

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 868 Session of 2019

INTRODUCED BY SANTARSIERO, FONTANA, MUTH, HUGHES, COLLETT, BREWSTER, SCHWANK, COSTA, BLAKE, MENSCH, KEARNEY, LEACH, YUDICHAK, STREET, SABATINA, BROWNE AND BARTOLOTTA, SEPTEMBER 30, 2019

SENATOR BAKER, JUDICIARY, AS AMENDED, SEPTEMBER 22, 2020

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in child custody, further providing for
4 definitions, for award of custody, for factors to consider
5 when awarding custody, for consideration of criminal
6 conviction, for guardian ad litem for child, for counsel for
7 child and for award of counsel fees, costs and expenses; AND, <--
8 in Administrative Office of Pennsylvania Courts, providing
9 for child abuse and domestic violence ABUSE education and <--
10 training program for judges and court personnel; and, in <--
11 depositions and witnesses, further providing for rights and
12 services.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The General Assembly finds and declares as
16 follows:

17 (1) The Commonwealth has a duty to protect all children
18 in this Commonwealth and all three branches of the State
19 government play important roles in fulfilling that duty.

20 (2) Domestic violence ABUSE is a pattern of coercive and <--
21 controlling tactics by one partner against another in an
22 intimate partner relationship designed to maintain control

1 ~~over the partner and make the major decisions in the~~
2 ~~relationship.~~ ABUSE WITHIN THE FAMILY OR HOUSEHOLD AND CAN <--
3 INCLUDE ABUSE OF A PARTNER, SPOUSE, CHILD OR PET.

4 (3) Although abusers often use physical violence as one
5 of the tactics to commit domestic ~~violence, not all abusers~~ <--
6 ~~engage in physical violence and most~~ ABUSE, THESE tactics are <--
7 not NECESSARILY physical or illegal. <--

8 (4) ~~Common tactics used to commit domestic violence~~ <--
9 THESE TACTICS CAN include verbal, emotional, psychological <--
10 and economic abuse, isolation, threats, ~~including threats to~~ <--
11 ~~seek custody if the victim leaves,~~ controlling behaviors,
12 monitoring, litigation abuse and THREATS TO SEEK OR demands <--
13 for custody or joint custody to pressure the partner to
14 return or punish the partner for leaving.

15 (5) The health and safety of all children in this
16 Commonwealth must be the first priority in all decisions
17 concerning child custody.

18 ~~(6) In child custody proceedings in which there are~~ <--
19 ~~allegations of domestic violence, expertise in domestic~~
20 ~~violence is required to determine if the allegations are~~
21 ~~valid.~~

22 ~~(7) It is the intent of the General Assembly to:~~

23 ~~(i) Ensure that in all cases and controversies~~

24 (6) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENSURE <--
25 THAT IN ALL CASES AND CONTROVERSIES before the courts
26 involving questions of child custody, the health, safety and
27 welfare of the child are protected and regarded as issues of
28 paramount importance.

29 ~~(ii) Rectify common past practices in this~~ <--

30 ~~Commonwealth that have been shown to work poorly for~~

1 children.

2 ~~(iii) Encourage custody court professionals to~~
3 ~~utilize current and valid scientific research in making~~
4 ~~decisions regarding child custody.~~

5 Section 2. The definition of "abuse" in section 5322(a) of
6 Title 23 of the Pennsylvania Consolidated Statutes is amended
7 and the subsection is amended by adding definitions to read:

8 § 5322. Definitions.

9 (a) This chapter.--The following words and phrases when used
10 in this chapter shall have the meanings given to them in this
11 subsection unless the context clearly indicates otherwise:

12 "Abuse." As follows:

13 (1) As defined in section 6102 (relating to definitions)

14 [.] and the term includes the following: <--

15 ~~(i) The crime of harassment pursuant to 18 Pa.C.S. §~~
16 ~~2709 (relating to harassment).~~

17 ~~(ii) The crime of stalking pursuant to 18 Pa.C.S. §~~
18 ~~2709.1 (relating to stalking). CRIME OF STALKING PURSUANT~~ <--

19 ~~TO 18 PA.C.S. § 2709.1 (RELATING TO STALKING).~~

20 (2) The term does not include the justified use of force
21 in self-protection or for the protection of other persons in
22 accordance with 18 Pa.C.S. Ch. 5 (relating to general <--

23 principles of justification) § 505 (RELATING TO USE OF FORCE <--
24 IN SELF-PROTECTION) by a party in response to abuse or

25 domestic violence ABUSE by the other party. <--

26 * * *

27 "Health and safety of the child." The term includes, but is
28 not limited to, the physical, emotional and psychological
29 health, safety and well-being of the child. <--

30 * * *

1 "Therapeutic setting." Any setting where a licensed <--
2 therapist, counselor, social worker or other appropriate
3 professional guides or monitors the interaction between the
4 party and child and ensures the health and safety of the child.

