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PART VIII-A. INTRASTATE FAMILY SUPPORT

Chapter 81. General Provisions

- § 8101. Short title of part and definitions.
- § 8102. Scope.
- § 8103. Remedies cumulative.

Chapter 82. Jurisdiction

- § 8201. Continuing, exclusive jurisdiction.
- § 8202. Recognition of support orders.
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- § 8301. Proceedings under this part.
- § 8302. Action by minor parent.
- § 8303. Duties of initiating tribunal.
- § 8304. Duties and powers of responding tribunal.
- § 8305. Inappropriate tribunal.
- § 8306. Duties of support enforcement agency.
- § 8307. Supervisory duty.
- § 8308. Private counsel.
- § 8309. Nondisclosure of information in exceptional circumstances.
- § 8310. Nonparentage not a defense.
- § 8311. Special rules of evidence and procedure.
- § 8312. Assistance with discovery.
- § 8313. Costs and fees.

Chapter 84. Enforcement and Modification of Support Order After Registration

Subchapter A. Registration of Support Order

- § 8401. Registration of order.
- § 8402. Procedure to register order.

Subchapter B. Contest of Validity or Enforcement

- § 8411. Notice of registration of order.
- § 8412. Procedure to contest validity of registered order.
- § 8413. Contest of registration or enforcement.
- § 8414. Confirmed order.
- § 8415. Effect of a confirmed order.

PART IX. MISCELLANEOUS PROVISIONS (Repealed)

Chapter 83. Legitimacy of Children (Repealed)

- § 8302 - § 8303 (Repealed).

TITLE 23 DOMESTIC RELATIONS

Part

- I. General Provisions
- II. Marriage
- III. Adoption
- IV. Divorce
- V. Support, Property and Contracts
- VI. Children and Minors
- VII. Abuse of Family
- VIII. Uniform Interstate Family Support
- VIII-A. Intrastate Family Support
- IX. Miscellaneous Provisions (Repealed)

Enactment. Unless otherwise noted, the provisions of Title 23 were added October 15, 1980, P.L.934, No.163, effective January 1, 1981.

PART I

GENERAL PROVISIONS

Chapter

- 1. Preliminary Provisions

Enactment. Part I was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

CHAPTER 1

PRELIMINARY PROVISIONS

Sec.

- 101. Short title of title.
- 102. Definitions.

Enactment. Chapter 1 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 101. Short title of title.

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

§ 102. Definitions.

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

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

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

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

(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. Act 207 amended the def. of "court" in subsec. (a). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

PART II

MARRIAGE

Chapter

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

Enactment. Part II was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

1998 Partial Repeal. Section 13 of Act 127 of 1998 provided that Part II is repealed insofar as it is inconsistent with Act 127.

CHAPTER 11

PRELIMINARY PROVISIONS

Sec.

- 1101. Short title of part.
- 1102. Definitions.
- 1103. Common-law marriage.
- 1104. Forms.
- 1105. Fees.
- 1106. Records and statistics.

Enactment. Chapter 11 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 1101. Short title of part.

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

§ 1102. Definitions.

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

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

"Marriage." A civil contract by which one man and one woman take each other for husband and wife.

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

(Oct. 16, 1996, P.L.706, No.124, eff. 60 days)

1996 Amendment. Act 124 added the def. of "marriage."

§ 1103. Common-law marriage.

No common-law marriage contracted after January 1, 2005, shall be valid. Nothing in this part shall be deemed or taken to render any common-law marriage otherwise lawful and contracted on or before January 1, 2005, invalid.

(Nov. 23, 2004, P.L.954, No.144, eff. 60 days)

§ 1104. Forms.

Marriage license applications, consent certificates, marriage licenses and other necessary forms shall be supplied at the expense of the county and shall be uniform throughout this

Commonwealth as prescribed by the department. Statements of physicians and laboratories relative to examinations for syphilis shall be prepared and furnished by the department.

§ 1105. Fees.

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

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

Fees. Section 19 of the Marriage Law from which this section was derived was repealed December 19, 1990, P.L.1240, No.206, and amended December 20, 1990, P.L.1471, No.222, and that section remains effective under 1 Pa.C.S. § 1952 (relating to effect of separate amendments on code provisions enacted by same General Assembly) as a result of the 1990 amendment.

§ 1106. Records and statistics.

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

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

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

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

CHAPTER 13

MARRIAGE LICENSE

Sec.

- 1301. Marriage license required.
- 1302. Application for license.
- 1303. Waiting period after application.
- 1304. Restrictions on issuance of license.
- 1305. Examination and tests for syphilis (Repealed).
- 1306. Oral examination.
- 1307. Issuance of license.
- 1308. Judicial review of refusal to issue license.
- 1309. Filing applications and consent certificates.
- 1310. Duration and form of license.

Enactment. Chapter 13 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 1301. Marriage license required.

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

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

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

§ 1302. Application for license.

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

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

(1) The full name of the applicants.

(2) The occupation, birthplace, residence and age of the applicants. An applicant intending to marry who is a program participant in the Address Confidentiality Program under Chapter 67 (relating to domestic and sexual violence victim address confidentiality) may use the substitute address designated by the Office of Victim Advocate pursuant to Chapter 67 as the address of their residence.

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

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

(5) The full name, residence, occupation and birthplace of the parents of each applicant, including the maiden name of the mother of each applicant. An applicant may use the substitute address designated by the Office of Victim Advocate pursuant to Chapter 67 for a parent's residence if:

(i) the applicant is a program participant in the Address Confidentiality Program under Chapter 67 and the applicant resides with the applicant's parents; or

(ii) the applicant's parent is a program participant in the Address Confidentiality Program under Chapter 67.

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

(Dec. 22, 1993, P.L.555, No.79, eff. 60 days; Nov. 30, 2004, P.L.1474, No.188, eff. 180 days)

§ 1303. Waiting period after application.

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

(b) Exceptions.--The court may authorize a license to be issued at any time after the making of the application in the following cases:

(1) In case of emergency or extraordinary circumstances.

(2) If an applicant is a member of the Pennsylvania National Guard or other reserve component of the armed forces of the United States and is called or ordered to active duty with the armed forces of the United States.

(Nov. 23, 2004, P.L.954, No.144, eff. 60 days)

Cross References. Section 1303 is referred to in section 1307 of this title.

§ 1304. Restrictions on issuance of license.

(a) Examinations and tests for syphilis.--(Repealed).

(b) Minors.--

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

(2) No marriage license may be issued if either of the applicants is under 18 years of age unless the consent of the custodial parent or guardian of the applicant is personally given before the person issuing the license or is certified under the hand of the custodial parent or guardian attested by two adult witnesses and, in the latter

case, the signature of the custodial parent or guardian is acknowledged before an officer authorized by law to take acknowledgments. When the minor has no guardian and a judge of the court is absent or not accessible for any reason, the office issuing the license may appoint a guardian pro hac vice for the minor.

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

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

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

A man may not marry his mother.

A man may not marry the sister of his father.

A man may not marry the sister of his mother.

A man may not marry his sister.

A man may not marry his daughter.

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

A man may not marry his first cousin.

A woman may not marry her father.

A woman may not marry the brother of her father.

A woman may not marry the brother of her mother.

A woman may not marry her brother.

A woman may not marry her son.

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

A woman may not marry her first cousin.

(Dec. 22, 1993, P.L.555, No.79, eff. 60 days; June 25, 1997, P.L.331, No.35, eff. imd.)

1997 Repeal. Act 35 repealed subsec. (a).

1993 Amendment. Act 79 amended subsec. (b).

Cross References. Section 1304 is referred to in sections 1306, 3304 of this title; section 1201 of Title 4 (Amusements); section 8204 of Title 74 (Transportation).

§ 1305. Examination and tests for syphilis (Repealed).

1997 Repeal. Section 1305 was repealed June 25, 1997, P.L.331, No.35, effective immediately.

§ 1306. Oral examination.

(a) General rule.--Each of the applicants for a marriage license shall appear in person and shall be examined under oath or affirmation as to:

(1) The legality of the contemplated marriage.

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

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

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

(b) Exception.--If an applicant is unable to appear in person because of his active military service, the applicant shall be permitted to forward an affidavit, which verifies all of the information required under subsection (a), to the issuing authority.

(c) **Form.**--The department shall develop and make available affidavit forms to be used by applicants under subsection (b).

(d) **Definition.**--As used in this section, the term "active military service" means active service in any of the armed services or forces of the United States or this Commonwealth. (Oct. 27, 2006, P.L.1192, No.126, eff. 60 days)

§ 1307. Issuance of license.

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

§ 1308. Judicial review of refusal to issue license.

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

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

§ 1309. Filing applications and consent certificates.

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

§ 1310. Duration and form of license.

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

Commonwealth of Pennsylvania

ss: No.

County of (name)

To any person authorized by law to solemnize marriage:

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

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

Signed
(Official Title)

CHAPTER 15
MARRIAGE CEREMONY

Sec.

1501. Form of marriage certificates.

1502. Forms where parties perform ceremony.

1503. Persons qualified to solemnize marriages.

1504. Returns of marriages.

Enactment. Chapter 15 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 1501. Form of marriage certificates.

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

I hereby certify that on (date), at (city, borough or town), Pennsylvania, (name) and (name) were by me united in

marriage, in accordance with license issued by the Court of
Common Pleas of (name) numbered
Signed
(Title of person solemnizing marriage)
Address

Cross References. Section 1501 is referred to in section
1502 of this title.

§ 1502. Forms where parties perform ceremony.

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

Commonwealth of Pennsylvania

ss: No.

County of (name)

To (name) and (name)

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

Signed
(Official Title)

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

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

Signed

Signed

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

Signed

Signed

§ 1503. Persons qualified to solemnize marriages.

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

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

(2) A former or retired justice, judge or magisterial
district judge of this Commonwealth who is serving as a
senior judge or senior magisterial district judge as provided
or prescribed by law; or not serving as a senior judge or
senior magisterial district judge but meets the following
criteria:

(i) has served as a magisterial district judge,
judge or justice, whether or not continuously or on the
same court, by election or appointment for an aggregate
period equaling a full term of office;

(ii) has not been defeated for reelection or
retention;

(iii) has not been convicted of, pleaded nolo
contendere to or agreed to an Accelerated Rehabilitative

Disposition or other probation without verdict program relative to any misdemeanor or felony offense under the laws of this Commonwealth or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation;

(iv) has not resigned a judicial commission to avoid having charges filed or to avoid prosecution by Federal, State or local law enforcement agencies or by the Judicial Conduct Board;

(v) has not been removed from office by the Court of Judicial Discipline; and

(vi) is a resident of this Commonwealth.

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

(3.1) An active, retired or senior bankruptcy judge of the United States Bankruptcy Courts for the Eastern, Middle or Western District of Pennsylvania who is a resident of this Commonwealth.

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

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

(5.1) A former mayor of a city or borough of this Commonwealth who:

(i) has not been defeated for reelection;

(ii) has not been convicted of, pleaded nolo contendere to or agreed to an Accelerated Rehabilitative Disposition or other probation without verdict program relative to a misdemeanor or felony offense under the laws of this Commonwealth or an equivalent offense under the laws of the United States or any one of its possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation;

(iii) has not resigned the position of mayor to avoid having charges filed or to avoid prosecution by Federal, State or local law enforcement agencies;

(iv) has served as a mayor, whether continuously or not, by election for an aggregate of a full term in office; and

(v) is a resident of this Commonwealth.

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

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

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

(June 22, 2000, P.L.443, No.59, eff. imd.; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Dec. 1, 2004, P.L.1777, No.232, eff. 60 days; July 14, 2009, P.L.81, No.18, eff. imd.)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 1504. Returns of marriages.

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

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

CHAPTER 17

MISCELLANEOUS PROVISIONS RELATING TO MARRIAGE

Sec.

- 1701. Decree that spouse of applicant is presumed decedent.
- 1702. Marriage during existence of former marriage.
- 1703. Marriage within degree of consanguinity.
- 1704. Marriage between persons of the same sex.

Enactment. Chapter 17 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

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

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

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

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

(d) Notice to absentee.--The court may require advertisement in any newspapers as the court, according to the circumstances of the case, deems advisable of the fact of the application for the marriage license, together with notice that, at a specified time and place, the court or a master appointed by the court will hear evidence concerning the alleged absence, including the 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 returning spouse shall have cause for divorce as provided in section 3301 (relating to grounds for divorce).

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

§ 1703. Marriage within degree of consanguinity.

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

§ 1704. Marriage between persons of the same sex.

It is hereby declared to be the strong and longstanding public policy of this Commonwealth that marriage shall be between one man and one woman. A marriage between persons of the same sex which was entered into in another state or foreign jurisdiction, even if valid where entered into, shall be void in this Commonwealth.

(Oct. 16, 1996, P.L.706, No.124, eff. 60 days)

1996 Amendment. Act 124 added section 1704.

CHAPTER 19

**ABOLITION OF ACTIONS FOR ALIENATION OF AFFECTIONS
AND BREACH OF PROMISE TO MARRY**

Sec.

- 1901. Actions for alienation of affections abolished.
- 1902. Actions for breach of promise to marry abolished.
- 1903. Purpose of chapter.
- 1904. Filing or threatening to file actions prohibited.
- 1905. Instruments executed in satisfaction of abolished claims prohibited.

Enactment. Chapter 19 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 1901. Actions for alienation of affections abolished.

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

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

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

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

§ 1903. Purpose of chapter.

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

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

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

§ 1904. Filing or threatening to file actions prohibited.

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

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

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

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

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

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

Chapter

- 21. Preliminary Provisions
- 23. Jurisdiction and Parties
- 25. Proceedings Prior to Petition to Adopt
- 27. Petition for Adoption
- 29. Decrees and Records

Enactment. Part III was added October 15, 1980, P.L.934, No.163, effective January 1, 1981.

Special Provisions in Appendix. See section 3 of Act 163 of 1980 in the appendix to this title for special provisions relating to the applicability of Part III to pending proceedings.

CHAPTER 21

PRELIMINARY PROVISIONS

Sec.

- 2101. Short title of part.
- 2102. Definitions.

Enactment. Chapter 21 was added October 15, 1980, P.L.934, No.163, effective January 1, 1981.

§ 2101. Short title of part.

This part shall be known and may be cited as the "Adoption Act."

§ 2102. Definitions.

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

"Adoptee." An individual proposed to be adopted.

"Agency." Any incorporated or unincorporated organization, society, institution or other entity, public or voluntary, which may receive or provide for the care of children, supervised by the Department of Public Welfare and providing adoption services in accordance with standards established by the department.

"Clerk." The clerk of the division of the court of common pleas having jurisdiction over voluntary relinquishment, involuntary termination and adoption proceedings.

"Court." The court of common pleas.

"Intermediary." Any person or persons or agency acting between the parent or parents and the proposed adoptive parent or parents in arranging an adoption placement.

"Medical history information." Medical records and other information concerning an adoptee or an adoptee's natural family which is relevant to the adoptee's present or future health care or medical treatment. The term includes:

(1) otherwise confidential or privileged information provided that identifying contents have been removed pursuant to section 2909 (relating to medical history information); and

(2) information about the natural parents which may be relevant to a potential hereditary or congenital medical problem.

"Newborn child." A child who is six months of age or younger at the time of the filing of any petition pursuant to Chapter 25 (relating to proceedings prior to petition to adopt).

"Parent." Includes adoptive parent.

(June 23, 1982, P.L.617, No.174, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days; Dec. 20, 1995, P.L.685, No.76, eff. 60 days)

1995 Amendment. Act 76 amended the def. of "medical history information."

1992 Amendment. Act 34 added the def. of "newborn child."

References in Text. Section 2909, referred to in this section, is repealed. The subject matter is now contained in section 3934 of this title.

The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

CHAPTER 23

JURISDICTION AND PARTIES

Subchapter

- A. Jurisdiction
- B. Parties

Enactment. Chapter 23 was added October 15, 1980, P.L.934, No.163, effective January 1, 1981.

SUBCHAPTER A

JURISDICTION

Sec.

2301. Court.

2302. Venue.

§ 2301. Court.

The court of common pleas of each county shall exercise through the appropriate division original jurisdiction over voluntary relinquishment, involuntary termination and adoption proceedings.

§ 2302. Venue.

Proceedings for voluntary relinquishment, involuntary termination and adoption may be brought in the court of the county:

(1) Where the parent or parents or the adoptee or the person or persons who have filed a report of intention to adopt required by section 2531 (relating to report of intention to adopt) reside.

(2) In which is located an office of an agency having custody of the adoptee or in the county where the agency having placed the adoptee is located.

(3) With leave of court, in which the adoptee formerly resided.

SUBCHAPTER B

PARTIES

Sec.

2311. Who may be adopted.

2312. Who may adopt.

2313. Representation.

§ 2311. Who may be adopted.

Any individual may be adopted, regardless of his age or residence.

§ 2312. Who may adopt.

Any individual may become an adopting parent.

§ 2313. Representation.

(a) Child.--The court shall appoint counsel to represent the child in an involuntary termination proceeding when the proceeding is being contested by one or both of the parents. The court may appoint counsel or a guardian ad litem to represent any child who has not reached the age of 18 years and is subject to any other proceeding under this part whenever it is in the best interests of the child. No attorney or law firm shall represent both the child and the adopting parent or parents.

(a.1) Parent.--The court shall appoint counsel for a parent whose rights are subject to termination in an involuntary termination proceeding if, upon petition of the parent, the court determines that the parent is unable to pay for counsel or if payment would result in substantial financial hardship.

(b) Payment of costs.--The court, in its discretion, may order all or part of the costs attendant to a proceeding under this part to be paid by the county wherein the case is heard, the adopting parents or apportioned to both, provided that if the adopting parents shall be ordered to bear all or a portion of the costs of this part that:

(1) the court may direct that the payment of the fees or a portion thereof may be paid by a court ordered schedule of payments extending beyond the date of the involuntary termination hearing; and

(2) the fee shall not exceed \$150.

(June 23, 1982, P.L.617, No.174, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days)

CHAPTER 25

PROCEEDINGS PRIOR TO PETITION TO ADOPT

Subchapter

- A. Voluntary Relinquishment
- B. Involuntary Termination
- C. Decree of Termination
- D. Reports and Investigation
- E. Pennsylvania Adoption Cooperative Exchange

Enactment. Chapter 25 was added October 15, 1980, P.L.934, No.163, effective January 1, 1981.

Cross References. Chapter 25 is referred to in section 2102 of this title.

SUBCHAPTER A

VOLUNTARY RELINQUISHMENT

Sec.

- 2501. Relinquishment to agency.
- 2502. Relinquishment to adult intending to adopt child.
- 2503. Hearing.
- 2504. Alternative procedure for relinquishment.
- 2504.1. Confidentiality.
- 2505. Counseling.

§ 2501. Relinquishment to agency.

(a) Petition.--When any child under the age of 18 years has been in the care of an agency for a minimum period of three days or, whether or not the agency has the physical care of the

child, the agency has received a written notice of the present intent to transfer to it custody of the child, executed by the parent, the parent or parents of the child may petition the court for permission to relinquish forever all parental rights and duties with respect to their child.

(b) Consents.--The written consent of a parent or guardian of a petitioner who has not reached 18 years of age shall not be required. The consent of the agency to accept custody of the child until such time as the child is adopted shall be required.

Cross References. Section 2501 is referred to in sections 2503, 2521 of this title.

§ 2502. Relinquishment to adult intending to adopt child.

(a) Petition.--When any child under the age of 18 years has been for a minimum period of three days in the exclusive care of an adult or adults who have filed a report of intention to adopt required by section 2531 (relating to report of intention to adopt), the parent or parents of the child may petition the court for permission to relinquish forever all parental rights to their child.

(b) Consents.--The written consent of a parent or guardian of a petitioner who has not reached 18 years of age shall not be required. The adult or adults having care of the child shall file a separate consent to accept custody of the child.

(Mar. 24, 2004, P.L.159, No.21, eff. 60 days)

2004 Amendment. Act 21 amended subsec. (a). Section 2 of Act 21 provided that the amendment of subsec. (a) shall apply to adoptions which are initiated on or after the effective date of section 2.

Cross References. Section 2502 is referred to in sections 2503, 2521 of this title.

§ 2503. Hearing.

(a) General rule.--Upon presentation of a petition prepared pursuant to section 2501 (relating to relinquishment to agency) or section 2502 (relating to relinquishment to adult intending to adopt child), the court shall fix a time for hearing which shall not be less than ten days after filing of the petition. The petitioner must appear at the hearing.

(b) Notice.--

(1) At least ten days' notice of the hearing shall be given to the petitioner, and a copy of the notice shall be given to the other parent, to the putative father whose parental rights could be terminated pursuant to subsection (d) and to the parents or guardian of a petitioner who has not reached 18 years of age.

(2) The notice to the petitioner shall state the following:

"To: (insert petitioner's name)

A petition has been filed asking the court to put an end to all rights you have to your child (insert name of child). The court has set a hearing to consider ending your rights to your child. That hearing will be held in (insert place, giving reference to exact room and building number or designation) on (insert date) at (insert time). Your presence is required at the hearing. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

(Name).....

(Address)

.....

(Telephone number)"

(3) The copy of the notice which is given to the putative father shall state that his rights may also be subject to termination pursuant to subsection (d) if he fails to file either an acknowledgment of paternity or claim of paternity pursuant to section 5103 (relating to acknowledgment and claim of paternity) and fails to either appear at the hearing for the purpose of objecting to the termination of his rights or file a written objection to such termination with the court prior to the hearing.

(c) Decree.--After hearing, which shall be private, the court may enter a decree of termination of parental rights in the case of their relinquishment to an adult or a decree of termination of parental rights and duties, including the obligation of support, in the case of their relinquishment to an agency.

(d) Putative father.--If a putative father will not file a petition to voluntarily relinquish his parental rights pursuant to section 2501 (relating to relinquishment to agency) or 2502 (relating to relinquishment to adult intending to adopt child), has been given notice of the hearing being held pursuant to this section and fails to either appear at that hearing for the purpose of objecting to termination of his parental rights or file a written objection to such termination with the court prior to the hearing and has not filed an acknowledgment of paternity or claim of paternity pursuant to section 5103, the court may enter a decree terminating the parental rights of the putative father pursuant to subsection (c).

(e) Right to file personal and medical history information.--At the time the decree of termination is transmitted to the parent whose rights are terminated, the court shall advise that parent, in writing, of his or her continuing right to place and update personal and medical history information, whether or not the medical condition is in existence or discoverable at the time of adoption, on file with the court and with the Department of Public Welfare pursuant to Subchapter B of Chapter 29 (relating to records and access to information).

(June 23, 1982, P.L.617, No.174, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days; Dec. 20, 1995, P.L.685, No.76, eff. 60 days; Oct. 27, 2010, P.L.961, No.101, eff. 180 days)

2010 Amendment. Act 101 amended subsec. (e).

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 2503 is referred to in section 2505 of this title.

§ 2504. Alternative procedure for relinquishment.

(a) Petition to confirm consent to adoption.--If the parent or parents of the child have executed consents to an adoption, upon petition by the intermediary or, where there is no intermediary, by the adoptive parent, the court shall hold a hearing for the purpose of confirming a consent to an adoption upon expiration of the time periods under section 2711 (relating to consents necessary to adoption). The original consent or consents to the adoption shall be attached to the petition.

(b) Hearing.--Upon presentation of a petition filed pursuant to this section, the court shall fix a time for a hearing which shall not be less than ten days after filing of the petition.

Notice of the hearing shall be by personal service or by registered mail or by such other means as the court may require upon the consenter and shall be in the form provided in section 2513(b) (relating to hearing). Notice of the hearing shall be given to the other parent or parents, to the putative father whose parental rights could be terminated pursuant to subsection (c) and to the parents or guardian of a consenting parent who has not reached 18 years of age. The notice shall state that the consenting parent's or putative father's rights may be terminated as a result of the hearing. After hearing, which shall be private, the court may enter a decree of termination of parental rights in the case of a relinquishment to an adult or a decree of termination of parental rights and duties, including the obligation of support, in the case of a relinquishment to an agency.

(c) Putative father.--If a putative father will not execute a consent to an adoption as required by section 2711, has been given notice of the hearing being held pursuant to this section and fails to either appear at that hearing for the purpose of objecting to termination of his parental rights or file a written objection to such termination with the court prior to the hearing and has not filed an acknowledgment of paternity or claim of paternity pursuant to section 5103 (relating to acknowledgment and claim of paternity), the court may enter a decree terminating the parental rights of the putative father pursuant to subsection (b).

(d) Right to file personal and medical history information.--At the time the decree of termination is transmitted to the parent, the court shall also advise, in writing, the parent whose rights have been terminated of his or her continuing right to place and update personal and medical history information, whether or not the medical condition is in existence or discoverable at the time of adoption, on file with the court and with the Department of Public Welfare pursuant to Subchapter B of Chapter 29 (relating to records and access to information).

(June 23, 1982, P.L.617, No.174, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days; Dec. 20, 1995, P.L.685, No.76, eff. 60 days; Mar. 24, 2004, P.L.159, No.21, eff. 60 days; Oct. 27, 2010, P.L.961, No.101, eff. 180 days)

2010 Amendment. Act 101 amended subsec. (d).

2004 Amendment. Act 21 amended subsec. (a). Section 2 of Act 21 provided that the amendment of subsec. (a) shall apply to adoptions which are initiated on or after the effective date of section 2.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 2504 is referred to in section 2505 of this title.

§ 2504.1. Confidentiality.

The court shall take such steps as are reasonably necessary to assure that the identity of the adoptive parent or parents is not disclosed without their consent in any proceeding under this subchapter or Subchapter B (relating to involuntary termination). The Supreme Court may prescribe uniform rules under this section relating to such confidentiality.

(May 21, 1992, P.L.228, No.34, eff. 60 days)

1992 Amendment. Act 34 added section 2504.1.

§ 2505. Counseling.

(a) List of counselors.--Any hospital or other facility providing maternity care shall provide a list of available counselors and counseling services compiled pursuant to subsection (b) to its maternity patients who are known to be considering relinquishment or termination of parental rights pursuant to this part. The patient shall sign an acknowledgment of receipt of such list prior to discharge, a copy of which receipt shall be provided to the patient.

(b) Compilation of list.--The court shall compile a list of qualified counselors and counseling services (including all adoption agencies) which are available to counsel natural parents within the county who are contemplating relinquishment or termination of parental rights pursuant to this part. Such list shall be distributed to every agency, hospital or other facility providing maternity care within the county and shall be made available upon request to any intermediary or licensed health care professional.

(c) Court referral.--Prior to entering a decree of termination of parental rights pursuant to section 2503 (relating to hearing) or 2504 (relating to alternative procedure for relinquishment), if the parent whose rights are to be terminated is present in court, the court shall inquire whether he or she has received counseling concerning the termination and the alternatives thereto from an agency or from a qualified counselor listed by a court pursuant to subsection (b). If the parent has not received such counseling, the court may, with the parent's consent, refer the parent to an agency or qualified counselor listed by a court pursuant to subsection (b) for the purpose of receiving such counseling. In no event shall the court delay the completion of any hearing pursuant to section 2503 or 2504 for more than 15 days in order to provide for such counseling.

(d) Application for counseling.--Any parent who has filed a petition to relinquish his or her parental rights, or has executed a consent to adoption, and is in need of counseling concerning the relinquishment or consent, and the alternatives thereto, may apply to the court for referral to an agency or qualified counselor listed by a court pursuant to subsection (b) for the purpose of receiving such counseling. The court, in its discretion, may make such a referral where it is satisfied that this counseling would be of benefit to the parent.

(e) Counseling fund.--Except as hereinafter provided, each report of intention to adopt filed pursuant to section 2531 (relating to report of intention to adopt) shall be accompanied by a filing fee in the amount of \$75 which shall be paid into a segregated fund established by the county. The county may also make supplemental appropriations to the fund. All costs of counseling provided pursuant to subsection (c) or (d) to individuals who are unable to pay for such counseling shall be paid from the fund. No filing fee may be exacted under this subsection with respect to the adoption of a special needs child who would be eligible for adoption assistance pursuant to regulations promulgated by the Department of Public Welfare. In addition, the court may reduce or waive the fee in cases of demonstrated financial hardship.
(June 23, 1982, P.L.617, No.174, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days)

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

SUBCHAPTER B
INVOLUNTARY TERMINATION

Sec.

- 2511. Grounds for involuntary termination.
- 2512. Petition for involuntary termination.
- 2513. Hearing.

Cross References. Subchapter B is referred to in section 2504.1 of this title; section 6351 of Title 42 (Judiciary and Judicial Procedure).

§ 2511. Grounds for involuntary termination.

(a) General rule.--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

(1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

(2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

(3) The parent is the presumptive but not the natural father of the child.

(4) The child is in the custody of an agency, having been found under such circumstances that the identity or whereabouts of the parent is unknown and cannot be ascertained by diligent search and the parent does not claim the child within three months after the child is found.

(5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.

(6) In the case of a newborn child, the parent knows or has reason to know of the child's birth, does not reside with the child, has not married the child's other parent, has failed for a period of four months immediately preceding the filing of the petition to make reasonable efforts to maintain substantial and continuing contact with the child and has failed during the same four-month period to provide substantial financial support for the child.

(7) The parent is the father of a child conceived as a result of a rape or incest.

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination

of parental rights would best serve the needs and welfare of the child.

(9) The parent has been convicted of one of the following in which the victim was a child of the parent:

- (i) an offense under 18 Pa.C.S. Ch. 25 (relating to criminal homicide);
- (ii) a felony under 18 Pa.C.S. § 2702 (relating to aggravated assault);
- (iii) an offense in another jurisdiction equivalent to an offense in subparagraph (i) or (ii); or
- (iv) an attempt, solicitation or conspiracy to commit an offense in subparagraph (i), (ii) or (iii).

(10) The parent has been found by a court of competent jurisdiction to have committed sexual abuse against the child or another child of the parent based on a judicial adjudication as set forth in paragraph (1)(i), (ii), (iii) or (iv) or (4) of the definition of "founded report" in section 6303(a) (relating to definitions) where the judicial adjudication is based on a finding of "sexual abuse or exploitation" as defined in section 6303(a).

(11) The parent is required to register as a sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) or to register with a sexual offender registry in another jurisdiction or foreign country.

(b) Other considerations.--The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

(c) Right to file personal and medical history information.--At the time the decree of termination is transmitted to the parent whose rights have been terminated, the court shall advise the parent, in writing, of his or her continuing right to place and update personal and medical history information, whether or not the medical condition is in existence or discoverable at the time of adoption, on file with the court and with the Department of Public Welfare pursuant to Subchapter B of Chapter 29 (relating to records and access to information).

(May 21, 1992, P.L.228, No.34, eff. 60 days; Dec. 20, 1995, P.L.685, No.76; Apr. 4, 1996, P.L.58, No.20, eff. 60 days; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Oct. 27, 2010, P.L.961, No.101, eff. 180 days; Oct. 28, 2016, P.L.966, No.115, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendments. Act 10 amended subsec. (a)(11) and Act 29 reenacted subsec. (a)(11).

2016 Amendment. Act 115 added subsec. (a)(10) and (11).

2010 Amendment. Act 101 amended subsec. (c).

2006 Amendment. Act 146 added subsec. (a)(9).

1996 Amendment. Act 20 amended subsec. (a)(7).

1995 Amendment. Act 76 amended subsecs. (b) and (c) and added subsec. (a)(8). Section 7 of Act 76 provided that subsecs. (b) and (c) shall take effect in 60 days and, with regard to a child who has been removed from the care of the parent by the court or under a voluntary agreement with an agency prior to the effective date of Act 76, subsec. (a)(8) shall take effect 12 months after the effective date of Act 76.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 2511 is referred to in sections 2513, 2714 of this title; section 6302 of Title 42 (Judiciary and Judicial Procedure).

§ 2512. Petition for involuntary termination.

(a) Who may file.--A petition to terminate parental rights with respect to a child under the age of 18 years may be filed by any of the following:

(1) Either parent when termination is sought with respect to the other parent.

(2) An agency.

(3) The individual having custody or standing in loco parentis to the child and who has filed a report of intention to adopt required by section 2531 (relating to report of intention to adopt).

(4) An attorney representing a child or a guardian ad litem representing a child who has been adjudicated dependent under 42 Pa.C.S. § 6341(c) (relating to adjudication).

(b) Contents.--The petition shall set forth specifically those grounds and facts alleged as the basis for terminating parental rights. The petition filed under this section shall also contain an averment that the petitioner will assume custody of the child until such time as the child is adopted. If the petitioner is an agency it shall not be required to aver that an adoption is presently contemplated nor that a person with a present intention to adopt exists.

(c) Father not identified.--If the petition does not identify the father of the child, it shall state whether a claim of paternity has been filed under section 8303 (relating to claim of paternity).

(Dec. 20, 1995, P.L.685, No.76, eff. 60 days)

1995 Amendment. Act 76 added subsec. (a)(4).

References in Text. Former section 8303, referred to in this section, is repealed. The subject matter is now contained in section 5103.

Cross References. Section 2512 is referred to in sections 2513, 2521 of this title.

§ 2513. Hearing.

(a) Time.--The court shall fix a time for hearing on a petition filed under section 2512 (relating to petition for involuntary termination) which shall be not less than ten days after filing of the petition.

(b) Notice.--At least ten days' notice shall be given to the parent or parents, putative father, or parent of a minor parent whose rights are to be terminated, by personal service or by registered mail to his or their last known address or by such other means as the court may require. A copy of the notice shall be given in the same manner to the other parent, putative father or parent or guardian of a minor parent whose rights are to be terminated. A putative father shall include one who has filed a claim of paternity as provided in section 5103 (relating to acknowledgment and claim of paternity) prior to the

institution of proceedings. The notice shall state the following:

"A petition has been filed asking the court to put an end to all rights you have to your child (insert name of child). The court has set a hearing to consider ending your rights to your child. That hearing will be held in (insert place, giving reference to exact room and building number or designation) on (insert date) at (insert time). You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the court without your being present. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

(Name).....

(Address).....

.....

(Telephone number)....."

(c) Mother competent witness on paternity issue.--The natural mother shall be a competent witness as to whether the presumptive or putative father is the natural father of the child.

(d) Decree.--After hearing, which may be private, the court shall make a finding relative to the pertinent provisions of section 2511 (relating to grounds for involuntary termination) and upon such finding may enter a decree of termination of parental rights.

(June 23, 1982, P.L.617, No.174, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days)

1992 Amendment. Act 34 amended subsec. (b).

Cross References. Section 2513 is referred to in sections 2504, 2714 of this title.

SUBCHAPTER C

DECREE OF TERMINATION

Sec.

2521. Effect of decree of termination.

§ 2521. Effect of decree of termination.

(a) Adoption proceeding rights extinguished.--A decree terminating all rights of a parent or a decree terminating all rights and duties of a parent entered by a court of competent jurisdiction shall extinguish the power or the right of the parent to object to or receive notice of adoption proceedings.

(b) Award of custody.--The decree shall award custody of the child to the agency or the person consenting to accept custody under section 2501 (relating to relinquishment to agency) or section 2502 (relating to relinquishment to adult intending to adopt child) or the petitioner in the case of a proceeding under section 2512 (relating to petition for involuntary termination).

(c) Authority of agency or person receiving custody.--An agency or person receiving custody of a child shall stand in loco parentis to the child and in such capacity shall have the authority, inter alia, to consent to marriage, to enlistment in the armed forces and to major medical, psychiatric and surgical treatment and to exercise such other authority concerning the child as a natural parent could exercise.

SUBCHAPTER D
REPORTS AND INVESTIGATION

Sec.

- 2530. Home study and preplacement report.
- 2531. Report of intention to adopt.
- 2532. Filing of report.
- 2533. Report of intermediary.
- 2534. Exhibits.
- 2535. Investigation.

§ 2530. Home study and preplacement report.

(a) General rule.--No intermediary shall place a child in the physical care or custody of a prospective adoptive parent or parents unless a home study containing a favorable recommendation for placement of a child with the prospective parent or parents has been completed within three years prior thereto and which has been supplemented within one year prior thereto. The home study shall be conducted by a local public child-care agency, an adoption agency or a licensed social worker designated by the court to perform such study.

(b) Preplacement report.--A preplacement report shall be prepared by the agency or person conducting the home study.

(1) The preplacement report shall set forth all pertinent information relating to the fitness of the adopting parents as parents.

(2) The preplacement report shall be based upon a study which shall include an investigation of the home environment, family life, parenting skills, age, physical and mental health, social, cultural and religious background, facilities and resources of the adoptive parents and their ability to manage their resources. The preplacement report shall also include the information required by section 6344(b) (relating to employees having contact with children; adoptive and foster parents).

(3) The preplacement report shall include a determination regarding the fitness of the adopting parents as parents.

(4) The preplacement report shall be dated and verified.

(c) Interim placement.--Where a home study required under this section is in process, but not yet completed, an intermediary may place a child in the physical care or custody of a prospective adoptive parent or parents if all of the following conditions are met:

(1) The intermediary has no reason to believe that the prospective adoptive parent or parents would not receive a favorable recommendation for placement as a result of the home study.

(2) The individual or agency conducting the home study assents to the interim placement.

(3) The intermediary immediately notifies the court of the interim placement and the identity of the individual or agency conducting the home study. If at any time prior to the completion of the home study the court is notified by the individual or agency conducting the home study that it withdraws its assent to the interim placement, the court may order the placement of the child in temporary foster care with an agency until a favorable recommendation for placement is received.

