information identifying the subjects of all  
24 indicated reports and all information identifying the subject  
25 child of all founded reports shall be expunged when the subject  
26 child reaches the age of 18 years, unless another report is  
27 received involving the same child, his sibling or offspring, or  
28 another child in the care of the persons responsible for the  
29 subject child's welfare. The identifying information may then be  
30 maintained in the register for five years after the subsequent

1 case or report is closed. The expungement shall be mandated and  
2 guaranteed by the department.

3 § 6339. Confidentiality of reports.

4 Except as otherwise provided in this subchapter, reports made  
5 pursuant to this chapter including, but not limited to, report  
6 summaries of child abuse and written reports made pursuant to  
7 section 6313(b) and (c) (relating to reporting procedure) as  
8 well as any other information obtained, reports written or  
9 photographs or X-rays taken concerning alleged instances of  
10 child abuse in the possession of the department, a county  
11 children and youth social service agency or a child protective  
12 service shall be confidential.

13 § 6340. Release of information in confidential reports.

14 (a) General rule.--Reports specified in section 6339  
15 (relating to confidentiality of reports) shall only be made  
16 available to:

17 (1) An authorized official of a child protective service  
18 in the course of official duties, multidisciplinary team  
19 members assigned to the case and duly authorized persons  
20 providing services pursuant to section 6370(a) (relating to  
21 services for protection of child at home or in custody).

22 (2) A physician examining or treating a child or the  
23 director or a person specifically designated in writing by  
24 the director of any hospital or other medical institution  
25 where a child is being treated when the physician or the  
26 director or the designee of the director suspect the child of  
27 being an abused child.

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

29 (4) An authorized official or agent of the department in  
30 accordance with department regulations or in accordance with

1 the conduct of a performance audit as authorized by section  
2 6343 (relating to investigating performance of child  
3 protective service).

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

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

9 (7) The Attorney General.

10 (8) Federal auditors if required for Federal financial  
11 participation in funding of agencies except that Federal  
12 auditors may not have access to identifiable reports.

13 (9) Law enforcement officials in the course of  
14 investigating cases of:

15 (i) Homicide, sexual abuse, sexual exploitation or  
16 serious bodily injury perpetrated by persons whether or  
17 not related to the victim.

18 (ii) Child abuse perpetrated by persons who are not  
19 family members.

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

23 (10) Law enforcement officials who shall receive reports  
24 of abuse in which the initial review gives evidence that the  
25 abuse is homicide, sexual abuse, sexual exploitation or  
26 serious bodily injury perpetrated by persons whether or not  
27 related to the victim, or child abuse perpetrated by persons  
28 who are not family members. Reports referred to law  
29 enforcement officials shall be on forms provided by and  
30 according to regulations promulgated by the department.

1           (11) County commissioners, to whom the department shall  
2 forward specific files upon request, for review when  
3 investigating the competence of county children and youth  
4 employees.

5           (12) A mandated reporter of child abuse as defined in  
6 section 6311 (relating to persons required to report  
7 suspected child abuse) who made a report of abuse involving  
8 the subject child, but the information permitted to be  
9 released to the mandated reporter shall be limited to the  
10 following:

11               (i) The final status of the report following the  
12 investigation, whether it be indicated, founded or  
13 unfounded.

14               (ii) Any services provided, arranged for or to be  
15 provided by the child protective service to protect the  
16 child from further abuse.

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

23       (c) Protecting identity of person making report.--The  
24 release of data that would identify the person who made a report  
25 of suspected child abuse or the person who cooperated in a  
26 subsequent investigation is prohibited unless the secretary  
27 finds that the release will not be detrimental to the safety of  
28 that person.

29       (d) Definition.--As used in this section, "serious bodily  
30 injury" means bodily injury which creates a substantial risk of

1 death or which causes serious permanent disfigurement or  
2 protracted loss or impairment of the function of any bodily  
3 member or organ.

4 § 6341. Amendment, sealing or expungement of information.

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

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

9 (2) A subject of a report may request the secretary to  
10 amend, seal or expunge information contained in the Statewide  
11 central register on the grounds that it is inaccurate or it  
12 is being maintained in a manner inconsistent with this  
13 chapter.

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

29 (c) Review of refusal of request.--If the secretary refuses  
30 the request under subsection (a)(2) or does not act within a

1 reasonable time, but in no event later than 30 days after  
2 receipt of the request, the subject shall have the right to a  
3 hearing before the secretary or a designated agent of the  
4 secretary to determine whether the summary in the Statewide  
5 central register or the contents of any report filed pursuant to  
6 section 6313 should be amended, sealed or expunged on the  
7 grounds that it is inaccurate or that it is being maintained in  
8 a manner inconsistent with this chapter. The appropriate child  
9 protective service shall be given notice of the hearing. The  
10 burden of proof in the hearing shall be on the appropriate child  
11 protective service. The department shall assist the child  
12 protective service as necessary. In the hearings, the fact that  
13 there was a court finding of child abuse shall be presumptive  
14 evidence that the report was substantiated.

15 (d) Order.--The secretary or designated agent may make any  
16 appropriate order respecting the amendment or expungement of  
17 such records to make them accurate or consistent with the  
18 requirements of this chapter.

19 (e) Notice of expungement.--Written notice of an expungement  
20 of any record, made pursuant to the provisions of this chapter,  
21 shall be served upon the subject of the record who was  
22 responsible for the abuse and the appropriate child protective  
23 service. The latter, upon receipt of the notice, shall take  
24 appropriate, similar action in regard to the local child abuse  
25 records and inform, for the same purpose, the appropriate  
26 coroner if that officer has received reports pursuant to section  
27 6367 (relating to reports to department and coroner). Whenever  
28 the investigation reveals that the report is unfounded but that  
29 the subjects need services and voluntarily accept services, the  
30 county children and youth social service agency may retain those

1 portions of its records which do not specifically identify the  
2 source of the investigation or report as suspected child abuse.