5 "NONPROFESSIONAL SUPERVISED PHYSICAL CUSTODY." CUSTODIAL <--
6 TIME DURING WHICH AN AGENCY OR AN ADULT, WHO IS NOT A LICENSED
7 PROFESSIONAL DESIGNATED BY THE COURT OR AGREED UPON BY THE
8 PARTIES, MONITORS THE INTERACTION BETWEEN THE CHILD AND THE
9 INDIVIDUAL WITH THOSE RIGHTS.

10 "PROFESSIONAL SUPERVISED PHYSICAL CUSTODY." CUSTODIAL TIME
11 DURING WHICH A LICENSED PROFESSIONAL MONITORS THE INTERACTION
12 BETWEEN THE CHILD AND THE INDIVIDUAL WITH THOSE CUSTODY RIGHTS
13 AND PROMOTES THE CHILD'S HEALTH AND SAFETY DURING THE
14 INTERACTION.

15 Section 3. Section 5323(e) of Title 23 is amended AND THE <--
16 SECTION IS AMENDED BY ADDING SUBSECTIONS to read:

17 § 5323. Award of custody.

18 * * *

19 (e) Safety conditions.--After considering the factors under
20 [section †5328(a)(2)] ~~5328~~ SECTIONS 5328, 5329 (RELATING TO <--
21 CONSIDERATION OF CRIMINAL CONVICTION), 5329.1 (RELATING TO
22 CONSIDERATION OF CHILD ABUSE AND INVOLVEMENT WITH PROTECTIVE
23 SERVICES) AND 5330 (RELATING TO CONSIDERATION OF CRIMINAL
24 CHARGE), if the court finds [that there is an ongoing] A HISTORY <--
25 OF ABUSE OF THE CHILD OR A HOUSEHOLD MEMBER BY A PARTY OR risk
26 of harm to the child or an abused party and awards any form of
27 custody to a party who committed the abuse or who has a
28 household member who committed the abuse, the court shall
29 include in the custody order safety conditions [designed],
30 restrictions or safeguards AS necessary to protect the child or <--

1 the abused party[.] ~~and to minimize any risk of harm to the~~ <--
2 ~~child. The safety conditions, restrictions or safeguards may~~
3 ~~include a supervised physical custody arrangement imposed on a~~
4 ~~parent by the court. If the court orders a supervised physical~~
5 ~~custody arrangement, the supervised physical custody arrangement~~
6 ~~shall be conducted by a court approved professional in a~~
7 ~~therapeutic setting and under conditions that ensure the health~~
8 ~~and safety of the child., INCLUDING:~~ <--

- 9 (1) NONPROFESSIONAL SUPERVISED PHYSICAL CUSTODY.
10 (2) PROFESSIONAL SUPERVISED PHYSICAL CUSTODY.
11 (3) LIMITATIONS ON THE TIME OF DAY THAT PHYSICAL CUSTODY
12 IS PERMITTED OR ON THE NUMBER OF HOURS OF PHYSICAL CUSTODY
13 AND THE MAXIMUM NUMBER OF HOURS OF PHYSICAL CUSTODY PERMITTED
14 PER DAY OR PER WEEK.

15 (4) APPOINT A QUALIFIED PROFESSIONAL SPECIALIZING IN
16 TREATMENT RELATING TO THE HISTORY OF ABUSE OR RISK OF HARM TO
17 PROVIDE COUNSELING. COUNSELING MAY INCLUDE A PROGRAM OF
18 TREATMENT OR INDIVIDUAL THERAPY DESIGNED TO REHABILITATE THE
19 OFFENDING INDIVIDUAL, WHICH INCLUDES ISSUES REGARDING
20 PHYSICAL OR SEXUAL ABUSE, DOMESTIC ABUSE, THE PSYCHOLOGY OF
21 THE OFFENDER AND THE EFFECTS OF ABUSE ON THE VICTIM AND THE
22 CHILD. IF COUNSELING IS ORDERED THE COURT MAY REQUIRE AN
23 EVALUATION BY THE APPOINTED QUALIFIED PROFESSIONAL TO
24 DETERMINE WHETHER FURTHER COUNSELING OF THE OFFENDER IS
25 NECESSARY.