(May 21, 1992, P.L.228, No.34, eff. 60 days; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

2014 Amendment. Act 153 amended subsec. (b) (2).

1992 Amendment. Act 34 added section 2530.

Cross References. Section 2530 is referred to in sections 2531, 2701 of this title.

§ 2531. Report of intention to adopt.

(a) General rule.--Every person now having or hereafter receiving or retaining custody or physical care of any child for the purpose or with the intention of adopting a child under the age of 18 years shall report to the court in which the petition for adoption will be filed.

(b) Contents.--The report shall set forth:

(1) The circumstances surrounding the persons receiving or retaining custody or physical care of the child, including the date upon which a preplacement investigation was concluded.

(2) The name, sex, racial background, age, date and place of birth and religious affiliation of the child.

(3) The name and address of the intermediary.

(4) An itemized accounting of moneys and consideration paid or to be paid to the intermediary.

(5) Whether the parent or parents whose parental rights are to be terminated have received counseling with respect to the termination and the alternatives thereto. If so, the report shall state the dates on which the counseling was provided and the name and address of the counselor or agency which provided the counseling.

(6) The name, address and signature of the person or persons making the report. Immediately above the signature of the person or persons intending to adopt the child shall appear the following statement:

I acknowledge that I have been advised or know and understand that the birth father or putative father may revoke the consent to the adoption of this child within 30 days after the later of the birth of the child or the date he has executed the consent to an adoption and that the birth mother may revoke the consent to an adoption of this child within 30 days after the date she has executed the consent.

(7) A copy of the preplacement report prepared pursuant to section 2530 (relating to home study and preplacement report).

When a person receives or retains custody or physical care of a child from an agency, the report shall set forth only the name and address of the agency, the circumstances surrounding such person receiving or retaining custody or physical care of the child and a copy of the preplacement report prepared pursuant to section 2530.

(c) When report not required.--No report shall be required when the child is the child, grandchild, stepchild, brother or sister of the whole or half blood, or niece or nephew by blood, marriage or adoption of the person receiving or retaining custody or physical care.

(June 23, 1982, P.L.617, No.174, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days; Mar. 24, 2004, P.L.159, No.21, eff. 60 days)

2004 Amendment. Act 21 amended subsec. (b) (6). Section 2 of Act 21 provided that the amendment of subsec. (b) (6) shall apply to adoptions which are initiated on or after the effective date of section 2.

1992 Amendment. Act 34 amended subsec. (b).

Cross References. Section 2531 is referred to in sections 2302, 2502, 2505, 2512, 2532, 2535, 2701 of this title.

§ 2532. Filing of report.

The report required by section 2531 (relating to report of intention to adopt) shall be filed within 30 days after the date of receipt of the custody or physical care of the child.

§ 2533. Report of intermediary.

(a) General rule.--Within six months after filing the report of intention to adopt, the intermediary who or which arranged the adoption placement of any child under the age of 18 years shall make a written report under oath to the court in which the petition for adoption will be filed and shall thereupon forthwith notify in writing the adopting parent or parents of the fact that the report has been filed and the date thereof.

(b) Contents.--The report shall set forth:

- (1) The name and address of the intermediary.
- (2) The name, sex, racial background, age, date and place of birth and religious affiliation of the child.
- (3) The date of the placement of the child with the adopting parent or parents.
- (4) The name, racial background, age, marital status as of the time of birth of the child and during one year prior thereto, and religious affiliation of the parents of the child.
- (5) Identification of proceedings in which any decree of termination of parental rights, or parental rights and duties, with respect to the child was entered.
- (6) The residence of the parents or parent of the child, if there has been no such decree of termination.
- (7) A statement that all consents required by section 2711 (relating to consents necessary to adoption) are attached as exhibits or the basis upon which the consents are not required.
- (8) An itemized accounting of moneys and consideration paid or to be paid to or received by the intermediary or to or by any other person or persons to the knowledge of the intermediary by reason of the adoption placement.
- (9) A full description and statement of the value of all property owned or possessed by the child.
- (10) A statement that no provision of any statute regulating the interstate placement of children has been violated with respect to the placement of the child.
- (11) If no birth certificate or certification of registration of birth can be obtained, a statement of the reason therefor.
- (12) A statement that medical history information was obtained and if not obtained, a statement of the reason therefor.

(c) Appropriate relief.--The court may provide appropriate relief where it finds that the moneys or consideration reported or reportable pursuant to subsection (b)(8) are excessive.

(d) Permissible reimbursement of expenses.--Payments made by the adoptive parents to an intermediary or a third party for reimbursement of the following expenses, calculated without regard to the income of the adoptive parents, are permissible and are not in violation of 18 Pa.C.S. § 4305 (relating to dealing in infant children):

- (1) Medical and hospital expenses incurred by the natural mother for prenatal care and those medical and hospital expenses incurred by the natural mother and child incident to birth.

(2) Medical, hospital and foster care expenses incurred on behalf of the child prior to the decree of adoption.

(3) Reasonable expenses incurred by the agency or a third party for adjustment counseling and training services provided to the adoptive parents and for home studies or investigations.

(4) Reasonable administrative expenses incurred by the agency, to include overhead costs and attorney fees.
(June 23, 1982, P.L.617, No.174, eff. 60 days; Jan. 15, 1988, P.L.16, No.7, eff. imd.)

1988 Amendment. Act 7 added subsec. (d). Section 2 of Act 7 provided that Act 7 shall apply to expenses incurred for adoption decrees made after the effective date of Act 7, regardless of whether the expenses were incurred prior to or after the effective date of Act 7.

1982 Amendment. Act 174 amended subsec. (b) and added subsec. (c).

Cross References. Section 2533 is referred to in sections 2535, 2701, 2901 of this title.

§ 2534. Exhibits.

The report of the intermediary shall have attached to it the following exhibits:

(1) A birth certificate or certification of registration of birth of the child if it can be obtained.

(2) All consents to adoption required by section 2711 (relating to consents necessary to adoption).

(3) A certified copy of any decree of termination of parental rights or parental rights and duties made by a court other than the court in which the petition for adoption will be filed.

Cross References. Section 2534 is referred to in section 2702 of this title.

§ 2535. Investigation.

(a) **General rule.**--When a report required by section 2531 (relating to report of intention to adopt) has been filed, the court shall cause an investigation to be made and a report filed by a local public child care agency, a voluntary child care agency with its consent or an appropriate person designated by the court. In lieu of the investigation, the court may accept an investigation made by the agency which placed the child and the report of investigation in such cases may be incorporated into the report of the intermediary required by section 2533 (relating to report of intermediary).

(b) **Matters covered.**--The investigation shall cover all pertinent information regarding the child's eligibility for adoption and the suitability of the placement, including the physical, mental and emotional needs and welfare of the child, and the child's and the adopting parents' age, sex, health and racial, ethnic and religious background.

(c) **Payment of costs.**--The court may establish the procedure for the payment of investigation costs.

Cross References. Section 2535 is referred to in sections 2724, 2901, 6344 of this title.

SUBCHAPTER E

PENNSYLVANIA ADOPTION COOPERATIVE EXCHANGE

Sec.

- 2551. Definitions.
- 2552. Pennsylvania Adoption Cooperative Exchange.
- 2553. Registration of children.
- 2554. Responsibilities of PACE.
- 2555. Responsibilities of public and private agencies.
- 2556. Related activities of agencies unaffected.
- 2557. Regulations and staff.
- 2558. Retroactive application of subchapter.

Enactment. Subchapter E was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 2551. Definitions.

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

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

"PACE." The Pennsylvania Adoption Cooperative Exchange.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 2552. Pennsylvania Adoption Cooperative Exchange.

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

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 2553. Registration of children.

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

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

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

Cross References. Section 2553 is referred to in section 2555 of this title.

§ 2554. Responsibilities of PACE.

PACE shall be responsible for the following:

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

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

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

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

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

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

§ 2555. Responsibilities of public and private agencies.

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

§ 2556. Related activities of agencies unaffected.

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

§ 2557. Regulations and staff.

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

§ 2558. Retroactive application of subchapter.

This subchapter shall apply retroactively to all children for whom:

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

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

CHAPTER 27

PETITION FOR ADOPTION

Subchapter

- A. Petition
- B. Consents
- C. Hearings
- D. Voluntary Agreement for Continuing Contact

Enactment. Chapter 27 was added October 15, 1980, P.L.934, No.163, effective January 1, 1981.

SUBCHAPTER A

PETITION

Sec.

2701. Contents of petition for adoption.

2702. Exhibits.

§ 2701. Contents of petition for adoption.

A petition for adoption shall set forth:

(1) The full name, residence, marital status, age, occupation, religious affiliation and racial background of

the adopting parent or parents and their relationship, if any, to the adoptee.

(2) That the reports under sections 2530 (relating to home study and preplacement report), 2531 (relating to report of intention to adopt) and 2533 (relating to report of intermediary) have been filed, if required.

(3) The name and address of the intermediary, if any.

(4) The full name of the adoptee and the fact and length of time of the residence of the adoptee with the adopting parent or parents.

(5) If there is no intermediary or if no report of the intermediary has been filed or if the adoptee is over the age of 18 years, all vital statistics and other information enumerated and required to be stated of record by section 2533, so far as applicable.

(6) If a change in name of the adoptee is desired, the new name.

(7) That all consents required by section 2711 (relating to consents necessary to adoption) are attached as exhibits or the basis upon which such consents are not required.

(8) That it is the desire of the petitioner or the petitioners that the relationship of parent and child be established between the petitioner or petitioners and the adoptee.

(9) If no birth certificate or certification of registration of birth can be obtained, a statement of the reason therefor and an allegation of the efforts made to obtain the certificate with a request that the court establish a date and place of birth at the adoption hearing on the basis of the evidence presented.

(May 21, 1992, P.L.228, No.34, eff. 60 days)

§ 2702. Exhibits.

The petition shall have attached to it the following exhibits:

(1) The consent or consents required by section 2711 (relating to consents necessary to adoption).

(2) If not already filed with a report of an intermediary, the exhibits enumerated in section 2534 (relating to exhibits).

SUBCHAPTER B CONSENTS

Sec.

2711. Consents necessary to adoption.

2712. Consents not naming adopting parents.

2713. When other consents not required.

2714. When consent of parent not required.

§ 2711. Consents necessary to adoption.

(a) **General rule.**--Except as otherwise provided in this part, consent to an adoption shall be required of the following:

(1) The adoptee, if over 12 years of age.

(2) The spouse of the adopting parent, unless they join in the adoption petition.

(3) The parents or surviving parent of an adoptee who has not reached the age of 18 years.

(4) The guardian of an incapacitated adoptee.

(5) The guardian of the person of an adoptee under the age of 18 years, if any there be, or of the person or persons having the custody of the adoptee, if any such person can

be found, whenever the adoptee has no parent whose consent is required.

(b) Husband of natural mother.--The consent of the husband of the mother shall not be necessary if, after notice to the husband, it is proved to the satisfaction of the court by evidence, including testimony of the natural mother, that the husband of the natural mother is not the natural father of the child. Absent such proof, the consent of a former husband of the natural mother shall be required if he was the husband of the natural mother at any time within one year prior to the birth of the adoptee.

(c) Validity of consent.--No consent shall be valid if it was executed prior to or within 72 hours after the birth of the child. A putative father may execute a consent at any time after receiving notice of the expected or actual birth of the child. Any consent given outside this Commonwealth shall be valid for purposes of this section if it was given in accordance with the laws of the jurisdiction where it was executed. A consent to an adoption may only be revoked as set forth in this subsection. The revocation of a consent shall be in writing and shall be served upon the agency or adult to whom the child was relinquished. The following apply:

(1) Except as otherwise provided in paragraph (3):

(i) For a consent to an adoption executed by a birth father or a putative father, the consent is irrevocable more than 30 days after the birth of the child or the execution of the consent, whichever occurs later.

(ii) For a consent to an adoption executed by a birth mother, the consent is irrevocable more than 30 days after the execution of the consent.

(2) An individual may not waive the revocation period under paragraph (1).

(3) Notwithstanding paragraph (1), the following apply:

(i) An individual who executed a consent to an adoption may challenge the validity of the consent only by filing a petition alleging fraud or duress within the earlier of the following time frames:

(A) Sixty days after the birth of the child or the execution of the consent, whichever occurs later.

(B) Thirty days after the entry of the adoption decree.

(ii) A consent to an adoption may be invalidated only if the alleged fraud or duress under subparagraph (i) is proven by:

(A) a preponderance of the evidence in the case of consent by a person 21 years of age or younger; or

(B) clear and convincing evidence in all other cases.

(d) Contents of consent.--

(1) The consent of a parent of an adoptee under 18 years of age shall set forth the name, age and marital status of the parent, the relationship of the consenter to the child, the name of the other parent or parents of the child and the following:

I hereby voluntarily and unconditionally consent to the adoption of the above named child.

I understand that by signing this consent I indicate my intent to permanently give up all rights to this child.

I understand such child will be placed for adoption.

I understand I may revoke this consent to permanently give up all rights to this child by placing the revocation in writing and serving it upon the agency or adult to whom the child was relinquished.

If I am the birth father or putative father of the child, I understand that this consent to an adoption is irrevocable unless I revoke it within 30 days after either the birth of the child or my execution of the consent, whichever occurs later, by delivering a written revocation to (insert the name and address of the agency coordinating the adoption) or (insert the name and address of an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child) or (insert the court of the county in which the voluntary relinquishment form was or will be filed).

If I am the birth mother of the child, I understand that this consent to an adoption is irrevocable unless I revoke it within 30 days after executing it by delivering a written revocation to (insert the name and address of the agency coordinating the adoption) or (insert the name and address of an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child) or (insert the court of the county in which the voluntary relinquishment form was or will be filed).

I have read and understand the above and I am signing it as a free and voluntary act.

(2) The consent shall include the date and place of its execution and names and addresses and signatures of at least two persons who witnessed its execution and their relationship to the consenter.

(June 23, 1982, P.L.617, No.174, eff. 60 days; Apr. 16, 1992, P.L.108, No.24, eff. 60 days; May 21, 1992, P.L.228, No.34, eff. 60 days; Mar. 24, 2004, P.L.159, No.21, eff. 60 days)

2004 Amendment. Act 21 amended subsecs. (c) and (d)(1). Section 2 of Act 21 provided that the amendment of subsecs. (c) and (d)(1) shall apply to adoptions which are initiated on or after the effective date of section 2.

1992 Amendments. Act 24 amended subsec. (a) and Act 34 amended subsecs. (c) and (d).

Cross References. Section 2711 is referred to in sections 2504, 2533, 2534, 2701, 2702 of this title.

§ 2712. Consents not naming adopting parents.

A consent to a proposed adoption meeting all the requirements of this part but which does not name or otherwise identify the adopting parent or parents shall be valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent or parents.

§ 2713. When other consents not required.

The court, in its discretion, may dispense with consents other than that of the adoptee to a petition for adoption when:

(1) the adoptee is over 18 years of age; or

(2) the adoptee is under 18 years of age and has no parent living whose consent is required.

§ 2714. When consent of parent not required.

Consent of a parent to adoption shall not be required if a decree of termination with regard to such parent has been entered. When parental rights have not previously been terminated, the court may find that consent of a parent of the

adoptee is not required if, after notice and hearing as prescribed in section 2513 (relating to hearing), the court finds that grounds exist for involuntary termination under section 2511 (relating to grounds for involuntary termination).

SUBCHAPTER C

HEARINGS

Sec.

- 2721. Notice of hearing.
- 2722. Place of hearing.
- 2723. Attendance at hearing.
- 2724. Testimony and investigation.
- 2725. Religious belief.

§ 2721. Notice of hearing.

The court shall fix a time and place for hearing. Notice of the hearing shall be given to all persons whose consents are required and to such other persons as the court shall direct. Notice to the parent or parents of the adoptee, if required, may be given by the intermediary or someone acting on his behalf. Notice shall be by personal service or by registered mail to the last known address of the person to be notified or in such other manner as the court shall direct.

§ 2722. Place of hearing.

The hearing shall be private or in open court as the court deems appropriate.

§ 2723. Attendance at hearing.

The adopting parent or parents and the adoptee must appear at and, if required, testify at the hearing under oath unless the court determines their presence is unnecessary. In addition, the court may require the appearance and testimony of all persons whose consents are required by this part and representatives of agencies or individuals who have acted as an intermediary if their appearance or testimony would be necessary or helpful to the court.

§ 2724. Testimony and investigation.

(a) **Testimony.**--The court shall hear testimony in support of the petition and such additional testimony as it deems necessary to inform it as to the desirability of the proposed adoption. It shall require a disclosure of all moneys and consideration paid or to be paid to any person or institution in connection with the adoption.

(b) **Investigation.**--The court may request that an investigation be made by a person or public agency or, with its consent, a voluntary agency, specifically designated by the court to verify the statements of the petition and such other facts that will give the court full knowledge of the desirability of the proposed adoption, or the court may rely in whole or in part upon a report earlier made under section 2535 (relating to investigation). In any case, the age, sex, health, social and economic status or racial, ethnic or religious background of the child or adopting parents shall not preclude an adoption but the court shall decide its desirability on the basis of the physical, mental and emotional needs and welfare of the child.

(c) **Payment of investigation costs.**--The court may establish a procedure for the payment of investigation costs by the petitioners or by such other persons as the court may direct.

§ 2725. Religious belief.

The intermediary may honor the preference of the natural parents as to the religious faith in which the adoptive parents

intend to rear the adopted child. No person shall be denied the benefits of this part because of a religious belief in the use of spiritual means or prayer for healing.
(May 21, 1992, P.L.228, No.34, eff. 60 days)

SUBCHAPTER D **VOLUNTARY AGREEMENT FOR** **CONTINUING CONTACT**

Sec.

- 2731. Purpose of subchapter.
- 2732. Definitions.
- 2733. Parties to agreement.
- 2734. Consent of a child.
- 2735. Filing and approval of an agreement.
- 2736. Failure to comply.
- 2737. Modification of agreement.
- 2738. Enforcement of agreement.
- 2739. Discontinuance of agreement.
- 2740. Procedures for facilitating and resolving agreements involving a county child welfare agency.
- 2741. Counsel.
- 2742. Costs.

Enactment. Subchapter D was added October 27, 2010, P.L.961, No.101, effective in 180 days.

§ 2731. Purpose of subchapter.

The purpose of this subchapter is to provide an option for adoptive parents and birth relatives to enter into a voluntary agreement for ongoing communication or contact that:

- (1) is in the best interest of the child;
- (2) recognizes the parties' interests and desires for ongoing communication or contact;
- (3) is appropriate given the role of the parties in the child's life; and
- (4) is subject to approval by the courts.

§ 2732. Definitions.

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

"Agency." A public or private entity, including a county agency, that:

- (1) is licensed, supervised or regulated by the Department of Public Welfare; and
- (2) provides adoption services.

"Agreement." A voluntary written agreement between an adoptive parent and a birth relative that is approved by a court and provides for continuing contact or communication between the child and the birth relative or between the adoptive parent and the birth relative as provided under this subchapter.

"Birth relative." A parent, grandparent, stepparent, sibling, uncle or aunt of the child's birth family, whether the relationship is by blood, marriage or adoption.

"Child." An individual who is under 18 years of age.

"County agency." A county children and youth social service agency established under section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

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

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in the definition of "county agency," was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 2733. Parties to agreement.

(a) Prospective adoptive parents and birth relatives.--A prospective adoptive parent of a child may enter into an agreement with a birth relative of the child to permit continuing contact or communication between the child and the birth relative or between the adoptive parent and the birth relative.

(b) Guardians ad litem for siblings of adoptees.--Where siblings have been freed for adoption through the termination of parental rights, following a dependency proceeding, and the prospective adoptive parent is not adopting all of the siblings, each such sibling who is under 18 years of age shall be represented by a guardian ad litem in the development of an agreement.

(c) Notification.--An agency or anyone representing the parties in an adoption shall provide notification to a prospective adoptive parent, a birth parent and a child who can be reasonably expected to understand that a prospective adoptive parent and a birth relative of a child have the option to enter into a voluntary agreement for continuing contact or communication.

(d) Construction.--Nothing in this chapter shall be construed to prohibit the parties from agreeing to mediation of an agreement at their own cost, including the modification of an agreement, before seeking a remedy from the court.

§ 2734. Consent of a child.

If the child is 12 years of age or older, an agreement made under this subchapter may not be entered into without the child's consent.

§ 2735. Filing and approval of an agreement.

(a) General rule.--An agreement shall be filed with the court that finalizes the adoption of the child.

(b) Conditions for approval.--The court shall approve the agreement if the court determines that:

(1) The agreement has been entered into knowingly and voluntarily by all parties. An affidavit made under oath must accompany the agreement affirmatively stating that the agreement was entered into knowingly and voluntarily and is not the product of coercion, fraud or duress. The affidavit may be executed jointly or separately.

(2) The agreement is in the best interest of the child. In making that determination, factors that the court may consider include, but are not limited to, the following:

(i) The length of time that the child has been under actual care, custody and control of a person other than a birth parent and the circumstances relating thereto.

(ii) The interaction and interrelationship of the child with birth relatives and other persons who routinely interact with the birth relatives and may significantly affect the child's best interests.

(iii) The adjustment to the child's home, school and community.

(iv) The willingness and ability of the birth relative to respect and appreciate the bond between the child and prospective adoptive parent.

(v) The willingness and ability of the prospective adoptive parent to respect and appreciate the bond between the child and the birth relative.

(vi) Any evidence of abuse or neglect of the child.

(c) Legal effect.--An agreement shall not be legally enforceable unless approved by the court.

§ 2736. Failure to comply.

Failure to comply with the terms of an agreement that has been approved by the court pursuant to this subchapter shall not be grounds for setting aside an adoption decree.

§ 2737. Modification of agreement.

(a) General rule.--Only the adoptive parent or a child who is 12 years of age or older may seek to modify an agreement by filing an action in the court that finalized the adoption.

(b) Standard for modification.--Before the court may enter an order modifying the agreement, it must find by clear and convincing evidence that modification serves the needs, welfare and best interest of the child.

Cross References. Section 2737 is referred to in sections 2741, 2742 of this title.

§ 2738. Enforcement of agreement.

(a) General rule.--Any party to an agreement, a sibling or a child who is the subject of an agreement may seek to enforce an agreement by filing an action in the court that finalized the adoption.

(b) Remedies.--Any party to an agreement, a sibling or a child who is the subject of an agreement may request only specific performance in seeking to enforce an agreement and may not request monetary damages or modification of an agreement.

(c) Requirements.--For an agreement to be enforceable, it must be:

(1) In writing.

(2) Approved by the court on or before the date for any adoption decree.

(3) If the child is 12 years of age or older when the agreement is executed, the child must consent to the agreement at the time of its execution.

(d) Prerequisites.--Before the court may enter an order enforcing an agreement, it must find all of the following:

(1) The party seeking enforcement of the agreement is in substantial compliance with the agreement.

(2) By clear and convincing evidence, enforcement serves the needs, welfare and best interest of the child.

(e) Cessation of enforceability.--

(1) An agreement shall cease to be enforceable on the date the child turns 18 years of age unless the agreement otherwise stipulates or is modified by the court.

(2) The court issuing final approval of an agreement shall have continuing jurisdiction over enforcement of the agreement until the child turns 18 years of age, unless the agreement otherwise stipulates or is modified by the court.

(f) Exclusivity of remedy.--This section constitutes the exclusive remedy for enforcement of an agreement, and no statutory or common law remedy shall be available for enforcement or damages in connection with an agreement.

Cross References. Section 2738 is referred to in sections 2741, 2742 of this title.

§ 2739. Discontinuance of agreement.

(a) **General rule.**--A party to an agreement or a child that is at least 12 years of age or older may seek to discontinue an agreement by filing an action in the court that finalized the adoption.

(b) **Standard for discontinuation.**--Before the court may enter an order discontinuing an agreement, it must find by clear and convincing evidence that discontinuance serves the needs, welfare and best interest of the child.

Cross References. Section 2739 is referred to in sections 2741, 2742 of this title.

§ 2740. Procedures for facilitating and resolving agreements involving a county child welfare agency.

(a) **Department to develop procedures.**--In termination of parental rights and adoption proceedings involving a county child welfare agency arising from a juvenile dependency case under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the department shall develop, in consultation with the Administrative Office of the Pennsylvania Courts and the Juvenile Courts Judges Commission, procedures to do the following:

(1) Facilitate the development of an agreement, when appropriate, before it is presented to the court.

(2) Resolve any requests to modify, enforce or discontinue an agreement consistent with the provisions of this subchapter.

(b) **Requirements.**--The procedures shall, among other provisions to be determined by the department, clearly inform the parties to and subject of an agreement how to seek modification, enforcement or discontinuance of an agreement that was approved by the court.

(c) **Availability to county agencies.**--The department shall make the procedures available to county agencies no later than 180 days after the effective date of this subchapter.

§ 2741. Counsel.

(a) **General rule.**--In proceedings under sections 2737 (relating to modification of agreement), 2738 (relating to enforcement of agreement) and 2739 (relating to discontinuance of agreement), parties shall not be entitled to court-appointed counsel.

(b) **Guardians ad litem.**--

(1) Notwithstanding the provisions of subsection (a), the court may appoint a guardian ad litem to represent the interests of a child in proceedings under sections 2737, 2738 and 2739 and a sibling under 18 years of age who seeks to enforce or to discontinue an agreement.

(2) When appointing a guardian ad litem under this subchapter, the court may appoint the same attorney who represents or has represented the child in any dependency proceedings or termination of parental rights proceedings.

§ 2742. Costs.

If the court finds that an action brought under section 2737 (relating to modification of agreement), 2738 (relating to enforcement of agreement) or 2739 (relating to discontinuance of agreement) was wholly insubstantial, frivolous or not advanced in good faith, the court may award attorney fees and costs to the prevailing parties.

CHAPTER 29
DECREES AND RECORDS

Subchapter

- A. General Provisions
- B. Records and Access to Information
- C. Information Registry
- D. Release of Information

Enactment. Chapter 29 was added October 15, 1980, P.L.934, No.163, effective January 1, 1981.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

- 2901. Time of entry of decree of adoption.
- 2902. Requirements and form of decree of adoption.
- 2903. Retention of parental status.
- 2904. Name of adoptee.
- 2905. Impounding of proceedings and access to records (Repealed).
- 2906. Docket entries.
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- 2909. Medical history information (Repealed).
- 2910. Penalty for unauthorized disclosure.

Subchapter Heading . The heading of Subchapter A was added October 27, 2010, P.L.961, No.101, effective in 180 days.

§ 2901. Time of entry of decree of adoption.

Unless the court for cause shown determines otherwise, no decree of adoption shall be entered unless the natural parent or parents' rights have been terminated, the investigation required by section 2535 (relating to investigation) has been completed, the report of the intermediary has been filed pursuant to section 2533 (relating to report of intermediary) and all other legal requirements have been met. If all legal requirements have been met, the court may enter a decree of adoption at any time.

(June 23, 1982, P.L.617, No.174, eff. 60 days)

§ 2902. Requirements and form of decree of adoption.

(a) General rule.--If satisfied that the statements made in the petition are true, that the needs and welfare of the person proposed to be adopted will be promoted by the adoption and that all requirements of this part have been met, the court shall enter a decree so finding and directing that the person proposed to be adopted shall have all the rights of a child and heir of the adopting parent or parents and shall be subject to the duties of a child to him or them.

(b) Withdrawal or dismissal of petition.--In any case in which the petition is withdrawn or dismissed, the court shall enter an appropriate order in regard to the custody of the child.

§ 2903. Retention of parental status.

Whenever a parent consents to the adoption of his child by his spouse, the parent-child relationship between him and his child shall remain whether or not he is one of the petitioners in the adoption proceeding.

§ 2904. Name of adoptee.

If requested by the petitioners, the decree may provide that the adoptee shall assume the name of the adopting parent or parents and any given first or middle names that may be chosen.

**§ 2905. Impounding of proceedings and access to records
(Repealed).**

2010 Repeal. Section 2905 was repealed October 27, 2010, P.L.961, No.101, effective in 180 days.

§ 2906. Docket entries.

Upon the filing of any decree under this part, the clerk shall enter on the docket an entry showing the date of the decree. Information identifying the natural parents shall not be entered on the docket.

§ 2907. Certificate of adoption.

The clerk shall issue to the adopting parent or parents a certificate reciting that the court has granted the adoption. The certificate shall not disclose the name of any natural parent or the original name of the person adopted. The certificate shall be accepted in any legal proceedings in this Commonwealth as evidence of the fact that the adoption has been granted.

Cross References. Section 2907 is referred to in section 2908 of this title.

§ 2908. Foreign decree of adoption.

(a) Registration.--When a minor is adopted by a resident of this Commonwealth and a final decree of adoption is made or entered in conformity with the laws of a foreign country, the adopting parent shall file a properly authenticated copy of the foreign decree of adoption, a copy of the child's visa and either the child's birth certificate or some form of birth identification with the clerk of the court in the county of residence of the parent. If the foreign decree of adoption is not in English, the adopting parent shall also file a certified English translation. If no birth certificate or birth identification can be obtained, the adopting parent shall include an affidavit stating the reason therefor.

(b) Foreign adoption registration form.--The court shall develop a foreign adoption registration form and instructions for its use. The adopting parent or parents shall sign the foreign adoption registration form indicating that they have read and understand the information provided.

(c) Contents of form.--

(1) The form shall include statements indicating that the foreign adoption may not be a full and final adoption if:

(i) Both parents, or just the sole parent if only one parent is adopting, were not present for the adoption hearing in the foreign country.

(ii) The foreign court did not enter a final adoption decree or its equivalent.

(iii) The child's visa is not the type that would afford the child full United States citizenship.

(2) The form shall notify the adopting parent or parents that an adoption decree may be obtained from the Commonwealth if the documents filed in subsection (a) are reviewed by the court and the court determines the foreign adoption was full and final.

(3) At the time of filing, a copy of the foreign decree of adoption and a certified English translation, if necessary, the child's visa and either the child's birth certificate or some form of birth identification shall be

attached to the foreign registration form and submitted to the clerk of court.

(d) Foreign adoption review.--In cases where the court determines the foreign adoption was full and final, the court shall direct the clerk to enter upon the docket an entry showing the foreign court identification of the proceedings in that court and the date of the decree. The clerk shall issue to the parent a certificate of adoption as defined in section 2907 (relating to certificate of adoption). The clerk shall also send documentation to the Department of Health. No hearing shall be required prior to the issuance of the certificate of adoption, and the parent shall not be required to obtain counsel.

(e) Readoption.--The court shall develop a standard petition, a standard court order and instructions for their use for occasions when a child must be readopted to finalize the adoption. The clerk shall provide the adopting parent with the standardized information.

(f) Records.--All documents required in subsection (a) as well as any other accompanying documents shall be kept in the files of the court as a permanent record and shall be withheld from inspection except on order of court granted upon cause shown. Information identifying the birth parents of the adoptee shall not be required. The clerk may charge a filing fee in accordance with the court's regular fee schedule as approved by the president judge.

(July 7, 2006, P.L.618, No.96, eff. 60 days)

§ 2909. Medical history information (Repealed).

2010 Repeal. Section 2909 was repealed October 27, 2010, P.L.961, No.101, effective in 180 days.

§ 2910. Penalty for unauthorized disclosure.

Any officer or employee of the court, other than a judge thereof, the Department of Health, the Department of Public Welfare or any agency who willfully discloses impounded or otherwise confidential information relating to an adoption, other than as expressly authorized and provided in this chapter, commits a misdemeanor of the third degree.

(Dec. 12, 1984, P.L.979, No.195, eff. 60 days; Dec. 20, 1995, P.L.685, No.76, eff. 60 days)

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

SUBCHAPTER B

RECORDS AND ACCESS TO INFORMATION

Sec.

- 2911. Definitions.
- 2912. Combined request for information.
- 2913. Reasonable fees.
- 2914. Immunity from liability.
- 2915. Court and agency records.
- 2916. Attorney records.

Enactment. Subchapter B was added October 27, 2010, P.L.961, No.101, effective in 180 days.

Cross References. Subchapter B is referred to in sections 2503, 2504, 2511 of this title.

§ 2911. Definitions.

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

"Agency records." All information collected by an agency relating to a birth family, an adoptive family and an adoptee.

"Authorization form." A form provided by the department on which an adoptee, an adoptive parent or a birth relative can authorize or prohibit the release of identifying information pursuant to the requirements of this chapter.

"Authorized representative." An individual who is appointed to conduct a search under this chapter and who has completed a standardized training program as required by the department under this chapter.

"Court records." All petitions, exhibits, reports, notes of testimony, decrees and other papers pertaining to a proceeding under this chapter or former statutes relating to adoption.

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

"Medical history information." Medical records and other information concerning an adoptee or an adoptee's birth family that is relevant to the present or future health care or medical treatment of the adoptee or the adoptee's birth family. The term includes, but is not limited to, the following:

(1) Otherwise confidential or privileged information, if identifying information has been removed under section 2925 (relating to providing information from registry).

(2) Information about the birth parents of a child that may concern a potential hereditary or congenital medical problem.

"Noncertified copy of original birth record." A summary of original birth record, similar in form to a certified copy of an original birth record and consisting of only the names and ages of the birth parents, the date and county of the birth of the child and the name given to the child at birth.

"Social history information." The term includes, but is not limited to, the following:

(1) Information about the adoptee and birth relatives of the adoptee, including economic, cultural and ethnic information.

(2) A developmental history of the adoptee, including the circumstances at birth, early development and subsequent age-appropriate task development.

(3) The social experiences of the adoptee, including abuse and neglect, out-of-home care and patterns of interpersonal relationships.

(4) The educational experiences of the adoptee, including the name of schools attended and dates of enrollment, academic performance, extracurricular activities and special interests.

(5) The current functioning of the adoptee, including behavioral patterns and relationships.

(6) The circumstances surrounding the adoption.

"Summary of original birth record." (Deleted by amendment). (Nov. 3, 2016, P.L.993, No.127, eff. imd.)

2016 Amendment. Act 127 added the def. of "noncertified copy of original birth record" and deleted the def. of "summary of original birth record."

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 2912. Combined request for information.

An individual authorized to receive both nonidentifying information and identifying information may file a single written request under Subchapter D (relating to release of information).

§ 2913. Reasonable fees.

Any court or agency may charge reasonable fees for services provided under this chapter.

§ 2914. Immunity from liability.

(a) **General rule.**--A person or agency, including the Commonwealth and any of its governmental subdivisions, that participates in good faith in providing services under this chapter has immunity from civil liability that may otherwise result by reason of an action or a failure to act under this chapter.

(b) **Presumption of good faith.**--For the purpose of a civil proceeding, the good faith of any person or agency that provides services pursuant to this chapter is presumed.

§ 2915. Court and agency records.

(a) **General rule.**--All court and agency records shall be maintained as a permanent record and withheld from inspection except as provided under this chapter.

(b) **Who may access court or agency records.**--Only the following are authorized to access court or agency records for the purpose of releasing nonidentifying or identifying information under this chapter:

- (1) The court which finalized the adoption.
- (2) The agency that coordinated the adoption.
- (3) A successor agency authorized by the court which finalized the adoption.

(c) **Disposition of agency records upon closure.**--

(1) As soon as practicable, but not less than 30 days prior to the date on which an agency ceases to operate as a legal entity in this Commonwealth, the agency shall, unless it has applied to operate as a new legal entity, notify the department of its intention to cease operating.

(2) Within this time period, the agency shall submit a plan to the department relating to the closure and transfer of case records to another agency. The plan shall be subject to approval by the department.

(3) In preparation for its closure and transfer of case records, the agency shall label its case records to identify the respective court that finalized an adoption or where a petition to terminate parental rights or to adopt has been filed.

(4) The department shall notify each court so identified by the agency of the name, address and telephone number of the agency to which case records have been transferred.

§ 2916. Attorney records.

An attorney representing a party to an adoption proceeding or acting as counsel or guardian ad litem for a child in a proceeding under this part may forward records and information relating to the child, the child's birth family and the adoptive family to the court which finalized the adoption, as established by general rule by the Supreme Court. Such records and information shall be treated as court records for purposes of this chapter.

Sec.

- 2921. Establishment of registry.
- 2922. Informational material.
- 2923. Filing information with registry.
- 2924. Who may request information from registry.
- 2925. Providing information from registry.
- 2926. Rules and regulations.

Enactment. Subchapter C was added October 27, 2010, P.L.961, No.101, effective in 180 days.

Cross References. Subchapter C is referred to in sections 2933, 2934 of this title.

§ 2921. Establishment of registry.

The department shall do all of the following:

(1) Establish a Statewide confidential registry for the receipt, filing and retention of medical and social history information and authorization forms for all adoptions finalized or registered in this Commonwealth.

(2) Prescribe and distribute forms on which an adoptee, an adoptive parent and a birth parent may:

(i) Request identifying information or contact.

(ii) Authorize or refuse to authorize the release of identifying information or contact.

(iii) File and update information with the registry.

(3) Retain information filed with the registry as a permanent record.

(4) Disseminate the information pursuant to the requirements of this subchapter.

§ 2922. Informational material.

The department shall publicize the availability of the registry and the manner in which information may be filed with and obtained from the registry.

§ 2923. Filing information with registry.

An adoptee, an adoptive parent and a birth parent may at any time file and update medical and social history information with the registry on a form developed by the department.

§ 2924. Who may request information from registry.