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

8 § 6342. Studies of data in records.

9 The department may conduct or authorize the conducting of  
10 studies of the data contained in the pending complaint file and  
11 the Statewide central register and county agencies and  
12 distribute the results of the studies. No study may contain the  
13 name or other information by which a subject of a report could  
14 be identified. The department may allow Federal auditors access  
15 to nonidentifiable duplicates of reports in the pending  
16 complaint file and the Statewide central register if required  
17 for Federal financial participation in funding of agencies.

18 § 6343. Investigating performance of child protective service.

19 (a) General rule.--If within 30 days from the date of an  
20 initial report of suspected child abuse the appropriate child  
21 protective service has not properly investigated the report and  
22 informed the department that the report is an indicated report  
23 or an unfounded report, or unless within that same 30-day period  
24 the report is determined to be a founded report, the department  
25 shall immediately begin an inquiry into the performance of the  
26 child protective service which inquiry may include a performance  
27 audit of the child protective service as provided in subsection  
28 (b). On the basis of that inquiry, the department shall take  
29 appropriate action to require that the provisions of this  
30 chapter be strictly followed, which action may include, without

1 limitation, the institution of appropriate legal action and the  
2 withholding of reimbursement for all or part of the activities  
3 of the county children and youth social service agency.

4 (b) Performance audit.--Notwithstanding any other provision  
5 of this chapter, the secretary or a designee of the secretary  
6 may direct, at their discretion, a performance audit of any  
7 activity engaged in pursuant to this chapter.

8 § 6344. Information relating to prospective child-care  
9 personnel.

10 (a) Applicability.--This section applies to all prospective  
11 employees of child-care services, prospective foster parents,  
12 prospective adoptive parents, prospective self-employed family  
13 day-care providers and other persons seeking to provide child-  
14 care services under contract with a child-care facility or  
15 program. This section does not apply to administrative or other  
16 support personnel unless their duties will involve direct  
17 contact with children.

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

22 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal  
23 history record information), a report of criminal history  
24 record information from the Pennsylvania State Police or a  
25 statement from the Pennsylvania State Police that the State  
26 Police central repository contains no such information  
27 relating to that person. The criminal history record  
28 information shall be limited to that which is disseminated  
29 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general  
30 regulations).

1           (2) A certification from the department as to whether  
2       the applicant is named in the central register as the  
3       perpetrator of a founded or indicated report of child abuse.  
4       An indicated report shall not be included until the  
5       department adopts regulations specifying the manner in which  
6       the investigation required by sections 6366 (relating to  
7       continuous availability to receive reports) through 6372  
8       (relating to protecting well-being of children detained  
9       outside home) is to be conducted.

10          (3) Where the applicant is not a resident of this  
11       Commonwealth, administrators shall require the applicant to  
12       submit with the application for employment a report of  
13       Federal criminal history record information pursuant to the  
14       Federal Bureau of Investigation appropriation of the  
15       Department of Justice Appropriation Act of 1973 (Public Law  
16       92-544, 86 Stat. 1116), and the department shall be the  
17       intermediary for the purposes of this section.

18       For the purposes of this subsection, an applicant may submit a  
19       copy of the required information with an application for  
20       employment. Administrators shall maintain a copy of the required  
21       information and shall require applicants to produce the original  
22       document prior to employment.

23       (c) Grounds for denying employment.--In no case shall an  
24       administrator hire an applicant where the department has  
25       verified that the applicant is named in the central register as  
26       the perpetrator of a founded report of child abuse committed  
27       within the five-year period immediately preceding verification  
28       pursuant to this section. In no case shall an administrator hire  
29       an applicant if the applicant's criminal history record  
30       information indicates the applicant has been convicted, within

1 five years immediately preceding the date of the report, of one  
2 or more of the following offenses under Title 18 (relating to  
3 crimes and offenses):

4 Chapter 25 (relating to criminal homicide).

5 Section 2702 (relating to aggravated assault).

6 Section 2901 (relating to kidnapping).

7 Section 2902 (relating to unlawful restraint).

8 Section 3121 (relating to rape).

9 Section 3122 (relating to statutory rape).

10 Section 3123 (relating to involuntary deviate sexual  
11 intercourse).

12 Section 3126 (relating to indecent assault).

13 Section 3127 (relating to indecent exposure).

14 Section 4303 (relating to concealing death of child born  
15 out of wedlock).

16 Section 4304 (relating to endangering welfare of  
17 children).

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

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

21 Section 5903(c) or (d) (relating to obscene and other  
22 sexual materials).

23 Section 6301 (relating to corruption of minors).

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

25 (d) Prospective adoptive or foster parents.--With regard to  
26 prospective adoptive or prospective foster parents, the  
27 following shall apply:

28 (1) In the course of causing an investigation to be made  
29 pursuant to section 2535(a) (relating to investigation), an  
30 agency or person designated by the court to conduct the

1 investigation shall require prospective adoptive parents to  
2 submit the information set forth in subsection (b)(1) and (2)  
3 for review in accordance with this section.

4 (2) In the course of approving a prospective foster  
5 parent, a foster family care agency shall require prospective  
6 foster parents to submit the information set forth in  
7 subsection (b)(1) and (2) for review by the foster family  
8 care agency in accordance with this section.

9 (e) Self-employed family day-care providers.--Self-employed  
10 family day-care providers who apply for a certificate of  
11 registration with the department shall submit with their  
12 registration application a report of criminal history record  
13 information and shall also obtain certification from the  
14 department as to whether the applicant is named in the central  
15 register as the perpetrator of a founded report of child abuse.

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

20 (g) Regulations.--The department shall promulgate the  
21 regulations necessary to carry out this section. These  
22 regulations shall:

23 (1) Set forth criteria for unsuitability for employment  
24 in a child-care service in relation to criminal history  
25 record information which may include criminal history record  
26 information in addition to that set forth above. The criteria  
27 shall be reasonably related to the prevention of child abuse.