26 (5) LIMITATIONS ON LEGAL CUSTODY.
27 (6) ANY OTHER SAFETY CONDITION, RESTRICTION, OR
28 SAFEGUARD AS NECESSARY TO ENSURE THE HEALTH AND SAFETY OF THE
29 CHILD.

30 (E.1) SUPERVISION.--IF A COURT FINDS BY A PREPONDERANCE OF

1 THE EVIDENCE THAT A PARTY HAS SUBJECTED THE CHILD OR ANY
2 HOUSEHOLD MEMBER TO ABUSE, THE COURT SHALL BE PRESUMED TO ONLY
3 ALLOW NONPROFESSIONAL SUPERVISED PHYSICAL CUSTODY OR
4 PROFESSIONAL SUPERVISED PHYSICAL CUSTODY BETWEEN THE CHILD AND
5 THE PARTY WHO COMMITTED THE ABUSE UNLESS THE COURT MAKES A
6 FINDING ON THE RECORD THAT IT FINDS BY A PREPONDERANCE OF THE
7 EVIDENCE THAT THE PARTY NO LONGER POSES A RISK OF ABUSE TO THE
8 CHILD OR ANY OTHER HOUSEHOLD MEMBER AND THAT ANOTHER CUSTODY
9 ARRANGEMENT IS IN THE BEST INTEREST OF THE CHILD AND WILL NOT
10 CAUSE PHYSICAL, EMOTIONAL OR PSYCHOLOGICAL HARM TO THE CHILD.

11 (E.2) PROFESSIONAL SUPERVISION.--IF A COURT FINDS BY A
12 PREPONDERANCE OF THE EVIDENCE THAT THERE IS AN ONGOING RISK OF
13 ABUSE OF THE CHILD, THE COURT SHALL BE PRESUMED TO ONLY ALLOW
14 PROFESSIONAL SUPERVISED PHYSICAL CUSTODY BETWEEN THE CHILD AND
15 THE PARTY WHO COMMITTED THE ABUSE UNLESS THE COURT MAKES A
16 FINDING ON THE RECORD THAT IT FINDS BY A PREPONDERANCE OF THE
17 EVIDENCE THAT THE PARTY NO LONGER POSES A RISK OF ABUSE TO THE
18 CHILD OR ANY OTHER HOUSEHOLD MEMBER AND THAT ANOTHER CUSTODY
19 ARRANGEMENT IS IN THE BEST INTEREST OF THE CHILD AND WILL NOT
20 CAUSE PHYSICAL, EMOTIONAL OR PSYCHOLOGICAL HARM TO THE CHILD.

21 * * *

22 Section 4. Section 5328(a) of Title 23 is amended and the
23 section is amended by adding a subsection to read:

24 § 5328. Factors to consider when awarding custody.

25 (a) Factors.--In ordering any form of custody, the court
26 shall determine the best interest of the child by considering
27 all relevant factors, giving weighted consideration to those
28 factors which affect the health and safety of the child,
29 including the following:

30 (1) Which party is more likely to ensure the health and

1 ~~safety of the child. No form of custody may be awarded to a~~ <--
2 ~~parent or party who jeopardizes the health and safety of the~~
3 ~~child by unreasonably placing the child at substantial risk~~
4 ~~of severe emotional distress or bodily injury.~~

5 [(1) ~~(1.1)~~ Which party is more likely to encourage and <--
6 permit frequent and continuing contact between the child and
7 another party~~].~~, ~~except in cases of child abuse or domestic~~ <--
8 ~~violence or if the child's physical or emotional well being~~
9 ~~is jeopardized by one of the parties.~~

10 (2) The present and past abuse committed by a party or
11 member of the party's household. [, whether there is a <--
12 continued risk of harm to the child or an abused party and
13 which party can better provide adequate physical safeguards
14 and supervision of the child.] <--

15 (2.1) The information set forth in section 5329.1(a)
16 (relating to consideration of child abuse and involvement
17 with protective services).