The following individuals may request information from the registry:

(1) An adoptee who is at least 18 years of age.

(2) An adoptive parent of an adoptee who is under 18 years of age, adjudicated incapacitated or deceased.

(3) A legal guardian of an adoptee who is under 18 years of age or adjudicated incapacitated.

(4) A descendant of a deceased adoptee.

(5) The birth parent of an adoptee who is at least 21 years of age.

(6) A parent of a birth parent of an adoptee who is at least 21 years of age if the birth parent consents, is adjudicated incapacitated or is deceased.

(7) A birth sibling of an adoptee, if both the birth sibling and adoptee are at least 21 years of age, and:

(i) the birth sibling remained in the custody of the birth parent and the birth parent consents, is deceased or adjudicated incapacitated;

(ii) both the birth sibling and adoptee were adopted out of the same birth family; or

(iii) the birth sibling was not adopted out of the birth family and did not remain in the custody of the birth parent.

§ 2925. Providing information from registry.

(a) Nonidentifying information.--Nonidentifying information, if available, shall be provided to the requester within 30 days of the request.

(b) Identifying information.--

(1) If an authorization form is on file, the department shall notify the requester within 30 days of the request whether information may be released.

(2) If there is no authorization on file, the department shall designate an authorized representative to:

(i) Use reasonable efforts to locate the subject of the request.

(ii) If the subject of the request is located, obtain written authorization from the subject before any information is released.

(c) Confidentiality of information.--In conducting a search, the court or agency shall ensure that no individual, other than a birth parent, is informed of the adoptee's existence and relationship to the birth parent.

(d) When inquiry not mandatory.--An authorized representative of the court or agency conducting a search may not make an inquiry which the representative reasonably believes may compromise the confidentiality relating to the relationship between the adoptee and a birth parent of the adoptee.

(e) Authorization form.--An authorization form allowing the release of identifying information may be withdrawn at any time by the individual who signed the authorization form.

(f) Editing information.--Before the release of information from the registry, the department shall remove any identifying information, unless authorized in writing by the subject of the information to release the identifying information.

Cross References. Section 2925 is referred to in section 2911 of this title.

§ 2926. Rules and regulations.

The department shall promulgate rules and regulations necessary to implement this subchapter. The department may request, but shall not require, an agency to submit medical and social history information for adoptions finalized or registered in this Commonwealth prior to the effective date of this subchapter.

SUBCHAPTER D

RELEASE OF INFORMATION

Sec.

- 2931. Access to information.
- 2932. Nonidentifying information.
- 2933. Identifying information.
- 2934. Statement of medical and social history information.
- 2935. Confidentiality.
- 2936. Refusal to search.
- 2937. Original birth record.
- 2938. Rules and regulations.

Enactment. Subchapter D was added October 27, 2010, P.L.961, No.101, effective in 180 days.

Cross References. Subchapter D is referred to in section 2912 of this title.

§ 2931. Access to information.

(a) Who may access information.--The following individuals may file a written request for nonidentifying information or

identifying information or contact with the court which finalized the adoption, the agency which coordinated the adoption or a successor agency:

- (1) An adoptee who is at least 18 years of age.
- (2) An adoptive parent of an adoptee who is:
 - (i) under 18 years of age;
 - (ii) adjudicated incapacitated and is 18 years of age or older; or
 - (iii) deceased.
- (3) A legal guardian of an adoptee who is under 18 years of age or adjudicated incapacitated.
- (4) A descendant of a deceased adoptee.
- (5) A birth parent of an adoptee who is 21 years of age or older.
- (6) A parent of a birth parent of an adoptee who is 21 years of age or older, if the birth parent consents, is adjudicated incapacitated or is deceased.
- (7) A birth sibling of an adoptee, if both the birth sibling and adoptee are 21 years of age or older and:
 - (i) the birth sibling remained in the custody of the birth parent and the birth parent consents, is deceased or adjudicated incapacitated;
 - (ii) both the birth sibling and the adoptee were adopted out of the same birth family; or
 - (iii) the birth sibling was not adopted out of the birth family and did not remain in the custody of the birth parent.

(b) Who may be the subject of a request for information.--An individual enumerated under subsection (a) may request nonidentifying or identifying information regarding or contact with the following individuals:

- (1) An adoptee who is 21 years of age or older.
- (2) A birth parent of an adoptee.
- (3) A parent of a birth parent of an adoptee who is 21 years of age or older, if the birth parent consents, is adjudicated incapacitated or is deceased.
- (4) A birth sibling of an adoptee, if both the birth sibling and the adoptee are 21 years of age or older and:
 - (i) the birth sibling remained in the custody of the birth parent and the birth parent consents, is deceased or adjudicated incapacitated;
 - (ii) both the birth sibling and the adoptee were adopted out of the same birth family; or
 - (iii) the birth sibling was not adopted out of the birth family and did not remain in the custody of the birth parent.

§ 2932. Nonidentifying information.

(a) Notice of receipt of request.--When the court or agency receives a written request for nonidentifying information, it shall, within 30 days, notify the individual requesting the information of its receipt of the request.

(b) Furnishing nonidentifying information.--The court or agency shall, within 120 days, review its records and furnish to the requester any information concerning the adoption that will not compromise the confidentiality of the relationship between the adoptee and the adoptee's birth parent.

§ 2933. Identifying information.

(a) Notice of availability of records.--The court or agency shall, within 120 days of receiving a written request for identifying information or contact, do all of the following:

- (1) Determine whether it has in its possession any records relating to the adoptee.

(2) Conduct a good faith search for identifying information, which search shall be commenced within 120 days. The search for information shall only be conducted by an authorized representative appointed by:

- (i) the court in which the adoption was finalized;
- (ii) the agency that coordinated the adoption;
- (iii) a successor, by merger or acquisition, of the agency that coordinated the adoption; or
- (iv) if neither the agency nor a successor exists, by an agency authorized by the court.

The authorized representative shall review the court and agency record for identifying information regarding the birth or adoptive family and shall determine whether an authorization form has been filed with the court or agency.

(3) Notify any other court or agency listed in its records of the existence of the request for identifying information.

(4) Ask any other court or agency listed in its records to advise if an authorization form has been filed.

(5) Contact the information registry established under Subchapter C (relating to information registry), advise the registry of the request for identifying information and ask whether an authorization form has been filed.

(6) Notify the requesting individual of its findings pursuant to this subsection.

(b) No authorization form.--If an applicable authorization form is not located, all of the following apply:

(1) The authorized representative shall use reasonable efforts to locate the subject of the search.

(2) If the subject of the search is located, the authorized representative shall obtain written authorization from the subject before any identifying information is released or contact between the parties is made.

(3) If the requester is an adoptee seeking the identity of a birth parent, the identity of a deceased birth parent may be disclosed.

(4) If the requester is an adoptee seeking the identity of both birth parents and only one birth parent agrees to the disclosure, only the information relating to that birth parent shall be disclosed.

(c) Withdrawal of authorization form.--An individual may withdraw the individual's authorization form at any time.

§ 2934. Statement of medical and social history information.

(a) Filing places.--A statement regarding medical and social history information may be filed with the following:

- (1) The court that terminated parental rights.
- (2) The court that finalized the adoption.
- (3) The agency that coordinated the adoption.
- (4) The information registry established under

Subchapter C (relating to information registry).

(b) Individuals authorized to file and request.--The following individuals may at any time file, update and request a statement regarding medical and social history information:

- (1) An adoptee who is 18 years of age or older.
- (2) An adoptive parent or legal guardian of an adoptee who is under 18 years of age or adjudicated incapacitated.
- (3) A descendant of a deceased adoptee.
- (4) A birth parent.
- (5) A legal guardian of an adjudicated incapacitated birth parent.
- (6) A survivor of a deceased birth parent.

(c) Maintenance of record.--A statement regarding medical and social history information shall be maintained as a permanent record.

(d) Forwarding statement.--If a statement regarding medical and social history information is filed in the court that terminated parental rights, a copy of the statement shall be forwarded to the court that finalized the adoption and the information registry established under Subchapter C.

(e) Notice of filing.--

(1) Within 30 days of filing of a statement regarding medical and social history information, the court, agency or information registry shall give notice of its receipt to the individual who filed the statement.

(2) Within 120 days after a statement is filed, the court, agency or information registry shall give notice of the filing to the individual who is at least 21 years of age and to whom the information is intended to benefit, if known or identified in its records.

(f) Request for information.--

(1) When the court or agency receives a written request for medical and social history information, it shall notify the requester within 120 days whether it possesses any medical and social history information relating to the adoption.

(2) Within 120 days of locating medical and social history information, the court or agency shall do the following:

(i) For nonidentifying information, review and furnish to the requester any medical and social history information that will not compromise the confidentiality of the relationship between the adoptee and the adoptee's birth parent.

(ii) For identifying information, if an authorization form is on file with the court, agency or information registry, furnish to the requester the available identifying information in its records.

(g) No information or authorization form on file.--If a court or agency receives a request for medical and social history information and finds that no such information is in its records or that no authorization form is on file, the court or agency shall do the following:

(1) Contact the subject of the request and ask that the subject:

(i) provide nonidentifying information for the benefit of the requester; or

(ii) file an authorization form.

(2) If the subject of the request cannot be located from information contained in the court records, appoint an authorized representative to use reasonable efforts to locate the subject.

(3) If nonidentifying information is provided by the subject of the request, provide the nonidentifying information to the requester.

(4) If an authorization form is filed, provide identifying information to the requester.

(h) Deceased birth parent.--If the requester is an adoptee seeking information about a birth parent and the birth parent is deceased, any information on file regarding the deceased birth parent may be disclosed.

§ 2935. Confidentiality.

(a) General rule.--In conducting a search, the court or agency shall ensure that no individual, other than a birth

parent, is informed of the adoptee's existence and relationship to the birth parent of the adoptee.

(b) When inquiry not mandatory.--An authorized representative of the court or agency conducting a search may not make an inquiry which the representative reasonably believes may compromise the confidentiality relating to the relationship between the adoptee and a birth parent of the adoptee.

§ 2936. Refusal to search.

(a) Agency.--

(1) If an agency is satisfied that a request could cause physical or emotional harm to the requesting individual or others, the agency may decline to conduct a search to determine whether an individual will authorize the disclosure of identifying information or contact under this chapter.

(2) An agency may decline to commence or conduct a search required under this chapter if the requester fails to pay the reasonable costs associated with commencing or conducting the search.

(3) (i) An agency that declines to conduct a search shall refer the request to the court that finalized the adoption and inform the court of its reasons for declining the request.

(ii) The agency shall notify the requester of the referral and identify the court to which the referral was made.

(b) Court.--

(1) If a court is satisfied that a request could cause physical or emotional harm to the requesting individual or others, the court receiving a request for identifying information or contact may decline to perform a search.

(2) A court that declines to conduct a search shall inform the requesting individual of its decision in writing and of the procedures for appeal of that decision.

§ 2937. Original birth record.

(a) General rule.--Notwithstanding any other provision of law, an adoptee who is at least 18 years of age and who has graduated from high school, completed a General Educational Development program or has legally withdrawn from secondary schooling or, if the adoptee is deceased, the adoptee's descendants, may apply to the Department of Health for the adoptee's noncertified copy of original birth record. Subject to subsections (b) and (c), the Department of Health shall issue a noncertified copy of original birth record within 45 days of receipt of an application if the application complies with the requirements of subsection (d).

(b) Contact preference.--The Department of Health shall develop and, upon request, make available to each birth parent named on the original birth certificate a contact preference form on which the birth parent may state a preference regarding contact by an adoptee who is the birth child of the birth parent. Upon such request, the Department of Health shall also provide the birth parent with an updated medical history form, which shall be completed and returned, together with the completed contact preference form, by the birth parent to the Department of Health. The contact preference form shall provide the birth parent with options, in substantially the following form, from which the birth parent shall select one:

(1) I would like to be contacted. I have completed the contact preference form and an updated medical history form and am filing them with the Department of Health.

(2) I would prefer to be contacted only through an intermediary. I have completed the contact preference form

and an updated medical history form and am filing them with the Department of Health.

(3) Do not contact me. I may change this preference by filling out another contact preference form. I have completed the contact preference form and an updated medical history form and am filing them with the Department of Health.

(c) Redaction request form.--A birth parent may request that the birth parent's name be redacted from a noncertified copy of original birth record issued to an adoptee in accordance with the following:

(1) The Department of Health shall prescribe a birth parent's name redaction request form. The form shall include all of the following:

(i) Information about the procedures and requirements for a birth parent to do either of the following:

(A) Have the form placed in the adoption file of the adoptee who is the birth child of the birth parent so that the birth parent's name is redacted from the noncertified copy of original birth record issued to the adoptee.

(B) Have the form removed from the adoption file of the adoptee if the birth parent later decides to permit the birth parent's name to be included on the noncertified copy of original birth record.

(ii) Provisions necessary for the Department of Health to be able to identify the adoption file of the adoptee to whom the form pertains.

(iii) A place for the birth parent to attest that the birth parent is the birth parent of the adoptee to whom the form pertains.

(2) The Department of Health shall make a birth parent's name redaction request form available upon request following the effective date of this subsection. The Department of Health shall accept a name redaction request form if all of the following apply:

(i) The form has been notarized.

(ii) The birth parent provides two items of identification of the birth parent.

(iii) If a medical history for the birth parent was not previously prepared, or the medical history was prepared but needs to be updated, the birth parent does the following, as appropriate:

(A) Completes a medical history form.

(B) Updates the birth parent's medical history information.

(iv) The Department of Health is satisfied that the form has been substantially completed.

(3) The Department of Health shall file an accepted name redaction request form in the adoption file of the adoptee to whom the form pertains.

(4) A birth parent may request at any time that the Department of Health remove the name redaction request form from the adoption file of the adoptee to whom the form pertains. The Department of Health shall remove the form if the birth parent provides the department all of the following:

(i) Two items of identification of the birth parent.

(ii) Information the Department of Health needs to be able to identify the adoption file of the adoptee to whom the form pertains.

(iii) A notarized attestation that the birth parent is the birth parent of the adoptee to whom the form pertains.

(5) A name redaction request form removed from an adoption file shall be destroyed.

(6) The Department of Health shall include on its Internet website information about birth parents' name redaction request forms. All of the following information shall be provided:

(i) The purpose of the form.

(ii) The procedures to be followed and requirements to be met for the Department of Health to accept the form.

(iii) The date when birth parents may begin to file the form with the Department of Health.

(iv) The procedures to be followed and requirements to be met for having the form removed from an adoption file.

(v) Any other information the Department of Health considers necessary.

(7) If the birth parent dies after submitting a name redaction request form, a noncertified copy of original birth record may be provided to the adoptee without redaction of the deceased birth parent's name.

(d) Application.--An application under subsection (a) shall be in a form acceptable to the Department of Health and shall include the following information:

(1) The adoptee's current name and name assumed at the time of adoption.

(2) The adoptee's address.

(3) The adoptee's age and date of birth.

(4) The adoptee's gender at birth.

(5) Proof of identification.

(6) The adoptee's telephone number.

(7) Any other information required by the Department of Health, but only to the extent the information is necessary for the Department of Health to verify the identity of the applicant, locate the relevant records or provide the adoptee's noncertified copy of original birth record to the adoptee.

(e) Application procedures.--The Department of Health shall develop policies and procedures necessary to comply with this section within 210 days of the effective date of this subsection.

(f) Fee.--The Department of Health may charge a fee for issuing a noncertified copy of original birth record as required by this section. The fee charged shall not exceed the fee for a certified copy of an original birth record provided in section 609-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(g) Construction.--Nothing in this section shall be construed to permit disclosure of an adoptee's birth record to the birth parents of an adoptee.

(Nov. 3, 2016, P.L.993, No.127)

2016 Amendment. Act 127 amended the entire section, effective immediately as to subsec. (e) and in one year as to the remainder of the section.

§ 2938. Rules and regulations.

The department shall promulgate rules and regulations implementing a standardized training program for court-appointed

and agency-appointed authorized representatives conducting searches under this subchapter.

PART IV

DIVORCE

Chapter

- 31. Preliminary Provisions
- 33. Dissolution of Marital Status
- 35. Property Rights
- 37. Alimony and Support
- 39. Mediation

Enactment. Part IV was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

Construction. See section 5 of Act 206 of 1990 in the appendix to this title for special provisions relating to construction of Divorce Code.

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.
- 3106. Premarital agreements.

Enactment. Chapter 31 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

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

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

§ 3103. Definitions.

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

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

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

"Convicted." Having been found guilty, having entered a plea of guilty or nolo contendere or having been accepted into Accelerated Rehabilitative Disposition.

"Divorce." Divorce from the bonds of matrimony.

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

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

"Personal injury crime." An act that constitutes a misdemeanor or felony under any of the following, or criminal attempt, solicitation or conspiracy to commit any of the following:

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

18 Pa.C.S. Ch. 27 (relating to assault).

18 Pa.C.S. Ch. 29 (relating to kidnapping).

18 Pa.C.S. Ch. 30 (relating to human trafficking).

18 Pa.C.S. Ch. 31 (relating to sexual offenses).

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

18 Pa.C.S. Ch. 37 (relating to robbery).

18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation).

75 Pa.C.S. § 3732 (relating to homicide by vehicle).

75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).

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

"Separate and apart." Cessation of cohabitation, whether living in the same residence or not. In the event a complaint in divorce is filed and served, it shall be presumed that the parties commenced to live separate and apart not later than the date that the complaint was served.

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

(Nov. 29, 2004, P.L.1357, No.175, eff. 60 days; Apr. 21, 2016, P.L.166, No.24, eff. 60 days)

2016 Amendment. Act 24 added the defs. of "convicted" and "personal injury crime."

2004 Amendment. Act 175 amended the def. of "separate and apart." Section 5(1) of Act 175 provided that the amendment shall apply to complaints served before, on or after the effective date of par. (1).

Cross References. Section 3103 is referred to in section 5948 of Title 42 (Judiciary and Judicial Procedure).

§ 3104. Bases of jurisdiction.

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

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

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

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

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

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

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

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

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

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

(1) where the defendant resides;

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

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

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

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

Suspension by Court Rule. Section 3104(e) was suspended by Pennsylvania Rule of Civil Procedure No. 1920.91, as amended May 5, 1997, insofar as it applies to the practice and procedure in actions for divorce or annulment of marriage.

§ 3105. Effect of agreement between parties.

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

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

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

§ 3106. Premarital agreements.

(a) General rule.--The burden of proof to set aside a premarital agreement shall be upon the party alleging the agreement to be unenforceable. A premarital agreement shall not be enforceable if the party seeking to set aside the agreement proves, by clear and convincing evidence, that:

(1) the party did not execute the agreement voluntarily;
or

(2) the party, before execution of the agreement:

(i) was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(ii) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(iii) did not have an adequate knowledge of the property or financial obligations of the other party.

(b) Definition.--As used in this section, the term "premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(Nov. 29, 2004, P.L.1357, No.175, eff. 60 days)

2004 Amendment. Act 175 added section 3106. Section 5(2) of Act 175 provided that section 3106 shall apply to premarital agreements executed on or after the effective date of par. (2).

CHAPTER 33

DISSOLUTION OF MARITAL STATUS

Subchapter

- A. General Provisions
- B. Procedure
- C. Attacks Upon Decrees

Enactment. Chapter 33 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

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

(c) Mutual consent.--

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

(2) The consent of a party shall be presumed where that party has been convicted of committing a personal injury crime against the other party.

(d) Irretrievable breakdown.--

(1) The court may grant a divorce where a complaint has been filed alleging that the marriage is irretrievably broken and an affidavit has been filed alleging that the parties have lived separate and apart for a period of at least one

year and that the marriage is irretrievably broken and the defendant either:

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

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

(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. (Apr. 21, 2016, P.L.166, No.24, eff. 60 days; Oct. 4, 2016, P.L.865, No.102, eff. 60 days)

2016 Amendments. Act 24 amended subsec. (c) and Act 102 amended subsec. (d). Section 2 of Act 102 provided that the amendment of subsec. (d) shall apply to periods of living separate and apart that commence after the effective date of section 2.

Cross References. Section 3301 is referred to in sections 1702, 3103, 3302, 3307, 3323 of this title.

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

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

(e) Choice of qualified professionals unrestricted.--The choice of a qualified professional shall be at the option of

the parties, and the professional need not be selected from the list provided by the court.

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

(g) Exception.--Notwithstanding any other provision of law, in no case may the court require counseling over the objection of a party that has a protection from abuse order, enforceable under Chapter 61 (relating to protection from abuse) against the other party, or where that party was the victim of a personal injury crime for which the other party was convicted or has entered into an Accelerated Rehabilitative Disposition program as a result of conduct for which the other party was a victim.

(Apr. 21, 2016, P.L.166, No.24, eff. 60 days)

2016 Amendment. Act 24 added subsec. (g).

Cross References. Section 3302 is referred to in section 3301 of this title.

§ 3303. Annulment of void and voidable marriages.

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

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

Cross References. Section 3303 is referred to in section 3304 of this title.

§ 3304. Grounds for annulment of void marriages.

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

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

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

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

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

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

Cross References. Section 3304 is referred to in section 1702 of this title.

§ 3305. Grounds for annulment of voidable marriages.

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

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

(2) Where either party was 16 or 17 years of age and lacked the consent of parent or guardian or express authorization of the court and has not subsequently ratified 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 concerned.

Cross References. Section 3306 is referred to in section 7541 of Title 42 (Judiciary and Judicial Procedure).

§ 3307. Defenses.

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

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

(1) has been guilty of like conduct;

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

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

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

§ 3308. Action where defendant suffering from mental disorder.

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

§ 3309. General appearance and collusion.

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

SUBCHAPTER B
PROCEDURE

Sec.

3321. Hearing by master.

3322. Jury trial.

3323. Decree of court.

§ 3321. Hearing by master.

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

Suspension by Court Rule. Section 3321 was suspended by Pennsylvania Rule of Civil Procedure No. 1920.91, as amended May 5, 1997, insofar as it prohibits the appointment of masters in partial custody or visitation matters.

§ 3322. Jury trial.

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

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

§ 3323. Decree of court.

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

(b) Contents of decree.--A decree granting a divorce or an annulment shall include, after a full hearing, where these matters are raised in any pleadings, an order determining and disposing of existing property rights and interests between the parties, custody, partial custody and visitation rights, child support, alimony, reasonable attorney fees, costs and expenses

and any other related matters, including the enforcement of agreements voluntarily entered into between the parties. In the enforcement of the rights of any party to any of these matters, the court shall have all necessary powers, including, but not limited to, the power of contempt and the power to attach wages.

(c) Bifurcation.--(Deleted by amendment).

(c.1) Bifurcation.--With the consent of both parties, the court may enter a decree of divorce or annulment prior to the final determination and disposition of the matters provided for in subsection (b) if the court determines that doing so provides sufficient economic protections for any minor children of the marriage. In the absence of the consent of both parties, the court may enter a decree of divorce or annulment prior to the final determination and disposition of the matters provided for in subsection (b) if:

(1) grounds have been established as provided in subsection (g); and

(2) the moving party has demonstrated that:

(i) compelling circumstances exist for the entry of the decree of divorce or annulment; and

(ii) sufficient economic protections have been provided for the other party and any minor children of the marriage during the pendency of the disposition of the matters provided for in subsection (b).

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

(d.1) Death of a party.--In the event one party dies during the course of divorce proceedings, no decree of divorce has been entered and grounds have been established as provided in subsection (g), the parties' economic rights and obligations arising under the marriage shall be determined under this part rather than under 20 Pa.C.S. (relating to decedents, estates and fiduciaries).

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

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

(g) Grounds established.--For purposes of subsections (c.1) and (d.1), grounds are established as follows:

(1) In the case of an action for divorce under section 3301(a) or (b) (relating to grounds for divorce), the court adopts a report of the master or makes its own findings that grounds for divorce exist.

(2) In the case of an action for divorce under section 3301(c), both parties have filed affidavits of consent or, if the presumption in section 3301(c)(2) is established, one party has filed an affidavit of consent.

(3) In the case of an action for divorce under section 3301(d), an affidavit has been filed and no counter-affidavit has been filed or, if a counter-affidavit has been filed denying the affidavit's averments, the court determines that the marriage is irretrievably broken and the parties have lived separate and apart for at least one year at the time of the filing of the affidavit.
(Nov. 29, 2004, P.L.1357, No.175, eff. 60 days; Apr. 21, 2016, P.L.166, No.24, eff. 60 days; Oct. 4, 2016, P.L.865, No.102, eff. 60 days)

2016 Amendments. Act 24 amended subsec. (g)(2) and Act 102 amended subsecs. (c.1) and (g)(3). Section 2 of Act 102 provided that the amendment of subsec. (g)(3) shall apply to periods of living separate and apart that commence after the effective date of section 2.

2004 Amendment. Act 175 added subsecs. (c.1), (d.1) and (g) and deleted subsec. (c). See section 5(3), (4) and (5) of Act 175 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 3323 is referred to in sections 2106, 2203, 2507, 6111.1, 6111.2 of Title 20 (Decedents, Estates and Fiduciaries).

SUBCHAPTER C

ATTACKS UPON DECREES

Sec.

3331. Limitations on attacks upon decrees.

3332. Opening or vacating decrees.

3333. Res judicata and estoppel.

§ 3331. Limitations on attacks upon decrees.

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

§ 3332. Opening or vacating decrees.

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

§ 3333. Res judicata and estoppel.

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

CHAPTER 35

PROPERTY RIGHTS

Sec.

- 3501. Definitions.
- 3502. Equitable division of marital property.
- 3503. Effect of divorce on property rights generally.
- 3504. Disposition of property after termination of marriage.
- 3505. Disposition of property to defeat obligations.
- 3506. Statement of reasons for distribution.
- 3507. Division of entireties property between divorced persons.
- 3508. Conveyance of entireties property to divorced spouse.

Enactment. Chapter 35 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

Cross References. Chapter 35 is referred to in section 3701 of this title.

§ 3501. Definitions.

(a) General rule.--As used in this chapter, "marital property" means all property acquired by either party during the marriage and the increase in value of any nonmarital property acquired pursuant to paragraphs (1) and (3) as measured and determined under subsection (a.1). However, marital property does not include:

- (1) Property acquired prior to marriage or property acquired in exchange for property acquired prior to the marriage.
- (2) Property excluded by valid agreement of the parties entered into before, during or after the marriage.
- (3) Property acquired by gift, except between spouses, bequest, devise or descent or property acquired in exchange for such property.
- (4) Property acquired after final separation until the date of divorce, except for property acquired in exchange for marital assets.
- (5) Property which a party has sold, granted, conveyed or otherwise disposed of in good faith and for value prior to the date of final separation.
- (6) Veterans' benefits exempt from attachment, levy or seizure pursuant to the act of September 2, 1958 (Public Law 85-857, 72 Stat. 1229), as amended, except for those benefits received by a veteran where the veteran has waived a portion of his military retirement pay in order to receive veterans' compensation.
- (7) Property to the extent to which the property has been mortgaged or otherwise encumbered in good faith for value prior to the date of final separation.

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

(a.1) Measuring and determining the increase in value of nonmarital property.--The increase in value of any nonmarital property acquired pursuant to subsection (a)(1) and (3) shall be measured from the date of marriage or later acquisition date to either the date of final separation or the date as close to the hearing on equitable distribution as possible, whichever date results in a lesser increase. Any decrease in value of the nonmarital property of a party shall be offset against any increase in value of the nonmarital property of that party. However, a decrease in value of the nonmarital property of a party shall not be offset against any increase in value of the nonmarital property of the other party or against any other marital property subject to equitable division.

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

(c) Defined benefit retirement plans.--Notwithstanding subsections (a), (a.1) and (b):

(1) In the case of the marital portion of a defined benefit retirement plan being distributed by means of a deferred distribution, the defined benefit plan shall be allocated between its marital and nonmarital portions solely by use of a coverture fraction. The denominator of the coverture fraction shall be the number of months the employee spouse worked to earn the total benefit and the numerator shall be the number of such months during which the parties were married and not finally separated. The benefit to which the coverture fraction is applied shall include all postseparation enhancements except for enhancements arising from postseparation monetary contributions made by the employee spouse, including the gain or loss on such contributions.

(2) In the case of the marital portion of a defined benefit retirement plan being distributed by means of an immediate offset, the defined benefit plan shall be allocated between its marital and nonmarital portions solely by use of a coverture fraction. The denominator of the coverture fraction shall be the number of months the employee spouse worked to earn the accrued benefit as of a date as close to the time of trial as reasonably possible and the numerator shall be the number of such months during which the parties were married and not finally separated. The benefit to which the coverture fraction is applied shall include all postseparation enhancements up to a date as close to the time of trial as reasonably possible except for enhancements arising from postseparation monetary contributions made by the employee spouse, including the gain or loss on such contributions.

(Nov. 29, 2004, P.L.1357, No.175, eff. 60 days)

2004 Amendment. Act 175 amended subsec. (a) and added subsecs. (a.1) and (c). See section 5(6) of Act 175 in the appendix to this title for special provisions relating to applicability.

Equitable Distribution Proceedings. Section 1 of Act 4 of 2005 provided that subsec. (c) shall apply to all equitable distribution proceedings pending on or after the effective date of section 1.

§ 3502. Equitable division of marital property.

(a) General rule.--Upon the request of either party in an action for divorce or annulment, the court shall equitably divide, distribute or assign, in kind or otherwise, the marital property between the parties without regard to marital misconduct in such percentages and in such manner as the court deems just after considering all relevant factors. The court may consider each marital asset or group of assets independently and apply a different percentage to each marital asset or group of assets. Factors which are relevant to the equitable division of marital property include the following:

- (1) The length of the marriage.
- (2) Any prior marriage of either party.
- (3) The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties.
- (4) The contribution by one party to the education, training or increased earning power of the other party.
- (5) The opportunity of each party for future acquisitions of capital assets and income.
- (6) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- (7) The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker.
- (8) The value of the property set apart to each party.
- (9) The standard of living of the parties established during the marriage.
- (10) The economic circumstances of each party at the time the division of property is to become effective.
- (10.1) The Federal, State and local tax ramifications associated with each asset to be divided, distributed or assigned, which ramifications need not be immediate and certain.
- (10.2) The expense of sale, transfer or liquidation associated with a particular asset, which expense need not be immediate and certain.
- (11) Whether the party will be serving as the custodian of any dependent minor children.

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

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

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

(e) Powers of the court.--If, at any time, a party has failed to comply with an order of equitable distribution, as provided for in this chapter or with the terms of an agreement

as entered into between the parties, after hearing, the court may, in addition to any other remedy available under this part, in order to effect compliance with its order:

- (1) enter judgment;
- (2) authorize the taking and seizure of the goods and chattels and collection of the rents and profits of the real and personal, tangible and intangible property of the party;
- (3) award interest on unpaid installments;
- (4) order and direct the transfer or sale of any property required in order to comply with the court's order;
- (5) require security to insure future payments in compliance with the court's order;
- (6) issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order be brought before the court, at such time as the court may direct. If the court finds, after hearing, that the person willfully failed to comply with the court order, it may deem the person in civil contempt of court and, in its discretion, make an appropriate order, including, but not limited to, commitment of the person to the county jail for a period not to exceed six months;
- (7) award counsel fees and costs;
- (8) attach wages; or
- (9) find the party in contempt.

(f) Partial distribution.--The court, upon the request of either party, may at any stage of the proceedings enter an order providing for an interim partial distribution or assignment of marital property.

(Nov. 29, 2004, P.L.1357, No.175, eff. 60 days)

2004 Amendment. Act 175 amended subsec. (a) and added subsec. (f). See section 5(8) and (9) of Act 175 in the appendix to this title for special provisions relating to applicability.

§ 3503. Effect of divorce on property rights generally.

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

§ 3504. Disposition of property after termination of marriage.

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

§ 3505. Disposition of property to defeat obligations.

(a) Preliminary relief.--Where it appears to the court that a party is about to leave the jurisdiction of the court or is about to remove property of that party from the jurisdiction of the court or is about to dispose of, alienate or encumber property in order to defeat equitable distribution, alimony pendente lite, alimony, child and spousal support or a similar award, an injunction may issue to prevent the removal or

disposition and the property may be attached as prescribed by general rules. The court may also issue a writ of ne exeat to preclude the removal.

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

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

(i) the date of separation; and

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

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

(i) the date of acquisition;

(ii) the date of separation; and

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

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

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

(d) Constructive trust for undisclosed assets.--If a party fails to disclose information required by general rule of the Supreme Court and in consequence thereof an asset or assets with a fair market value of \$1,000 or more is omitted from the final distribution of property, the party aggrieved by the nondisclosure may at any time petition the court granting the award to declare the creation of a constructive trust as to all undisclosed assets for the benefit of the parties and their minor or dependent children, if any. The party in whose name the assets are held shall be declared the constructive trustee unless the court designates a different trustee, and the trust may include any terms and conditions the court may determine. The court shall grant the petition upon a finding of a failure to disclose the assets as required by general rule of the Supreme Court.

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

(Nov. 29, 2004, P.L.1357, No.175, eff. 60 days)

2004 Amendment. Act 175 amended subsec. (d). Section 5(10) of Act 175 provided that the amendment shall apply to all equitable distribution proceedings irrespective of whether the proceeding was commenced before, on or after the effective date of par. (10).

Suspension by Court Rule. Section 3505(b) was suspended by Pennsylvania Rule of Civil Procedure No. 1920.91, as amended May 5, 1997, insofar as it applies to the practice and procedure in actions for divorce or annulment of marriage.

§ 3506. Statement of reasons for distribution.

In an order made under this chapter for the distribution of property, the court shall set forth the percentage of distribution for each marital asset or group of assets and the reason for the distribution ordered.

(Nov. 29, 2004, P.L.1357, No.175, eff. 60 days)

2004 Amendment. Section 5(11) of Act 175 provided that the amendment shall apply to all orders made on or after the effective date of par. (11).

§ 3507. Division of entireties property between divorced persons.

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

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

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

(d) Record of divorce decree.--No decree of divorce shall be effective to change the existing law relating to liens upon property held by tenants by the entireties except a decree of divorce that is valid in this Commonwealth and not until the decree of divorce or a certified copy of the decree is recorded in the office of the recorder of deeds of the county where the property is situate. The decree shall be indexed in the grantor's index against each of the tenants by the entireties.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1910.49, as amended March 30, 1994, provided that section 3507 shall not be deemed suspended or affected by Rules 1910.1 through 1910.31 governing actions for support insofar as section 3507 provides for tenancy in common of property held by the entireties after divorce.

§ 3508. Conveyance of entireties property to divorced spouse.

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

CHAPTER 37

ALIMONY AND SUPPORT

Sec.

- 3701. Alimony.
- 3702. Alimony pendente lite, counsel fees and expenses.
- 3703. Enforcement of arrearages.
- 3704. Payment of support, alimony and alimony pendente lite.
- 3705. Enforcement of foreign decrees.
- 3706. Bar to alimony.
- 3707. Effect of death of either party.

Enactment. Chapter 37 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 3701. Alimony.

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

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

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

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

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

(4) The expectancies and inheritances of the parties.

(5) The duration of the marriage.

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

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

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

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

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

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

(12) The contribution of a spouse as homemaker.

(13) The relative needs of the parties.

(14) The marital misconduct of either of the parties during the marriage. The marital misconduct of either of the parties from the date of final separation shall not be considered by the court in its determinations relative to alimony, except that the court shall consider the abuse of one party by the other party. As used in this paragraph, "abuse" shall have the meaning given to it under section 6102 (relating to definitions).

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

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

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

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

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Mar. 24, 1998, P.L.204, No.36, eff. imd.)

1998 Amendment. Act 36 amended subsec. (b)(14).

1997 Amendment. Act 58 amended subsec. (b).

Cross References. Section 3701 is referred to in section 3703 of this title.

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

(a) General rule.--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.

(b) Exception.--Except where the court finds that an order for alimony pendente lite or spousal support is necessary to prevent manifest injustice, a party who has been convicted of committing a personal injury crime against the other party shall not be entitled to spousal support or alimony pendente lite. Any amount paid by the injured party after the commission of the offense but before the conviction of the other party shall be recoverable by the injured party upon petition.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Mar. 24, 1998, P.L.204, No.36, eff. imd.; Oct. 24, 2018, P.L.680, No.102, eff. 60 days)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 3702 is referred to in section 3703 of this title.

§ 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) Enter judgment.
- (2) Authorize the taking and seizure of the goods and chattels and the collection of the rents and profits of the real estate of the party.
- (3) Attach no more than 50% of the wages of the party.
- (4) Award interest on unpaid installments.
- (5) Require security to insure future payments.
- (6) Issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order be brought before the court at such time as the court may direct. If the court finds, after hearing, that the named person willfully failed to comply with the court

order, it may declare the person in civil contempt of court and in its discretion make an appropriate order, including, but not limited to, commitment of the person to prison for a period not to exceed six months.

(7) Award counsel fees and costs.

Cross References. Section 3703 is referred to in section 3701 of this title; sections 8102, 8533.1 of Title 24 (Education); sections 5102, 5953.1 of Title 71 (State Government).

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

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

§ 3705. Enforcement of foreign decrees.

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

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

§ 3706. Bar to alimony.

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

§ 3707. Effect of death of either party.

Upon the death of the payee party, the right to receive alimony pursuant to this chapter shall cease. Upon the death

of the payor party, the obligation to pay alimony shall cease unless otherwise indicated in an agreement between the parties or an order of court.

CHAPTER 39

MEDIATION

Sec.