28 (2) Set forth sanctions for administrators who willfully  
29 hire applicants in violation of this section or in violation  
30 of the regulations promulgated under this section.

1           (3) Provide for the confidentiality of information  
2     obtained pursuant to subsection (b).

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

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

9     (j) Voluntary certification of child caretakers.--The  
10    department shall develop a procedure for the voluntary  
11    certification of child caretakers to allow persons to apply to  
12    the department for a certificate indicating the person has met  
13    the requirements of subsection (b). The department shall also  
14    provide for the biennial recertification of child caretakers.

15    (k) Existing or transferred employees.--A person employed in  
16    child-care services on January 1, 1986, shall not be required to  
17    obtain the information required in subsection (b)(1) and (2) as  
18    a condition of continued employment. A person who has once  
19    obtained the information required under subsection (b)(1) and  
20    (2) may transfer to another child-care service established and  
21    supervised by the same organization and shall not be required to  
22    obtain additional reports before making the transfer.

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

26           (1) They are under 21 years of age.

27           (2) They are employed for periods of 90 days or less.

28           (3) They are a part of a job development or job training  
29    program funded, in whole or in part, by public or private  
30    sources.

1 Once employment of a person who meets these conditions extends  
2 beyond 90 days, all requirements of this section shall take  
3 effect.

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

9 (1) The applicant has applied for the information  
10 required under subsection (b) and the applicant provides a  
11 copy of the appropriate completed request forms to the  
12 administrator.

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

16 (3) The applicant swears or affirms in writing that he  
17 is not disqualified from employment pursuant to subsection  
18 (c).

19 (4) If the information obtained pursuant to subsection  
20 (b) reveals that the applicant is disqualified from  
21 employment pursuant to subsection (c), the applicant shall be  
22 immediately dismissed by the administrator.

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

26 § 6345. Audits by Attorney General.

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

1 § 6346. Cooperation of other agencies.

2 The secretary may request and shall receive from Commonwealth  
3 agencies, political subdivisions, an authorized agency or any  
4 other agency providing services under the local child protective  
5 services plan any assistance and data that will enable the  
6 department and the child protective services to fulfill their  
7 responsibilities properly, including law enforcement personnel  
8 when assistance is needed in conducting an investigation of  
9 alleged child abuse. School districts shall cooperate with the  
10 department and the agency by providing them upon request with  
11 such information as is consistent with law.

12 § 6347. Annual reports to Governor and General Assembly.

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

30 § 6348. Regulations.

1 The department shall adopt regulations necessary to implement  
2 this chapter.

3 § 6349. Penalties.

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

5 (1) A person or official authorized to keep the records  
6 mentioned in section 6337 (relating to disposition of  
7 unfounded reports) or 6338 (relating to disposition of  
8 founded and indicated reports) who willfully fails to expunge  
9 the information when required commits a summary offense for  
10 the first violation and a misdemeanor of the third degree for  
11 a second or subsequent violation.

12 (2) A person who willfully fails to obey a final order  
13 of the secretary or designated agent of the secretary to  
14 amend or expunge the summary of the report in the Statewide  
15 central register or the contents of any report filed pursuant  
16 to section 6313 (relating to reporting procedure) commits a  
17 summary offense.

18 (b) Unauthorized release of information.--A person who  
19 willfully releases or permits the release of any data and  
20 information contained in the pending complaint file, the  
21 Statewide central register or the child welfare records required  
22 by this chapter, including records maintained by any county  
23 children and youth social service agency and any child  
24 protective service, to persons or agencies not permitted by this  
25 chapter commits a misdemeanor of the third degree.

26 (c) Noncompliance with child-care personnel regulations.--An  
27 administrator, or other person responsible for employment  
28 decisions in a child-care facility or program, who willfully  
29 fails to comply with the provisions of section 6344 (relating to  
30 information relating to prospective child-care personnel)

1 commits a violation of this chapter and shall be subject to a  
2 civil penalty as provided in this subsection. The department  
3 shall have jurisdiction to determine violations of section 6344  
4 and may, following a hearing, assess a civil penalty not to  
5 exceed \$2,500. The civil penalty shall be payable to the  
6 Commonwealth.

7 SUBCHAPTER D

8 ORGANIZATION AND RESPONSIBILITIES OF

9 CHILD PROTECTIVE SERVICE

10 Sec.

11 6361. Organization of child protective service.

12 6362. Responsibilities of child protective service.

13 6363. Local plan for child protective services.

14 6364. Purchasing services of other agencies.

15 6365. Services for prevention and treatment of child abuse.

16 6366. Continuous availability to receive reports.

17 6367. Reports to department and coroner.

18 6368. Investigation of reports.

19 6369. Taking child into protective custody.

20 6370. Services for protection of child at home or in custody.

21 6371. Rehabilitative services for child and family.

22 6372. Protecting well-being of children ~~detained~~ MAINTAINED

<—

23 outside home.

24 § 6361. Organization of child protective service.

25 (a) Establishment.--Unless the department finds it is  
26 unfeasible, every county children and youth social service  
27 agency shall establish a "Child Protective Service" within the  
28 agency. The department may waive the requirement that a county  
29 establish a separate child protective service upon a showing by  
30 the county that:

1 (1) A separate child protective service:

2 (i) would not be conducive to the best interests of  
3 all children within the county who need public child  
4 welfare services; and

5 (ii) would not be feasible or economical.

6 (2) The goals and objectives of this chapter will  
7 continue to be met if a waiver is granted.

8 If the department grants a waiver under this subsection, the  
9 county shall be bound by all other provisions of this chapter,  
10 including requirements concerning the maintenance and disclosure  
11 of confidential information and records.