18 ~~(2.2) A history of abuse committed by a party or member~~ <--
19 ~~of the party's household against any of the following:~~

20 ~~(i) The other party.~~

21 ~~(ii) A child in the party's household.~~

22 ~~(iii) Any other party who currently or formerly~~
23 ~~resided in the party's household.~~

24 ~~(2.3) A significant history of violent, assaultive or~~
25 ~~abusive behavior committed by a party or a member of the~~
26 ~~party's household outside of the household or against a~~
27 ~~nonfamily member that jeopardizes the health and safety of~~
28 ~~the child by unreasonably placing the child at substantial~~
29 ~~risk of severe emotional distress or bodily injury. VIOLENT~~ <--
30 ~~OR ASSAULTIVE BEHAVIOR COMMITTED BY A PARTY, INCLUDING PAST~~

1 OR CURRENT PROTECTION FROM ABUSE AND SEXUAL VIOLENCE ABUSE
2 PROTECTION ORDERS.

3 (2.3) WHICH PARTY IS MORE LIKELY TO ENCOURAGE AND PERMIT
4 FREQUENT AND CONTINUING CONTACT BETWEEN THE CHILD AND ANOTHER
5 PARTY IF CONTACT IS CONSISTENT WITH THE HEALTH AND SAFETY
6 NEEDS OF THE CHILD.

7 (3) The present and past parental [duties] and caretaker
8 duties performed by each party on behalf of the child.

9 (4) The need for stability and continuity in the child's
10 education, family life and community life except if changes
11 are necessary to protect the health and safety of the child.

12 (5) The availability of extended family.

13 (6) The child's sibling relationships.

14 (7) The well-reasoned preference of the child, based on
15 the child's DEVELOPMENTAL STAGE, maturity and judgment. In <--
16 assessing the factor under this paragraph, the child's fear
17 of a parent PARTY based on the parent's PARTY'S specific <--
18 conduct that is contrary to the child's best interest shall
19 be considered well-reasoned.

20 (8) The attempts of a [parent] PARTY to turn the child <--
21 against the other [parent] as proven by competent and <--
22 admissible evidence PARTY, except in cases of child abuse or <--
23 [domestic violence] where reasonable safety measures are <--
24 necessary to protect the HEALTH AND SAFETY OF THE child from <--
25 harm. The following apply: <--

26 (i) A parent's reasonable concerns for a child's
27 safety and welfare and the parent's reasonable efforts to
28 educate, support and protect the child shall not be
29 considered attempts to turn the child against the other
30 parent.

1 ~~(ii) In cases of child abuse and domestic violence,~~
2 ~~the court shall not use the factor under this paragraph~~
3 ~~in ordering any form of custody.~~

4 ~~(iii) A child's deficient or negative relationship~~
5 ~~with a parent shall not be presumed to be caused by the~~
6 ~~other parent.~~

7 ~~(iv) An order aimed at remediating a negative~~
8 ~~parent child relationship shall account for the behaviors~~
9 ~~that the child's disfavored parent may have contributed~~
10 ~~to the negative parent child relationship. A PARTY'S~~ <--
11 ~~REASONABLE CONCERNS FOR A CHILD'S HEALTH AND WELFARE AND~~
12 ~~THE PARTY'S REASONABLE EFFORTS TO PROTECT THE CHILD SHALL~~
13 ~~NOT BE CONSIDERED ATTEMPTS TO TURN THE CHILD AGAINST THE~~
14 ~~OTHER PARTY. A CHILD'S DEFICIENT OR NEGATIVE RELATIONSHIP~~
15 ~~WITH A PARTY SHALL NOT BE PRESUMED TO BE CAUSED BY THE~~
16 ~~OTHER PARTY.~~

17 (9) Which party is more likely to maintain a loving,
18 stable, consistent and nurturing relationship with the child
19 adequate for the child's emotional needs.

20 (10) Which party is more likely to attend to the daily
21 physical, emotional, developmental, educational and special
22 needs of the child.

23 (11) The proximity of the residences of the parties.

24 (12) Each party's availability to care for the child or
25 ability to make appropriate child-care arrangements.

26 (13) The level of conflict between the parties and the
27 willingness and ability of the parties to cooperate with one
28 another. A party's effort to protect a child OR SELF from <--
29 abuse by another party is not evidence of unwillingness or
30 inability to cooperate with that party.

1 (14) The history of drug or alcohol abuse of a party or
2 member of a party's household.