- 3901. Mediation programs.
- 3902. Fees and costs.
- 3903. Review of programs.
- 3904. Existing programs.

Enactment. Chapter 39 was added April 4, 1996, P.L.58, No.20, effective immediately.

§ 3901. Mediation programs.

(a) Establishment.--A court may establish a mediation program for actions brought under this part or Chapter 53 (relating to custody).

(b) Issues subject to mediation.--When a program has been established pursuant to subsection (a), the court may order the parties to attend an orientation session to explain the mediation process. Thereafter, should the parties consent to mediation, the court may order them to mediate such issues as it may specify.

(c) Local rules.--

(1) The court shall adopt local rules for the administration of the mediation program to include rules regarding qualifications of mediators, confidentiality and any other matter deemed appropriate by the court.

(2) The court shall not order an orientation session or mediation in a case where either party or child of either party is or has been a subject of domestic violence or child abuse at any time during the pendency of an action under this part or within 24 months preceding the filing of any action under this part.

(d) Model guidelines.--The Supreme Court shall develop model guidelines for implementation of this section and shall consult with experts on mediation and domestic violence in this Commonwealth in the development thereof. The effective date of this chapter shall not be delayed by virtue of this subsection.

References in Text. Former Chapter 53 (Custody), referred to in this section, is repealed. The subject is now contained in Chapter 53 (Child Custody).

§ 3902. Fees and costs.

(a) Imposition of fee.--A county in which the court has established a mediation program may impose an additional filing fee of up to \$20 on divorce and custody complaints to be used to fund the mediation program.

(b) Assessment of additional costs.--The court may assess additional costs of mediation on either party.

§ 3903. Review of programs.

The Supreme Court shall monitor mediation programs established by courts of common pleas. The Supreme Court shall establish procedures for the evaluation of the effectiveness of the program.

§ 3904. Existing programs.

This chapter shall not affect any existing mediation program established in any judicial district pursuant to local rule.

PART V
SUPPORT, PROPERTY AND CONTRACTS

Chapter

- 41. General Provisions
- 43. Support Matters Generally
- 45. Reciprocal Enforcement of Support Orders (Repealed)
- 46. Support of the Indigent

Enactment. Part V was added October 30, 1985, P.L.264, No.66, effective in 90 days.

CHAPTER 41
GENERAL PROVISIONS

Sec.

- 4101. Liability for debts contracted before marriage.
- 4102. Proceedings in case of debts contracted for necessities.
- 4103. (Reserved).
- 4104. Right of married person to separate earnings.
- 4105. Loans between married persons.
- 4106. Construction of chapter.

Enactment. Chapter 41 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 4101. Liability for debts contracted before marriage.

(a) **General rule.**--A spouse is not liable for the debts of the other spouse contracted before marriage.

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

§ 4102. Proceedings in case of debts contracted for necessities.

In all cases where debts are contracted for necessities by either spouse for the support and maintenance of the family, it shall be lawful for the creditor in this case to institute suit against the husband and wife for the price of such necessities and, after obtaining a judgment, have an execution against the spouse contracting the debt alone; and, if no property of that spouse is found, execution may be levied upon and satisfied out of the separate property of the other spouse.

§ 4103. (Reserved).

§ 4104. Right of married person to separate earnings.

Except as otherwise provided in this title, the separate earnings of any married person of this Commonwealth, whether these earnings are wages for labor, salary, property, business or otherwise, shall accrue to and enure to the separate benefit and use of that married person independently of the other spouse, and so as not to be subject to any legal claim of the other spouse. However, in any action in which the ownership of such property is in dispute, the person claiming such property shall be compelled, in the first instance, to show title and ownership in the property.

§ 4105. Loans between married persons.

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

§ 4106. Construction of chapter.

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

CHAPTER 43

SUPPORT MATTERS GENERALLY

Subchapter

- A. General Provisions
- B. Support
- C. Proceedings Generally
- D. Proceedings Against Entireties Property
- E. Title IV-D Program and Related Matters
- F. New Hire Reporting

Enactment. Chapter 43 was added October 30, 1985, P.L.264, No.66, effective in 90 days.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1910.49, adopted November 7, 1988, provided that Chapter 43 shall not be deemed suspended or affected by Rules 1910.1 through 1910.31 governing actions for support.

Cross References. Chapter 43 is referred to in sections 5603, 6108 of this title.

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

- 4301. Scope of chapter.
- 4302. Definitions.
- 4303. Information to consumer reporting agency.
- 4304. Cooperation of Commonwealth agencies (Repealed).
- 4304.1. Cooperation of government and nongovernment agencies.
- 4305. General administration of support matters.
- 4306. Duties of Title IV-D attorney.
- 4307. State income tax intercept.
- 4308. Lottery winnings intercept.
- 4308.1. Collection of overdue support from monetary awards.
- 4309. Publication of delinquent support obligors.

§ 4301. Scope of chapter.

(a) **General rule.**--Actions or proceedings provided by this chapter are in addition to and not in substitution of actions or proceedings provided by unsuspended statutes where there is desertion or a failure to perform a duty to support.

(b) **Persons in institutions and foster homes.**--Matters relating to the support of persons living in public or private institutions or receiving foster home care and who are otherwise entitled to support under this chapter shall be determined by the court under the statutes pertaining to those institutions or foster homes.

§ 4302. Definitions.

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:

"Consumer reporting agency." As defined in section 630(f) of the Federal Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681a(f)).

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

"Employer." Includes an individual, partnership, association, corporation, trust, Federal agency, Commonwealth

agency or political subdivision paying or obligated to pay income.

"Genetic tests." Includes any blood or tissue testing processes used to confirm or exclude parentage.

"Government agency." Any agency of the Commonwealth, including departments, boards, commissions, authorities, any political subdivisions or agency of such political subdivision or local or municipal authority or other local government unit or any court or related agency.

"Income." Includes compensation for services, including, but not limited to, wages, salaries, bonuses, fees, compensation in kind, commissions and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; all forms of retirement; pensions; income from discharge of indebtedness; distributive share of partnership gross income; income in respect of a decedent; income from an interest in an estate or trust; military retirement benefits; railroad employment retirement benefits; social security benefits; temporary and permanent disability benefits; workers' compensation; unemployment compensation; other entitlements to money or lump sum awards, without regard to source, including lottery winnings; income tax refunds; insurance compensation or settlements; awards or verdicts; and any form of payment due to and collectible by an individual regardless of source.

"Judgment by operation of law." A judgment which exists without the need for any ministerial act and which arises out of the existence of facts readily verifiable from the domestic relations section's records. The existence of a valid support order and nonpayment of the order, together, create the judgment.

"Labor organization." The term shall have the meaning given the term in section 2(5) of the National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.) and shall include an entity used by the organization and an employer to carry out requirements of an agreement between the organization and the employer as set forth in section 8(f)(3) of the National Labor Relations Act.

"Net income." Gross income minus taxes and any other deductions mandated by the employer as a condition of employment.

"Obligee." The term shall have the meaning given in section 7101(b) (relating to short title of part and definitions).

"Obligor." The term shall have the meaning given in section 7101(b) (relating to short title of part and definitions).

"Order of support." Includes assistance imposed or imposable by law or by any court order or by an agency administering a State Title IV-D program, whether temporary, final or subject to modification and whether incidental to a proceeding for divorce, separate maintenance, action for failure to support a child born out of wedlock or otherwise. The term includes an order for the support and maintenance of a child, including a child who has attained the age of majority, or for the parent with whom the child is living which provides for monetary support, health care, arrearages or reimbursement and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees and other relief.

"Overdue support." Support which is delinquent under a payment schedule established by the court.

"Past due support." Support included in an order of support which has not been paid.

"State disbursement unit." The organizational unit established within the Department of Public Welfare responsible for collecting and disbursing support as provided in section 4374 (relating to State disbursement unit).

"Support." Care, maintenance and financial assistance. (Mar. 25, 1988, P.L.296, No.35, eff. imd.; July 2, 1993, P.L.431, No.62, eff. imd.; Apr. 4, 1996, P.L.58, No.20, eff. imd.; Oct. 16, 1996, P.L.706, No.124, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 15, 1998, P.L.963, No.127, eff. imd.)

1998 Amendment. Act 127 added the defs. of "overdue support" and "past due support." Act 127 of 1998 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1997 Amendment. Act 58 amended the defs. of "income" and "order of support" and added the defs. of "department," "obligee," "obligor" and "State disbursement unit." Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1996 Amendments. Act 20 added the def. of "consumer reporting agency" and Act 124 amended the def. of "income" and added the defs. of "government agency" and "labor organization."

1993 Amendment. Act 62 added the def. of "genetic tests."

1988 Amendment. Act 35 added the def. of "judgment by operation of law."

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Subsection (b) of section 7101 no longer exists. The definitions are now contained in section 7101.1

Cross References. Section 4302 is referred to in sections 4308.1, 7501 of this title; sections 8102, 8533.1 of Title 24 (Education); sections 5102, 5953.1 of Title 71 (State Government).

§ 4303. Information to consumer reporting agency.

Information regarding the name and the amount of arrearages owed by an obligor shall be provided periodically to consumer reporting agencies whenever the obligor owes overdue support, subject to the following:

(1) The information shall be available only after the obligor owing the arrearages has been notified of the proposed action and given a period not to exceed 20 days to contest the accuracy of the information. The notice shall be as provided by local rule of the court of common pleas.

(2) Such information shall not be made available to:

(i) a consumer reporting agency which the department determines not to have sufficient capability to systematically and timely make accurate use of such information; or

(ii) an entity which has not furnished evidence satisfactory to the department that the entity is a consumer reporting agency.

(Apr. 4, 1996, P.L.58, No.20, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000,

insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4304. Cooperation of Commonwealth agencies (Repealed).

1996 Repeal. Section 4304 was repealed October 16, 1996, P.L.706, No.124, effective in 60 days.

§ 4304.1. Cooperation of government and nongovernment agencies.

(a) Cooperation of government agencies.--Notwithstanding any other provision of law, including the provisions of section 731 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, all government agencies shall:

(1) At the request of the department, provide information prescribed by the department regarding a person's wages, income, telephone numbers, addresses, Social Security numbers and date of birth, employer names, addresses and telephone numbers.

(2) Require the Social Security number of an individual who has one on any application for a professional or occupational license or certification; a permit; a driver's license, including a commercial driver's license; a recreational license; or a marriage license. Collection of the Social Security number shall be performed in such manner as to protect its confidentiality. If the government agency uses another identifying number on the face of the application, the government agency shall advise the applicant and shall keep the Social Security number on file at the agency.

(3) Require the Social Security number of any individual subject to a divorce decree, support order, paternity determination or acknowledgment of paternity in all records relating to the matter. Collection of the Social Security number shall be kept confidential.

(4) Require the Social Security number of a deceased individual in records relating to the death, including the death certificate.

(b) Cooperation of labor organizations.--Labor organizations shall at the request of the department provide information in a form prescribed by the department regarding wages, income, telephone numbers, addresses, Social Security numbers and date of birth, employer names, addresses and telephone numbers.

(b.1) Cooperation of financial institutions.--Notwithstanding any other provision of law, all financial institutions doing business in this Commonwealth shall:

(1) Provide for each calendar quarter such identifying information, asset information and benefit information as the department may specify for any obligor who owes past due support as identified by the department by name and Social Security number or other taxpayer identification number.

(2) Upon receipt of a notice of lien or seizure order from the domestic relations section or the department, encumber or surrender, as the case may be, identified assets of an obligor who is subject to a child support lien. The Supreme Court shall by general rule prescribe the form of the order. The financial institution shall remit to the domestic relations section or to the department the assets available in the account on the date of the receipt of the notice of lien or seizure order by the financial institution. Remittance by the financial institution shall be made within a reasonable period of time.

(b.2) Agreements between the department and financial institutions.--Notwithstanding any other provision of law, the department and any financial institution doing business in this Commonwealth are authorized to enter into agreements for the purpose of carrying out the provisions of subsection (b.1). The agreement may specify payment of a fee by the department to the financial institution to conduct the activities in accordance with subsection (b.1)(1) which shall not exceed actual and reasonable costs incurred by the financial institution.

(c) Penalty.--Following notice and hearing, the department may impose a civil penalty of up to \$1,000 per violation upon any government agency, labor organization or financial institution which willfully fails to comply with a request by the department for information pursuant to this section.

(d) Confidentiality.--Any information provided or collected pursuant to this section shall be confidential and may be used by the department, the court or the domestic relations section solely for purposes of child and spousal support enforcement and, to the extent allowed by Federal law, for administration of public assistance programs. Any person, government agency, employer or agent of the department who divulges such information in a manner not provided in this section commits a misdemeanor of the third degree and, upon conviction, shall be sentenced to pay a fine of up to \$1,000 per violation and costs and shall be subject to a term of imprisonment of not more than one year, or both.

(d.1) Notification.--No financial institution shall be required to notify an obligor of a request for information by the department or the court under this section.

(e) Immunity.--A person, government agency, labor organization or financial institution providing information, encumbering or surrendering property pursuant to this section shall not be subject to civil or criminal liability to any person or entity. The department, a court, a domestic relations section or an authorized employee of such an entity requesting information under this section or ordering the seizure, encumbrance or surrender of an asset held by a financial institution shall not be subject to any civil or criminal liability. A financial institution shall not be subject to any civil or criminal liability for encumbering or surrendering assets of an obligor as required by this section. The immunity provided by this subsection shall not apply to any person or agent of a government agency, labor organization or financial institution who knowingly supplies false information under this section.

(f) Data collection.--The department shall provide for the frequency and format, which may include automated data exchanges, for the collection of the information required in this section.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Account." A demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account or money market mutual fund account. The term does not include trust accounts, custodian accounts or accounts under 20 Pa.C.S. Ch. 53 (relating to the Pennsylvania Uniform Transfers to Minors Act).

"Asset information." Account balances, deposits, withdrawals, interest, investments, trusts, dividends, certificates of deposits and other asset information.

"Benefit information." Information regarding financial or health care benefits to which an individual may be entitled from government, an employer, an insurer or other source.

"Financial institution." A depository institution, as defined by section 3(c) of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. § 1813(c)); an institution-affiliated party, as defined by section 3(u) of the Federal Deposit Insurance Act; a Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of the Federal Credit Union Act; and a benefit association, insurer, safe deposit company, money market mutual fund or similar entity authorized to do business in this Commonwealth.

"Identifying information." Name, record address, Social Security number or other taxpayer identification number.

"Insurer." A foreign or domestic insurance company, association or exchange holding a certificate of authority under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; a risk-assuming preferred provider organization operating under section 630 of The Insurance Company Law of 1921; a health maintenance organization holding a certificate of authority under the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act; a fraternal benefit society holding a certificate of authority under the act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code; a hospital plan corporation holding a certificate of authority under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations); a professional health service plan corporation holding a certificate of authority under 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations); or a similar entity authorized to do insurance business in this Commonwealth.

(Oct. 16, 1996, P.L.706, No.124, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 15, 1998, P.L.963, No.127, eff. imd.)

1998 Amendment. Act 127 amended subsec. (a)(2) and (3). Act 127 of 1998 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

References in Text. The act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code, referred to in the def. of "insurer," was repealed by the act of July 10, 2002 (P.L.749, No.110). The subject matter is now contained in Article XXIV of The Insurance Company Law of 1921.

§ 4305. General administration of support matters.

(a) Powers and duties.--Subject to any inconsistent general rules and to the supervision and direction of the court, the domestic relations section shall have the power and duty to:

- (1) Process all complaints received under Parts VIII (relating to uniform interstate family support) and VIII-A (relating to intrastate family support).

- (2) Make such investigation as may be necessary.
- (3) Take charge of any obligor before or after hearing, as may be directed by the court.
- (4) Collect and pay over to the persons entitled thereto moneys received pursuant to support proceedings.
- (5) Keep a full and complete record of all support proceedings, including orders of the court.
- (6) Keep account of all payments made under order of court and promptly bring to the attention of the court and the district attorney any default in compliance with any order of court.

(6.1) In the case of a dispute as to the amount of an order of support proposed by the domestic relations section, issue a temporary order of support pending judicial determination. A temporary order of support under this paragraph may not be for less than the full amount of the proposed order of support being disputed.

- (7) Make effective the orders of support entered.
- (8) Furnish the court with such information and assistance as it may require and generally perform such services as it may direct relating to support proceedings.
- (9) Inform both parties to a support action that guidelines as specified in section 4322 (relating to support guidelines) are available in the domestic relations section.
- (10) Implement safeguards applicable to all confidential information received by the domestic relations section in order to protect the privacy rights of the parties, including:

- (i) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity or to establish, modify or enforce support or to make or enforce a child custody determination;

- (ii) prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered; and

- (iii) prohibitions against the release of information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information may result in physical or emotional harm to the party or the child.

(11) Initiate judicial proceedings to void a fraudulent transfer or obtain a settlement from the transferee in the best interests of the child support obligee.

(b) Additional powers.--Subject to the supervision and direction of the court but without the need for prior judicial order, the domestic relations section shall have the power to expedite the establishment and enforcement of support to:

- (1) Order genetic testing for the purpose of paternity establishment pursuant to section 4343 (relating to paternity).

- (2) Issue subpoenas against any entity within this Commonwealth, including for-profit, not-for-profit and governmental employers, to require production of information regarding the employment, compensation and benefits of any individual employed by the entity as an employee or contractor.

- (3) Access records of all State and local government agencies, including the following:

- (i) vital statistic records, including records of marriage, birth and divorce;
- (ii) State and local tax and revenue records, including information on residence address, employer, income and assets;
- (iii) records of real and titled personal property;
- (iv) records of occupational and professional licenses;
- (v) records of the ownership and control of corporations, partnerships and other business entities;
- (vi) employment security records;
- (vii) records of agencies administering public assistance programs;
- (viii) motor vehicle registration and operator licensing records;
- (ix) probation and parole records; and
- (x) corrections records.

(4) Issue subpoenas for the records of public utilities and cable television companies with respect to individuals who are owed support or against whom or with respect to whom a support obligation is sought, consisting of the names and addresses of the individuals or of their employers.

(5) Issue subpoenas for the records held by financial institutions with respect to individuals who are owed support or against whom or with respect to whom a support obligation is sought.

(6) Issue subpoenas for financial or other information needed to establish, modify or enforce a support order.

(7) Issue orders directing an obligor or other payor to change the payee of a support order.

(8) Order income withholding pursuant to section 4348 (relating to attachment of income).

(9) Increase the amount of monthly support payments for the payment of arrearages as may be provided by general rule or previous court order.

(10) Issue orders in cases where there is a support arrearage to secure assets to satisfy current support obligation and the arrearage by:

- (i) Intercepting or seizing periodic or lump sum payments from a government agency, including unemployment compensation, workers' compensation and other benefits.

- (ii) Intercepting or seizing judgments or settlements.

- (iii) Attaching and seizing assets of the obligor held in financial institutions.

- (iv) Attaching public and private retirement funds.

- (v) Imposing liens on property.

- (vi) Directing the sheriff to levy and sell other real or personal property.

(11) Transmit to another state a request for assistance in a case involving the enforcement of a support order and sufficient information to enable the state to which the request is transmitted to compare the information to the information in the data bases of the state. The transmittal shall serve as a certification of arrears and a certification that the state has complied with all procedural due process requirements applicable to the case.

(12) Respond to a request for assistance received from another state. The response shall confirm the receipt of the request, the action taken and the amount of support collected and specify any additional information or action required

of the requesting tribunal to obtain enforcement of the child support obligation.

(c) Civil penalty.--In addition to initiating contempt proceedings, the domestic relations section may assess a civil administrative penalty of up to \$1,000 per violation upon any person or entity which fails to comply with a subpoena or request for information under subsection (b)(2).

(d) Due process and judicial review procedures.--Subject to general rules which may be promulgated by the Supreme Court, each court shall establish due process and judicial review procedures for domestic relations sections exercising powers under this section.

(e) Transmission of information.--All information transmitted to this Commonwealth from another state for purposes of establishing or enforcing an order of support under this chapter may be transmitted electronically or by other methods. (Mar. 25, 1988, P.L.296, No.35, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4306. Duties of Title IV-D attorney.

(a) General rule.--The county Title IV-D attorney shall at all times aid in the enforcement of the duty of child support and child and spousal support and shall cooperate with the domestic relations section in the presentation of complaints or in any proceeding designed to obtain compliance with any order of the court.

(b) Representation of complainant.--The district attorney, upon the request of the court or a Commonwealth or local public welfare official, shall represent any complainant in any proceeding under this subchapter.

(b.1) Representation of Commonwealth.--In matters relating to the establishment and enforcement of child support and child and spousal support, the Title IV-D interests of the Commonwealth shall be represented, where appropriate, by the county Title IV-D attorney in a proceeding for child support and child and spousal support.

(c) Joinder of Department of Public Welfare.--Whenever the record in any support action or proceeding indicates that the persons for whom support is sought have received public assistance from the Department of Public Welfare at any time since the initiation of the matter, the department may become a party to the action or proceeding by filing an entry of appearance. This entry of appearance may be entered without leave of court at any time and at any stage of the action or proceeding.

(July 2, 1993, P.L.431, No.62, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 amended the section heading and subsec. (a) and added subsec. (b.1). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1993 Amendment. Section 7 of Act 62 provided that subsec. (c) shall apply to actions pending on the effective date of Act 62 under section 8(3) of Act 62.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 4307. State income tax intercept.

The department shall have the authority to implement a State income tax refund intercept program pursuant to section 466(a)(3) of the Social Security Act (Public Law 74-271, 42 U.S.C. § 666(a)(3)) when, in the judgment of the department, it is cost effective to do so.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4308. Lottery winnings intercept.

(a) Duty of Department of Revenue.--In the case of any person winning more than \$2,500 in the Pennsylvania State Lottery, the Department of Revenue shall request the department to make all reasonable efforts to determine if the winner is a delinquent support obligor prior to making any lottery winnings payment. If the winner is so found, the amount of any arrearages shall be deducted from the amount of lottery winnings and paid to the obligee in the manner provided in this title for the administration of support payments.

(b) Duties of department.--The department shall:

(1) Cause a search to be made periodically of the following:

(i) Its records relative to the Title IV-D Program.

(ii) Any information received from county domestic relations offices relative to arrearages of court-ordered child support.

(iii) Any information received from states with reciprocal enforcement of child support relative to arrearages of court-ordered child support.

(2) Furnish the Department of Revenue with the following information:

(i) The department identifier.

(ii) The obligor's full name and Social Security number.

(iii) The amount of the arrearage and the identifier of the court order which underlies it.

(3) Request the Department of Revenue to withhold from a lottery prizewinner the amount of any arrearage discovered pursuant to the provisions of paragraph (1).

(4) Request the Department of Revenue to pay over, whether in a lump sum or by installment, to the department that part of the prize which satisfies this arrearage and:

(i) Deduct from the amount received from the Department of Revenue any amount assigned to the department.

(ii) Pay over to the domestic relations section for distribution to the obligee of the child support court order the amount of prizewinnings which satisfies the arrearage owed to the obligee. This payment shall be made within 30 days of the date when the winnings are withheld.

(5) May, if prizewinnings are insufficient to satisfy the arrearages owed under the child support order, proceed as follows:

(i) It may collect as provided by law.

(ii) It may reinitiate the procedures set forth in this section if the obligor wins a subsequent lottery prize.

(6) Determine and set a fee which reflects the actual costs it and the Department of Revenue incur to administer this section, submit this calculation to the Department of Revenue for its approval, request the Department of Revenue to deduct the calculated amount from the amount to be paid to the prizewinner after the prizewinner's child support obligation has been fully satisfied and request that the deducted amount be divided between both departments based on the administrative expenses incurred by each.

(7) Within 30 days of the date the prize was won:

(i) Award the prizewinner the lottery prize winnings in whole or in part.

(ii) If applicable, notify the prizewinner that the prize or a portion thereof was used to satisfy arrearages owed for court-ordered child support.

(c) Notice.--The domestic relations section shall send a one-time notice to all obligors of existing orders informing them that arrearages may be intercepted as provided by this section.

(d) Right to review.--A lottery prizewinner whose prize is used to satisfy an obligation under this section may appeal to the department in accordance with 2 Pa.C.S. (relating to administrative law and procedure). The appeal shall be filed within 30 days after the prizewinner is notified by the Department of Revenue that the prize has been reduced or totally withheld to satisfy the prizewinner's outstanding arrearages for child support and related obligations.

(e) Rules and regulations.--The Department of Revenue and the department shall, in the manner provided by law, jointly promulgate the rules and regulations necessary to carry out this section.

(July 9, 1992, P.L.400, No.87, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 amended subsecs. (a), (b) heading and intro. par., (2)(i) and (4) intro. par. and (i), (d) and (e). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1992 Amendment. Act 87 added section 4308.

§ 4308.1. Collection of overdue support from monetary awards.

(a) General rule.--Overdue support shall be a lien by operation of law against the net proceeds of any monetary award, as defined in subsection (i), owed to an obligor, and distribution of any such award shall be stayed in an amount equal to the child support lien provided for under this section pending payment of the lien. Except as provided in subsection (c) or (f), nothing in this section shall provide a basis for a paying agent or an insurer to delay payment of a settlement, verdict or judgment.

(b) General procedure.--Except as provided in subsection (f), before the prevailing party or beneficiary can receive the proceeds of a monetary award, the prevailing party or beneficiary shall provide his attorney with a statement made subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) that includes the prevailing party's or beneficiary's full name, mailing address, date of birth and

Social Security number. The prevailing party or beneficiary shall also provide his attorney with written documentation of arrears from the Pennsylvania child support enforcement system website or, if no arrears exist, written documentation from the website indicating no arrears. The attorney shall obtain a copy of the prevailing party or beneficiary's statement and a lien report from the website at the time of the delivery of the release; the lien report shall be dated within 20 days of the date of the delivery of the release. In the event that there are arrears, the attorney shall make payment of any lien to the department's State disbursement unit from the net proceeds of any monetary award.

(c) Pro se actions.--If the prevailing party or beneficiary is not represented by an attorney, he shall provide the statement and written documentation of arrears or no arrears provided by subsection (b) or (d) to the insurer or other paying agent responsible for distribution of the monetary award who shall make payment of any lien or disputed lien amount, as described in subsection (h), to the department's State disbursement unit from the net proceeds of any monetary award.

(d) Use of private judgment search companies.--In lieu of receiving the statement and written documentation of arrears or no arrears provided in subsections (b), (c) and (f), an attorney or insurer may use the services of a private judgment search company approved by the department, or an insurer may use the services of the child support enforcement lien program operated through a central reporting agency approved by the department. An attorney or insurer may deduct the fee for such a judgment search from any payment to the prevailing party or beneficiary.

(e) Immunity.--An attorney, insurer or other paying agent that makes distribution in accordance with a statement and the written documentation required under subsection (b) or the report of an approved private judgment search company under subsection (d), or an insurer which furnishes information and transmits funds under the child support enforcement lien program operated through a central reporting agency approved by the department, shall be immune from any civil, criminal or administrative penalties for making an erroneous distribution. Nothing in this section shall give rise to a claim or cause of action against an attorney or an insurer by any person who asserts he is the intended obligee of the outstanding lien for child support.

(f) Workers' compensation awards.--With respect to any monetary award arising under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, or the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, no order providing for a payment shall be entered by the workers' compensation judge unless the prevailing party or beneficiary, who is a claimant under either or both of the acts, shall provide the judge with a statement made subject to 18 Pa.C.S. § 4904 that includes the full name, mailing address, date of birth and Social Security number for the prevailing party or beneficiary who is a claimant under either or both acts. The prevailing party or beneficiary, who is a claimant under either or both of the acts shall also provide the judge with either written documentation of arrears from the Pennsylvania child support enforcement system website or, if no arrears exist, written documentation from the website indicating no arrears. The judge shall order payment of the lien for overdue support to the department's State disbursement

unit from the net proceeds due the prevailing party or beneficiary who is a claimant under either or both acts.

(g) Exception.--This section shall not apply to any monetary award due to a prevailing party or beneficiary under 12 years of age or, in the case of an award under the Workers' Compensation Act or The Pennsylvania Occupational Disease Act, a claimant under 12 years of age.

(h) Escrow.--In the event that there is a dispute as to the amount of arrears owed by the prevailing party, beneficiary or claimant based on a mistake of fact, the amount in dispute shall be placed in escrow in the department's State disbursement unit by the prevailing party's or beneficiary's attorney, and the escrowed funds shall not be distributed until the dispute is resolved. In such event, the distribution of the remaining net proceeds of the monetary award shall not be stayed. A mistake of fact, as used in this subsection, shall be limited to errors in the amount of arrearage or mistaken identity. Upon resolution of the dispute, the amount of arrears shall be paid to the department's State disbursement unit.

(i) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Monetary award." Any portion of a settlement paid as a lump sum negotiated in lieu of, or subsequent to the filing of a lawsuit for, or any civil judgment or civil arbitration award that is paid as a third party claim for bodily injury or death under a property and casualty insurance policy, or paid as a workers' compensation or occupational disease act award under a workers' compensation policy. The term includes self-insurers and also applies to property and casualty and workers' compensation or occupational disease act policies which are issued by an insurer licensed or authorized to do business in this Commonwealth. The term does not include a lump sum payable through a structured settlement annuity. The term shall apply only to those settlements, judgments, civil arbitrations, Workers' Compensation Act or The Pennsylvania Occupational Disease Act awards which are asserted and resolved in this Commonwealth.

"Net proceeds." Moneys in excess of \$5,000 payable to a prevailing party or beneficiary, or in the case of an award under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, or the act of June 21, 1939 (P.L.566, No.284), known as The Pennsylvania Occupational Disease Act, the claimant after payment of attorney fees, witness fees, court costs, reasonable litigation expenses, documented unpaid expenses incurred for medical treatment causally related to the claim, any workers' compensation or occupational disease indemnity or medical payment and payments to the medical assistance program under sections 1409 and 1412 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Obligee." The term shall have the meaning provided under section 7101(b) (relating to short title of part and definitions).

"Obligor." The term shall have the meaning provided under section 7101(b) (relating to short title of part and definitions).

"Overdue support." The term shall have the meaning provided under section 4302 (relating to definitions).
(July 7, 2006, P.L.1055, No.109, eff. 60 days)

2006 Amendment. Act 109 added section 4308.1.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (i), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Subsection (b) of section 7101 no longer exists. The definitions are now contained in section 7101.1.

§ 4309. Publication of delinquent support obligors.

(a) General rule.--Any county, through its domestic relations section, may publish the names of delinquent support obligors who are in arrears 30 days or more in newspapers of general or special circulation in the county.

(b) Immunity.--The county, its officials and newspapers shall be immune from any and all criminal and civil liability as a result of the publication of names and identities under subsection (a), unless the publication is a result of intentional misconduct by the county, its officials or newspapers.
(July 2, 1993, P.L.431, No.62, eff. 60 days)

1993 Amendment. Act 62 added section 4309.

SUBCHAPTER B
SUPPORT

Sec.

- 4321. Liability for support.
- 4322. Support guideline.
- 4323. Support of emancipated child.
- 4324. Inclusion of spousal medical support.
- 4325. Payment of order of support.
- 4326. Mandatory inclusion of child medical support.
- 4327. Postsecondary educational costs.

§ 4321. Liability for support.

Subject to the provisions of this chapter:

(1) Married persons are liable for the support of each other according to their respective abilities to provide support as provided by law.

(2) Parents are liable for the support of their children who are unemancipated and 18 years of age or younger.

(2.1) Paragraph (2) applies whether or not parental rights of the parent have been terminated due to a conviction for any of the following where the other parent is the victim and a child has been conceived as a result of the offense:

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

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

(iii) 18 Pa.C.S. § 3124.1 (relating to sexual assault), where the offense involved sexual intercourse;

(iv) 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse; or

(v) 18 Pa.C.S. § 4302 (relating to incest), where the offense involved sexual intercourse.

Paternity of the child under this paragraph shall be established through voluntary acknowledgment of paternity or blood, genetic or other type of paternity test acceptable to the court. The cost of the testing shall be borne by the parent who was convicted of the offense.

(3) Parents may be liable for the support of their children who are 18 years of age or older.

(Oct. 1, 2015, P.L.172, No.40, eff. 60 days)

2015 Amendment. Act 40 added par. (2.1). Section 3 of Act 40 provided that par. (2.1) shall apply to any action regarding custody of a child under Chapter 43 or 53 that is filed on or after the effective date of section 3.

§ 4322. Support guideline.

(a) Statewide guideline.--Child and spousal support shall be awarded pursuant to a Statewide guideline as established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly. The guideline shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guideline shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention. The guideline so developed shall be reviewed at least once every four years.

(b) Rebuttable presumption.--There shall be a rebuttable presumption, in any judicial or expedited process, that the amount of the award which would result from the application of such guideline is the correct amount of support to be awarded. A written finding or specific finding on the record that the application of the guideline would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, provided that the finding is based upon criteria established by the Supreme Court by general rule within one year of the effective date of this act.
(Dec. 20, 1989, P.L.654, No.81, eff. imd.)

Cross References. Section 4322 is referred to in section 4305 of this title.

§ 4323. Support of emancipated child.

(a) Emancipated child.--A court shall not order either or both parents to pay for the support of a child if the child is emancipated.

(b) Marital status of parents immaterial.--In making an order for the support of a child, no distinction shall be made because of the marital status of the parents.

§ 4324. Inclusion of spousal medical support.

In addition to periodic support payments, the court may require that an obligor pay a designated percentage of a spouse's reasonable and necessary health care expenses. If health care coverage is available through an obligor or obligee at no cost as a benefit of employment or at a reasonable cost, the court shall order an obligor or obligee to provide or extend health care coverage to a spouse. Upon failure of the obligor to make this payment or reimburse the spouse and after compliance with procedural due process requirement, the court shall treat the amount as arrearages.

(Dec. 4, 1992, P.L.757, No.114, eff. 90 days)

1992 Amendment. Section 4(1) of Act 114 provided that the amendment of section 4324 shall apply to all support orders entered, reviewed or modified on or after the effective date of Act 114.

Cross References. Section 4324 is referred to in section 6108 of this title.

§ 4325. Payment of order of support.

Unless procedures established by the department for the State disbursement unit provide otherwise, an order of support shall direct payment to be made payable to or payment to be made to the domestic relations section for transmission to the obligee or for transmission directly to a public body or public or private agency whenever the care, maintenance and assistance of the obligee is provided for by the public body or public or private agency.
(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4326. Mandatory inclusion of child medical support.

(a) General rule.--In every proceeding to establish or modify an order which requires the payment of child support, the court shall ascertain the ability of each parent to provide medical support for the children of the parties, and the order shall include a requirement for medical support to be provided by either or both parents, provided that such medical support is accessible to the children.

(b) Noncustodial parent requirement.--If medical support is available at a reasonable cost to a noncustodial parent, the court shall require that the noncustodial parent provide such medical support to the children of the parties. In cases where there are two noncustodial parents having such medical support available, the court shall require one or both parents to provide medical support.

(c) Custodial parent requirement.--If medical support is available at a reasonable cost to a custodial parent, the court shall require that the custodial parent provide such medical support to the children of the parties, unless adequate medical support has already been provided through the noncustodial parent. In cases where the parents have shared custody of the child and medical support is available to both, the court shall require one or both parents to provide medical support, taking into account the financial ability of the parties and the extent of medical support available to each parent.

(d) Additional requirement.--If the court finds that medical support is not available to either parent at a reasonable cost, the court shall order either parent or both parents to obtain medical support for the parties' children which is available at reasonable cost.

(d.1) Medical support notice.--The department shall develop a medical support notice for use by the department or domestic relations section in accordance with procedures established by the department. The medical support notice shall comply with national standards established by the Federal Government for medical support notices. The department or domestic relations section shall send the medical support notice to the employer within two business days after the date of entry of an employee who is a new hire into the Commonwealth directory of new hires under section 4392 (relating to employer reporting).

(e) Uninsured expenses.--The court shall determine the amount of any deductible and copayments which each parent shall pay. In addition, the court may require that either parent or both parents pay a designated percentage of the reasonable and necessary uncovered health care expenses of the parties' children, including birth-related expenses incurred prior to the filing of the complaint. Upon request of the domestic

relations section, the department shall provide to the domestic relations section all birth-related expenses which the department has incurred in cases it has referred to the domestic relations section for child support services.

(f) Proof of insurance.--Within 30 days after the entry of an order requiring a parent to provide health care coverage for a child or after any change in health care coverage due to a change in the parent's employment, the obligated parent shall submit to the other parent, or person having custody of the child, written proof that health care coverage has been obtained or that application for coverage has been made. Proof of coverage shall consist of at a minimum:

- (1) The name of the health care coverage provider.
- (2) Any applicable identification numbers.
- (3) Any cards evidencing coverage.
- (4) The address to which claims should be made.
- (5) A description of any restrictions on usage, such as prior approval for hospital admissions, and the manner of obtaining approval.
- (6) A copy of the benefit booklet or coverage contract.
- (7) A description of all deductibles and copayments.
- (8) Five copies of any claim forms.