12 (b) Staff and organization.--The child protective service  
13 shall have a sufficient staff of sufficient qualifications to  
14 fulfill the purposes of this chapter and be organized in such a  
15 way as to maximize the continuity of responsibility, care and  
16 services of individual workers toward individual children and  
17 families.

18 (c) Functions authorized.--The child protective service  
19 shall perform those functions assigned by this chapter to it and  
20 only such others that would further the purposes of this  
21 chapter.

22 § 6362. Responsibilities of child protective service.

23 (a) General rule.--The child protective service shall be the  
24 sole civil agency responsible for receiving and investigating  
25 all reports of child abuse made pursuant to this chapter  
26 specifically including, but not limited to, reports of child  
27 abuse in facilities operated by the department and other public  
28 agencies, for the purpose of providing protective services to  
29 prevent further abuses to children and to provide or arrange for  
30 and monitor the provision of those services necessary to

1 safeguard and ensure the well-being and development of the child  
2 and to preserve and stabilize family life wherever appropriate.

3 (b) Assumption of responsibility by department.--When the  
4 suspected abuse has been committed by the county children and  
5 youth social service agency or any of its agents or employees,  
6 the department shall assume the role of the agency with regard  
7 to the investigation and directly refer the child for services.

8 (c) Action by agencies for abuse by agents or employees.--  
9 Where suspected child abuse has occurred and an employee or  
10 agent of the department or the county children and youth social  
11 service agency or a private or public institution is a subject  
12 of the report, the department, agency or institution shall be  
13 informed of the investigation so that it may take appropriate  
14 action.

15 § 6363. Local plan for child protective services.

16 (a) General rule.--No later than once each year as required  
17 by the department each county agency child protective service  
18 shall prepare and submit a local plan for the provision of child  
19 protective services. The local plan may be a component of a  
20 county human service plan or a children and youth plan which may  
21 be required by the act of June 13, 1967 (P.L.31, No.21), known  
22 as the Public Welfare Code.

23 (b) Certification by department.--The department shall  
24 certify whether or not the local plan fulfills the purposes of  
25 and meets the requirements set forth in this chapter. If the  
26 department certifies that the local plan does not do so, the  
27 department shall state the reasons therefor and may withhold  
28 reimbursement for all or part of the activities of the agency.  
29 If the department finds that a proposed local plan does not meet  
30 the requirements set forth in this chapter, the child protective

1 service shall revise the local plan in accordance with the  
2 reasons of the department for disapproval.

3 § 6364. Purchasing services of other agencies.

4 Any other provision of law notwithstanding but consistent  
5 with sections 6361 (relating to organization of child protective  
6 service) and 6362 (relating to responsibilities of child  
7 protective service), the county children and youth social  
8 service agency, based upon the local plan of services as  
9 provided in section 6363 (relating to local plan for child  
10 protective services), may purchase and utilize the services of  
11 any appropriate public or private agency.

12 § 6365. Services for prevention and treatment of child abuse.

13 Each child protective service shall make available among its  
14 services for the prevention and treatment of child abuse  
15 multidisciplinary teams, instruction and education for  
16 parenthood, protective and preventive social counseling,  
17 emergency caretaker services, emergency shelter care, emergency  
18 medical services and the establishment of groups organized by  
19 former abusing parents to encourage self-reporting and self-  
20 treatment of present abusers.

21 § 6366. Continuous availability to receive reports.

22 Each child protective service shall receive 24 hours a day,  
23 seven days a week, all reports, both oral and written, of  
24 suspected child abuse in accordance with this chapter, the local  
25 plan for the provision of child protective services and the  
26 regulations of the department.

27 § 6367. Reports to department and coroner.

28 (a) Reports to department.--Upon the receipt of each report  
29 of suspected child abuse made pursuant to this chapter, the  
30 child protective service shall immediately transmit a child

1 abuse report summary as provided in section 6313 (relating to  
2 reporting procedure) to the department. Supplemental reports  
3 shall be made at regular intervals thereafter in a manner and  
4 form the department prescribes by regulation to the end that the  
5 department is kept fully informed and up-to-date concerning the  
6 status of reports of child abuse.

7 (b) Reports to coroner.--The child protective service shall  
8 give telephone notice and forward immediately a copy of reports  
9 made pursuant to this chapter which involve the death of a child  
10 to the appropriate coroner pursuant to section 6317 (relating to  
11 reporting and postmortem investigation of deaths).

12 § 6368. Investigation of reports.

13 (a) General rule.--Upon receipt of each report of suspected  
14 child abuse, the child protective service shall commence within  
15 24 hours an appropriate investigation which shall include a  
16 determination of the risk to the child or children if they  
17 continue to remain in the existing home environment as well as a  
18 determination of the nature, extent and cause of any condition  
19 enumerated in the report and, after seeing to the safety of the  
20 child or children, immediately notify the subjects of the report  
21 in writing of the existence of the report and their rights  
22 pursuant to this chapter in regard to amendment or expungement.

23 (b) Conditions outside home environment.--The investigation  
24 shall determine whether the child is being harmed by factors  
25 beyond the control of the parent or other person responsible for  
26 the welfare of the child, and, if so determined, the child  
27 protective service shall promptly take all available steps to  
28 remedy and correct these conditions including but not limited to  
29 the coordination of social services for the child and the  
30 family.

1 (c) Limitation of actions.--The investigation shall be  
2 completed within 30 days. The child protective service shall  
3 determine, within 30 days, whether the report is "founded,"  
4 "indicated" or "unfounded."

5 § 6369. Taking child into protective custody.

6 Pursuant to the provisions of section 6315 (relating to  
7 taking child into protective custody) and after court order, the  
8 child protective service shall take a child into protective  
9 custody for protection from further abuse. No child protective  
10 service worker may enter the home of any individual for this  
11 purpose without judicial authorization.

12 § 6370. Services for protection of child at home or in custody.