3 (15) The mental and physical condition of a party or
4 member of a party's household~~]., including, but not limited~~ <--
5 ~~to, a risk to self, the child in particular or others, that~~
6 ~~creates a risk to the health and safety of the child or a~~
7 ~~party.~~

8 ~~(15.1) Allegations of child abuse or a history of~~
9 ~~domestic violence in the presence of the child. The following~~
10 ~~shall apply:~~

11 ~~(i) An evidentiary hearing limited to evidence~~
12 ~~related to the issue of child abuse or domestic violence~~
13 ~~shall be held if consideration is given under this~~
14 ~~paragraph.~~

15 ~~(ii) A parent's good faith disclosure of a~~
16 ~~communication to the parent by the child of child abuse~~
17 ~~or domestic violence shall not be a factor that weighs~~
18 ~~against the safe parent in determining custody.~~

19 ~~(iii) If the court finds by clear and convincing~~
20 ~~evidence an act of child abuse or a pattern of domestic~~
21 ~~violence, including sexual abuse and trauma, by a parent,~~
22 ~~the court shall award sole physical custody of the child~~
23 ~~to the safe parent or party and shall suspend any~~
24 ~~physical custody, except that it may award supervised~~
25 ~~physical custody if it is in the best interest of the~~
26 ~~child and supervised physical custody would protect the~~
27 ~~health and safety of the child, to the parent engaged in~~
28 ~~a pattern of domestic violence or abusive behavior. If a~~
29 ~~parent shows by clear and convincing evidence that the~~
30 ~~parent is no longer a threat to the health and safety of~~

1 ~~the child after completion of a court approved treatment~~
2 ~~plan, the court may award custody other than supervised~~
3 ~~physical custody to the parent. Any cost incurred for~~
4 ~~supervised physical custody shall be paid by the abusing~~
5 ~~parent.~~

6 ~~(iv) Statements and testimony provided pursuant to~~
7 ~~an evidentiary hearing under this paragraph may not be~~
8 ~~used in another civil proceeding, criminal trial or any~~
9 ~~other forum.~~

10 ~~(15.2) Evidence of child abuse.~~

11 (16) Any other relevant factor.

12 ~~(a.1) Conditions.~~

<--

13 ~~(1) In considering the awarding of custody, including~~
14 ~~psychological or medical theories proffered by the parties~~
15 ~~under subsection (a), the court shall:~~

16 ~~(i) Consider evidence of the parent's current mental~~
17 ~~health condition and the risk that the parent will again~~
18 ~~subject the child or other household members to domestic~~
19 ~~abuse or unreasonably permit abuse to a child despite~~
20 ~~having the ability to prevent the abuse.~~

21 ~~(ii) Order custody only if the parent proves by~~
22 ~~clear and convincing evidence that the custody is in the~~
23 ~~best interest of the child and that the parent will not~~
24 ~~cause any unreasonable physical, emotional or~~
25 ~~psychological harm to the child.~~

26 ~~(iii) In the case of a supervised physical custody~~
27 ~~imposed on a parent, order restrictions, conditions and~~
28 ~~safeguards necessary to minimize any risk of harm to the~~
29 ~~child, including extending the supervised physical~~
30 ~~custody.~~

1 ~~(2) A supervised physical custody arrangement imposed on~~
2 ~~a parent by a court shall be conducted by a court approved~~
3 ~~professional in a therapeutic setting and under conditions~~
4 ~~that ensure the health and safety of the child. The~~
5 ~~supervised physical custody arrangement shall not be~~
6 ~~conducted in the parent's home and shall not extend~~
7 ~~overnight. All costs of the supervision shall be paid by the~~
8 ~~parent awarded supervised physical custody.~~

9 ~~(3) No act of self defense by a parent in response to~~
10 ~~the family violence or domestic abuse of the other parent~~
11 ~~shall be deemed family violence or domestic violence for the~~
12 ~~purposes of this section.~~

13 ~~(4) All costs, including the other parent's attorney~~
14 ~~fees and the fees of any counsel for the child and all~~
15 ~~treatment expenses incurred in compliance with this section,~~
16 ~~shall be paid by the parent who is found to have committed~~
17 ~~child abuse or domestic violence.~~

18 (A.1) EXCEPTION.--NONE OF THE FACTORS IN SUBSECTION (A) <--
19 SHALL BE ADVERSELY WEIGHED AGAINST A PARTY IF THAT PARTY OR THE
20 CHILD WAS SUBJECTED TO ABUSE BY THE OTHER PARTY.