(g) Obligations of insurance companies.--Every insurer doing business within this Commonwealth shall be obligated as follows:

(1) to permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent and to make payment on such claims directly to such custodial parent, the provider or, in the case of Medical Assistance patients, to the department;

(2) to provide such information to the custodial parent as may be necessary to obtain benefits, including copies of benefit booklets, insurance contracts and claims information;

(3) if coverage is made available for dependents of the insured, to make such coverage available to the insured's children without regard to enrollment season restrictions, whether the child was born out of wedlock, whether the child is claimed as a dependent on the parent's Federal income tax return, whether the child resides in the insurer's service area, the amount of support contributed by a parent, the amount of time the child spends in the home or the custodial arrangements for the child;

(4) to permit the enrollment of children under court order upon application of the custodial parent, domestic relations section or the department within 30 days of receipt by the insurer of the order;

(4.1) not to disenroll or eliminate coverage of any child unless the insurer is provided satisfactory written evidence that a court order requiring coverage is no longer in effect or that the child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of such disenrollment;

(4.2) to receive, process and pay claims (whether or not on behalf of a child), including electronically submitted claims, submitted by the department within the time permitted by law without imposing any patient signature requirement or other requirement different from those imposed upon providers, agents or assignees of any insured individual;

(5) to provide the custodial parent who has complied with subsection (j) with the same notification of termination or modification of any health care coverage due to nonpayment

of premiums or other reason as is provided to other insureds under the policy; and

(6) except as provided in paragraph (4.2), to not take into account the fact that any individual, whether or not a child, is eligible for or is being provided medical assistance when enrolling that individual or when making any payments for benefits to the individual or on the individual's behalf.

(h) Obligations of noninsurers.--To the maximum extent permitted by Federal law, the obligations of subsection (g) shall apply to noninsurers providing health care coverage within this Commonwealth, including health maintenance organizations, self-insured employee health benefit plans and any other entity offering a service benefit plan.

(h.1) Obligations of employers.--Every employer doing business within this Commonwealth shall be obligated as follows:

(1) in any case in which a parent is required by a court order to provide health coverage for a child and the parent is eligible for family health coverage, the employer shall permit the insured parent to enroll any child who is otherwise eligible without regard to any enrollment season restrictions;

(2) if the insured parent is enrolled but fails to make application to obtain coverage for such child, to enroll the child under the family coverage upon application by the child's other parent, the domestic relations section or the department;

(3) not to disenroll or eliminate coverage of any such child unless the employer is provided satisfactory written evidence that the court or administrative order is no longer in effect, the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment or the employer has eliminated family health coverage for all of its employees;

(4) to transfer health coverage for any child to the health coverage of the employer upon receipt of a medical support notice under subsection (d.1) issued by the department or a domestic relations section within 20 business days after the date of the notice; and

(5) to notify the domestic relations section whenever the insured parent's employment is terminated.

(i) Obligations of custodial parent.--The custodial parent shall comply with the insurer's existing claim procedures and present to the insurer one of the following documents:

(1) a copy of a court order as defined in subsection (1); or

(2) a release signed by the insured permitting the insurer to communicate directly with the custodial parent.

(j) Enforcement of order.--The employee's share, if any, of premiums for health coverage shall be deducted by the employer and paid to the insurer or other entity providing health care coverage. If an obligated parent fails to comply with the order to provide health care coverage for a child, fails to pay medical expenses for a child or receives payment from a third party for the cost of medical services provided to such child and fails to reimburse the custodial parent or provider of services, the court shall:

(1) If, after a hearing, the failure or refusal is determined to have been willful, impose the penalties of section 4345(a) (relating to contempt for noncompliance with support order).

(2) Enter an order for a sum certain against the obligated parent for the cost of medical care for the child and for any premiums paid or provided for the child during any period in which the obligated parent failed or refused to provide coverage. Failure to comply with an order under this paragraph shall be subject to section 4348 (relating to attachment of income).

(3) Upon failure of the obligated parent to make this payment or reimburse the custodial parent and after compliance with due process requirements, treat the amount as arrearages.

(k) Enforcement against insurers.--Any insurer or other entity which violates the obligations imposed upon it under subsection (g) or (h) shall be civilly liable for damages and may be adjudicated in contempt and fined by the court.

(l) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Birth-related expenses." Costs of reasonable and necessary health care for the mother or child or both incurred before, during or after the birth of a child born in or out of wedlock which are the result of the pregnancy or birth and which benefit either the mother or child. Charges not related to the pregnancy or birth shall be excluded.

"Child." A child to whom a duty of child support is owed.

"Health care coverage." Coverage for medical, dental, orthodontic, optical, psychological, psychiatric or other health care services for a child. For the purposes of this section, medical assistance under Subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, shall not be considered health care coverage.

"Insurer." A foreign or domestic insurance company, association or exchange holding a certificate of authority under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; a risk-assuming preferred provider organization operating under section 630 of The Insurance Company Law of 1921; a health maintenance organization holding a certificate of authority under the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act; a fraternal benefit society holding a certificate of authority under the former act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code; a hospital plan corporation holding a certificate of authority under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations); a professional health service plan corporation holding a certificate of authority under 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations); or a similar entity authorized to do insurance business in this Commonwealth.

"Medical child support order." An order which relates to the child's right to receive certain health care coverage and which:

(1) includes the name and last known mailing address of the parent providing health care coverage and the name and last known mailing address of the child;

(2) includes a reasonable description of the type of coverage to be provided or includes the manner in which coverage is to be determined;

(3) designates the time period to which the order applies;

(4) if coverage is provided through a group health plan, designates each plan to which the order applies as of the date the order is written;

(4.1) requires that, if health care coverage is provided through the noncustodial parent's employer and that parent changes employment, the provisions of the order will remain in effect for the duration of the order and will automatically apply to the new employer. The new employer shall enroll the child in health care coverage without need for an amended order unless the noncustodial parent contests the enrollment; and

(5) includes the name and address of the custodial parent.

"Medical support." Health care coverage, which includes coverage under a health insurance plan or government-subsidized health care coverage, including payment of costs of premiums, copayments, deductibles and capitation fees, and payment for medical expenses incurred on behalf of a child.

"Reasonable cost." Cost of health care coverage that does not exceed 5% of the party's net monthly income and, if the obligor is to provide health care coverage, the cost of the premium when coupled with a cash child support obligation and other child support-related obligations does not exceed the amounts allowed by the Federal threshold set forth in the Consumer Credit Protection Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.).

(Dec. 4, 1992, P.L.757, No.114, eff. 90 days; Dec. 16, 1994, P.L.1286, No.150, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 17, 2001, P.L.942, No.112, eff. imd.; May 13, 2008, P.L.144, No.16, eff. imd.)

2008 Amendment. Act 16 amended subsecs. (a), (b), (c), (d) and (l), retroactive to March 31, 2008.

2001 Amendment. Act 112 amended subsec. (h.1) and added subsec. (d.1).

1997 Amendment. Act 58 amended subsecs. (a), (e), (f) intro. par., (g)(1), (4) and (4.2), (h.1)(2) and (l). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1994 Amendment. Act 150 amended subsecs. (g), (h), (i), (j), (k) and (l) and added subsec. (h.1). Section 5 of Act 150 provided that the amendment of section 4326 shall apply to all actions pending on the effective date of Act 150.

1992 Amendment. Act 114 added section 4326. Section 4(1) of Act 114 provided that section 4326 shall apply to all support orders entered, reviewed or modified on or after the effective date of Act 114, and section 4(2) provided that section 4326(j) shall apply to support orders entered prior to the effective date of Act 114.

References in Text. The act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code, referred to in the def. of "insurer" in subsec. (l), was repealed by the act of July 10, 2002 (P.L.749, No.110). The subject matter is now contained in Article XXIV of The Insurance Company Law of 1921.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (l), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 4326 is referred to in sections 4348, 6108 of this title.

§ 4327. Postsecondary educational costs.

(a) General rule.--Where applicable under this section, a court may order either or both parents who are separated, divorced, unmarried or otherwise subject to an existing support obligation to provide equitably for educational costs of their child whether an application for this support is made before or after the child has reached 18 years of age. The responsibility to provide for postsecondary educational expenses is a shared responsibility between both parents. The duty of a parent to provide a postsecondary education for a child is not as exacting a requirement as the duty to provide food, clothing and shelter for a child of tender years unable to support himself. This authority shall extend to postsecondary education, including periods of undergraduate or vocational education after the child graduates from high school. An award for postsecondary educational costs may be entered only after the child or student has made reasonable efforts to apply for scholarships, grants and work-study assistance.

(b) Action to recover educational expenses.--An action to recover educational costs may be commenced:

- (1) by the student if over 18 years of age; or
- (2) by either parent on behalf of a child under 18 years of age, but, if the student is over 18 years of age, the student's written consent to the action must be secured.

(c) Calculation of educational costs.--In making an award under this section, the court shall calculate educational costs as defined in this section.

(d) Grants and scholarships.--The court shall deduct from the educational costs all grants and scholarships awarded to the student.

(e) Other relevant factors.--After calculating educational costs and deducting grants and scholarships, the court may order either parent or both parents to pay all or part of the remaining educational costs of their child. The court shall consider all relevant factors which appear reasonable, equitable and necessary, including the following:

- (1) The financial resources of both parents.
- (2) The financial resources of the student.
- (3) The receipt of educational loans and other financial assistance by the student.
- (4) The ability, willingness and desire of the student to pursue and complete the course of study.
- (5) Any willful estrangement between parent and student caused by the student after attaining majority.
- (6) The ability of the student to contribute to the student's expenses through gainful employment. The student's history of employment is material under this paragraph.
- (7) Any other relevant factors.

(f) When liability may not be found.--A court shall not order support for educational costs if any of the following circumstances exist:

- (1) Undue financial hardship would result to the parent.
- (2) The educational costs would be a contribution for postcollege graduate educational costs.
- (3) The order would extend support for the student beyond the student's twenty-third birthday. If exceptional circumstances exist, the court may order educational support for the student beyond the student's twenty-third birthday.

(g) Parent's obligation.--A parent's obligation to contribute toward the educational costs of a student shall not

include payments to the other parent for the student's living expenses at home unless the student resides at home with the other parent and commutes to school.

(h) Termination or modification of orders.--Any party may request modification or termination of an order entered under this section upon proof of change in educational status of the student, a material change in the financial status of any party or other relevant factors.

(i) Applicability.--

(1) This act shall apply to all divorce decrees, support agreements, support orders, agreed or stipulated court orders, property settlement agreements, equitable distribution agreements, custody agreements and/or court orders and agreed to or stipulated court orders in effect on, executed or entered since, November 12, 1992.

(2) In addition, this act shall apply to all pending actions for support. This section shall not supersede or modify the express terms of a voluntary written marital settlement agreement or any court order entered pursuant thereto.

(j) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Educational costs." Tuition, fees, books, room, board and other educational materials.

"Postsecondary education." An educational or vocational program provided at a college, university or other postsecondary vocational, secretarial, business or technical school.

(July 2, 1993, P.L.431, No.62, eff. imd.)

1993 Amendment. Act 62 added section 4327. See the preamble to Act 62 in the appendix to this title for special provisions relating to legislative intent.

SUBCHAPTER C

PROCEEDINGS GENERALLY

Sec.

- 4341. Commencement of support actions or proceedings.
- 4342. Expedited procedure.
- 4343. Paternity.
- 4344. Contempt for failure of obligor to appear.
- 4345. Contempt for noncompliance with support order.
- 4346. Contempt for noncompliance with visitation or partial custody order (Repealed).
- 4347. Security for attendance or performance.
- 4348. Attachment of income.
- 4349. Consolidation of proceedings.
- 4350. Effect of appeal.
- 4351. Costs and fees.
- 4352. Continuing jurisdiction over support orders.
- 4353. Duty to report.
- 4354. Willful failure to pay support order.
- 4355. Denial or suspension of licenses.

§ 4341. Commencement of support actions or proceedings.

(a) Procedure.--A support action or proceeding under this chapter shall be commenced in the manner prescribed by the Rules of Civil Procedure governing actions of support.

(b) Standing.--Any person caring for a child shall have standing to commence or continue an action for support of that

child regardless of whether a court order has been issued granting that person custody of the child.

(c) Jurisdiction.--The court shall exercise Statewide jurisdiction over the parties to a proceeding under this chapter.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4342. Expedited procedure.

(a) General rule.--The Supreme Court shall by general rule provide for expedited procedures for the determination of paternity and the determination and enforcement of support. The procedures shall include an office conference; a conference summary to the court by the hearing officer; an opportunity for the court to enter an order without hearing the parties; and an opportunity for the parties to demand a full hearing by the court.

(b) Alternate procedure.--The Supreme Court shall also provide an alternate expedited procedure which may be adopted by local rule of the courts of common pleas. The procedure shall include an office conference; an evidentiary hearing before a hearing officer who shall be an attorney; a transcript of the testimony; a report and recommendation to the court by the hearing officer; and an opportunity for the filing of exceptions with and argument before the court.

(c) Long arm procedures.--The Supreme Court shall by general rule establish procedures for the exercise of long arm jurisdiction to establish paternity and to establish and enforce support. Long arm jurisdiction shall be used in preference to proceedings under Part VIII (relating to uniform interstate family support) or VIII-A (relating to intrastate family support) unless it would be more effective to proceed otherwise. Long arm proceedings may be commenced or continued in any county where the plaintiff resides regardless of whether the parties maintained a family domicile in that county.

(d) Jurisdiction over nonresident.--(Deleted by amendment).

(e) Default.--The court shall enter a default order establishing paternity and enforcing support upon a showing that the defendant has been properly served and has not appeared.

(f) Hearsay exception.--For proceedings pursuant to this section, a verified petition, affidavit or document and a document incorporated by reference in any of them which would not be excluded under the hearsay rule if given in person is admissible in evidence if given under oath by a party or witness.

(g) Payment record.--A copy of the record of support payments certified as a true copy of the original by the custodian of the record is evidence of facts asserted in it and is admissible to show whether payments were made.

(h) Bills.--Copies of billing statements, bills for testing for parentage and for prenatal and postnatal health care of the mother and child furnished to the adverse party at least ten days before a court proceeding are admissible in evidence to prove the amount of the charges billed and to prove that the charges were reasonable, necessary and customary.

(i) Transmission of documentary evidence.--Documentary evidence transmitted to the domestic relations section by

telephone, telecopier or other means which do not provide an original writing may not be excluded from evidence based on the means of transmission.

(j) Testimony.--In a proceeding under this part, a court may permit a party or witness to be deposed or to testify by telephone, audiovisual or other electronic means at a designated location.

(Mar. 25, 1988, P.L.296, No.35, eff. imd.; July 2, 1993, P.L.431, No.62, eff. imd.; Dec. 16, 1994, P.L.1286, No.150, eff. imd.; Apr. 4, 1996, P.L.58, No.20, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 added subsecs. (f), (g), (h), (i) and (j). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No.1910.20 relating to the availability of remedies for collection of past due and overdue support.

1996 Amendment. Act 20 amended subsec. (c) and deleted subsec. (d).

1994 Amendment. Act 150 amended subsec. (a) and added subsec. (e).

Suspension by Court Rule. Section 4342 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(2), as amended May 31, 2000, insofar as it provides that long arm jurisdiction shall be used in preference to proceedings under Part VIII-A relating to intrastate family support actions.

Section 4342(f) was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(4), as amended May 31, 2000, insofar as it is inconsistent with Rule 1910.26 as it relates to record hearings in support actions.

§ 4343. Paternity.

(a) Determination.--Where the paternity of a child born out of wedlock is disputed, the determination of paternity shall be made by the court in a civil action without a jury. A putative father may not be prohibited from initiating a civil action to establish paternity. The burden of proof shall be by a preponderance of the evidence. Bills for pregnancy, childbirth, postnatal care related to the pregnancy and genetic testing are admissible as evidence without requiring third-party foundation testimony and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child. If there is clear and convincing evidence of paternity on the basis of genetic tests or other evidence, the court shall upon motion of a party issue a temporary order of support pending the judicial resolution of a dispute regarding paternity. The Supreme Court shall provide by general rule for entry of a default order establishing paternity upon a showing of service of process on the defendant and a subsequent failure to appear for scheduled genetic testing.

(b) Limitation of actions.--

(1) An action or proceeding under this chapter to establish the paternity of a child born out of wedlock must be commenced within 18 years of the date of birth of the child.

(2) As of August 16, 1984, the requirement of paragraph (b)(1) shall also apply to any child for whom paternity has not yet been established and any child for whom a paternity action was brought but dismissed because of a prior statute of limitations of less than 18 years.

(c) Genetic tests.--

(1) Upon the request of any party to an action to establish paternity, supported by a sworn statement from the party, the court or domestic relations section shall require the child and the parties to submit to genetic tests. The domestic relations section shall obtain an additional genetic test upon the request and advance payment by any party who contests the initial test.

(2) Genetic test results indicating a 99% or greater probability that the alleged father is the father of the child shall create a presumption of paternity which may be rebutted only by clear and convincing evidence that the results of the genetic tests are not reliable in that particular case.

(3) To ensure the integrity of the specimen and that the proper chain of custody has been maintained, the genetic tests of the biological mother, the child or children in question and the alleged father should be conducted by an established genetic-testing laboratory in the course of its regularly conducted business activity, and certified records should be issued. The certified records shall be admissible into evidence without further foundation, authentication or proof of accuracy if no objection is made within ten days prior to trial. The laboratory must be certified by either the American Association of Blood Banks or the American Association for Histocompatibility and Immunogenetics.

(4) If the court or domestic relations section orders genetic testing, the domestic relations section shall pay the cost of the test, subject to recoupment from the alleged father if paternity is established.

(5) A determination of paternity made by another state, whether through judicial proceedings, administrative proceedings or by acknowledgment of paternity, shall be given full faith and credit in the courts of this Commonwealth.

(6) A determination of nonpaternity made by another state with respect to a public assistance recipient shall not be binding upon the Department of Public Welfare unless the defendant shows that the department had actual notice of the proceedings, including the date and time of any trial, and a fair opportunity to participate in all material proceedings through counsel of its own choice.

(Dec. 20, 1989, P.L.654, No.81, eff. imd.; Dec. 16, 1994, P.L.1286, No.150, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 amended subsecs. (a) and (c)(1), (4) and (6). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1994 Amendment. Act 150 amended subsec. (c). Section 5 of Act 150 provided that the amendment of section 4343 shall apply to all actions pending on the effective date of Act 150.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 4343 is referred to in section 4305 of this title.

§ 4344. Contempt for failure of obligor to appear.

A person who willfully fails or refuses to appear in response to a duly served order or other process under this chapter may,

as prescribed by general rule, be adjudged in contempt. Contempt shall be punishable by any one or more of the following:

- (1) Imprisonment for a period not to exceed six months.
- (2) A fine not to exceed \$500.
- (3) Probation for a period not to exceed six months.

Cross References. Section 4344 is referred to in section 4345 of this title.

§ 4345. Contempt for noncompliance with support order.

(a) General rule.--A person who willfully fails to comply with any order under this chapter, except an order subject to section 4344 (relating to contempt for failure of obligor to appear), may, as prescribed by general rule, be adjudged in contempt. Contempt shall be punishable by any one or more of the following:

- (1) Imprisonment for a period not to exceed six months.
- (2) A fine not to exceed \$1,000.
- (3) Probation for a period not to exceed one year.

(b) Condition for release.--An order committing a defendant to jail under this section shall specify the condition the fulfillment of which will result in the release of the obligor. (Oct. 16, 1996, P.L.706, No.124, eff. 60 days)

Cross References. Section 4345 is referred to in sections 4326, 4353 of this title.

§ 4346. Contempt for noncompliance with visitation or partial custody order (Repealed).

2010 Repeal. Section 4346 was repealed November 23, 2010, P.L.1106, No.112, effective in 60 days.

§ 4347. Security for attendance or performance.

At any stage of the proceedings under this chapter, upon affidavit filed that the obligor is about to leave this Commonwealth or the judicial district or, where in the judgment of the court, the obligor has habitually failed to comply with court orders under this chapter, the court may, as prescribed by general rule, issue appropriate process directing that the obligor be brought before the court and may direct that the obligor give security to appear when directed by the court or to comply with any order of the court.

§ 4348. Attachment of income.

(a) Existing and certain future orders.--All orders of support existing as of the effective date of this provision, as well as all orders of support entered or modified after the effective date of this provision but before June 30, 1990, shall provide for mandatory attachment of income:

- (1) if the obligor is in arrears in payment in an amount equal to or greater than one month's support obligation;
- (2) at the request of the obligor;
- (3) at the request of the obligee; or
- (4) as of July 1, 1991, except as provided by subsection (b)(1) and (2).

(b) Future orders.--All orders of support entered or modified on or after July 1, 1990, shall, as part of the order, provide for the mandatory attachment of income unless:

- (1) the obligor is not in arrears in payment in an amount equal to or greater of one month's support obligation; and
- (2) (i) one of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) a written agreement is reached between the parties which provides for an alternative arrangement. The court may, on its own motion, order the attachment of the obligor's income where the court has a reasonable basis to believe the obligor will not comply with the order of support. In making this determination, the court may consider evidence of the person's previous violations of orders entered in any jurisdiction or evidence that the obligor has attempted to conceal income or to transfer, convey or encumber property in order to reduce the obligor's support obligation. Attachment shall occur under this subsection without amendment to the order of support and, if arrearages occur, without the need for a judicial or administrative hearing.

(c) Assessment of penalty.--The court may impose a penalty of not more than 10% on any amount in arrears for 30 days or more if the court determines that the arrearage was willful.

(d) Arrearages.--If support arrearages exist at the time of the entry of the order, the order shall specify all of the following:

(1) To whom an arrearage is owed and the amount of the arrearage.

(2) The period of time for which the arrearage is calculated.

(3) The amount of periodic support to be applied to current support and the amount to be applied to arrearages.

(4) If support arrearages are owed to more than one obligee, how payments are to be divided and in which priority.

(5) A direction that all payments are to be credited to current support obligations first, with any payment in excess to be applied to arrearages.

(d.1) Insurance.--If an obligor or obligee is in violation of an order under section 4326(j)(3) (relating to mandatory inclusion of child medical support), the attachment shall be in favor of the appropriate provider of health care coverage.

(e) Attachment process.--

(1) The obligor shall be given notice of the attachment of his income. Such notice shall specify all of the following:

(i) The amount to be withheld on account of current support and on account of arrears.

(ii) That the order of attachment shall apply to current and future employers.

(iii) That the grounds for contesting the order of attachment shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of current support owed, errors in the amount of arrearage, an attachment in excess of the maximum amount set forth in subsection (g) or mistaken identity of the obligor.

(iv) That attachment has occurred or shall occur in all cases within ten days of the issuance of the notice.

(v) A notice of how and when the order may be contested.

(2) To contest the order, the obligor must appear before the domestic relations section no later than ten days after issuance of the notice, at which time it will be determined if a mistake of fact has occurred. If so, the order shall be modified accordingly.

(f) Request of obligor.--The court shall also order the attachment of income where the obligor so requests.

(g) Maximum amount.--The maximum amount of any attachment under this section shall not exceed the limits set forth in the Consumer Credit Protection Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.).

(h) Termination.--The court may order the termination of an order of attachment in any of the following instances:

(1) The support obligation has terminated and the total arrearages are paid.

(2) Where the payee cannot be located and it becomes impossible to forward payments.

(3) The result would be unconscionable.

(i) Notice to employer.--The employer of an obligor shall be given notice of the attachment as provided by the Rules of Civil Procedure governing support. This notice shall include reference to subsections (g), (k), (l), (n) and (o) and all of the following:

(1) The amount to be attached.

(2) That the attachment shall be implemented as soon as possible and no later than 14 days from the issuance of the notice to the employer.

(3) That the attachment payment must be sent to the domestic relations section or State disbursement unit, as appropriate, within seven business days of the date the obligor is paid.

(4) That the attachment order is binding upon the employer until further notice.

(5) That the employer may combine attachment payments into a single payment to the domestic relations section and separately identify the portions attributable to each obligor.

(6) That the employer must notify the domestic relations section when the obligor terminates employment and provide his last known address and the new employer's name and address, if known.

(j) Effect of compliance by employer.--Compliance by an employer with an order of attachment of income that is regular on its face operates as a discharge of the civil liability of the employer to the obligor as to that portion of the employment income of the obligor affected. An employer shall not be subject to criminal or civil liability to any individual or agency for conduct in compliance with the order. The employer may deduct from the income of the obligor a one-time fee of \$50 for reimbursement of the expense in complying with the order. In no case shall the employer's reimbursement be deducted from the amount of the support order.

(k) Effect of noncompliance by employer.--

(1) An employer or officer or employee thereof who willfully fails to comply with an order of attachment under this chapter may, as prescribed by general rule, be adjudged in contempt and committed to jail or fined by the court.

(2) The employer shall be liable for any amount the employer willfully fails to withhold from income due an employee under an order of attachment of income and any amount which is withheld from such income but not forwarded to the domestic relations office.

(3) The court may, pursuant to general rule, attach funds or property of an employer.

(l) Disciplinary action by employer prohibited.--

(1) When an order of attachment on income withholding is about to be or has been entered, an employer or officer or employee thereof shall not use the attachment or possibility thereof as a basis, in whole or in part, for the

refusal to employ or for the discharge of an employee or for any disciplinary action against or demotion of an employee. In case of a violation of this subsection, the employer or officer or employee thereof may be adjudged in contempt and committed to jail or fined by the court.

(2) Any employee aggrieved by a violation of this subsection shall have the substantive right to bring an action for damages by reason of such violation in a court of competent jurisdiction.

(3) The department or a domestic relations section may impose a civil penalty of up to \$1,000 per violation against any employer that willfully violates the provisions of this subsection or that willfully fails to withhold income or to pay such amounts to the State disbursement unit.

(m) Certify income.--Upon request of the domestic relations section, the employer shall report and certify the income of an employee.

(n) Bonding.--The court may attach forms of income other than wages, assets, including spendthrift trusts, and private, public, State, county and municipal pensions, and include bonding or other requirements in cases involving obligors whose income is from sources other than wages, in order to assure that support owed by obligors in this Commonwealth will be collected without regard to the types of these obligors' income or the nature of their income-producing activities.

(o) Priority of attachment.--(Deleted by amendment).

(p) Nonresidents.--Income attachment shall be available to obligees residing outside this Commonwealth where the income of the obligor is derived in this Commonwealth.

(q) Priority of attachment.--An order of attachment for support shall have priority over any attachment, execution, garnishment or wage assignment. The Supreme Court shall by general rule provide for priorities for withholding and allocating income withheld for multiple child support obligees received by an employer for the same obligor under this section and Chapter 75 (relating to direct enforcement of order of another state without registration).

(r) Information requests.--

(1) Upon the request of the department, a county domestic relations section or a child support agency of another state, any employer doing business within this Commonwealth, including a for-profit, not-for-profit or governmental employer, shall promptly provide information regarding the employment, compensation and benefits of any employee or contractor of the employer.

(2) In addition to any other remedy allowed by law, the department may impose a civil penalty of up to \$1,000 per violation on an individual or entity that willfully fails to comply with a request for information under paragraph (1).

(Dec. 20, 1989, P.L.654, No.81, eff. imd.; Dec. 4, 1992, P.L.757, No.114, eff. 90 days; Oct. 16, 1996, P.L.706, No.124, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 15, 1998, P.L.963, No.127, eff. imd.; July 1, 2016, P.L.443, No.64, eff. 60 days)

2016 Amendment. Act 64 amended subsec. (j).

1998 Amendment. Act 127 added subsec. (r). Act 127 of 1998 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1997 Amendment. Act 58 amended subsecs. (b), (e)(1) intro. par., (i) and (iv) and (2), (i)(3), (j) and (l)(1), deleted subsec. (o) and added subsecs. (l)(3) and (q). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1992 Amendment. Act 114 added subsec. (d.1). Section 4(2) of Act 114 provided that subsec. (d.1) shall apply to support orders entered prior to the effective date of Act 114.

1989 Amendment. Act 81 amended subsecs. (a) and (b).

Cross References. Section 4348 is referred to in sections 4305, 4326, 7101.1, 7605, 8101 of this title.

§ 4349. Consolidation of proceedings.

In order to facilitate frequent and unimpeded contact between children and parents, a judge may consolidate with a support action or proceeding any proceeding commenced for visitation rights, sole or shared custody, temporary or permanent custody or any other matters pertaining to support authorized by law which fairly and expeditiously may be determined and disposed of in the support action or proceeding.

§ 4350. Effect of appeal.

An appeal from an order of support entered pursuant to this chapter shall not operate as a supersedeas unless so ordered by the court.

§ 4351. Costs and fees.

(a) General rule.--If an obligee prevails in a proceeding to establish paternity or to obtain a support order, the court may assess against the obligor filing fees, reasonable attorney fees and necessary travel and other reasonable costs and expenses incurred by the obligee and the obligee's witnesses. Attorney fees may be taxed as costs and shall be ordered to be paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee shall have priority over fees, costs and expenses.

(a.1) Annual fee.--The Commonwealth shall impose a fee of \$25 in each case in which an individual has never received assistance under Title IV-A of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) and for whom the Commonwealth has collected at least \$500 of support in a Federal fiscal year. The Commonwealth shall pay the \$25 fee for those cases in which the annual collection is between \$500 and \$1,999.99. The \$25 fee shall be collected from the custodial parent in cases where annual collections equal \$2,000 or more.

(b) Lack of good cause for failure to pay on time.--If the court determines that the person subject to a child support order did not have good cause for failing to make child support payments on time, it may further assess costs and reasonable attorney fees incurred by the party seeking to enforce the order.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; May 13, 2008, P.L.144, No.16, eff. imd.)

2008 Amendment. Act 16 added subsec. (a.1), retroactive to March 31, 2008.

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 4351 is referred to in section 4374 of this title.

§ 4352. Continuing jurisdiction over support orders.

(a) General rule.--The court making an order of support shall at all times maintain jurisdiction of the matter for the purpose of enforcement of the order and for the purpose of increasing, decreasing, modifying or rescinding the order unless otherwise provided by Part VIII (relating to uniform interstate family support) or VIII-A (relating to intrastate family support) without limiting the right of the obligee, or the department if it has an assignment or other interest, to institute additional proceedings for support in any county in which the obligor resides or in which property of the obligor is situated. The Supreme Court shall by general rule establish procedures by which each interested party shall be notified of all proceedings in which support obligations might be established or modified and shall receive a copy of any order issued in a case within 14 days after issuance of such order. A petition for modification of a support order may be filed at any time and shall be granted if the requesting party demonstrates a substantial change in circumstances.

(a.1) Automatic review.--Upon request of either parent, or automatically if there is an assignment under Title IV-A of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.), each order of support shall be reviewed at least once every three years from the date of establishment or the most recent review. The review shall be for the purpose of making any appropriate increase, decrease, modification or rescission of the order. During the review, taking into the account the best interest of the child involved, the court shall adjust the order, without requiring proof of a change in circumstances, by applying the Statewide guidelines or a cost-of-living adjustment in accordance with a formula developed by general rule. Automated methods, including automated matches with wage or State income tax data, may be used to identify the support orders eligible for review and implement appropriate adjustments.

(a.2) Effect of incarceration.--Incarceration, except incarceration for nonpayment of support, shall constitute a material and substantial change in circumstance that may warrant modification or termination of an order of support where the obligor lacks verifiable income or assets sufficient to enforce and collect amounts due.

(b) Notice.--Each party subject to an automatic child support review shall receive:

(1) thirty days' advance notice of the right of such party to request a review and adjustment of the order, except when the adjustment results from a cost-of-living adjustment or other automated adjustment;

(2) a copy of any order establishing, modifying or rescinding a child support obligation or, in the case of a denied petition for modification, a notice of determination that there should be no change in the amount of the child support order, within 14 days after issuance of such order or determination; and

(3) a 30-day period from the date of the notice of a cost-of-living adjustment or other automated adjustment to request an individual review and adjustment in accordance with the Statewide guideline.

(c) Transfer of action.--Where neither party to the action resides or is employed in the county wherein the support action was filed, the court may transfer the matter to any county wherein either party resides or where the defendant is regularly employed. If one of the parties resides outside of this

Commonwealth, the action may be transferred to the county of residence or employment of the other party.

(d) Arrears as judgments.--On and after the date it is due, each and every support obligation shall constitute a judgment against the obligor by operation of law, with the full force, effect and attributes of a judgment of court, including the ability to be enforced, and shall be entitled as a judgment to full faith and credit in this or any other state. Overdue support obligations of this or any other state which are on record at the county domestic relations section shall constitute a lien by operation of law against all real property owned by the obligor within the county as provided in subsection (d.1). The department shall develop and implement a system for providing notice to the public of liens arising out of overdue support obligations. The system and its procedures shall ensure convenient access to lien information and shall address hours of access by the business community and the general public and access via modem or automated means. Thirty days after publication of notice in the Pennsylvania Bulletin that the system has been established, any lien on record shall constitute a lien against any real property in this Commonwealth owned by the obligor and shall also have the effect of a fully perfected security interest in personal property owned by the obligor in which a security interest can arise. The department shall consult with the Department of Transportation in the development of this system to enforce compliance with this subsection as it applies to liens on motor vehicles. The Supreme Court shall by general rule establish procedures for the recording of liens of other states at the county domestic relations section and for the enforcement of liens arising from overdue support without prior judicial notice or hearing. A bona fide good faith purchaser of personal property for value which is subject to a lien under this subsection acquires all title which the transferor had or had the power to transfer pursuant to 13 Pa.C.S. Ch. 24 (relating to title, creditors and good faith purchasers), and the obligee shall have all rights against such property which would be preserved to a fully perfected secured creditor under 13 Pa.C.S. Div. 9 (relating to secured transactions; sales of accounts, contract rights and chattel paper). The obligation for payment of arrears or overdue support shall terminate by operation of law when all arrears or overdue support has been paid.

(d.1) Real property liens.--

(1) Overdue support shall be a lien on real estate within the county in which the overdue support is on record at the county domestic relations section if:

(i) the underlying support action is pending in the county domestic relations section or is being enforced by the county domestic relations section;

(ii) notice of the existence of the support action is available to the public through a docket book or automated means; and

(iii) the county domestic relations section is able to determine the amount of overdue support by reference to its records and is able to provide the amount of the overdue support upon request.

(2) The priority and amount of a lien for overdue support shall be determined as follows:

(i) The date of the lien for purposes of determining priority shall be determined separately for each unpaid overdue support payment. The date shall be the later of:

(A) the date the obligor obtains a real property interest which may be subject to a lien;

(B) the date the overdue support becomes a lien under paragraph (1); or

(C) January 1, 1998.

(ii) The amount of the lien on any date shall be the amount of overdue support shown on that date in the records of the domestic relations section.

(3) Upon request of any person, the domestic relations section shall issue a written certification of the amount of overdue support owed by an individual as of the date of the certification and shall note on the docket the date of certification and the amount certified. The interests of any purchaser of real estate for value, mortgagee or other lienor that in good faith purchases the real estate or lends money on the security of the real estate and that records, within 30 days before or 60 days after the date of issuance of a certificate under this paragraph, a deed, mortgage or other encumbrance against the real estate shall not be subject to any lien for overdue support in excess of the amount shown on the certification.

(4) The amount of overdue support owed by an obligor and the name of the obligor shall be public information and shall be deemed a public record subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(5) A lien arising from overdue support:

(i) shall automatically attach to after-acquired property owned by the obligor;

(ii) shall retain its priority without renewal or revival;

(iii) shall continue to encumber the property upon sale or other transfer;

(iv) shall not be divested upon a judicial sale or execution by a person with a lien with less priority;

(v) shall not attach to the interest of any other co-owner in the property;

(vi) shall expire 20 years after the due date of the last unsatisfied overdue support payment; and

(vii) may be released by the court as against abandoned or distressed real property at the request of a governmental unit in order to facilitate the property's sale and rehabilitation.

(6) The domestic relations section:

(i) shall satisfy the lien promptly upon payment but no later than 60 days following receipt of the payment;

(ii) may charge a fee not to exceed the lesser of its estimated cost of producing the report or \$20 for the issuance of a lien certification or other written report of the overdue support obligations of an obligor;

(iii) shall provide to the prothonotary of the county the identity of obligors and amount of overdue support to be used to make the information available to the public. The information shall be updated at least monthly and shall be provided by a paper listing, diskette or any other electronic means until the Statewide system under subsection (d) is implemented; and

(iv) shall transmit at least every 60 days to credit bureaus directly or through the department reports and updates regarding the liens for overdue support.

(7) The domestic relations section or employees thereof shall not be liable for errors in the certification of amounts of overdue support or satisfaction of liens for overdue support except as provided in 42 Pa.C.S. § 8550 (relating to willful misconduct).

(8) Support may cease to be overdue if a revised payment schedule is established by the court, but any lien which has previously arisen against real estate shall remain in effect until paid or divested.

(9) Notwithstanding paragraphs (2) and (3), the interests of any person who recorded a deed, mortgage or other instrument creating an interest in or lien against real estate on or after January 1, 1998, and before the effective date of this subsection shall not be subject to a lien for any overdue support accruing on or after the date the deed, mortgage or other instrument creating the interest or lien was recorded.

(e) Retroactive modification of arrears.--No court shall modify or remit any support obligation, on or after the date it is due, except with respect to any period during which there is pending a petition for modification. If a petition for modification was filed, modification may be applied to the period beginning on the date that notice of such petition was given, either directly or through the appropriate agent, to the obligee or, where the obligee was the petitioner, to the obligor. However, modification may be applied to an earlier period if the petitioner was precluded from filing a petition for modification by reason of a significant physical or mental disability, misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition. In the case of an emancipated child, arrears shall not accrue from and after the date of the emancipation of the child for whose support the payment is made.

(f) Foreign support orders.--(Deleted by amendment).