13 (a) General rule.--Based on the investigation and evaluation  
14 conducted pursuant to this chapter, the child protective service  
15 shall provide or contract with private or public agencies for  
16 the protection of the child at home whenever possible and those  
17 services necessary for adequate care of the child when placed in  
18 protective custody. Prior to offering these services to a  
19 family, the agency shall explain that it has no legal authority  
20 to compel the family to receive the services but may inform the  
21 family of the obligations and authority of the child protective  
22 service to initiate appropriate court proceedings.

23 (b) Initiation of court proceedings.--In those cases in  
24 which an appropriate offer of service is refused and the child  
25 protective service determines, or if the service for any other  
26 appropriate reason determines, that the best interests of the  
27 child require court action, the child protective service shall  
28 initiate the appropriate court proceeding. The child protective  
29 service shall assist the court during all stages of the court  
30 proceeding in accordance with the purposes of this chapter.

1 § 6371. Rehabilitative services for child and family.

2 The child protective service shall provide or arrange for and  
3 monitor rehabilitative services for children and their families  
4 on a voluntary basis or under a final or intermediate order of  
5 the court.

6 § 6372. Protecting well-being of children ~~detained~~ MAINTAINED <—  
7 outside home.

8 The child protective service shall be as equally vigilant of  
9 the status, well-being and conditions under which a child is  
10 living and being maintained in a facility other than that of a  
11 parent, custodian or guardian from which the child has been  
12 removed as the service is of the conditions in the dwelling of  
13 the parent, custodian or guardian. Where the child protective  
14 service finds that the placement for any temporary or permanent  
15 custody, care or treatment is for any reason inappropriate or  
16 harmful IN ANY WAY to the physical or mental well-being of the <—  
17 child, it shall take immediate steps to remedy these conditions  
18 including petitioning the court.

19 SUBCHAPTER E

20 MISCELLANEOUS PROVISIONS

21 Sec.

22 6381. Evidence in court proceedings.

23 6382. Guardian ad litem for child in court proceedings.

24 6383. Education and training.

25 6384. Legislative oversight.

26 § 6381. Evidence in court proceedings.

27 (a) General rule.--In addition to the rules of evidence  
28 provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters),  
29 the rules of evidence in this section shall govern in child  
30 abuse proceedings in court.

1       (b) Reports of unavailable persons.--Whenever a person  
2 required to report under this chapter is unavailable due to  
3 death or removal from the jurisdiction of the court, the written  
4 report of that person shall be admissible in evidence in any  
5 proceedings arising out of child abuse other than proceedings  
6 under Title 18 (relating to crimes and offenses). Any hearsay  
7 contained in the reports shall be given such weight, if any, as  
8 the court determines to be appropriate under all of the  
9 circumstances. However, any hearsay contained in a written  
10 report shall not of itself be sufficient to support an  
11 adjudication based on abuse.

12       (c) Privileged communications.--Except for privileged  
13 communications between a lawyer and a client and between a  
14 minister and a penitent, a privilege of confidential  
15 communication between husband and wife or between any  
16 professional person, including, but not limited to, physicians,  
17 psychologists, counselors, employees of hospitals, clinics, day-  
18 care centers and schools and their patients or clients, shall  
19 not constitute grounds for excluding evidence at any proceeding  
20 regarding child abuse or the cause of child abuse.

21       (d) Prima facie evidence of abuse.--Evidence that a child  
22 has suffered serious physical injury, sexual abuse or serious  
23 physical neglect of such a nature as would ordinarily not be  
24 sustained or exist except by reason of the acts or omissions of  
25 the parent or other person responsible for the welfare of the  
26 child shall be prima facie evidence of child abuse by the parent  
27 or other person responsible for the welfare of the child.

28 § 6382. Guardian ad litem for child in court proceedings.

29       (a) Appointment.--When a proceeding has been initiated  
30 alleging child abuse, the court shall appoint a guardian ad

1 litem for the child. The guardian ad litem shall be an attorney  
2 at law.

3 (b) Powers and duties.--The guardian ad litem shall be given  
4 access to all reports relevant to the case and to any reports of  
5 examination of the parents or other custodian of the child  
6 pursuant to this chapter. The guardian ad litem shall be charged  
7 with the representation of the best interests of the child at  
8 every stage of the proceeding and shall make such further  
9 investigation necessary to ascertain the facts, interview  
10 witnesses, examine and cross-examine witnesses, make  
11 recommendations to the court and participate further in the  
12 proceedings to the degree appropriate for adequately  
13 representing the child.

14 (c) Duty of court.--The court shall, upon consideration of  
15 the petition of any attorney for the child, order a local child  
16 protective service or other agency to establish and implement,  
17 fully and promptly, appropriate services, treatment and plans  
18 for a child found in need of them. The court shall also, upon  
19 consideration of the petition of an attorney for the child,  
20 terminate or alter the conditions of any temporary or permanent  
21 placement of a child.

22 § 6383. Education and training.

23 The department and each child protective service, both  
24 jointly and individually, shall conduct a continuing publicity  
25 and education program for the citizens of this Commonwealth  
26 aimed at the prevention of child abuse, the identification of  
27 abused children and the provision of necessary ameliorative  
28 services to abused children and their families. In addition, the  
29 department and each child protective service shall conduct an  
30 ongoing training and education program for local staff, persons

1 required to make reports and other appropriate persons in order  
2 to familiarize those persons with the reporting and  
3 investigative procedures for cases of suspected child abuse and  
4 the rehabilitative services that are available to children and  
5 families.

6 § 6384. Legislative oversight.

7 A committee of the Senate designated by the President pro  
8 tempore of the Senate and a committee of the House of  
9 Representatives designated by the Speaker of the House of  
10 Representatives, either jointly or separately, shall review the  
11 manner in which this chapter has been administered at the State  
12 and local level for the following purposes:

13 (1) Providing information that will aid the General  
14 Assembly in its oversight responsibilities.