21 * * *

22 Section 5. Sections 5329(a), 5334(c), 5335(b) and 5339 of
23 Title 23 are amended to read:

24 § 5329. Consideration of criminal conviction.

25 (a) Offenses.--Where a party seeks any form of custody, the
26 court shall consider whether that party or member of that
27 party's household has been convicted of or has pleaded guilty or
28 no contest to any of the offenses in this section or an offense
29 in another jurisdiction substantially equivalent to any of the
30 offenses in this section. The court shall consider such conduct

1 and determine that the party does not pose a threat of harm to
2 the child before making any order of custody to that party when
3 considering the following offenses:

4 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

5 18 Pa.C.S. § 2702 (relating to aggravated assault).

6 18 Pa.C.S. § 2706 (relating to terroristic threats).

7 18 PA.C.S. § 2701 (RELATING TO SIMPLE ASSAULT). <--

8 18 PA.C.S. § 2705 (RELATING TO RECKLESSLY ENDANGERING ANOTHER
9 PERSON).

10 18 Pa.C.S. § 2709.1 (relating to stalking).

11 18 Pa.C.S. § 2718 (relating to strangulation).

12 18 Pa.C.S. § 2901 (relating to kidnapping).

13 18 Pa.C.S. § 2902 (relating to unlawful restraint).

14 18 Pa.C.S. § 2903 (relating to false imprisonment).

15 18 Pa.C.S. § 2910 (relating to luring a child into a motor
16 vehicle or structure).

17 18 PA.C.S. § 3011 (RELATING TO TRAFFICKING IN INDIVIDUALS). <--

18 18 PA.C.S. § 3012 (RELATING TO INVOLUNTARY SERVITUDE).

19 18 PA.C.S. § 3013 (RELATING TO PATRONIZING A VICTIM OF SEXUAL
20 SERVITUDE).

21 18 Pa.C.S. § 3121 (relating to rape).

22 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

23 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
24 intercourse).

25 18 Pa.C.S. § 3124.1 (relating to sexual assault).

26 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

27 18 Pa.C.S. § 3126 (relating to indecent assault).

28 18 Pa.C.S. § 3127 (relating to indecent exposure).

29 18 Pa.C.S. § 3129 (relating to sexual intercourse with
30 animal).

1 18 Pa.C.S. § 3130 (relating to conduct relating to sex
2 offenders).

3 18 Pa.C.S. § 3301 (relating to arson and related offenses).

4 18 Pa.C.S. § 4302 (relating to incest).

5 18 Pa.C.S. § 4303 (relating to concealing death of child).

6 18 Pa.C.S. § 4304 (relating to endangering welfare of
7 children).

8 18 Pa.C.S. § 4305 (relating to dealing in infant children).

9 18 PA.C.S. § 5533 (RELATING TO CRUELTY TO ANIMAL).

<--

10 18 PA.C.S. § 5534 (RELATING TO AGGRAVATED CRUELTY TO ANIMAL).

11 18 PA.C.S. § 5543 (RELATING TO ANIMAL FIGHTING).

12 18 PA.C.S. § 5544 (RELATING TO POSSESSION OF ANIMAL FIGHTING
13 PARAPHERNALIA).

14 18 Pa.C.S. § 5902(b) (relating to prostitution and related
15 offenses).

16 18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other
17 sexual materials and performances).

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

19 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

20 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

21 18 Pa.C.S. § 6320 (relating to sexual exploitation of
22 children).

23 Section 6114 (relating to contempt for violation of order or
24 agreement).

25 The former 75 Pa.C.S. § 3731 (relating to driving under
26 influence of alcohol or controlled substance).

27 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol
28 or utilizing drugs).

29 Section 13(a)(1) of the act of April 14, 1972 (P.L.233,
30 No.64), known as The Controlled Substance, Drug, Device and

1 Cosmetic Act, to the extent that it prohibits the manufacture,
2 sale or delivery, holding, offering for sale or possession of
3 any controlled substance or other drug or device.

4 * * *

5 § 5334. Guardian ad litem for child.

