

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 979 Session of
2001

INTRODUCED BY PICCOLA, WAUGH, GREENLEAF, GERLACH, COSTA,
TARTAGLIONE, BOSCOLA, LOGAN, SCHWARTZ, HOLL, MELLOW, STACK
AND THOMPSON, JUNE 11, 2001

REFERRED TO JUDICIARY, JUNE 11, 2001

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for award of custody, partial
4 custody or visitation, for establishment of fees and charges,
5 for costs in custody cases and for the availability of
6 criminal charge information in child custody proceedings.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 5303(b.1)(2) of Title 23 of the
10 Pennsylvania Consolidated Statutes is amended to read:

11 § 5303. Award of custody, partial custody or visitation.

12 * * *

13 (b.1) Consideration of criminal charge.--

14 * * *

15 (2) In evaluating any request for temporary custody or
16 modification of a custody, partial custody or visitation
17 order, the court shall consider whether the parent who is or
18 has been charged with an offense listed below poses a risk of
19 harm to the child:

(i) 18 Pa.C.S. Ch. 25;

(ii) 18 Pa.C.S. § 2702 (relating to aggravated assault);

(iii) 18 Pa.C.S. § 2706 (relating to terroristic threats);

(iv) 18 Pa.C.S. § 2709(b) (relating to harassment and stalking);

(v) 18 Pa.C.S. § 2901;

(vi) 18 Pa.C.S. § 2902;

(vii) 18 Pa.C.S. § 2903 (relating to false imprisonment);

(viii) 18 Pa.C.S. § 2909 (relating to concealment of whereabouts of a child);

(ix) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle);

[(viii)] (x) 18 Pa.C.S. § 3121;

[(ix)] (xi) 18 Pa.C.S. § 3122.1;

[(x)] (xii) 18 Pa.C.S. § 3123;

[(xi)] (xiii) 18 Pa.C.S. § 3124.1;

[(xii)] (xiv) 18 Pa.C.S. § 3125;

[(xiii)] (xv) 18 Pa.C.S. § 3126;

[(xiv)] (xvi) 18 Pa.C.S. § 3127;

[(xv)] (xvii) 18 Pa.C.S. § 3301 (relating to arson and related offenses);

[(xvi)] (xviii) 18 Pa.C.S. § 4302;

[(xvii)] (xix) 18 Pa.C.S. § 4304;

(xx) 18 Pa.C.S. § 6301 (relating to corruption of minors);

[(xviii)] (xxi) 18 Pa.C.S. § 6312; [and]

(xxii) 18 Pa.C.S. § 6320 (relating to sexual

1 exploitation of children);
2 [(xix)] (xxiii) 23 Pa.C.S. § 6114 (relating to
3 contempt for violation of order or agreement)[.];
4 (xxiv) 75 Pa.C.S. § 3731 (relating to driving under
5 influence of alcohol or controlled substance);
6 (xxv) 75 Pa.C.S. § 3735 (relating to homicide by
7 vehicle while driving under influence);
8 (xxvi) 75 Pa.C.S. § 3735.1 (relating to aggravated
9 assault by vehicle while driving under the influence);
10 and
11 (xxvii) a violation of the act of April 14, 1972
12 (P.L.233, No.64), known as The Controlled Substance,
13 Drug, Device and Cosmetic Act.

14 * * *

15 Section 2. Sections 1725(c)(2)(v), 1725.1(a.1) and 1904(a),
16 (c) introductory paragraph, (3) introductory paragraph and
17 (viii), (d), (e), (f) and (g) of Title 42 are amended to read:
18 § 1725. Establishment of fees and charges.

19 * * *

20 (c) Counties of the first class.--

21 * * *

22 (2) The fees to be received by the Prothonotary of the
23 Trial Division of the Court of Common Pleas and as clerk of
24 the Family Division of said court in counties of the first
25 class shall be as follows:

26 * * *

27 (v) Custody:

28 Custody, partial custody or

29 visitation..... \$30.00

30 Respondent's first responsive

1 filing..... 15.00

2 Other motions and petitions - (See

3 petitions and motions)

4 Thirteen percent of the funds generated by

5 the charge under this subparagraph shall be

6 transmitted by the prothonotary to the

7 [Administrative Office] Department of

8 Revenue to pay for the implementation of

9 section 1904 (relating to availability of

10 criminal charge information in child

11 custody proceedings).

12 * * *

13 § 1725.1. Costs.