15 (2) Enabling the General Assembly to determine whether  
16 the programs and services mandated by this chapter are  
17 effectively meeting the goals of this chapter.

18 (3) Assisting the General Assembly in measuring the  
19 costs and benefits of this program and the effects and side-  
20 effects of mandated program services.

21 (4) Permitting the General Assembly to determine whether  
22 the confidentiality of records mandated by this chapter is  
23 being maintained at the State and local level.

24 (5) Providing information that will permit State and  
25 local program administrators to be held accountable for the  
26 administration of the programs mandated by this chapter.

27 Section 3. Amendments to Title 18.--Section 2711(d) of Title  
28 18 is amended to read:

29 § 2711. Probable cause arrests in domestic violence cases.

30 \* \* \*

1 (d) Notice of rights.--

2 Upon responding to a domestic violence case, the police  
3 officer shall, orally or in writing, notify the victim of the  
4 availability of a shelter, including its telephone number, or  
5 other services in the community. Said notice shall include  
6 the following statement: "If you are the victim of domestic  
7 violence, you have the right to go to court and file a  
8 petition requesting an order for protection from domestic  
9 abuse pursuant to [the act of October 7, 1976 (P.L.1090,  
10 No.218), known as the Protection From Abuse Act,] 23 Pa.C.S.  
11 Ch. 61 (relating to protection from abuse) which could  
12 include the following:

13 (1) An order restraining the abuser from further  
14 acts of abuse.

15 (2) An order directing the abuser to leave your  
16 household.

17 (3) An order preventing the abuser from entering  
18 your residence, school, business or place of employment.

19 (4) An order awarding you or the other parent  
20 temporary custody of or temporary visitation with your  
21 child or children.

22 (5) An order directing the abuser to pay support to  
23 you and the minor children if the abuser has a legal  
24 obligation to do so."

25 Section 4. Amendments to Title 42.--Sections 1725.1(c),  
26 4136, 5924, 5945, 7541(c) and 8127 of Title 42 are amended and  
27 the title is amended by adding a section to read:

28 § 1725.1. Costs.

29 \* \* \*

30 (c) Unclassified costs or charges.--The costs to be charged

by the minor judiciary in the following instances not readily  
classifiable shall be as follows:

(1) Entering transcript of judgment from another member  
of the minor judiciary..... \$ 3.00

(2) Marrying each couple, making record thereof, and  
certificate to the parties..... \$10.00

(3) Granting emergency relief pursuant to [the act of  
October 7, 1976 (P.L.1090, No.218), known as the "Protection  
From Abuse Act"] 23 Pa.C.S. Ch. 61 (relating to protection  
from abuse)..... \$10.00

(4) Issuing a search warrant (except as provided in  
subsection (d))..... \$10.00

(5) Any other issuance not otherwise provided for in  
this subsection..... \$10.00

\* \* \*

§ 4136. Rights of persons charged with certain indirect  
criminal contempts.

(a) General rule.--A person charged with indirect criminal  
contempt for violation of a restraining order or injunction  
issued by a court shall enjoy:

(1) The rights to bail that are accorded to persons  
accused of crime.

(2) The right to be notified of the accusation and a  
reasonable time to make a defense, if the alleged contempt is  
not committed in the immediate view or presence of the court.

(3) (i) Upon demand, the right to a speedy and public  
trial by an impartial jury of the judicial district  
wherein the contempt is alleged to have been committed.

(ii) The requirement of subparagraph (i) shall not  
be construed to apply to contempts:

1           (A) [committed] Committed in the presence of the  
2           court or so near thereto as to interfere directly  
3           with the administration of justice, or to apply to  
4           the misbehavior, misconduct, or disobedience of any  
5           officer of the court in respect to the writs, orders,  
6           or process of the court[; or].

7           (B) Subject to 23 Pa.C.S. § 6110 (relating to  
8           contempt for violation of order or agreement).

9           [(B) subject] (C) Subject to 75 Pa.C.S. §  
10          4108(c) (relating to nonjury criminal contempt  
11          proceedings).

12          (4) The right to file with the court a demand for the  
13          withdrawal of the judge sitting in the proceeding, if the  
14          alleged contempt arises from an attack upon the character or  
15          conduct of such judge, and if the attack occurred otherwise  
16          than in open court. Upon the filing of any such demand, the  
17          judge shall thereupon proceed no further but another judge  
18          shall be designated by the court. The demand shall be filed  
19          prior to the hearing in the contempt proceeding.

20          (b) Punishment.--Except as otherwise provided in this title  
21          or by statute hereafter enacted, punishment for a contempt  
22          specified in subsection (a) may be by fine not exceeding \$100 or  
23          by imprisonment not exceeding 15 days in the jail of the county  
24          where the court is sitting, or both, in the discretion of the  
25          court. Where a person is committed to jail for the nonpayment of  
26          such a fine, he shall be discharged at the expiration of 15  
27          days, but where he is also committed for a definite time, the 15  
28          days shall be computed from the expiration of the definite time.

29          § 5924. Spouses as witnesses against each other.

30          (a) General rule.--In a civil matter neither husband nor

1 wife shall be competent or permitted to testify against each  
2 other.

3 (b) Exception.--Subsection (a) shall not apply in an action  
4 or proceeding:

5 (1) For divorce, including ancillary proceedings for the  
6 partition or division of property.

7 (2) For support or relating to the protection or  
8 recovery of marital or separate property.

9 (3) For custody or care of children, including actions  
10 or proceedings relating to visitation rights and similar  
11 matters.

12 (4) Arising under [the act of October 7, 1976 (P.L.1090,  
13 No.218), known as the "Protection From Abuse Act." ] 23  
14 Pa.C.S. Ch. 61 (relating to protection from abuse).

15 (5) When a statute heretofore or hereafter enacted  
16 applicable to the action or proceeding provides either  
17 expressly or by necessary implication that spouses may  
18 testify therein against each other.