(g) Notice to obligors and obligees.--The domestic relations section shall mail notice to obligors and obligees of existing orders informing them that such orders may attain the status of a judgment by operation of law. The notice shall explain the nature of a judgment by operation of law and its effect. Further, the notice shall advise each party to a support proceeding of the party's duty to advise the domestic relations section of material changes in circumstance and of the necessity to promptly request a modification as soon as circumstances change.

(g.1) Nondisclosure of certain information.--If the court finds in an ex parte or other proceeding or if an existing order provides that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, the court shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this part. Any court order under this subsection must be docketed in the domestic relations section.

(g.2) Work activities.--If an obligor owes overdue support with respect to any child receiving cash or medical assistance, the court shall upon motion of the department or domestic relations section order that overdue support be paid in accordance with a plan approved by the court or that the obligor participate in work activities approved by the department. Work activities include:

(1) Subsidized or unsubsidized public or private sector employment.

(2) Work experience programs.

(3) Work training programs.

(4) Community service programs.

(5) Job search requirements.

(6) Job readiness programs.

(7) Education directly related to employment.

(8) Attendance at secondary school.

(9) For a person who has not graduated high school, study leading to a high school diploma or equivalent.

(g.3) Voidable transfers.--The court may void any voidable transfer by the obligor pursuant to 12 Pa.C.S. Ch. 51 (relating to voidable transactions). It shall be a rebuttable presumption that a transfer by an obligor is voidable as to an obligee if the transfer was made for less than reasonably equivalent value and the transfer occurred after the initiation of a proceeding to establish or enforce support.

(h) Applicability.--This section applies to all support orders whether entered under this chapter or any other statute. (Mar. 25, 1988, P.L.296, No.35, eff. imd.; Dec. 20, 1989, P.L.654, No.81, eff. imd.; Apr. 4, 1996, P.L.58, No.20, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 15, 1998, P.L.963, No.127, eff. imd.; May 13, 2008, P.L.144, No.16, eff. imd.; Dec. 22, 2017, P.L.1249, No.78, eff. 60 days)

2017 Amendment. Act 78 amended subsec. (g.3). See section 7 of Act 78 in the appendix to this title for special provisions relating to applicability.

2008 Amendment. Act 16 amended subsec. (a.1) and added subsec. (a.2), retroactive to March 31, 2008.

1998 Amendment. Act 127 amended subsec. (d) and added subsec. (d.1). Section 15 of Act 127 provided that nothing in Act 127 shall impair the priority or validity of any lien recorded prior to the effective date of Act 127. Act 127 of 1998 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1997 Amendment. Act 58 amended subsecs. (a), (b) and (d) and added subsecs. (a.1), (g.1), (g.2) and (g.3). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1996 Amendment. Act 20 amended subsec. (a) and deleted subsec. (f).

Suspension by Court Rule. Section 4352(d) was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(5), as amended May 31, 2000, insofar as it is inconsistent with Rule 1910.22 providing that overdue support on public record at the domestic relations section constitutes a lien of record against all real property within the state of Pennsylvania which is owned by the obligor.

Section 4352(d.1) was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(6), as amended May 31, 2000, only insofar as subsection (d.1)(1) provides that the underlying support action shall either be pending at the county domestic relations section or shall be enforced by the county domestic relations section in order for a lien to arise to arise against real property located in that county.

References in Text. Division 9 of Title 13, referred to in subsec. (d), was repealed and added by the act of June 8, 2001 (P.L.123, No.18). Present Division 9 relates to secured transactions.

The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (d.1)(4), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 4353. Duty to report.

(a) Notice of changes affecting support.--An individual who is a party to a support proceeding shall notify the domestic relations section, the department and the other parties in writing or by personal appearance within seven days of any material change in circumstances relevant to the level of support or the administration of the support order, including, but not limited to:

- (1) change of employment; and
- (2) change of personal address or change of address of any child receiving support.

(a.1) Delivery.--In any subsequent child support enforcement action between the parties, upon sufficient showing that due diligence has been made to ascertain the location of a party, the court or the department may deem due process requirements for notice and service of process to be met with respect to the party upon delivery of written notice to the most recent residential address or employer address filed with the domestic relations section or the department pursuant to subsection (a).

(a.2) Notice of location information.--Each party to a support proceeding shall file with the domestic relations section and the department, and update as appropriate, information on the location and identity of the party, including Social Security number, residential and mailing addresses, telephone numbers, driver's license number and name, address and telephone number of employer.

(b) Failure to give notice.--Willful failure to comply with this section may be adjudged in contempt of court pursuant to section 4345 (relating to contempt for noncompliance with support order).

(Mar. 25, 1988, P.L.296, No.35, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 amended subsec. (a) and added subsecs. (a.1) and (a.2). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4354. Willful failure to pay support order.

(a) Offense defined.--An individual who willfully fails to comply with a support order of a court of this Commonwealth when the individual has the financial ability to comply with the support order commits an offense.

(b) Application.--This section applies to all support cases, whether civil or criminal and whether the defendant is married, unmarried, separated or divorced.

(c) Jurisdiction.--Exclusive original jurisdiction of a proceeding under this section is vested in the courts of common pleas of this Commonwealth.

(d) Grading.--

- (1) Except as otherwise provided for in paragraph (2), an offense under this section shall constitute a summary offense.

(2) An offense shall be graded a misdemeanor of the third degree if the individual convicted of the offense established residence outside this Commonwealth with the intention of not complying with the support order and either of the following apply:

(i) the offense is a second or subsequent offense under this section; or

(ii) the individual owes support in an amount equal to or greater than 12 months of the monthly support obligation.

(e) Costs and expenses to be borne by individual.--An individual convicted of an offense under this section who is apprehended outside this Commonwealth shall, in addition to any other sentence imposed, be sentenced to pay the costs and expenses of rendition.

(Mar. 25, 1988, P.L.296, No.35, eff. imd.; Oct. 9, 2008, P.L.1384, No.104, eff. 60 days)

§ 4355. Denial or suspension of licenses.

(a) General rule.--Except as provided in subsection (d.1), where the domestic relations section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation or where an individual has failed to comply with a visitation or partial custody order pursuant to section 4346 (relating to contempt for noncompliance with visitation or partial custody order) or an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court, the domestic relations section or the department shall issue an order directing any licensing authority to:

(1) prohibit the issuance or renewal of a license of the obligor or other individual; or

(2) require the suspension of the license of the obligor or other individual.

(b) Notice to obligor or other individual.--

(1) Prior to the issuance of an order to suspend, nonrenew or deny a license, the obligor or other individual shall be given advance notice. The notice shall specify:

(i) The amount of arrears owed, if applicable.

(ii) How, when and where the notice can be contested.

(iii) That the grounds for contesting the notice shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of arrears owed or mistaken identity of the obligor.

(iv) That an order to the licensing authority to automatically suspend, nonrenew or deny the license will occur in all cases 30 days after issuance of the notice unless the arrearage is paid, a periodic payment schedule is approved by the court or the individual is excused from the failure to comply with the warrant or subpoena.

(2) The Supreme Court shall by general rule provide a procedure for the court or disciplinary board to deny, suspend or not renew the license of an attorney who owes past due support in a manner comparable to the procedures set forth in this section.

(c) Order.--

(1) Thirty days after the issuance of the notice, if the obligor has not paid the arrearage, entered into a court-approved periodic payment schedule or, if applicable, the obligor or other individual has not been excused from complying with the warrant or subpoena, the court, the

domestic relations section or department shall direct or cause an order to be issued to the licensing authority to suspend or deny the issuance or renewal of a license. Upon receipt, the licensing authority shall immediately comply with the order or directive. The licensing authority shall have no authority to stay implementation of the order or to hold a hearing except in cases of mistaken identity.

(2) An order providing for a periodic payment schedule shall also provide that failure to comply with the schedule shall result in the immediate suspension, nonrenewal or denial of the obligor's license.

(3) Subject to section 4377(c) (relating to appeals), to contest the order, the obligor or other individual must appear before the domestic relations section not later than ten days after issuance of the order. The grounds for contesting shall be limited to mistakes of fact. If, as determined by the domestic relations section, a mistake of fact has occurred, the action shall be modified accordingly within ten days.

(d) Reinstatement or issuance of license.--Where an order or directive has been issued pursuant to subsection (c) and the obligor has satisfied the arrearage or entered into a court-approved payment plan or, if applicable, the obligor or other individual has been excused from the failure to comply with the subpoena or warrant, the court, the domestic relations section or the department shall order or direct the licensing authority to reinstate or issue the license to the obligor or other individual. Upon receipt of the order, the licensing authority shall reinstate or issue the license immediately, provided that the obligor or other individual meets any and all other requirements for issuance or reinstatement.

(d.1) Special procedures for operating privilege.--

(1) Where the domestic relations section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation or where an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court, the domestic relations section or the department may issue an order directing the Department of Transportation to:

(i) prohibit the issuance or renewal of a license of the obligor or other individual; or

(ii) require the suspension of the license of the obligor or other individual.

(2) Prior to the issuance of an order to suspend, nonrenew or deny a license, the obligor or other individual shall be given advance notice. The notice shall specify:

(i) The amount of arrears owed, if applicable.

(ii) How, when and where the notice can be contested.

(iii) That the grounds for contesting the notice shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of arrears owed or mistaken identity of the obligor.

(iv) That an order to the Department of Transportation to automatically suspend, nonrenew or deny the license will occur in all cases 30 days after issuance of the notice unless the arrearage is paid, a periodic payment schedule is approved by the court or the individual is excused from the failure to comply with the warrant or subpoena.

(3) Any order issued to the Department of Transportation pursuant to this section shall be issued as agreed upon by the department and the Department of Transportation. The order may be transmitted electronically or by other methods.

(4) Upon receipt of an order or directive from a court, the domestic relations section or the department authorizing the Department of Transportation to suspend the operating privilege of an obligor or other individual, the Department of Transportation shall immediately suspend the operating privilege of that obligor or other individual. Upon receipt of an order from the court or the domestic relations section or a directive from the department authorizing the Department of Transportation to restore the operating privilege of an obligor or other individual, the Department of Transportation shall immediately restore the operating privilege of that obligor or other individual if the person complies with the provisions of 75 Pa.C.S. § 1960 (relating to reinstatement of operating privilege or vehicle registration).

(5) An insurer may not increase premiums, impose a surcharge or rate penalty, make a driver record point assignment for automobile insurance or cancel or refuse to renew an automobile insurance policy on account of a suspension under this section.

(6) There shall be no right to appeal from a suspension under this section pursuant to 75 Pa.C.S. § 1550 (relating to judicial review). Subject to section 4377(c) (relating to power to expedite support cases), the sole remedy shall be to petition the court which entered the underlying support order resulting in the suspension, revocation or refusal to issue or renew the license.

(d.2) Special procedures for recreational licenses issued by Pennsylvania Game Commission.--

(1) Where the domestic relations section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation or where an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court may issue an order directing the Pennsylvania Game Commission to prohibit the issuance or renewal of a recreational license of the obligor or other individual or to require the suspension of the recreational license of the obligor or other individual.

(2) Procedures for notice of suspension, nonrenewal or denial, issuance of the appropriate order and reinstatement of a recreational license shall be in accordance with subsections (b), (c) and (d).

(3) Upon receipt of an order from a court requiring the Pennsylvania Game Commission to refuse to issue or renew or to revoke or suspend the recreational license of the obligor or other individual, the Pennsylvania Game Commission shall immediately comply with the order. Upon receipt of an order from the court authorizing the Pennsylvania Game Commission to restore the recreational license of an obligor or other individual, the Pennsylvania Game Commission shall immediately restore the recreational license of the obligor or other individual if the obligor or other individual complies with the provisions of 34 Pa.C.S. Ch. 27 (relating to hunting and furtaking licenses).

(4) There shall be no right to appeal from a refusal to issue or renew or from a revocation or suspension under this section. The sole remedy shall be to petition the court

which entered the underlying support order which resulted in the revocation, suspension or refusal to issue or renew the recreational license.

(d.3) Special procedures for licenses issued by Pennsylvania Fish and Boat Commission.--

(1) Where the domestic relations section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation or where an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court may issue an order directing the Pennsylvania Fish and Boat Commission to prohibit the issuance or renewal of a recreational license of the obligor or other individual or to require the suspension of the recreational license of the obligor or other individual.

(2) Procedures for notice of suspension, nonrenewal or denial, issuance of the appropriate order and reinstatement of a recreational license shall be in accordance with subsections (b), (c) and (d).

(3) Upon receipt of an order from a court requiring the Pennsylvania Fish and Boat Commission to refuse to issue or renew or to revoke or suspend the recreational license of the obligor or other individual, the Pennsylvania Fish and Boat Commission shall immediately comply with the order. Upon receipt of an order from the court authorizing the Pennsylvania Fish and Boat Commission to restore the recreational license of an obligor or other individual, the Pennsylvania Fish and Boat Commission shall immediately restore the recreational license of the obligor or other individual if the obligor or other individual complies with the provisions of 30 Pa.C.S. Ch. 27 (relating to fishing licenses).

(4) There shall be no right to appeal from a refusal to issue or renew or from a revocation or suspension under this section. The sole remedy shall be to petition the court which entered the underlying support order which resulted in the revocation, suspension or refusal to issue or renew the license.

(d.4) Implementation.--The department may promulgate regulations and issue directives to coordinate and carry out the provisions of this section.

(d.5) Construction.--This section shall supersede any conflicting provision in any other State law unless the provision specifically references this section and provides to the contrary.

(d.6) Immunity.--The court, the domestic relations section, the Department of Public Welfare, the Department of Transportation, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission or any employee of any of these entities or any person appointed by the Pennsylvania Game Commission or the Pennsylvania Fish and Boat Commission to issue licenses and permits pursuant to the applicable provisions of 30 Pa.C.S. (relating to fish) and 34 Pa.C.S. (relating to game) shall not be subject to civil or criminal liability for carrying out their duties under this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"License." A license, certificate, permit or other authorization to:

(1) engage in a profession, trade or business in this Commonwealth or a political subdivision or agency thereof; or

(2) operate a motor vehicle for personal or commercial purposes.

"Licensing authority." Any entity of the Commonwealth, political subdivision or agency thereof which issues a license.

"Operating privilege." The privilege to apply for and obtain a license to use as well as the privilege to use a vehicle on a highway as authorized under Title 75 (relating to vehicles).

"Recreational license." A hunting or fishing license.
(July 2, 1993, P.L.431, No.62, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 15, 1998, P.L.963, No.127, eff. imd.)

1998 Amendment. Act 127 amended subsec. (d.6). Act 127 of 1998 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1997 Amendment. Act 58 amended the section heading and subsecs. (a), (b) heading, (1) intro. par., (i) and (iv) and (2), (c)(1) and (3), (d) and (e) and added subsecs. (d.1), (d.2), (d.3), (d.4), (d.5) and (d.6). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

1993 Amendment. Act 62 added section 4355.

References in Text. Section 4346, referred to in this section, was repealed by the act of November 23, 2010 (P.L.1106, No.112).

The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 4355 is referred to in sections 4377, 5323 of this title.

SUBCHAPTER D

PROCEEDINGS AGAINST ENTIRETIES PROPERTY

Sec.

- 4361. Execution of support order against entireties property.
- 4362. Plaintiff's share of proceeds of sale.
- 4363. Trustee to distribute proceeds of sale.
- 4364. Credit to plaintiff who purchases property.
- 4365. Rights of divorced person in entireties property sold for support.
- 4366. Other enforcement remedies preserved.

Enactment. Subchapter D was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 4361. Execution of support order against entireties property.

(a) **Entry of order.**--Whenever married persons hold real property by the entireties and one spouse secures an order of court against the other spouse for the support of the plaintiff spouse or of a child of both persons or the defendant or for the support of both the plaintiff spouse and child and a copy of the order has been certified to the court of common pleas of the county in this Commonwealth in which the property is situated, the order shall be entered in that court as a judgment

with the same effect as if it had been recovered as a judgment of that court.

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

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

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

(a) General rule.--The plaintiff spouse shall be entitled, out of the proceeds of this sale, to such sums of money as represents the share in the property, based on the proportionate part of the original purchase money furnished by the plaintiff spouse for the purchase of the property.

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

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

Cross References. Section 4362 is referred to in section 4365 of this title.

§ 4363. Trustee to distribute proceeds of sale.

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

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

§ 4364. Credit to plaintiff who purchases property.

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

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

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

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

(b) **Proceeds of sale.**--Upon the sale of the real property for the collection of any sums of money due the divorced spouse under an order of court, the divorced spouse shall be entitled to receive therefrom such sum of money as represents the share of the divorced spouse in the property, as ordered by the court under section 4362 (relating to plaintiff's share of proceeds of sale), together with any sums which may be due to the divorced spouse under an order of support against the former spouse.

§ 4366. Other enforcement remedies preserved.

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

**SUBCHAPTER E
TITLE IV-D PROGRAM AND RELATED MATTERS**

Sec.

- 4371. Definitions.
- 4372. Establishment of Title IV-D program.
- 4373. Administration of Title IV-D program.
- 4374. State disbursement unit.
- 4375. Access to records.
- 4376. Central registry.
- 4377. Power to expedite support cases.
- 4378. Assistance recipients to seek support.
- 4379. Cooperation required.
- 4380. Enforcement of cooperation requirements.
- 4381. Garnishment of wages of Commonwealth employees.

Enactment. Subchapter E was added December 16, 1997, P.L.549, No.58, effective January 1, 1998.

Suspension by Court Rule. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4371. Definitions.

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

"Assistance." Cash assistance, medical assistance or designated services provided under Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Legally responsible relative." Effective January 1, 1997, a spouse and a parent for an unemancipated minor child.

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

References in Text. The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 4372. Establishment of Title IV-D program.

(a) Designation of Title IV-D agency.--The department is the Title IV-D State agency. The department shall create a single and separate organizational unit which shall be responsible for developing and implementing, subject to the approval of the secretary, a federally approved State plan for child support.

(b) Implementation of Title IV-D requirements.--The department shall construe and implement this subchapter in order to comply with Title IV-D of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.). The department shall take all steps necessary to implement a federally approved State plan for child support. The department may issue regulations and orders necessary to implement a federally approved State plan for child support. The department may issue interim regulations if Federal law or regulations supersede existing statutes, regulations or court rules.

§ 4373. Administration of Title IV-D program.

(a) Parent locator service.--The department shall maintain a parent locator service for the purpose of establishing parentage, for establishing, setting the amount of, modifying or enforcing child support, establishing or enforcing visitation or custody orders and locating legally responsible relatives. The locator services shall utilize all sources of information and legally available records. In addition, the department shall utilize the parent locator service of the Federal Government pursuant to Federal law and shall only make disclosures of information to individuals as provided by Federal law.

(b) Cooperative agreements.--The department shall undertake, either directly or pursuant to cooperative arrangements with appropriate counties, courts or law enforcement officials, including domestic relations sections, to do all of the following:

(1) Establish paternity of children with respect to whom assistance has been received.

(2) Secure support for children under paragraph (1) from a legally responsible relative.

(3) Determine whether the applicant or recipient is cooperating in good faith with matters set forth in section 4379 (relating to cooperation required).

(4) Notify the applicant or recipient of each noncooperation determination and the basis for such determination.

(5) Make available child support and paternity determination services to any individual not receiving assistance to the extent required by Federal law and upon application submitted to the department on forms provided by the department, the payment of any application fee established by the department and the agreement to pay costs in excess of any fee out of any recovery made by the department.

(c) Incentive payments.--The department shall make incentive payments to political subdivisions and other states consistent

with Federal law whenever the political subdivision or other state enforces or collects support payable to the department.

§ 4374. State disbursement unit.

(a) Establishment.--The department shall establish and operate a State disbursement unit for collection and disbursement of payments on child support orders consistent with Federal law. The State disbursement unit shall also monitor support orders for enforcement action consistent with Federal law. At the option of the department, the domestic relations sections may be linked into the State disbursement unit and perform some or all of the functions thereof.

(b) Collections and disbursements.--The department may require that such collections and disbursements of support as the department may specify, including those related to persons not receiving public assistance, be processed through the State disbursement unit.

(1) The State disbursement unit shall use automated procedures, electronic processes and computer technology to the maximum extent feasible, efficient and economical for the collection and disbursement of support payments.

(2) If an employer is ordered to withhold income from more than one obligor to pay child support and employs 15 or more persons, the employer shall make payments to the State disbursement unit through electronic payment methods.

(3) If an employer has a history of two or more checks returned for nonsufficient funds, the employer shall make payments to the State disbursement unit through electronic funds transfer.

(4) An employer that is not required to make payments to the State disbursement unit in accordance with this subsection may voluntarily remit support payments through electronic funds transfer to the State disbursement unit.

(b.1) Penalty.--The department may impose a civil penalty of up to \$1,000 per violation, following notice and hearing, upon an employer who willfully fails to comply with the electronic funds transfer payment provisions of this section.

(c) Allocation of collections.--Subject to subsections (d), (e), (f) and (f.1), support collected on behalf of a family shall be distributed as follows:

(1) In the case of a family receiving cash assistance from the Commonwealth:

(i) First, from the amount of current support collected, pass through to the assistance group the first \$100 per month for one child or the first \$200 per month for two or more children or the first \$50 per month for spousal support, without decreasing the amount of cash assistance, provided, however, that in no event may any assistance group be paid more than one support pass-through payment per month.

(ii) Second, calculate the Federal Government's share of the remaining amount collected.

(iii) Third, pay the Federal Government's share and retain the remainder of the amount collected to reimburse the Commonwealth until the amount equals the amount of unreimbursed cash assistance paid to the assistance group.

(iv) Fourth, pay to the assistance group any amounts collected in excess of the amounts distributed or retained under subparagraphs (i), (ii) and (iii).

(2) In the case of a family that formerly received cash assistance from the Commonwealth:

(i) first, pay to the family the current support collected that does not exceed the court-ordered amount to be paid in the month; and

(ii) second, treat amounts collected in excess of the current support collected as arrearages and distribute as follows:

(A) In the case of arrearages that accrued after the family ceased to receive cash assistance from the Commonwealth and which are collected after October 1, 1998:

(I) first, pay the family up to the amount of arrearages that accrued after the family ceased to receive cash assistance from the Commonwealth;

(II) second, treat the balance as reimbursement of assistance in an amount not to exceed the total amount of unreimbursed cash assistance paid to the family and:

(a) pay an amount equal to the Federal share of the reimbursed amount to the Federal Government; and

(b) retain for the Commonwealth an amount equal to the non-Federal share of the reimbursed amount; and

(III) third, pay any remaining amount to the family.

(C) In the case of arrearages that accrued before the family received cash assistance from the Commonwealth and which are collected after October 1, 1998:

(I) first, pay to the family up to the amount of arrearages that accrued before the family began to receive cash assistance from the Commonwealth;

(II) second, treat the balance as reimbursement of assistance in an amount not to exceed the total amount of unreimbursed cash assistance paid to the family and:

(a) pay an amount equal to the Federal share of the reimbursed amount to the Federal Government; and

(b) retain for the Commonwealth an amount equal to the non-Federal share of the reimbursed amount; and

(III) third, pay any remaining amount to the family.

(D) In the case of arrearages that accrued while the family received cash assistance from the Commonwealth:

(I) first, treat the amount collected as reimbursement of assistance in an amount not to exceed the total amount of unreimbursed cash assistance paid to the family and:

(a) pay an amount equal to the Federal share of the reimbursed amount to the Federal Government; and

(b) retain for the Commonwealth an amount equal to the non-Federal share of the reimbursed amount; and

(II) second, pay any remaining amount to the family.

(E) Notwithstanding clauses (A) through (C), the right to any support obligation assigned to the Commonwealth as a condition of receiving cash assistance in effect on September 30, 1997, shall remain assigned after that date.

(F) Except for amounts assigned to the Commonwealth under subsection (d), beginning October 1, 1998, any support arrearages collected shall be credited as follows:

(I) first, to the period after the family ceased to receive assistance;

(II) second, to the period before the family received assistance; and

(III) third, to the period during which the family received assistance.

(3) In the case of a family that never received cash assistance from the Commonwealth, all support collections shall be paid to the family with the exception of the federally mandated \$25 annual fee collected from the custodial parent as required under section 4351(a.1) (relating to costs and fees).

(d) Retention by Commonwealth.--

(1) Arrearages collected through use of the Internal Revenue Service Tax Refund Offset Program for a family receiving cash assistance shall be retained by the Commonwealth to the extent past due support has been assigned to the department as a condition of receiving assistance. Arrearages collected through use of the Internal Revenue Service Tax Refund Offset Program for a family that formerly received cash assistance shall first be applied to the monthly support obligation, and the balance shall be applied to arrears owed the family, including assignments of arrearages that accrued before the family received assistance from the Commonwealth and that were executed between October 1, 1997, and September 30, 2009. Any remaining arrearages shall be paid to the department. The department shall pay to the Federal Government the Federal share of the amounts so retained. In no event shall the total of amounts paid to the Federal Government and retained by the department exceed the total of the amount of cash assistance paid to the family by the Commonwealth. To the extent that the amounts collected exceed the amount retained, the department shall pay the excess to the family.

(2) Notwithstanding any other provision of law, the federally mandated \$25 annual fee collected from the custodial parent as required under section 4351(a.1) shall be retained by the department.

(e) Child support, foster care children.--Notwithstanding the preceding provisions of this section, amounts collected by the department as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under Part E of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) shall:

(1) be retained by the department to the extent necessary to reimburse the Commonwealth for foster care maintenance payments made with respect to the child during such period, with appropriate reimbursement to the Federal Government to the extent of its financial participation;

(2) be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such periods

but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period, and the responsible agency may use the payment in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or part thereof available to the person responsible for meeting the child's day-to-day needs; and

(3) be retained by the department if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the Commonwealth for any past foster care maintenance payments or payments of cash assistance which were made with respect to the child and with respect to which past collections have not previously been retained.

Any balance shall be paid to the Commonwealth agency responsible for supervising the placement of the child for use by such agency in accordance with paragraph (2).

(f) Modification of distribution rules.--Notwithstanding any other provision of law, the department may modify the foregoing distribution rules when necessary to comply with Federal law.

(f.1) Distribution.--Notwithstanding any other provision of law, all child support arrears collected prior to October 1, 1998, shall be distributed in accordance with department procedures applying all of the provisions except subsection (b)(1) of section 457 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 657) as in effect on August 21, 1996.

(g) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Assistance group." The term shall have the meaning given in section 402 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Family." The term shall include the child for whom support is received, the custodial parent living with the child and any other person in the same assistance group as the child.
(Dec. 15, 1998, P.L.963, No.127, eff. imd.; July 7, 2006, P.L.1055, No.109, eff. 60 days; May 13, 2008, P.L.144, No.16)

2008 Amendment. Act 16 amended subsecs. (c) and (d), effective October 1, 2008, as to subsecs. (c)(1) and (d)(1) and immediately as to the remainder of subsecs. (c) and (d). Section 5 of Act 16 provided that the amendment of subsec. (c)(3) shall apply retroactively to March 31, 2008.

2006 Amendment. Act 109 amended subsec. (b) and added subsec. (b.1).

1998 Amendment. Act 127 amended subsec. (c) and added subsec. (f.1). Section 14 of Act 127 provided that the amendment of section 4374 shall apply to all child support arrears collected on or after October 1, 1998. Act 127 of 1998 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (g), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 4374 is referred to in section 4302 of this title.

§ 4375. Access to records.

(a) Access to be granted.--The secretary or his designees in writing shall have access to all records, and the department in cooperation with all other agencies of the executive branch shall establish a single, uniform system of information clearance and retrieval. Information collected as a result of the use of tax records shall include the full name, residence or address, name and address of the employer, income and assets and the Social Security number of the noncustodial parent.

(b) Earnings records.--The Bureau of Employment Security shall provide the department with a statement of earnings clearance upon the request of the department.

(c) Motor vehicle registration information.--Upon request of the department, the Bureau of Motor Vehicles shall provide information as to all vehicles owned by the applicant or recipient.

§ 4376. Central registry.

(a) Central registry created.--A central registry of records shall be maintained in the department showing, as far as it is known, with respect to any absent parent against whom support is sought, all of the following:

- (1) The full and true name of such parent together with any known aliases.
- (2) The date and place of birth.
- (3) Physical description.
- (4) Social Security number.
- (5) Occupation and any special skills he may have.
- (6) Military status and Veterans' Administration or military service serial number.
- (7) Last known address and the date thereof.
- (8) The number of the driver's license.
- (9) Any further information that may be of assistance in locating the person or enforcing support.

(b) Information for registry.--To effectuate the purposes of this section, the department may request and shall receive from all boards or other agencies of this Commonwealth or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the Federal Government, the department and other public agencies in this State or in other states to carry out their duties to locate absent parents for the support of their children. The data to be provided from tax records shall include the full name, residence or address, name and address of the employer, income and assets and the Social Security number of the noncustodial parent. The department shall utilize the parent locator service pursuant to establishment in the Department of Health and Human Services by filing in accordance with section 453(b) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 653(b)).

(c) Certain confidential records.--Notwithstanding any other provision of law, all State and local law enforcement agencies, the Board of Probation and Parole, the Department of Corrections and the Department of Transportation shall upon request provide the department, any domestic relations section or any child support agency of the Federal Government or any state with such information regarding the location of an individual as may be contained in law enforcement, probation and parole, corrections, motor vehicle registration and operator licensing records.

(d) Limits on use.--Any records established pursuant to the provisions of this section shall be available only to public welfare offices, district attorneys, probation departments,

domestic relations sections, Federal agencies and the agencies of other states conducting activities under Title IV-D of the Social Security Act and courts having jurisdiction in support or abandonment proceedings or actions and only for the purposes for which the records have been established.

§ 4377. Power to expedite support cases.

(a) Administrative powers.--The department shall have Statewide jurisdiction to issue the following administrative orders to expedite the establishment and enforcement of support on behalf of any assistance recipient or nonrecipient receiving Title IV-D services:

(1) To order any individual to submit to genetic testing for the purpose of paternity establishment.

(2) To issue administrative subpoenas against any entity within this Commonwealth, including for-profit, not-for-profit and governmental employers, to require production of information regarding the employment, compensation and benefits of any individual employed by such entity as an employee or contractor.

(3) To access records of all State and local government agencies, including vital statistic records (including records of marriage, birth and divorce), State and local tax and revenue records (including information on residence address, employer, income and assets), records of real and titled personal property, records of occupational and professional licenses, records of the ownership and control of corporations, partnerships and other business entities, employment security records, records of agencies administering public assistance programs, motor vehicle records, probation and parole records and corrections records.

(4) To issue administrative subpoenas for the records of public utilities and cable television companies with respect to individuals who owe or are owed support or against whom or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of their employers.

(5) To issue administrative subpoenas for the records held by financial institutions with respect to individuals who owe or are owed support or against whom or with respect to whom a support obligation is sought.

(6) To issue administrative subpoenas for financial or other information needed to establish, modify or enforce a support order.

(7) To issue orders directing an obligor or other payor to change the payee of a support order.

(8) To order income withholding.

(9) To increase the amount of monthly support payments for the payment of arrearages, as may be provided by general rule.

(10) To issue administrative orders in cases where there is a support arrearage to secure assets to satisfy any current support obligation and the arrearage by:

(i) Intercepting or seizing periodic or lump sum payments from a government agency, including unemployment compensation, workers' compensation and other benefits.

(ii) Intercepting or seizing judgments or settlements.

(iii) Attaching and seizing assets of the obligor held in financial institutions.

(iv) Attaching public and private retirement funds.

(v) Imposing liens on property.

(vi) Directing the sheriff to levy and sell other real or personal property.

(11) To transmit to another state, electronically or by other methods, a request for assistance in a case involving the enforcement of a support order containing sufficient information as will enable the state to which the request is transmitted to compare the information to the information in the data bases of the state. The transmittal shall serve as a certification of arrears and a certification that the state has complied with all procedural due process requirements applicable to the case.

(12) To respond to a request for assistance received from another state. The response, which may be transmitted electronically or by other methods, shall confirm the receipt of the request, the action taken and the amount of support collected and specify any additional information or action required of the requesting tribunal to obtain enforcement of the child support obligation.

(13) To prohibit the issuance or renewal of a license of an obligor or other individual under section 4355(a) (relating to denial or suspension of licenses) or to require the suspension of the license of an obligor or other individual pursuant to section 4355(d.1).

(b) Enforcement authority.--The department may administratively assess a civil penalty of up to \$5,000 per violation upon any person or entity that fails to comply with an order, subpoena or request for information issued under subsection (a). The department may make application to any court of common pleas or to the Commonwealth Court for purposes of enforcing any subpoena or final administrative order.

(c) Appeals.--Any person aggrieved by an action of the department under this section shall have a right to appeal. An appeal of an action under subsection (a) shall be taken to an independent hearing officer designated by the department unless the appellant is challenging the validity or amount of the underlying support obligation, in which case the court having jurisdiction over the support obligation shall hear the appeal. An appeal from imposition of a civil penalty imposed under subsection (b) must be taken to the Bureau of Hearing and Appeals in the department. An appeal which is filed in the wrong tribunal shall be transferred to the correct tribunal. If no appeal is timely filed from the department action or under subsection (a) or (b), the department's action or order shall be final. An action or order of the department under this section shall remain in effect pending any appeal unless stayed for good cause shown.

(d) Immunity.--The department and its employees shall be immune from civil or criminal liability for any good faith action taken under this section. The immunity provided by this subsection shall not apply to any individual who intentionally misuses the authority of the department for a purpose other than securing the lawful establishment or enforcement of support.

(Dec. 15, 1998, P.L.963, No.127, eff. imd.)

1998 Amendment. Act 127 added subsec. (a)(13). Act 127 of 1998 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 4377 is referred to in section 4355 of this title.

§ 4378. Assistance recipients to seek support.

(a) Seeking support required.--Prior to authorization, every applicant for assistance whose circumstances include the reported absence of a legally responsible relative from the household or the presence of a putative father shall appear before the domestic relations section or other applicable division of the court of common pleas. Upon the request of a family court or domestic relations section, the secretary is authorized to waive the requirement of personal appearance before a family court or domestic relations section if another procedure would be as efficient and effective. Subject to Federal approval, only when necessary, assistance shall not be authorized by the department until it has been certified that the applicant has cooperated in determining paternity and enforcing support.

(b) Assignment.--Acceptance of assistance shall operate as an assignment to the department, by operation of law, of the assistance recipient's rights to receive support on his or her own behalf and on behalf of any family member with respect to whom the recipient is receiving assistance. Such assignment shall be effective only up to the amount of assistance received during the period that a family receives assistance. The assignment shall exclude arrears that accrued prior to receipt of assistance. The assignment shall take effect at the time that the recipient is determined to be eligible for assistance. Upon termination of assistance payments, the assignment of support rights shall terminate, provided that any amount of unpaid support obligations shall continue as an obligation to and collectible by the department to the extent of any unreimbursed assistance consistent with Federal law. Immediately upon receipt of notification from the department that a recipient has been determined to be eligible for assistance, the clerks of the appropriate courts of the Commonwealth shall transmit any and all support payments that they thereafter receive on behalf of such assistance recipients to the department. Such clerks shall continue transmitting such support payments until notified by the department that it is no longer necessary to do so. While the recipient is receiving assistance, any such support payments made to or on behalf of the assistance recipient shall be allocated to any amount due the department as assignee of the recipient's support rights consistent with Federal law. The assistance recipient shall be deemed to have appointed the department as his attorney-in-fact to endorse over to the department any and all drafts, checks, money orders or other negotiable instruments submitted for payment of support due during the time the recipient is receiving assistance on behalf of himself, herself or any family member.

(c) Standing.--An applicant or recipient shall have standing to commence an action to obtain support for any child with respect to whom the applicant or recipient claims assistance. (May 13, 2008, P.L.144, No.16, eff. Oct. 1, 2009)

2008 Amendment. Act 16 amended subsec. (b).

§ 4379. Cooperation required.

In accordance with a child support plan approved by the Federal Government, the department shall have the power and its duty shall be to:

(1) Require as a condition of eligibility for assistance that an applicant or recipient:

(i) Furnish his or her Social Security account number or, to the extent permitted by Federal law, proof of making application for a Social Security account

number if the applicant or recipient has no Social Security account number.

(ii) Assign to the department on forms provided by the department such support rights as the applicant or recipient may have individually or on behalf of any family member who is a part of the assistance group.

(iii) Cooperate with the department in establishing the paternity of a child with respect to whom assistance is claimed unless the department determines that the applicant or recipient has good cause for failing to do so.

(iv) Cooperate in obtaining support payments for such applicant or recipient and for a child with respect to whom such assistance is claimed or in obtaining any other payment or property due such applicant, recipient or such child unless the department determines that the applicant or recipient has good cause for failing to do so.

(2) Require cooperation in accordance with the following:

(i) Subject to Federal approval, only when necessary, cooperation shall include, but not be limited to, taking the following actions:

(A) Identifying the parents of any child for whom assistance is sought or received, including appearing for scheduled genetic testing with the child and submitting to such testing.

(B) Keeping scheduled appointments with the department or domestic relations section.

(C) Providing truthful and accurate information and documents requested by the department or domestic relations section.

(D) Signing and returning any forms requested by the department or domestic relations section.

(E) Appearing as a witness and providing testimony at judicial and other hearings as requested by the domestic relations section.

(F) Paying to the department any support payment received directly from an absent parent after an assignment of support has been made.