6 * * *

7 (c) Abuse.--If substantial allegations of abuse [of the <--
8 child] ~~or substantial allegations of domestic violence which <--~~
9 ~~impacts the child~~ are made, the court [shall] MAY appoint a <--
10 guardian ad litem for the child if:

11 (1) counsel for the child is not appointed under section
12 5335 (relating to counsel for child); [or]

13 (2) the court is satisfied that the relevant information
14 will be presented to the court only with such appointment[.];
15 or

16 ~~(3) the A guardian ad litem establishes APPOINTED UNDER <--~~
17 ~~THIS SECTION SHALL ESTABLISH that the guardian ad litem~~
18 ~~received education and training under the program specified~~
19 ~~under 42 Pa.C.S. § 1908 (relating to child abuse and domestic~~
20 ~~violence ABUSE education and training program for judges and <--~~
21 ~~court personnel) or substantially similar training PRIOR TO <--~~
22 ~~APPOINTMENT.~~

23 * * *

24 § 5335. Counsel for child.

25 * * *

26 (b) Abuse.--Substantial allegations of abuse [of the child] <--
27 ~~and substantial allegations of domestic violence which impacts <--~~
28 ~~the child~~ constitute a reasonable basis for appointing counsel
29 for the child.

30 * * *

1 § 5339. Award of counsel fees, costs and expenses.

2 (a) Award.--Under this chapter, a court may award reasonable
3 interim or final counsel fees, costs and expenses to a party if
4 the court finds that the conduct of another party was obdurate,
5 vexatious, repetitive or in bad faith. THIS SECTION MAY NOT <--
6 APPLY IF THAT PARTY ENGAGED THE JUDICIAL PROCESS IN GOOD FAITH
7 TO PROTECT THE CHILD FROM HARM.

8 (b) Other costs.--The court may direct that a party who has
9 been found to have perpetrated abuse to pay all or a portion of
10 the fees, costs and expenses incurred by the other party,
11 including attorney fees, costs relating to any counsel for the
12 child and treatment expenses incurred relating to the abuse-, <--
13 INCLUDING FEES ASSOCIATED WITH ANY FORM OF SUPERVISED PHYSICAL
14 CUSTODY.

15 Section 6. Title 42 is amended by adding a section to read:
16 § 1908. Child abuse and domestic ~~violence~~ ABUSE education and <--
17 training program for judges and court personnel.

18 The Administrative Office of Pennsylvania Courts may develop
19 and implement an ongoing education and training program for
20 judges, ~~including~~ magisterial district judges, and relevant <--
21 court personnel, including guardians ad litem, COUNSEL FOR <--
22 CHILDREN, MASTERS AND MEDIATORS, regarding child abuse,
23 ~~including child sexual abuse and trauma, domestic violence WHICH~~ <--
24 INCLUDES ALL ASPECTS OF MALTREATMENT, INCLUDING SEXUAL ABUSE,
25 PHYSICAL ABUSE, EMOTIONAL ABUSE, IMPLICIT AND EXPLICIT BIAS,
26 TRAUMA AND NEGLECT and the impact of child abuse and domestic
27 violence on children. The education and training program shall
28 include the latest best practices from evidence-based and peer-
29 reviewed research- BY RECOGNIZED EXPERTS IN THE TYPES OF ABUSE <--
30 DESIGNATED UNDER THIS SECTION. The education and training

1 program shall be designed to improve the ability of courts to
2 recognize and respond to the impact of child abuse, domestic
3 violence ABUSE and trauma on all victims, specifically children, <--
4 and make appropriate custody decisions that are in the best
5 interest of the child.

6 Section 7. ~~Section 5983(a) of Title 42 is amended to read: <--~~
7 ~~§ 5983. Rights and services.~~

8 ~~(a) Designation of persons to act on behalf of children.~~
9 ~~Courts of common pleas may designate one or more persons as a~~
10 ~~child advocate to provide the following services on behalf of~~
11 ~~children who are involved in criminal proceedings as victims or~~
12 ~~material witnesses[.] or children who are the subject of custody~~
13 ~~proceedings and who are alleged to have been abused by a party~~
14 ~~in the custody proceedings or have been impacted by domestic~~
15 ~~violence perpetrated by a party in the custody proceedings:~~

16 ~~(1) To explain, in language understood by the child, all~~
17 ~~legal proceedings in which the child will be involved.~~

18 ~~(2) As a friend of the court, to advise the judge,~~
19 ~~whenever appropriate, of the child's ability to understand~~
20 ~~and cooperate with any court proceedings.~~

21 ~~(3) To assist or secure assistance for the child and the~~
22 ~~child's family in coping with the emotional impact of the~~
23 ~~crime and subsequent criminal proceedings in which the child~~
24 ~~is involved.~~

25 ~~* * *~~

26 Section 8 7. This act shall take effect in 60 days. <--