19 § 5945. Confidential communications to school personnel.

20 (a) General rule.--No guidance counselor, school nurse,  
21 school psychologist, or home and school visitor in the public  
22 schools or in private or parochial schools or other educational  
23 institutions providing elementary or secondary education,  
24 including any clerical worker of such schools and institutions,  
25 who, while in the course of his professional or clerical duties  
26 for a guidance counselor, home and school visitor, school nurse  
27 or school psychologist, has acquired information from a student  
28 in confidence shall be compelled or allowed:

29 (1) without the consent of the student, if the student  
30 is 18 years of age or over; or

1 (2) without the consent of his parent or guardian, if  
2 the student is under the age of 18 years;  
3 to disclose such information in any legal proceeding, trial, or  
4 investigation before any government unit.

5 (b) Exemption.--Notwithstanding subsection (a), no such  
6 person shall be excused or prevented from complying with [the  
7 act of November 26, 1975 (P.L.438, No.124), known as the "Child  
8 Protective Services Law." ] 23 Pa.C.S. Ch. 63 (relating to child  
9 protective services).

10 § 5948. Confidential communications to qualified professionals.

11 Communications of a confidential character made by a spouse  
12 to a qualified professional as defined in 23 Pa.C.S. § 3103  
13 (relating to definitions) shall be privileged and inadmissible  
14 in evidence in any matter under 23 Pa.C.S. Pt. IV (relating to  
15 divorce) or VI (relating to children and minors) unless the  
16 party concerned waives this privilege.

17 § 7541. Construction of subchapter.

18 \* \* \*

19 (c) Exceptions.--Relief shall not be available under this  
20 subchapter with respect to any:

21 (1) Action wherein a divorce or annulment of marriage is  
22 sought except as provided by 23 Pa.C.S. § 3306 (relating to  
23 proceedings to determine marital status).

24 (2) Proceeding within the exclusive jurisdiction of a  
25 tribunal other than a court.

26 (3) Proceeding involving an appeal from an order of a  
27 tribunal.

28 § 8127. Personal earnings exempt from process.

29 The wages, salaries and commissions of individuals shall  
30 while in the hands of the employer be exempt from any

1 attachment, execution or other process except upon an action or  
2 proceeding:

3 (1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

4 [(1)] (2) For support.

5 [(2)] (3) For board for four weeks or less.

6 [(3)] (4) Under the act of August 7, 1963 (P.L.549,  
7 No.290), referred to as the Pennsylvania Higher Education  
8 Assistance Agency Act.

9 Section 5. Construction of Divorce Code.--The provisions of  
10 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all  
11 cases, whether the cause for divorce or annulment arose prior or  
12 subsequent to the enactment of this act. The provisions of 23  
13 Pa.C.S. Pt. IV shall not affect any suit or action pending on  
14 the effective date of the Divorce Code of 1980, but the suit or  
15 action may be proceeded with and concluded either under the laws  
16 in existence when the suit or action was instituted,  
17 notwithstanding the repeal of such laws, or, upon application  
18 granted, under the provisions of 23 Pa.C.S. Pt. IV. The  
19 provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in  
20 which a decree has been rendered prior to the effective date of  
21 the Divorce Code of 1980. The provisions of 23 Pa.C.S. Pt. IV  
22 shall not affect any marital agreement executed prior to the  
23 effective date of the Divorce Code of 1980 or any amendment or  
24 modification thereto.

25 Section 6. Repeals.--(a) The following acts and parts of  
26 acts are repealed:

27 Act of March 13, 1815 (P.L.150, No.109), entitled "An act  
28 concerning divorces."

29 Act of April 11, 1848 (P.L.536, No.372), entitled "A  
30 supplement to an act, entitled 'An Act relative to the Le

1 Raysville Phalanx,' passed March, Anno Domini one thousand eight  
2 hundred and forty-seven, and relative to obligors and obligees,  
3 to secure the right of married women, in relation to  
4 defalcation, and to extend the boundaries of the borough of  
5 Ligonier."

6 Act of April 15, 1851 (P.L.669, No.358), entitled "An act to  
7 incorporate a company to erect a bridge over the river  
8 Schuylkill at Spring Mill, in Montgomery county, relative to the  
9 nineteenth section of 'An act regulating certain election  
10 districts, &c,' approved March twenty-ninth, eighteen hundred  
11 and fifty-one, to school directors in Philadelphia county, to  
12 actions for damages sustained by injuries done to the person by  
13 negligence or default, relative to the accounts of John Humes,  
14 deceased, to authorize the trustees of the Seventh Presbyterian  
15 church of Philadelphia to convey certain real estate, to  
16 security for moneys loaned by wives to husbands, to unpaid  
17 school taxes in Bradford county, and relative to service or  
18 process on agents of joint stock companies."

19 Act of May 14, 1857 (P.L.507, No.567), entitled "An act to  
20 Legitimate Children Born out of Lawful Wedlock."

21 Act of April 21, 1858 (P.L.413, No.444), entitled "An act  
22 relating to Illegitimate Children."

23 Act of March 22, 1865 (P.L.30, No.14), entitled, as amended,  
24 "An act to authorize minor husbands and wives, seventeen years  
25 of age and older, to join in conveyances of their adult spouses'  
26 real estate, and to validate such conveyances heretofore made."

27 Act of April 6, 1868 (P.L.67, No.31), entitled "An act to  
28 validate certain marriages and legitimatize the issue thereof."

29 Act of June 2, 1871 (P.L.283, No.263), entitled "An act to  
30 authorize married women owning capital stock of any railroad

1 company to sell and transfer the same."

2 Act of April 3, 1872 (P.L.35, No.24), entitled "An act  
3 securing to married women their separate earnings."

4 Act of April 1, 1874 (P.L.49, No.9), entitled "An act to  
5 authorize married women owning loans of this commonwealth, or of  
6 the city of Philadelphia, or capital stock of any corporation of  
7 this commonwealth, to sell and transfer the same."