(ii) Failure of the mother to identify by name the father of a child shall create a presumption of noncooperation which may be rebutted only by clear and convincing evidence.

(iii) Subject to Federal approval, if the applicant or recipient provides the names of two putative fathers subsequently excluded from paternity by genetic testing, the second exclusion shall create a presumption of noncooperation, which may be rebutted only by clear and convincing evidence.

Cross References. Section 4379 is referred to in sections 4373, 4380 of this title.

§ 4380. Enforcement of cooperation requirements.

(a) Cooperation required.--It is essential to the effective and responsible utilization of assistance funds that applicants and recipients who are caretakers of a child whose circumstances include the reported absence of a legally responsible relative from the household or presence of a putative father cooperate fully with the department and the court or domestic relations section in establishing paternity and in securing child support

payments and in all matters set forth in section 4379 (relating to cooperation required).

(b) Procedures.--

(1) Upon application for assistance, each applicant or recipient shall be notified that his or her cooperation in the matters set forth in section 4379 shall be required as a condition of eligibility and that failure to cooperate will result in the termination of medical assistance and the reduction of the cash assistance allowance in an amount equal to not less than 25% and may, if provided by departmental regulation, result in the imposition of protective payments for any child in whose behalf the applicant or recipient seeks assistance.

(2) If the department or domestic relations section, as applicable, determines that the applicant or recipient fails to cooperate as set forth in section 4379, unless the failure to cooperate was for good cause, the applicant or recipient shall be notified of the noncooperation determination and the basis for the noncooperation determination. The department shall notify the applicant or recipient in writing of the termination of medical assistance eligibility for the applicant or recipient, the reduction of the cash assistance allowance equal to not less than 25% and, if applicable, that protective payments will be imposed for any child so affected ten days after the date of notice. At the expiration of the ten-day period, the department shall impose the termination of medical assistance, the assistance allowance reduction and, if applicable, protective payments. Any hearing or appeal with respect to the notice of noncooperation issued by the department shall be conducted in accordance with the department's regulations governing an applicant's or a recipient's right to hearings.

(3) Subject to Federal approval, only when necessary, if after notice and opportunity for hearing the court or domestic relations section determines that the applicant or recipient failed to cooperate as set forth in section 4379 and lacked reasonable excuse for such failure, the court shall notify the applicant or recipient and the department of the basis of the noncooperation determination and order the department to impose a sanction for noncooperation. The department shall issue a notice to the applicant or recipient to terminate medical assistance eligibility, reduce the assistance allowance by not less than 25% and, if applicable, impose a protective payment for any child so affected. The department shall implement the order of the court within ten days of receipt. Any hearing or appeals with respect to the recommendation and order of noncooperation directed by the court shall be conducted by the court in accordance with the Pennsylvania Rules of Civil Procedure as may be promulgated by the Supreme Court governing actions for support. The decision to hold hearings for noncooperation cases shall be at the option of the court or domestic relations section. If the court or domestic relations section chooses not to conduct the hearings on noncooperation, appropriate court or domestic relations section personnel shall be available to provide testimonial evidence by telephone testimony at the time and location set by the department for the departmental appeal hearing. A finding of noncooperation of an applicant or recipient shall not affect an obligor's duty to pay support.

§ 4381. Garnishment of wages of Commonwealth employees.

Notwithstanding any other provision of law, moneys due from or payable by the Commonwealth, including any agency, instrumentality or authority thereof, due to any individual shall be subject, in like manner and to the same extent as if the Commonwealth were a private person, to legal process brought for the enforcement against such individual of his legal obligations to provide support for a child or spouse.

SUBCHAPTER F

NEW HIRE REPORTING

Sec.

- 4391. Definitions.
- 4392. Employer reporting.
- 4393. Use of information.
- 4394. Guidelines.
- 4395. Confidentiality.
- 4396. Penalties.

Enactment. Subchapter F was added December 16, 1997, P.L.549, No.58, effective January 1, 1998.

Suspension by Court Rule. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 4391. Definitions.

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

"Date of hire." The first day an employee performs services for remuneration.

"Employee." An individual who is an employee within the meaning of Chapter 24 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 3401 et seq.). The term shall not include an employee of a Federal or State agency performing intelligence or counterintelligence functions if the head of the agency has determined that reporting the information required by this section with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"Employer." The term has the meaning given in section 3401(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 3401(d)) and includes any government agency and any labor organization.

"Newly hired employee." The term includes:

- (1) a new employee; and
- (2) a rehired former employee who was:
 - (i) laid off, furloughed, separated or granted leave without pay for more than 30 days; or
 - (ii) terminated from employment.

§ 4392. Employer reporting.

(a) General rule.--For purposes of enhancing child support enforcement activities, including the location of individuals, the establishment of paternity and the enforcement of child support obligations pursuant to this subchapter, a Commonwealth directory of new hires shall be established within the Department of Labor and Industry.

(b) Duty of employer.--Except as provided in subsection (c), each employer doing business in this Commonwealth shall provide the following information regarding a newly hired

employee to the Commonwealth directory of new hires: name; home address; Social Security number; date of hire; the employer's name and address; the identifying number assigned to the employer under section 6109 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 6109); and the name and telephone number of an employer contact. The information may be submitted on a form provided by the Department of Labor and Industry or by attaching the date of hire and name and telephone number of an employer contact to the W-4 form submitted for the newly hired employee. The information may be transmitted by first class mail, magnetically, electronically or by another method authorized by the directory of new hires.

(c) Employees in two or more states.--An employer that employs individuals in two or more states and that transmits reports magnetically or electronically may comply with subsection (b) by designating one of its offices located in a state in which the employer has employees to send the required report to the Commonwealth directory of new hires. An employer that transmits reports pursuant to this subsection shall notify the Commonwealth directory of new hires and the United States Secretary of Health and Human Services in writing as to which state such employer has designated to send the report required under subsection (b). If the Commonwealth is so designated, the employer shall transmit information in accordance with this subchapter, including the newly hired employee's state of hire, and shall comply with all procedures adopted under this subchapter.

(d) Time for submission.--The information required under subsection (b) shall be submitted by the employer to the Commonwealth directory of new hires no later than 20 days from the date of hire of a newly hired employee. In the case of a magnetic or electronic transmission of the information, the employer may comply by making two monthly transmissions not less than 12 days nor more than 16 days apart.

Cross References. Section 4392 is referred to in section 4326 of this title.

§ 4393. Use of information.

(a) Access to information.--The domestic relations sections and the department shall have access to all information required under this subchapter for purposes of locating individuals, establishing paternity and establishing, modifying and enforcing child support obligations. The domestic relations sections and the department may disclose such information to its employees, agents and contractors solely for the purposes set forth in this subsection.

(b) Department access to information.--The department shall have access to the information received by the Commonwealth directory of new hires for purposes of verifying eligibility for programs administered by the department.

(c) Other programs.--In addition to child support enforcement, the information received by the Commonwealth directory of new hires may be utilized by the Department of Labor and Industry for purposes of administering the workers' compensation and unemployment compensation programs, including fraud detection, and to develop labor market information for economic and work force development in this Commonwealth.

(d) National directory.--Information included in the Commonwealth directory of new hires shall be provided to the National Directory of New Hires and as otherwise required by Federal law.

§ 4394. Guidelines.

The Department of Labor and Industry shall develop guidelines for employers to use to determine if an individual qualifies as an employee under this subchapter.

§ 4395. Confidentiality.

All information received pursuant to this subchapter shall be confidential and shall be used only for the purposes set forth herein. A person commits a summary offense if he or she discloses information received pursuant to this subchapter to an unauthorized person or for an unauthorized purpose and shall be subject to a civil penalty of up to \$250 per offense.

§ 4396. Penalties.

An employer that fails to report pursuant to this subchapter may be provided a written warning for the first violation and is subject to a civil penalty of up to \$25 for each violation which is subsequent to the warning. The civil penalty shall be payable to the Department of Labor and Industry. If the failure to report or the submission of a false report is the result of a conspiracy between the employer and the employee, the employer shall be subject to a civil penalty of up to \$500.

CHAPTER 45
RECIPROCAL ENFORCEMENT OF
SUPPORT ORDERS
(Repealed)

1996 Repeal. Chapter 45 (§§ 4501 - 4540) was added October 30, 1985, P.L.264, No.66, and repealed April 4, 1996, P.L.58, No.20, effective immediately. The subject matter is now contained in Parts VIII and VIII-A of this title.

CHAPTER 46
SUPPORT OF THE INDIGENT

Sec.

- 4601. Scope of chapter.
- 4602. Definitions.
- 4603. Relatives' liability; procedure.
- 4604. Property liable for expenses.
- 4605. Recovery of money.
- 4606. Guardian.

Enactment. Chapter 46 was added July 7, 2005, P.L.196, No.43, effective immediately.

Special Provisions in Appendix. See section 4 of Act 43 of 2005 in the appendix to this title for special provisions relating to continuation of prior law.

§ 4601. Scope of chapter.

This chapter relates to support of indigent persons.

§ 4602. Definitions.

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:

"Court." A court of common pleas and the Philadelphia Municipal Court.

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

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

§ 4603. Relatives' liability; procedure.

(a) Liability.--

(1) Except as set forth in paragraph (2), all of the following individuals have the responsibility to care for and maintain or financially assist an indigent person, regardless of whether the indigent person is a public charge:

- (i) The spouse of the indigent person.
- (ii) A child of the indigent person.
- (iii) A parent of the indigent person.

(2) Paragraph (1) does not apply in any of the following cases:

- (i) If an individual does not have sufficient financial ability to support the indigent person.
- (ii) A child shall not be liable for the support of a parent who abandoned the child and persisted in the abandonment for a period of ten years during the child's minority.

(b) Amount.--

(1) Except as set forth in paragraph (2), the amount of liability shall be set by the court in the judicial district in which the indigent person resides.

(2) For medical assistance for the aged other than public nursing home care, as provided in section 401 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, the following apply:

(i) Except as set forth in subparagraph (ii), the amount of liability shall, during any 12-month period, be the lesser of:

(A) six times the excess of the liable individual's average monthly income over the amount required for the reasonable support of the liable individual and other persons dependent upon the liable individual; or

(B) the cost of the medical assistance for the aged.

(ii) The department may, by reasonable regulations, adjust the liability under subparagraph (i), including complete elimination of the liability, at a cost to the Commonwealth not exceeding those funds certified by the Secretary of the Budget as available for this purpose.

(c) Procedure.--A court has jurisdiction in a case under this section upon petition of:

- (1) an indigent person; or
- (2) any other person or public body or public agency having any interest in the care, maintenance or assistance of such indigent person.

(d) Contempt.--

(1) If an individual liable for support under this section fails to comply with an order under this section, the court shall schedule a contempt hearing. At the hearing, if the court determines that the individual liable for support has intentionally failed to comply with the order, the court may hold the individual in contempt of court and may sentence the individual to up to six months' imprisonment.

(2) This subsection applies regardless of whether the indigent person is confined in a public institution.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (b), was amended by the act of December 28,

2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 4604. Property liable for expenses.

(a) General rule.--Except as limited by subsection (c), the following apply:

(1) Subject to paragraph (2), the personal property of an indigent person shall be liable for the expenses incurred by a public body or public agency for the support, maintenance, assistance and burial of:

- (i) the indigent person;
- (ii) the spouse of the indigent person; and
- (iii) each unemancipated child of the indigent person.

(2) Paragraph (1) applies to personal property if:

- (i) the property was owned during the time the expenses were incurred; or
- (ii) during the time the expenses were incurred, there existed a cause of action which resulted in the ownership of the property.

(b) Suit.--

(1) A public body or public agency may sue the owner of property referred to in this subsection for money expended.

(2) Except as set forth in paragraph (3) or subsection (c), the following apply:

(i) A judgment obtained under this subsection shall be a lien upon the estate of the defendant and may be collected as other judgments.

(ii) A claim under this section shall have the force and effect against the real and personal estate of a deceased person as other debts of a decedent and shall be ascertained and recovered in the same manner.

(3) Paragraph (2)(i) does not apply to the real and personal property comprising the home and furnishings of the defendant.

(c) Lien prohibited.--Except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of an individual, no lien may be imposed against the real property which is the primary residence of any individual or of the individual's spouse on account of assistance paid or to be paid on the individual's behalf.

(d) Lien against proceeds.--In order to carry out the purposes of this section, the department shall have a first lien against the proceeds of any cause of action that existed during the time an individual, his spouse or his unemancipated children received cash assistance. Unless otherwise directed by the department, no payment or distribution shall be made to a claimant or claimant's designee of the proceeds of any action, claim or settlement where the department has an interest without first satisfying or assuring the satisfaction of the interest of the Commonwealth. Any person who, after receiving notice of the department's interest, knowingly fails to comply with this subsection shall be liable to the department, and the department may sue and recover from the person.

§ 4605. Recovery of money.

(a) Recovery.--Whenever any person shall become a public charge or receive public assistance, the public body or public agency caring for or furnishing the assistance to the person may sue for and recover any sum of money which is due the person.

(b) Manner of suit.--A suit under subsection (a) shall be brought in the name of the person for the use of the public

body or public agency. Proof that the person to whom the money is due became a public charge or was publicly assisted shall be conclusive proof of the right to recover whatever may be legally due the person. If the amount due has been reduced to judgment, the public body or public agency may be substituted as plaintiff in the judgment. If the amount due is founded on an order or decree of a court, the public body or public agency shall have the right to recover the amount.

(c) Self-support.--If a person becomes self-supporting or supported by a relative or friend, any money recovered and not expended in the care or assistance of the person shall belong to the person. In the case of the person's death, money not expended for the person's care, assistance and burial shall belong to the person's estate.

§ 4606. Guardian.

(a) Petition.--Any public body or public agency caring for or assisting any indigent person may petition the court of common pleas, if the person is of full age, or the orphans' court, if the person is a minor, for a rule to show cause why the public body, public agency or some other person appointed by the court should not become the legal guardian of the person and property of the person. The petition shall have attached an inventory of the property of the person. The court shall schedule a hearing on the matter and shall serve notice of the hearing upon the person.

(b) Order.--After conducting a hearing pursuant to subsection (a), the court may issue an order constituting the public body, public agency or some other person, guardian of the person and the estate of the person, whether or not all of the estate was enumerated in the inventory provided under subsection (a). The proceedings and order shall be indexed in the name of the person pursuant to court rules.

(c) Discharge.--

(1) No person for whom a guardian has been appointed under this section shall be discharged from the guardianship until the person has petitioned the court for termination. The court may terminate the guardianship if it is satisfied that:

(i) the person has become able and willing to resume control of the person's own person and estate; and

(ii) the public body or public agency has been fully reimbursed for the expense of the person's care or assistance or that all of the person's estate has been expended for the reimbursement.

(2) The cost of the proceedings under this subsection shall be paid by the petitioner unless otherwise ordered by the court.

(d) Leases permitted.--Under the supervision of the appropriate court, a guardian may lease the real estate of any person for a term of years and receive and apply the proceeds of the lease to defray the expenses incurred in the care or assistance and burial of the person. The balance of the proceeds shall be paid to the person upon termination of the guardianship or to the legal representatives of the person after the person's death.

PART VI
CHILDREN AND MINORS

Chapter

51. General Provisions

- 52. Uniform Child Abduction Prevention
- 53. Child Custody
- 54. Uniform Child Custody Jurisdiction and Enforcement
- 55. Liability for Tortious Acts of Children
- 56. Standby Guardianship
- 57. Sex Trafficking and Missing and Abducted Children

Enactment. Unless otherwise noted, Part VI was added October 30, 1985, P.L.264, No.66, effective in 90 days.

CHAPTER 51

GENERAL PROVISIONS

Sec.

- 5101. Attainment of full age.
- 5102. Children declared to be legitimate.
- 5103. Acknowledgment and claim of paternity.
- 5104. Blood tests to determine paternity.
- 5105. Fingerprinting of children.

Enactment. Chapter 51 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 5101. Attainment of full age.

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

(b) **Age for suing and being sued.**--Except where otherwise provided or prescribed by law, an individual 18 years of age and older shall be deemed an adult and may sue and be sued as such.

§ 5102. Children declared to be legitimate.

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

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

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

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

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

§ 5103. Acknowledgment and claim of paternity.

(a) **Acknowledgment of paternity.**--The father of a child born to an unmarried woman may file with the Department of Public Welfare, on forms prescribed by the department, an acknowledgment of paternity of the child which shall include the consent of the mother of the child, supported by her witnessed statement subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). In such case, the father shall have all the rights and duties as to the child which he would have had if he had been married to the mother at the time

of the birth of the child, and the child shall have all the rights and duties as to the father which the child would have had if the father had been married to the mother at the time of birth. The hospital or other person accepting an acknowledgment of paternity shall provide written and oral notice, which may be through the use of video or audio equipment, to the birth mother and birth father of the alternatives to, the legal consequences of and the rights and responsibilities that arise from, signing the acknowledgment.

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

(c) Duty of hospital or birthing center.--Upon the birth of a child to an unmarried woman, an agent of the hospital or birthing center where the birth occurred shall:

(1) Provide the newborn's birth parents with an opportunity to complete an acknowledgment of paternity. The completed, signed and witnessed acknowledgment shall be sent to the Department of Public Welfare. A copy shall be given to each of the birth parents. This acknowledgment shall contain:

(i) A signed, witnessed statement subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) by the birth mother consenting to the acknowledgment of paternity.

(ii) A signed, witnessed statement subject to 18 Pa.C.S. § 4904 by the birth father acknowledging his paternity.

(iii) A written explanation of the parental duties and parental rights which arise from signing such a statement.

(iv) The Social Security numbers and addresses of both birth parents.

(2) Provide written information, furnished by the department to the birth mother and birth father, which explains the benefits of having the child's paternity established, the availability of paternity establishment services and the availability of child support enforcement agencies.

(d) Conclusive evidence.--Notwithstanding any other provision of law, an acknowledgment of paternity shall constitute conclusive evidence of paternity without further judicial ratification in any action to establish support. The court shall give full faith and credit to an acknowledgment of paternity signed in another state according to its procedures.

(e) Transfer.--The Department of Health shall transfer to the Department of Public Welfare all acknowledgments or claims of paternity filed with the Department of Health under prior statutes.

(f) Certifications.--The Department of Public Welfare shall provide necessary certifications under Part III (relating to adoption) as to whether any acknowledgment or claim of paternity has been filed in regard to any child who is a prospective adoptive child.

(g) Rescission.--

(1) Notwithstanding any other provision of law, a signed, voluntary, witnessed acknowledgment of paternity

subject to 18 Pa.C.S. § 4904 shall be considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of the following:

- (i) sixty days; or
- (ii) the date of an administrative or judicial proceeding relating to the child, including, but not limited to, a domestic relations section conference or a proceeding to establish a support order in which the signatory is a party.

(2) After the expiration of the 60 days, an acknowledgment of paternity may be challenged in court only on the basis of fraud, duress or material mistake of fact, which must be established by the challenger through clear and convincing evidence. An order for support shall not be suspended during the period of challenge except for good cause shown.

(h) Penalties for noncompliance.--The department may impose a civil penalty not to exceed \$500 per day upon a hospital or birthing center which is not in compliance with the provisions of this section. A penalty under this subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(i) Status of father.--The name of the father shall be included on the record of birth of the child of unmarried parents only if one of the following applies:

(1) The father and mother have signed a voluntary acknowledgment of paternity.

(2) A court or administrative agency of competent jurisdiction has issued an adjudication of paternity.
(July 2, 1993, P.L.431, No.62, eff. 90 days; Dec. 16, 1994, P.L.1286, No.150, eff. imd.; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 15, 1998, P.L.963, No.127, eff. imd.)

1998 Amendment. Act 127 amended subsec. (a).

1997 Amendment. Act 58 amended subsecs. (a), (c) and (d) and added subsecs. (g), (h) and (i).

1994 Amendment. Act 150 amended subsecs. (a) and (b) and added subsecs. (d), (e) and (f). Section 5 of Act 150 provided that the amendment of section 5103 shall apply to all actions pending on the effective date of Act 150.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 5103 is referred to in sections 2503, 2504, 2513, 7201 of this title.

§ 5104. Blood tests to determine paternity.

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

(b) Scope of section.--

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

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

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

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

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

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

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

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

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

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

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

§ 5105. Fingerprinting of children.

Notwithstanding the provisions of 54 Pa.C.S. § 702(b) (relating to change by order of court), a child who is 12 years of age or younger shall not be required to submit a set of fingerprints for the purpose of a name change under 54 Pa.C.S. Ch. 7 (relating to judicial change of name).
(Dec. 15, 1998, P.L.963, No.127, eff. imd.)

1998 Amendment. Act 127 added section 5105.

CHAPTER 52
UNIFORM CHILD ABDUCTION PREVENTION

Sec.

- 5201. Scope of chapter.
- 5202. Definitions.
- 5203. Cooperation and communication among courts.
- 5204. Actions for abduction prevention measures.
- 5205. Jurisdiction.
- 5206. Contents of petition.
- 5207. Factors to determine risk of abduction.
- 5208. Provisions and measures to prevent abduction.
- 5209. Warrant to take physical custody of child.
- 5210. Duration of abduction prevention order.
- 5211. Uniformity of application and construction.
- 5212. Relation to Electronic Signatures in Global and National Commerce Act.

Enactment. Chapter 52 was added January 22, 2014, P.L.8, No.5, effective in 90 days.

§ 5201. Scope of chapter.

This chapter relates to uniform child abduction prevention.

§ 5202. Definitions.

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:

"Abduction." The wrongful removal or wrongful retention of a child.

"Child." An unemancipated individual who is under 18 years of age.

"Child custody determination." Any judgment, decree or other order of a court providing for the legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order.

"Child custody proceeding." A proceeding in which legal custody, physical custody or visitation with respect to a child is at issue. The term includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights or protection from domestic violence.

"Court." An entity authorized under the law of a state to establish, enforce or modify a child custody determination.

"Petition." A motion or its equivalent.

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"State." A state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or nation.

"Travel document." Records relating to a travel itinerary, including travel tickets, passes, reservations for transportation or accommodations. The term does not include a passport or visa.

"Wrongful removal." The taking of a child that breaches rights of custody or visitation given or recognized under the laws of this Commonwealth.

"Wrongful retention." The keeping or concealing of a child that breaches rights of custody or visitation given or recognized under the laws of this Commonwealth.

§ 5203. Cooperation and communication among courts.

Sections 5410 (relating to communication between courts), 5411 (relating to taking testimony in another state) and 5412 (relating to cooperation between courts; preservation of records) apply to cooperation and communication among courts in proceedings under this chapter.

§ 5204. Actions for abduction prevention measures.

(a) **Court.**--A court on its own motion may order abduction prevention measures in a child custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

(b) **Party.**--A party to a child custody determination or another individual or entity having a right under the laws of this Commonwealth or any other state to seek a child custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this chapter.

(c) **Prosecutors or public officials.**--A prosecutor or public authority designated under section 5455 (relating to role of prosecutor or public official) may seek a warrant to take physical custody of a child under section 5209 (relating to warrant to take physical custody of child) or other appropriate prevention measures.

§ 5205. Jurisdiction.

(a) **General rule.**--A petition under this chapter may be filed only in a court that has jurisdiction to make a child custody determination with respect to the child at issue under Chapter 54 (relating to uniform child custody jurisdiction and enforcement).

(b) **Emergency jurisdiction.**--A court of this Commonwealth has temporary emergency jurisdiction under section 5424 (relating to temporary emergency jurisdiction) if the court finds a credible risk of abduction.

§ 5206. Contents of petition.

A petition under this chapter must be verified and include a copy of any existing child custody determination, if available. The petition must specify the risk factors for abduction, including the relevant factors described under section 5207 (relating to factors to determine risk of abduction). Subject to section 5429(e) (relating to information to be submitted to court), if reasonably ascertainable, the petition must contain:

- (1) the name, date of birth and gender of the child;
- (2) the customary address and current physical location of the child;
- (3) the identity, customary address and current physical location of the respondent;
- (4) a statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child and the date, location and disposition of the action;
- (5) a statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking or child abuse or neglect and the date, location and disposition of the case; and
- (6) any other information required to be submitted to the court for a child custody determination under section 5429.

§ 5207. Factors to determine risk of abduction.

(a) **Evidence supporting risk.**--In determining whether there is a credible risk of abduction of a child, the court shall consider any evidence that the petitioner or respondent:

- (1) has previously abducted or attempted to abduct the child;
- (2) has threatened to abduct the child;
- (3) has recently engaged in activities that may indicate a planned abduction, including:
 - (i) abandoning employment;
 - (ii) selling a primary residence;
 - (iii) terminating a lease;
 - (iv) closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents or conducting any unusual financial activities;
 - (v) applying for a passport or visa or obtaining travel documents for the respondent, a family member or the child; or
 - (vi) seeking to obtain the child's birth certificate or school or medical records;
- (4) has engaged in domestic violence, stalking or child abuse or neglect;
- (5) has refused to follow a child custody determination;
- (6) lacks strong familial, financial, emotional or cultural ties to this Commonwealth or the United States;
- (7) has strong familial, financial, emotional or cultural ties to another state or country;
- (8) is likely to take the child to a country that:
 - (i) is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child;
 - (ii) is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:
 - (A) the Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country;
 - (B) according to the most recent compliance report issued by the United States Department of State, is noncompliant; or
 - (C) lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction;
 - (iii) poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children;
 - (iv) has laws or practices that would:
 - (A) enable the respondent, without due cause, to prevent the petitioner from contacting the child;
 - (B) restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status or religion; or
 - (C) restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality or religion;
 - (v) is included by the United States Department of State on a current list of state sponsors of terrorism;
 - (vi) does not have an official United States diplomatic presence in the country; or

- (vii) is engaged in active military action or war, including a civil war, to which the child may be exposed;
- (9) is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally;
- (10) has had an application for United States citizenship denied;
- (11) has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a Social Security card, a driver's license or other government-issued identification card or has made a misrepresentation to the United States Government;
- (12) has used multiple names to attempt to mislead or defraud; or
- (13) has engaged in any other conduct the court considers relevant to the risk of abduction.

(b) Good faith.--In the hearing on a petition under this chapter, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the child.

Cross References. Section 5207 is referred to in section 5206 of this title.

§ 5208. Provisions and measures to prevent abduction.

(a) Contents of discretionary orders.--If a petition is filed under this chapter, the court may enter an order that must include:

- (1) the basis for the court's exercise of jurisdiction;
- (2) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;
- (3) a detailed description of each party's custody and visitation rights and residential arrangements for the child;
- (4) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and
- (5) identification of the child's country of habitual residence at the time of the issuance of the order.

(b) Abduction prevention orders.--

(1) If, at a hearing on a petition under this chapter or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court shall enter an abduction prevention order.

(2) The order must include the provisions required by subsection (a) and measures and conditions, including those in subsections (c), (d) and (e), that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties.

(3) The court shall consider:

- (i) the age of the child;
- (ii) the potential harm to the child from an abduction;
- (iii) the legal and practical difficulties of returning the child to the jurisdiction if abducted; and
- (iv) the reasons for the potential abduction, including evidence of domestic violence, stalking or child abuse or neglect.

(c) Restrictions.--An abduction prevention order may include one or more of the following:

- (1) an imposition of travel restrictions that require that a party traveling with the child outside a designated geographical area provide the other party with the following:
 - (i) the travel itinerary of the child;
 - (ii) a list of physical addresses and telephone numbers at which the child can be reached at specified times; and
 - (iii) copies of all travel documents;
- (2) a prohibition of the respondent directly or indirectly:
 - (i) removing the child from this Commonwealth, the United States or another geographic area without permission of the court or the petitioner's written consent;
 - (ii) removing or retaining the child in violation of a child custody determination;
 - (iii) removing the child from school or a child-care or similar facility; or
 - (iv) approaching the child at any location other than a site designated for supervised visitation;
- (3) a requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state;
- (4) with regard to the child's passport:
 - (i) a direction that the petitioner place the child's name in the United States Department of State's Child Passport Issuance Alert Program;
 - (ii) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and
 - (iii) a prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;
- (5) as a prerequisite to exercising custody or visitation, a requirement that the respondent provide:
 - (i) to the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;
 - (ii) to the court:
 - (A) proof that the respondent has provided the information in subparagraph (i); and
 - (B) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made or passport issued on behalf of the child;
 - (iii) to the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parties objects; and
 - (iv) a written waiver under 5 U.S.C. § 552a (relating to records maintained on individuals), with respect to any document, application or other information

pertaining to the child authorizing its disclosure to the court and the petitioner; and

(6) upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child custody determination issued in the United States.

(d) Conditions on custody and visitation.--In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(1) limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(2) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney fees and costs if there is an abduction; and

(3) require the respondent to obtain education on the potentially harmful effects to the child from abduction.

(e) Prevention of imminent abduction.--To prevent imminent abduction of a child, a court may:

(1) issue a warrant to take physical custody of the child under section 5209 (relating to warrant to take physical custody of child) or the laws of this Commonwealth other than this chapter;

(2) direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child or enforce a custody determination under this chapter or the laws of this Commonwealth other than this chapter; or

(3) grant any other relief allowed under the laws of this Commonwealth other than this chapter.

(f) Cumulative remedies.--The remedies provided in this chapter are cumulative and do not affect the availability of other remedies to prevent abduction.

§ 5209. Warrant to take physical custody of child.

(a) Ex parte.--If a petition under this chapter contains allegations and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

(b) Hearing.--The respondent on a petition under subsection (a) must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.

(c) Requirements.--An ex parte warrant under subsection (a) to take physical custody of a child must:

(1) Recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based.

(2) Direct law enforcement officers to take physical custody of the child immediately.

(3) State the date and time for the hearing on the petition.

(4) Provide for the safe interim placement of the child pending further order of the court.

(d) Search of databases.--If feasible, before issuing a warrant and before determining the placement of the child after

the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking or child abuse or neglect.

(e) Service.--The petition and warrant must be served on the respondent when or immediately after the child is taken into physical custody.

(f) Enforcement.--

(1) A warrant to take physical custody of a child, issued by this Commonwealth or another state, is enforceable throughout this Commonwealth.

(2) If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

(g) Fees and costs.--If the court finds, after a hearing, that a petitioner sought an ex parte warrant under subsection (a) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney fees, costs and expenses.

(h) Other relief.--This chapter does not affect the availability of relief allowed under the laws of this Commonwealth other than this chapter.

Cross References. Section 5209 is referred to in sections 5204, 5208 of this title.

§ 5210. Duration of abduction prevention order.

An abduction prevention order remains in effect until the earliest of:

- (1) the time stated in the order;
- (2) the emancipation of the child;
- (3) the child's attaining 18 years of age; or
- (4) the time the order is modified, revoked, vacated or superseded by a court with jurisdiction under sections 5421 (relating to initial child custody jurisdiction), 5422 (relating to exclusive, continuing jurisdiction) and 5423 (relating to jurisdiction to modify determination) and applicable laws of this Commonwealth.

§ 5211. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 5212. Relation to Electronic Signatures in Global and National Commerce Act.

To the extent permitted by section 102 of the Electronic Signatures in Global and National Commerce Act (Public Law 106-229, 15 U.S.C. § 7002), this chapter may supersede provisions of that act.

CHAPTER 53

CHILD CUSTODY

Sec.

5321. Scope of chapter.
5322. Definitions.
5323. Award of custody.
5324. Standing for any form of physical custody or legal custody.

- 5325. Standing for partial physical custody and supervised physical custody.
- 5326. Effect of adoption.
- 5327. Presumption in cases concerning primary physical custody.
- 5328. Factors to consider when awarding custody.
- 5329. Consideration of criminal conviction.
- 5329.1. Consideration of child abuse and involvement with protective services.
- 5330. Consideration of criminal charge.
- 5331. Parenting plan.
- 5332. Informational programs.
- 5333. Counseling as part of order.
- 5334. Guardian ad litem for child.
- 5335. Counsel for child.
- 5336. Access to records and information.
- 5337. Relocation.
- 5338. Modification of existing order.
- 5339. Award of counsel fees, costs and expenses.
- 5340. Court-appointed child custody health care or behavioral health practitioners.

Enactment. Chapter 53 was added November 23, 2010, P.L.1106, No.112, effective in 60 days.

Prior Provisions. Former Chapter 53, which related to custody, was added October 30, 1985, P.L.264, No.66, and repealed November 23, 2010, P.L.1106, No.112, effective in 60 days.

Proceedings under Former Chapter 53. Section 4 of Act 112 of 2010 provided that a proceeding under the provisions of former Chapter 53 which was commenced before the effective date of section 4 shall be governed by the law in effect at the time the proceeding was initiated.

Cross References. Chapter 53 is referred to in sections 3901, 5429, 5603, 5612, 5613, 6108 of this title; section 9121 of Title 18 (Crimes and Offenses).

§ 5321. Scope of chapter.

This chapter applies to disputes relating to child custody matters.

§ 5322. Definitions.

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

"Abuse." As defined in section 6102 (relating to definitions).

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

"Agency." Any organization, society, institution, court facility or other entity which provides for the care of a child. The term does not include a county children and youth social service agency.

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

"Legal custody." The right to make major decisions on behalf of the child, including, but not limited to, medical, religious and educational decisions.

"Parental duties." Includes meeting the physical, emotional and social needs of the child.

"Partial physical custody." The right to assume physical custody of the child for less than a majority of the time.

"Physical custody." The actual physical possession and control of a child.

"Primary physical custody." The right to assume physical custody of the child for the majority of time.

"Relocation." A change in a residence of the child which significantly impairs the ability of a nonrelocating party to exercise custodial rights.

"Shared legal custody." The right of more than one individual to legal custody of the child.

"Shared physical custody." The right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child.

"Sole legal custody." The right of one individual to exclusive legal custody of the child.

"Sole physical custody." The right of one individual to exclusive physical custody of the child.

"Supervised physical custody." Custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and the individual with those rights.

(b) Other law.--In a statutory provision other than in this chapter, when the term "visitation" is used in reference to child custody, the term may be construed to mean:

- (1) partial physical custody;
- (2) shared physical custody; or
- (3) supervised physical custody.

§ 5323. Award of custody.

(a) Types of award.--After considering the factors set forth in section 5328 (relating to factors to consider when awarding custody), the court may award any of the following types of custody if it is in the best interest of the child:

- (1) Shared physical custody.
- (2) Primary physical custody.
- (3) Partial physical custody.
- (4) Sole physical custody.
- (5) Supervised physical custody.
- (6) Shared legal custody.
- (7) Sole legal custody.

(b) Interim award.--The court may issue an interim award of custody to a party who has standing under section 5324 (relating to standing for any form of physical custody or legal custody) or 5325 (relating to standing for partial physical custody and supervised physical custody) in the manner prescribed by the Pennsylvania Rules of Civil Procedure governing special relief in custody matters.

(c) Notice.--Any custody order shall include notice of a party's obligations under section 5337 (relating to relocation).

(d) Reasons for award.--The court shall delineate the reasons for its decision on the record in open court or in a written opinion or order.

(e) Safety conditions.--After considering the factors under section 5328(a)(2), if the court finds that there is an ongoing risk of harm to the child or an abused party and awards any form of custody to a party who committed the abuse or who has a household member who committed the abuse, the court shall include in the custody order safety conditions designed to protect the child or the abused party.

(f) Enforcement.--In awarding custody, the court shall specify the terms and conditions of the award in sufficient detail to enable a party to enforce the court order through law enforcement authorities.

(g) Contempt for noncompliance with any custody order.--

- (1) A party who willfully fails to comply with any custody order may, as prescribed by general rule, be adjudged in contempt. Contempt shall be punishable by any one or more of the following:

(i) Imprisonment for a period of not more than six months.

(ii) A fine of not more than \$500.

(iii) Probation for a period of not more than six months.

(iv) An order for nonrenewal, suspension or denial of operating privilege under section 4355 (relating to denial or suspension of licenses).

(v) Counsel fees and costs.

(2) An order committing an individual to jail under this section shall specify the condition which, when fulfilled, will result in the release of that individual.

(h) Parties in same residence.--Parties living separate and apart in the same residence may seek relief under this chapter, but any custody order made under such a circumstance shall be effective only upon:

(1) one party physically vacating the residence; or

(2) an order awarding one party exclusive possession of the residence.

Cross References. Section 5323 is referred to in sections 5329, 5336 of this title; section 4109 of Title 51 (Military Affairs).

§ 5324. Standing for any form of physical custody or legal custody.

The following individuals may file an action under this chapter for any form of physical custody or legal custody:

(1) A parent of the child.

(2) A person who stands in loco parentis to the child.

(3) A grandparent of the child who is not in loco parentis to the child:

(i) whose relationship with the child began either with the consent of a parent of the child or under a court order;

(ii) who assumes or is willing to assume responsibility for the child; and

(iii) when one of the following conditions is met:

(A) the child has been determined to be a dependent child under 42 Pa.C.S. Ch. 63 (relating to juvenile matters);

(B) the child is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or incapacity; or

(C) the child has, for a period of at least 12 consecutive months, resided with the grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, in which case the action must be filed within six months after the removal of the child from the home.

(4) Subject to paragraph (5), an individual who establishes by clear and convincing evidence all of the following:

(i) The individual has assumed or is willing to assume responsibility for the child.

(ii) The individual has a sustained, substantial and sincere interest in the welfare of the child. In determining whether the individual meets the requirements of this subparagraph, the court may consider, among other factors, the nature, quality, extent and length of the involvement by the individual in the child's life.