14 * * *

15 (a.1) Custody cases.--Except as provided in section

16 1725(c)(2)(v) (relating to establishment of fees and charges)

17 and subject to subsection (f), in a custody case, the court of

18 common pleas shall, in addition to the cost provided by general

19 rule, assess a cost of \$5.00. Eighty percent of the funds

20 generated by the charge under this subsection shall be

21 transmitted by the prothonotary to the [Administrative Office]

22 Department of Revenue to pay for the implementation of section

23 1904 (relating to availability of criminal charge information in

24 child custody proceedings).

25 * * *

26 § 1904. Availability of criminal charge information in child

27 custody proceedings.

28 (a) Establishment of criminal charge information system.--

29 The [Administrative Office] Pennsylvania Commission on Crime and

30 Delinquency shall establish and maintain an information system

1 to enable a parent who is a party to a custody proceeding or
2 order to have access to information about the criminal charges
3 filed against the other parent to the custody proceeding or
4 order. The criminal charge information that shall be available
5 for access under this section is limited to the information
6 requested by those parents involved in a custody proceeding or
7 order and for which an application has been filed and verified
8 for access as provided for in this section.

9 * * *

10 (c) Application for access to criminal charge information.--
11 To obtain information about charges covered in 23 Pa.C.S. §
12 5303(b.1)(2), a parent who has been awarded custody, partial
13 custody or visitation or who is a party to a custody proceeding
14 must file an application for access to the information with the
15 office of the prothonotary in the county where the proceeding or
16 order was filed. The following provisions shall apply to the
17 application:

18 * * *

19 (3) The [Administrative Office] Pennsylvania Commission
20 on Crime and Delinquency shall develop the application for
21 access to the criminal charge information system. The
22 following information shall be included in the application:

23 * * *

24 (viii) Any additional information that it is
25 determined to be necessary to expedite the verification
26 of the application and to provide access to the system,
27 as determined by the [Administrative Office] Pennsylvania
28 Commission on Crime and Delinquency.

29 * * *

30 (d) Verification of application.--The prothonotary shall

1 verify and transmit the application to the [Administrative
2 Office] Pennsylvania Commission on Crime and Delinquency within
3 six business days[.] as follows:

4 (1) Verification [consists] shall consist of checking
5 court records to determine whether there exists an active
6 custody proceeding or valid custody order remaining in
7 effect.

8 (2) The [Administrative Office] Pennsylvania Commission
9 on Crime and Delinquency shall determine how the application
10 is to be transmitted.

11 (e) Access.--

12 (1) Except as provided in this subsection, the charge
13 information system shall be accessible by telephone during
14 regular business hours to parents who have filed a verified
15 application and have been entered into the system.

16 Information relating to the regular business hours of the
17 [Administrative Office] Pennsylvania Commission on Crime and
18 Delinquency shall be included with the application.

19 (2) The [Administrative Office] Pennsylvania Commission
20 on Crime and Delinquency may interrupt the system for
21 necessary maintenance, the processing and updating of
22 information and the removal of names upon the termination of
23 a custody order.

24 (3) Personal access codes shall remain valid until the
25 youngest child involved in the custody proceeding or order
26 reaches the age of 18.

27 (f) Time for providing access.--The [Administrative Office]
28 Pennsylvania Commission on Crime and Delinquency shall provide
29 for access to the criminal charge information system for each
30 qualified individual within one business day of its receipt of

1 the application. Access to the criminal charge information
2 system shall be provided by a telephone service which requires
3 an established fee to be paid by the caller at a cost not to
4 exceed 50¢ per minute.

5 (g) Funds generated.--Funds transmitted to the
6 [Administrative Office] Pennsylvania Commission on Crime and
7 Delinquency under sections 1725(c)(2) (relating to establishment
8 of fees and charges) and 1725.1(a.1) (relating to costs) for the
9 implementation of this section and telephone tolls collected
10 under subsection (f) shall be utilized in the following order of
11 priority:

12 (1) To annually operate the system under this section.

13 (2) To build a surplus fund of \$50,000 to deal with
14 emergencies and computer upgrading in the operation of the
15 system under this section.

16 (3) To repay to the General Fund appropriations made to
17 operate the system under this section.

18 (4) To the General Fund for use under section 2333(b) of
19 the act of April 9, 1929 (P.L.177, No.175), known as The
20 Administrative Code of 1929.

21 * * *

22 Section 3. This act shall take effect in 60 days.