8 Act of May 15, 1874 (P.L.179, No.110), entitled "An act to  
9 prevent traffic in children."

10 Act of June 26, 1895 (P.L.316, No.232), entitled "An act  
11 relating to husband and wife who are the parents of minor  
12 children, enlarging and extending the power, control and  
13 authority of the mother over their minor children, under certain  
14 circumstances."

15 Act of June 11, 1913 (P.L.468, No.313), entitled "An act to  
16 provide for the execution of orders of the court of quarter  
17 sessions, or other court of competent jurisdiction, for support  
18 and maintenance of a wife or children, or both, and for the  
19 execution of judgment entered upon contracts for such support  
20 and maintenance, by subjecting estates owned by the husband and  
21 wife by entreties, and the rents, issues and profits thereof,  
22 to such executions; defining the title of the purchaser at the  
23 sheriff's sale on such executions; and providing for the  
24 application of the proceeds of such sales."

25 Act of April 18, 1919 (P.L.67, No.52), entitled "An act to  
26 give to women, married and single, the same right as men to be  
27 corporators, and, in furtherance of their interests as  
28 stockholders, to serve as directors and officers of corporations  
29 for profit."

30 Act of May 24, 1923 (P.L.446, No.238), entitled "An act

1 authorizing the sale of real estate held by entireties by  
2 husband and wife when an order of support has been secured  
3 against the husband who has neglected to comply with the same,  
4 or whose whereabouts is unknown, or who has absented himself  
5 from this Commonwealth; prescribing the procedure to be  
6 followed; permitting husband and wife to testify; providing for  
7 the disposition of the proceeds of such sale; and granting a  
8 divorced woman the same rights under this act as a wife.

9 Act of April 11, 1927 (P.L.181, No.151), entitled "An act  
10 authorizing a married woman, granted a divorce from bed and  
11 board, to convey and encumber her real estate, without the  
12 joinder of her husband."

13 Act of May 10, 1927 (P.L.884, No.451), entitled, as amended,  
14 "An act modifying the common-law rule relating to property  
15 hereafter acquired by husband and wife as tenants by entireties,  
16 where such husband and wife are subsequently divorced; creating  
17 a tenancy in common in such cases; providing for the sale of  
18 property held by husband and wife as tenants by entireties where  
19 they have been divorced; and directing the distribution of the  
20 proceeds of such sale."

21 Act of June 22, 1935 (P.L.450, No.189), entitled "An act to  
22 promote public morals; abolishing civil causes of action for  
23 alienation of affections, except in certain cases, and breach of  
24 promise to marry; making it unlawful to file, cause to be filed,  
25 threaten to file, or threaten to cause to be filed any such  
26 action; fixing a time for the commencement of such causes of  
27 action heretofore accrued; declaring void all future contracts  
28 in settlement of such actions; making it unlawful to induce the  
29 execution of such a contract or payment thereunder or  
30 institution of suit thereon; and providing penalties."

1 Act of May 13, 1949 (P.L.1319, No.390), entitled "An act  
2 authorizing the conveyance of the interest of either former  
3 spouse after a divorce to the other without the joinder of the  
4 other, of such former spouse's interest in real estate which is  
5 held by them as tenants by the entireties, and validating such  
6 conveyances formerly made."

7 Act of August 22, 1953 (P.L.1344, No.383), known as The  
8 Marriage Law.

9 Act of December 17, 1959 (P.L.1916, No.695), entitled "An act  
10 relating to the legitimacy of children born of void or voidable  
11 marriages."

12 Act of August 7, 1961 (P.L.961, No.426), entitled "An act  
13 authorizing minor spouses to join their adult spouse in the  
14 conveyance or mortgaging of their real estate and to execute  
15 bonds or other obligations in connection therewith and  
16 validating such action taken."

17 Act of July 27, 1967 (P.L.186, No.58), entitled "An act  
18 imposing liability upon parents for personal injury, or theft,  
19 destruction, or loss of property caused by the wilful, tortious  
20 acts of children under eighteen years of age, setting forth  
21 limitations, and providing procedure for recovery."

22 Act of June 16, 1972 (P.L.472, No.151), entitled "An act  
23 authorizing persons eighteen years of age and older to enter  
24 into contracts."

25 Act of December 6, 1972 (P.L.1404, No.300), entitled "An act  
26 making a person eighteen and older an adult for the purpose of  
27 suing and being sued."

28 Act of November 26, 1975 (P.L.438, No.124), known as the  
29 Child Protective Services Law.

30 Act of October 7, 1976 (P.L.1090, No.218), known as the

1 Protection From Abuse Act.

2 Act of April 2, 1980 (P.L.63, No.26), known as the Divorce  
3 Code.

4 Act of May 24, 1984 (P.L.326, No.64), known as the  
5 Pennsylvania Adoption Cooperative Exchange Act.

6 42 Pa.C.S. Ch. 53, Subch. C (relating to child custody  
7 jurisdiction).

8 42 Pa.C.S. Ch. 61, Subch. C (relating to blood tests to  
9 determine paternity).

10 (b) Nothing in this act shall repeal, modify or supplant  
11 section 7 of the act of February 12, 1988 (P.L.66, No.13),  
12 entitled "An act amending the act of April 2, 1980 (P.L.63,  
13 No.26), entitled 'An act consolidating, revising and amending  
14 the divorce and annulment laws of the Commonwealth and making  
15 certain repeals,' further providing for grounds for divorce,  
16 enforcement of foreign decrees, procedure, jurisdiction, marital  
17 property, relief and alimony; providing for agreements between  
18 parties; making editorial changes; and making a repeal."

19 (c) All other acts and parts of acts are repealed insofar as  
20 they are inconsistent with this act.

21 Section 7. Effective date.--This act shall take effect in 90  
22 days.