(iii) Neither parent has any form of care and control of the child.

(5) Paragraph (4) shall not apply if:

(i) a dependency proceeding involving the child has been initiated or is ongoing; or

(ii) there is an order of permanent legal custody under 42 Pa.C.S. § 6351(a)(2.1) or (f.1)(3) (relating to disposition of dependent child).

(May 4, 2018, P.L.112, No.21, eff. 60 days)

2018 Amendment. Act 21 added pars. (4) and (5). Section 3 of Act 21 provided that the addition of pars. (4) and (5) shall apply to all custody proceedings irrespective of whether the proceeding was commenced before, on or after the effective date of section 3.

Cross References. Section 5324 is referred to in sections 5323, 5325, 5326 of this title.

§ 5325. Standing for partial physical custody and supervised physical custody.

In addition to situations set forth in section 5324 (relating to standing for any form of physical custody or legal custody), grandparents and great-grandparents may file an action under this chapter for partial physical custody or supervised physical custody in the following situations:

(1) where the parent of the child is deceased, a parent or grandparent of the deceased parent may file an action under this section;

(2) where the relationship with the child began either with the consent of a parent of the child or under a court order and where the parents of the child:

(i) have commenced a proceeding for custody; and

(ii) do not agree as to whether the grandparents or great-grandparents should have custody under this section; or

(3) when the child has, for a period of at least 12 consecutive months, resided with the grandparent or great-grandparent, excluding brief temporary absences of the child from the home, and is removed from the home by the parents, an action must be filed within six months after the removal of the child from the home.

(May 4, 2018, P.L.112, No.21, eff. 60 days)

2018 Amendment. Act 21 amended par. (2).

Cross References. Section 5325 is referred to in sections 5323, 5326, 5328 of this title.

§ 5326. Effect of adoption.

Any rights to seek physical custody or legal custody rights and any custody rights that have been granted under section 5324 (relating to standing for any form of physical custody or legal custody) or 5325 (relating to standing for partial physical custody and supervised physical custody) to a grandparent or great-grandparent prior to the adoption of the child by an individual other than a stepparent, grandparent or great-grandparent shall be automatically terminated upon such adoption.

§ 5327. Presumption in cases concerning primary physical custody.

(a) **Between parents.**--In any action regarding the custody of the child between the parents of the child, there shall be no presumption that custody should be awarded to a particular parent.

(b) Between a parent and third party.--In any action regarding the custody of the child between a parent of the child and a nonparent, there shall be a presumption that custody shall be awarded to the parent. The presumption in favor of the parent may be rebutted by clear and convincing evidence.

(c) Between third parties.--In any action regarding the custody of the child between a nonparent and another nonparent, there shall be no presumption that custody should be awarded to a particular party.

§ 5328. Factors to consider when awarding custody.

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

(1) Which party is more likely to encourage and permit frequent and continuing contact between the child and another party.

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

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

(3) The parental duties performed by each party on behalf of the child.

(4) The need for stability and continuity in the child's education, family life and community life.

(5) The availability of extended family.

(6) The child's sibling relationships.

(7) The well-reasoned preference of the child, based on the child's maturity and judgment.

(8) The attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm.

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

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

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

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

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

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

(15) The mental and physical condition of a party or member of a party's household.

(16) Any other relevant factor.

(b) Gender neutral.--In making a determination under subsection (a), no party shall receive preference based upon gender in any award granted under this chapter.

(c) Grandparents and great-grandparents.--

(1) In ordering partial physical custody or supervised physical custody to a party who has standing under section 5325(1) or (2) (relating to standing for partial physical custody and supervised physical custody), the court shall consider the following:

(i) the amount of personal contact between the child and the party prior to the filing of the action;

(ii) whether the award interferes with any parent-child relationship; and

(iii) whether the award is in the best interest of the child.

(2) In ordering partial physical custody or supervised physical custody to a parent's parent or grandparent who has standing under section 5325(3), the court shall consider whether the award:

(i) interferes with any parent-child relationship; and

(ii) is in the best interest of the child.

(Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014)

2013 Amendment . Act 107 added subsec. (a)(2.1). See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 5328 is referred to in sections 5323, 6340 of this title; section 6307 of Title 42 (Judiciary and Judicial Procedure).

§ 5329. Consideration of criminal conviction.

(a) Offenses.--Where a party seeks any form of custody, the court shall consider whether that party or member of that party's household has been convicted of or has pleaded guilty or no contest to any of the offenses in this section or an offense in another jurisdiction substantially equivalent to any of the offenses in this section. The court shall consider such conduct and determine that the party does not pose a threat of harm to the child before making any order of custody to that party when considering the following offenses:

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

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

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

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

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

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

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

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

18 Pa.C.S. § 3121 (relating to rape).

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

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

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

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

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

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

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

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

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

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

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

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

18 Pa.C.S. § 4305 (relating to dealing in infant children).
18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses).

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

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

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

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

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

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

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

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

Section 13(a)(1) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, to the extent that it prohibits the manufacture, sale or delivery, holding, offering for sale or possession of any controlled substance or other drug or device.

(b) Parent convicted of murder.--No court shall award custody, partial custody or supervised physical custody to a parent who has been convicted of murder under 18 Pa.C.S. § 2502(a) (relating to murder) of the other parent of the child who is the subject of the order unless the child is of suitable age and consents to the order.

(b.1) Parent convicted of certain sexual offenses.--

(1) Notwithstanding any provision of this chapter to the contrary and subject to paragraph (2), if a parent who is a victim of any of the offenses set forth in this paragraph objects, no court shall award any type of custody set forth in section 5323 (relating to award of custody) to the other parent of a child conceived as a result of any of the following offenses for which the other parent has been convicted:

18 Pa.C.S. § 3121.

18 Pa.C.S. § 3122.1.

18 Pa.C.S. § 3124.1, where the offense involved sexual intercourse.

18 Pa.C.S. § 3124.2 (relating to institutional sexual assault), where the offense involved sexual intercourse.

18 Pa.C.S. § 4302.

(2) A court may award any type of custody set forth in section 5323 to a parent who has been convicted of an offense under paragraph (1) if:

(i) the parent who is a victim had an opportunity to address the court;

(ii) the child is of suitable age and consents to the custody order; and

(iii) the court determines the award is in the best interest of the child.

(3) Paternity of the child shall be established by voluntary acknowledgment of paternity or blood, genetic or other paternity testing acceptable to the court. The cost of the testing shall be borne by the parent who was convicted of the offense.

(c) Initial evaluation.--At the initial in-person contact with the court, the judge, conference officer or other appointed individual shall perform an initial evaluation to determine whether the party or household member who committed an offense under subsection (a) poses a threat to the child and whether

counseling is necessary. The initial evaluation shall not be conducted by a mental health professional. After the initial evaluation, the court may order further evaluation or counseling by a mental health professional if the court determines it is necessary.

(d) Counseling.--

(1) Where the court determines under subsection (c) that counseling is necessary, it shall appoint a qualified professional specializing in treatment relating to the particular offense to provide counseling to the offending individual.

(2) Counseling may include a program of treatment or individual therapy designed to rehabilitate the offending individual which addresses, but is not limited to, issues regarding physical and sexual abuse, the psychology of the offender and the effects of the offense on the victim.

(e) Subsequent evaluation.--

(1) At any time during or subsequent to the counseling under subsection (d), the court may require another evaluation to determine whether further counseling is necessary.

(2) If the court awards custody to a party who committed an offense under subsection (a) or who shares a household with an individual who committed an offense under subsection (a), the court may require subsequent evaluations on the rehabilitation of the offending individual and the well-being of the child subsequent to the order. If, upon review of a subsequent evaluation, the court determines that the offending individual poses a threat of physical, emotional or psychological harm to the child, the court may schedule a hearing to modify the custody order.

(f) Costs.--The court may order a party to pay all or part of the costs of the counseling and evaluations under this section.

(Apr. 12, 2012, P.L.241, No.32, eff. 60 days; Oct. 1, 2015, P.L.172, No.40, eff. 60 days; May 4, 2018, P.L.112, No.21, eff. 60 days)

2018 Amendment. Act 21 amended subsec. (a) intro. par.

2 015 Amendment. Act 40 added subsec. (b.1). Section 3 of Act 40 provided that subsec. (b.1) shall apply to any action regarding custody of a child under Chapter 43 or 53 that is filed on or after the effective date of section 3.

2012 Amendm ent. Act 32 amended subsec. (c).

Cross References. Section 5329 is referred to in section 5330 of this title; section 1904 of Title 42 (Judiciary and Judicial Procedure).

§ 5329.1. Consideration of child abuse and involvement with protective services.

(a) Information sharing.--In accordance with section 6340(a)(5.1) (relating to release of information in confidential reports), where a party seeks any form of custody, subject to the examination of the parties, the court shall determine:

(1) With respect to child abuse under Chapter 63 (relating to child protective services) or a child who is a victim of a crime under 18 Pa.C.S. (relating to crimes and offenses) which would constitute abuse under Chapter 63:

(i) Whether the child is the subject of an indicated or founded report of child abuse.

(ii) Whether a party or a member of the party's household has been identified as the perpetrator in an indicated or founded report of child abuse.

- (iii) The date and circumstances of the child abuse.
- (iv) The jurisdiction where the child abuse investigation took place.
- (2) With respect to child protective services or general protective services under Chapter 63:
 - (i) Whether a party or a member of a party's household has been provided services.
 - (ii) The type of services provided.
 - (iii) The circumstances surrounding the provision of services.
 - (iv) The status of services.
 - (v) The date the services were provided.
 - (vi) The jurisdiction where the services were provided.

(b) Cooperation.--The following apply:

(1) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the court and assist the court in fulfilling its duties under this section.

(2) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the governing authority in order to implement the provisions of this section.

(3) The governing authority shall develop procedures to implement the provisions of this section.

(4) As used in this subsection, the term "governing authority" shall have the meaning given to it in 42 Pa.C.S. § 102 (relating to definitions).

(Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014)

2013 Amendment . Act 107 added section 5329.1. See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 5329.1 is referred to in sections 5328, 6340 of this title; section 6307 of Title 42 (Judiciary and Judicial Procedure).

§ 5330. Consideration of criminal charge.

(a) Expedited hearing.--A party who has obtained information under 42 Pa.C.S. § 1904 (relating to availability of criminal charge information in child custody proceedings) or otherwise about a charge filed against the other party for an offense listed under section 5329(a) (relating to consideration of criminal conviction) may move for a temporary custody order or modification of an existing custody order. The court shall hold the hearing under this subsection in an expeditious manner.

(b) Risk of harm.--In evaluating any request under subsection (a), the court shall consider whether the party who is or has been charged with an offense set forth in section 5329(a) poses a risk of physical, emotional or psychological harm to the child.

(c) No prejudice.--Failure to either apply for information under 42 Pa.C.S. § 1904 or act under this section shall not prejudice any party in a custody proceeding.

§ 5331. Parenting plan.

(a) Purpose.--In a contested custody proceeding, the court may require the parties to submit parenting plans for the care and custody of the child to aid the court in resolving the custody dispute. A parenting plan and the position of a party

as set forth in that parenting plan shall not be admissible as evidence by another party.

(b) Contents.--A parenting plan shall include the following:

- (1) The schedule for personal care and control of the child, including parenting time, holidays and vacations.
- (2) The education and religious involvement, if any, of the child.
- (3) The health care of the child.
- (4) Child-care arrangements.
- (5) Transportation arrangements.
- (6) A procedure by which proposed changes, disputes and alleged breaches of the custody order may be adjudicated or otherwise resolved through mediation, arbitration or other means.
- (7) Any matter specified by the court.
- (8) Any other matter that serves the best interest of the child.

(c) Form.--If the court orders the parties to propose a parenting plan, it shall be submitted to the court in substantially the following form:

CAPTION

PARENTING PLAN

This parenting plan involves the following child/children:

Child's Name	Age	Where does this child live?
1.....		
2.....		
3.....		

If you have children not addressed by this parenting plan, name here:

Child's Name	Age	Where does this child live?
1.....		
2.....		
3.....		

Legal Custody (who makes decisions about certain things):

Circle one

Diet..... Both parties decide together / Plaintiff / Defendant

Religion..... Both parties decide together / Plaintiff / Defendant

Medical Care... Both parties decide together / Plaintiff / Defendant

Mental Health Care... Both parties decide together / Plaintiff / Defendant

Discipline..... Both parents decide together / Plaintiff / Defendant

Choice of School.... Both parents decide together / Plaintiff / Defendant

Choice of Study..... Both parents decide together / Plaintiff / Defendant

School Activities... Both parents decide together / Plaintiff / Defendant

Sports Activities... Both parents decide together / Plaintiff / Defendant

Additional Items... Both parents decide together / Plaintiff / Defendant

Explain what process you will use to make decisions?

(For example, the parent confronted with or anticipating the choice will call the other parent when the choice presents itself, and the other parent must agree or disagree within 24 hours of any deadline)

.....
.....

Physical Custody (where the child/children live)
The child's/children's residence is with.....
Describe which days and which times of the day the
child/children will be with each person:
Sunday Monday Tuesday Wednesday Thursday Friday Saturday
.....
Describe where and when the child/children will be dropped off
and/or picked up (day and time of day)?
Drop-Off
Where.....
When.....
.....
Pick-Up
Where
When
.....
If one of you doesn't show up, how long will the other
wait?.....
If there are any extraordinary costs (taxi, train, airplane,
etc.), who will pay for which costs?
.....
.....
HOLIDAYS
Where will the child/children stay?
HOLIDAY YEAR A YEAR B EVERY YEAR
Martin Luther King Day
President's Day
Easter
Memorial Day
Fourth of July
Labor Day
Yom Kippur
Rosh Hashanah
Thanksgiving
Vacation after Thanksgiving
Christmas Vacation
Kwanzaa
New Year's Eve/Day
Spring Vacation
Easter Sunday
Child's Birthday
Mother's Day
Father's Day
Other
Other
Other
Summer Vacation Plans
.....
.....
Special Activities or School Activities
Will both of you attend?
Child's Name Activity If not, which of you will attend?
.....
.....
.....
Temporary changes to this parenting schedule
From time to time, one of you might want or need to rearrange
the parenting time schedule due to work, family or other events.
You can attempt to agree on these changes. If you cannot agree,
the parent receiving the request will make the final decision.
The parent asking for the change will ask.....in
person.....by letter/mail.....by phone

No later than

....12 hours..... 24 hours.... 1 week..... 1 month

The parent being asked for a change will reply

.... in person..... by letter/mail..... by phone

No later than

..... 12 hours..... 24 hours..... 1 week..... 1 month

May parents contact one another?.....

When the child/children is/are with one of you, how may they
contacttheotherparent?.....

.....

When and how maycontact the child?

.....

.....

In the event that proposed changes, disputes or alleged breaches
of this parenting plan and custody order are necessary or
desired, the parties agree that such changes will be addressed
by the following method (specify method of arbitration,
mediation, court action, etc.):

.....

.....

The following matter or matters as specified by the court:

.....

.....

Other (Anything else you want to agree on):

.....

.....

.....

Date.....

Signature of Mother

Date.....

Signature of Father

Date.....

Signature of Witness

§ 5332. Informational programs.

(a) **Attendance.**--The court may direct the parties to attend
informational programs concerning parental duties.

(b) **Process not delayed.**--Subsequent proceedings and the
entry of any order or decree shall not be delayed because of
the lack of participation in any informational program by one
of the parties.

(c) **Costs.**--The court may order a party to pay all or part
of the costs of the informational programs under this section.

§ 5333. Counseling as part of order.

(a) **Attendance.**--The court may, as part of a custody order,
require the parties to attend counseling sessions.

(b) **Abuse.**--In situations involving abuse, the court may
order individual counseling for the abuser but may not order
the parties to attend joint counseling.

(c) **Verification.**--Each party's participation in the
counseling sessions shall be verified by the counselor.

(d) **Costs.**--The court may order a party to pay all or part
of the costs of the counseling sessions under this section.

§ 5334. Guardian ad litem for child.

(a) **Appointment.**--The court may on its own motion or the
motion of a party appoint a guardian ad litem to represent the
child in the action. The court may assess the cost upon the
parties or any of them or as otherwise provided by law. The
guardian ad litem must be an attorney at law.

(b) **Powers and duties.**--The guardian ad litem shall be
charged with representation of the legal interests and the best
interests of the child during the proceedings and shall do all
of the following:

(1) If appropriate to the child's age and maturity, meet with the child as soon as possible following the appointment and on a regular basis thereafter.

(2) On a timely basis, be given access to relevant court records, reports of examination of the parents or other custodian of the child and medical, psychological and school records.

(3) Participate in all proceedings.

(4) Conduct such further investigation necessary to ascertain relevant facts for presentation to the court.

(5) Interview potential witnesses, including the child's parents and caretakers, if any. The guardian ad litem may examine and cross-examine witnesses and present witnesses and evidence necessary to protect the best interests of the child.

(6) Make specific recommendations in a written report to the court relating to the best interests of the child, including any services necessary to address the child's needs and safety. The court shall make the written report part of the record so that it may be reviewed by the parties. The parties may file with the court written comments regarding the contents of the report. The comments filed by the parties shall also become part of the record.

(7) Explain the proceedings to the child to the extent appropriate given the child's age, mental condition and emotional condition.

(8) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court. A difference between the child's wishes under this paragraph and the recommendations under paragraph (6) shall not be considered a conflict of interest for the guardian ad litem.

(c) Abuse.--If substantial allegations of abuse of the child are made, the court shall appoint a guardian ad litem for the child if:

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

(2) the court is satisfied that the relevant information will be presented to the court only with such appointment.

(d) Evidence subject to examination.--A guardian ad litem may not testify except as authorized by Rule 3.7 of the Rules of Professional Conduct, but may make legal argument based on relevant evidence that shall be subject to examination by the parties.

(e) Costs.--The court may order a party to pay all or part of the costs of appointing a guardian ad litem under this section.

§ 5335. Counsel for child.

(a) Appointment.--The court may appoint counsel to represent the child if the court determines that the appointment will assist in resolving the issues in the custody proceeding. If a child has legal counsel and a guardian ad litem, counsel shall represent the legal interests of the child and the guardian ad litem shall represent the best interests of the child.

(b) Abuse.--Substantial allegations of abuse of the child constitute a reasonable basis for appointing counsel for the child.

(c) Not subject to examination.--Counsel appointed by the court for the child shall not be subject to examination unless such counsel testifies in the matter.

(d) Costs.--The court may order a party to pay all or part of the costs of appointing counsel for the child under this section.

Cross References. Section 5335 is referred to in section 5334 of this title.

§ 5336. Access to records and information.

(a) General rule.--Except as provided in subsections (b) and (c):

(1) A party granted sole or shared legal custody under section 5323 (relating to award of custody) shall be provided access to:

(i) the medical, dental, religious and school records of the child;

(ii) the address of the child and any other party; and

(iii) any other information that the court deems necessary or proper.

(2) Access to any records and information pertaining to the child may not be denied solely based upon a parent's physical custody schedule.

(3) Upon request, a parent, party or entity possessing any information set forth in paragraph (1) shall provide it to any party granted sole or shared legal custody.

(b) Nondisclosure of confidential information.--The court shall not order the disclosure of any of the following information to any parent or party granted custody:

(1) The address of a victim of abuse.

(2) Confidential information from an abuse counselor or shelter.

(3) Information protected under Chapter 67 (relating to domestic and sexual violence victim address confidentiality).

(4) Information independently protected from disclosure by the child's right to confidentiality under the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, or any other statute.

(c) Other information.--The court may determine not to release information set forth in subsection (a), in which case it shall state the reason for its denial on the record.

Cross References. Section 5336 is referred to in section 5337 of this title.

§ 5337. Relocation.

(a) Applicability.--This section applies to any proposed relocation.

(b) General rule.--No relocation shall occur unless:

(1) every individual who has custody rights to the child consents to the proposed relocation; or

(2) the court approves the proposed relocation.

(c) Notice.--

(1) The party proposing the relocation shall notify every other individual who has custody rights to the child.

(2) Notice, sent by certified mail, return receipt requested, shall be given no later than:

(i) the 60th day before the date of the proposed relocation; or

(ii) the tenth day after the date that the individual knows of the relocation, if:

(A) the individual did not know and could not reasonably have known of the relocation in sufficient time to comply with the 60-day notice; and

(B) it is not reasonably possible to delay the date of relocation so as to comply with the 60-day notice.

(3) Except as provided by section 5336 (relating to access to records and information), the following information, if available, must be included with the notice of the proposed relocation:

(i) The address of the intended new residence.

(ii) The mailing address, if not the same as the address of the intended new residence.

(iii) Names and ages of the individuals in the new residence, including individuals who intend to live in the new residence.

(iv) The home telephone number of the intended new residence, if available.

(v) The name of the new school district and school.

(vi) The date of the proposed relocation.

(vii) The reasons for the proposed relocation.

(viii) A proposal for a revised custody schedule.

(ix) Any other information which the party proposing the relocation deems appropriate.

(x) A counter-affidavit as provided under subsection (d)(1) which can be used to object to the proposed relocation and the modification of a custody order.

(xi) A warning to the nonrelocating party that if the nonrelocating party does not file with the court an objection to the proposed relocation within 30 days after receipt of the notice, that party shall be foreclosed from objecting to the relocation.

(4) If any of the information set forth in paragraph (3) is not known when the notice is sent but is later made known to the party proposing the relocation, then that party shall promptly inform every individual who received notice under this subsection.

(d) Objection to proposed relocation.--

(1) A party entitled to receive notice may file with the court an objection to the proposed relocation and seek a temporary or permanent order to prevent the relocation. The nonrelocating party shall have the opportunity to indicate whether he objects to relocation or not and whether he objects to modification of the custody order or not. If the party objects to either relocation or modification of the custody order, a hearing shall be held as provided in subsection (g)(1). The objection shall be made by completing and returning to the court a counter-affidavit, which shall be verified subject to penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), in substantially the following form:

COUNTER-AFFIDAVIT REGARDING RELOCATION

This proposal of relocation involves the following child/children:

Child's Name	Age	Currently residing at:
.....
Child's Name	Age	Currently residing at:
.....
Child's Name	Age	Currently residing at:
.....

I have received a notice of proposed relocation and

1. I do not object to the relocation and I do not object to the modification of the custody order consistent with the proposal for revised custody schedule as attached to the notice.

2. I do not object to the relocation, but I do object to modification of the custody order, and I request that a hearing be scheduled:

a. Prior to allowing (name of child/children) to relocate.

b. After the child/children relocate.

3. I do object to the relocation and I do object to the modification of the custody order, and I further request that a hearing be held on both matters prior to the relocation taking place.

.....
I understand that in addition to checking (2) or (3) above, I must also file this notice with the court in writing and serve it on the other party by certified mail, return receipt requested. If I fail to do so within 30 days of my receipt of the proposed relocation notice, I shall be foreclosed from objecting to the relocation.

.....
I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).
Date:

.....
.....
(2) An objection made under this subsection shall be filed with the court within 30 days of receipt of the proposed relocation notice and served on the other party by certified mail, return receipt requested.

(3) If notice of the proposed relocation has been properly given and no objection to the proposed relocation has been filed in court, then it shall be presumed that the nonrelocating party has consented to the proposed relocation.

(4) If a party who has been given proper notice does not file with the court an objection to the relocation within 30 days after receipt of the notice but later petitions the court for review of the custodial arrangements, the court shall not accept testimony challenging the relocation.

(e) Confirmation of relocation.--If no objection to the proposed relocation is filed under subsection (d), the party proposing the relocation shall file the following with the court prior to the relocation:

(1) an affidavit stating that the party provided notice to every individual entitled to notice, the time to file an objection to the proposed relocation has passed and no individual entitled to receive notice has filed an objection to the proposed relocation;

(2) Proof that proper notice was given in the form of a return receipt with the signature of the addressee and the full notice that was sent to the addressee.

(3) a petition to confirm the relocation and modify any existing custody order; and

(4) a proposed order containing the information set forth in subsection (c)(3).

(f) Modification of custody order.--If a counter-affidavit regarding relocation is filed with the court which indicates the nonrelocating party both has no objection to the proposed relocation and no objection to the modification of the custody order consistent with the proposal for revised custody schedule,

the court may modify the existing custody order by approving the proposal for revised custody schedule submitted under subsection (c)(3)(viii), and shall specify the method by which its future modification can be made if desired by either party. If a counter-affidavit regarding relocation is filed with the court which indicates the nonrelocating party objects either to the proposed relocation or to the modification of the custody order consistent with the proposal for revised custody schedule, the court shall modify the existing custody order only after holding a hearing to establish the terms and conditions of the order pursuant to the relocation indicating the rights, if any, of the nonrelocating parties.

(g) Hearing.--

(1) Except as set forth in paragraph (3), the court shall hold an expedited full hearing on the proposed relocation after a timely objection has been filed and before the relocation occurs.

(2) Except as set forth in paragraph (3), the court may, on its own motion, hold an expedited full hearing on the proposed relocation before the relocation occurs.

(3) Notwithstanding paragraphs (1) and (2), if the court finds that exigent circumstances exist, the court may approve the relocation pending an expedited full hearing.

(4) If the court approves the proposed relocation, it shall:

(i) modify any existing custody order; or

(ii) establish the terms and conditions of a custody order.

(h) Relocation factors.--In determining whether to grant a proposed relocation, the court shall consider the following factors, giving weighted consideration to those factors which affect the safety of the child:

(1) The nature, quality, extent of involvement and duration of the child's relationship with the party proposing to relocate and with the nonrelocating party, siblings and other significant persons in the child's life.

(2) The age, developmental stage, needs of the child and the likely impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child.

(3) The feasibility of preserving the relationship between the nonrelocating party and the child through suitable custody arrangements, considering the logistics and financial circumstances of the parties.

(4) The child's preference, taking into consideration the age and maturity of the child.

(5) Whether there is an established pattern of conduct of either party to promote or thwart the relationship of the child and the other party.

(6) Whether the relocation will enhance the general quality of life for the party seeking the relocation, including, but not limited to, financial or emotional benefit or educational opportunity.

(7) Whether the relocation will enhance the general quality of life for the child, including, but not limited to, financial or emotional benefit or educational opportunity.

(8) The reasons and motivation of each party for seeking or opposing the relocation.

(9) The present and past abuse committed by a party or member of the party's household and whether there is a continued risk of harm to the child or an abused party.

(10) Any other factor affecting the best interest of the child.

(i) Burden of proof.--

(1) The party proposing the relocation has the burden of establishing that the relocation will serve the best interest of the child as shown under the factors set forth in subsection (h).

(2) Each party has the burden of establishing the integrity of that party's motives in either seeking the relocation or seeking to prevent the relocation.

(j) Failure to provide reasonable notice.--The court may consider a failure to provide reasonable notice of a proposed relocation as:

(1) a factor in making a determination regarding the relocation;

(2) a factor in determining whether custody rights should be modified;

(3) a basis for ordering the return of the child to the nonrelocating party if the relocation has occurred without reasonable notice;

(4) sufficient cause to order the party proposing the relocation to pay reasonable expenses and counsel fees incurred by the party objecting to the relocation; and

(5) a ground for contempt and the imposition of sanctions against the party proposing the relocation.

(k) Mitigation.--Any consideration of a failure to provide reasonable notice under subsection (i) shall be subject to mitigation if the court determines that such failure was caused in whole, or in part, by abuse.

(l) Effect of relocation prior to hearing.--If a party relocates with the child prior to a full expedited hearing, the court shall not confer any presumption in favor of the relocation.

Cross References. Section 5337 is referred to in section 5323 of this title.

§ 5338. Modification of existing order.

(a) Best interest of the child.--Upon petition, a court may modify a custody order to serve the best interest of the child.

(b) Applicability.--Except as provided in 51 Pa.C.S. § 4109 (relating to child custody proceedings during military deployment), this section shall apply to any custody order entered by a court of this Commonwealth or any other state subject to the jurisdictional requirements set forth in Chapter 54 (relating to uniform child custody jurisdiction and enforcement).

(Apr. 12, 2012, P.L.241, No.32, eff. 60 days)

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

Under this chapter, a court may award reasonable interim or final counsel fees, costs and expenses to a party if the court finds that the conduct of another party was obdurate, vexatious, repetitive or in bad faith.

§ 5340. Court-appointed child custody health care or behavioral health practitioners.

No party to a child custody matter in which the court has appointed a licensed health care or behavioral health practitioner to assist the court by conducting an examination or evaluation of the parties involved or making a recommendation concerning a child custody agreement or order may be permitted to file a complaint against the practitioner with the practitioner's State licensing board prior to the final agreement or order being issued and for 60 days thereafter. As

used in this section, "licensed health care or behavioral health practitioner" means a person who is licensed, certified, accredited or otherwise regulated by the Commonwealth to provide health care or behavioral health services.

CHAPTER 54

UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT

Subchapter

- A. General Provisions
- B. Jurisdiction
- C. Enforcement
- D. Intrastate Application
- E. Miscellaneous Provisions

Enactment. Chapter 54 was added June 15, 2004, P.L.236, No.39, effective in 60 days.

Cross References. Chapter 54 is referred to in sections 5205, 5338, 5612 of this title.

SUBCHAPTER A

GENERAL PROVISIONS

Sec.

- 5401. Short title of chapter.
- 5402. Definitions.
- 5403. Proceedings governed by other law.
- 5404. Application to Native American tribes.
- 5405. International application of chapter.
- 5406. Effect of child custody determination.
- 5407. Priority.
- 5408. Notice to persons outside Commonwealth.
- 5409. Appearance and limited immunity.
- 5410. Communication between courts.
- 5411. Taking testimony in another state.
- 5412. Cooperation between courts; preservation of records.

§ 5401. Short title of chapter.

This chapter shall be known and may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

§ 5402. Definitions.

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:

"Abandoned." Left without provision for reasonable and necessary care or supervision.

"Child." An individual who has not attained 18 years of age.

"Child custody determination." A judgment, decree or other order of a court providing for legal custody, physical custody or visitation with respect to a child. The term includes a permanent, temporary, initial and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

"Child custody proceeding." A proceeding in which legal custody, physical custody or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights and protection from domestic violence, in which the issue may appear. The term does not

include a proceeding involving juvenile delinquency, contractual emancipation or enforcement under Subchapter C (relating to enforcement).

"Commencement." The filing of the first pleading in a proceeding.

"Court." An entity authorized under the law of a state to establish, enforce or modify a child custody determination.

"Home state." The state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child six months of age or younger, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

"Initial determination." The first child custody determination concerning a particular child.

"Issuing court." The court that makes a child custody determination for which enforcement is sought under this chapter.

"Modification." A child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

"Person." An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government or governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity.

"Person acting as a parent." A person, other than a parent, who:

(1) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(2) has been awarded legal custody by a court or claims a right to legal custody under the laws of this Commonwealth.

"Physical custody." The physical care and supervision of a child.

"State." A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

"Tribe." A Native American tribe or band, or Alaskan Native village, which is recognized by Federal law or formally acknowledged by a state.

"Warrant." An order issued by a court authorizing law enforcement officers to take physical custody of a child.

§ 5403. Proceedings governed by other law.

This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

§ 5404. Application to Native American tribes.

(a) **Primacy of Indian Child Welfare Act.**--A child custody proceeding that pertains to a Native American child as defined in the Indian Child Welfare Act of 1978 (Public Law 95-608, 25 U.S.C. § 1901 et seq.) is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act of 1978.

(b) **Tribe treated as state.**--A court of this Commonwealth shall treat a tribe as if it were a state of the United States

for the purpose of applying Subchapter B (relating to jurisdiction) and this subchapter.

(c) Tribal custody determinations.--A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Subchapter C (relating to enforcement).

§ 5405. International application of chapter.

(a) Foreign country treated as state.--A court of this Commonwealth shall treat a foreign country as if it were a state of the United States for the purpose of applying Subchapter B (relating to jurisdiction) and this subchapter.

(b) Foreign custody determinations.--Except as otherwise provided in subsection (c), a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Subchapter C (relating to enforcement).

(c) Violation of human rights.--A court of this Commonwealth need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

§ 5406. Effect of child custody determination.

A child custody determination made by a court of this Commonwealth that had jurisdiction under this chapter binds all persons who have been served in accordance with the laws of this Commonwealth or notified in accordance with section 5408 (relating to notice to persons outside Commonwealth) or who have submitted to the jurisdiction of the court and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

§ 5407. Priority.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

§ 5408. Notice to persons outside Commonwealth.

(a) General rule.--Notice required for the exercise of jurisdiction when a person is outside this Commonwealth may be given in a manner prescribed by the laws of this Commonwealth for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service.--Proof of service may be made in the manner prescribed by the laws of this Commonwealth or by the law of the state in which the service is made.

(c) Submission to jurisdiction.--Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Cross References. Section 5408 is referred to in sections 5406, 5425, 5430, 5445, 5448, 5450 of this title.

§ 5409. Appearance and limited immunity.

(a) General rule.--A party to a child custody proceeding, including a modification proceeding or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this Commonwealth for another proceeding or purpose solely by reason of having participated or of having been physically present for the purpose of participating in the proceeding.

(b) Service.--A person who is subject to personal jurisdiction in this Commonwealth on a basis other than physical presence is not immune from service of process in this Commonwealth. A party present in this Commonwealth who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) Acts committed while in this Commonwealth.--The immunity granted by subsection (a) does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this Commonwealth.

§ 5410. Communication between courts.

(a) General rule.--A court of this Commonwealth may communicate with a court in another state concerning a proceeding arising under this chapter.

(b) Participation of parties.--The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Matters of cooperation between courts.--Communication between courts on schedules, calendars, court records and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Record.--Except as otherwise provided in subsection (c), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(e) Definition.--As used in this section, the term "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Cross References. Section 5410 is referred to in section 5203 of this title.

§ 5411. Taking testimony in another state.

(a) General rule.--In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this Commonwealth for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) Means and location.--A court of this Commonwealth may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location in that state. A court of this Commonwealth shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Transmission of documentary evidence.--Documentary evidence transmitted from another state to a court of this Commonwealth by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Cross References. Section 5411 is referred to in section 5203 of this title.

§ 5412. Cooperation between courts; preservation of records.

(a) Assistance of another state.--A court of this Commonwealth may request the appropriate court of another state to:

- (1) hold an evidentiary hearing;
- (2) order a person to produce or give evidence pursuant to procedures of that state;
- (3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
- (4) forward to the court of this Commonwealth a certified copy of the transcript of the record of the hearing, the evidence otherwise presented and any evaluation prepared in compliance with the request; and
- (5) order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Assistance to another state.--Upon request of a court of another state, a court of this Commonwealth may hold a hearing, enter an order or forward transcripts, evidence and evaluations described in subsection (a).

(c) Expenses.--Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against the parties according to the laws of this Commonwealth.

(d) Preservation of records.--A court of this Commonwealth shall preserve the pleadings, orders, decrees, records of hearings, evaluations and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Cross References. Section 5412 is referred to in section 5203 of this title.

SUBCHAPTER B

JURISDICTION

Sec.

- 5421. Initial child custody jurisdiction.
- 5422. Exclusive, continuing jurisdiction.
- 5423. Jurisdiction to modify determination.
- 5424. Temporary emergency jurisdiction.
- 5425. Notice; opportunity to be heard; joinder.
- 5426. Simultaneous proceedings.
- 5427. Inconvenient forum.
- 5428. Jurisdiction declined by reason of conduct.
- 5429. Information to be submitted to court.
- 5430. Appearance of parties and child.

Cross References. Subchapter B is referred to in sections 5404, 5405, 5444, 5445, 5446, 5447, 5448, 5450, 5453 of this title.

§ 5421. Initial child custody jurisdiction.

(a) General rule.--Except as otherwise provided in section 5424 (relating to temporary emergency jurisdiction), a court of this Commonwealth has jurisdiction to make an initial child custody determination only if:

- (1) this Commonwealth is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six months before the commencement of the proceeding and the child is absent from

this Commonwealth but a parent or person acting as a parent continues to live in this Commonwealth;

(2) a court of another state does not have jurisdiction under paragraph (1) or a court of the home state of the child has declined to exercise jurisdiction on the ground that this Commonwealth is the more appropriate forum under section 5427 (relating to inconvenient forum) or 5428 (relating to jurisdiction declined by reason of conduct) and:

(i) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this Commonwealth other than mere physical presence; and

(ii) substantial evidence is available in this Commonwealth concerning the child's care, protection, training and personal relationships;

(3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this Commonwealth is the more appropriate forum to determine the custody of the child under section 5427 or 5428; or

(4) no court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2) or (3).

(b) Exclusive jurisdictional basis.--Subsection (a) is the exclusive jurisdictional basis for making a child custody determination by a court of this Commonwealth.

(c) Physical presence and personal jurisdiction unnecessary.--Physical presence of or personal jurisdiction over a party or a child is not necessary or sufficient to make a child custody determination.

Cross References. Section 5421 is referred to in sections 5210, 5422, 5423, 5424, 5428 of this title.

§ 5422. Exclusive, continuing jurisdiction.

(a) General rule.--Except as otherwise provided in section 5424 (relating to temporary emergency jurisdiction), a court of this Commonwealth which has made a child custody determination consistent with section 5421 (relating to initial child custody jurisdiction) or 5423 (relating to jurisdiction to modify determination) has exclusive, continuing jurisdiction over the determination until:

(1) a court of this Commonwealth determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this Commonwealth and that substantial evidence is no longer available in this Commonwealth concerning the child's care, protection, training and personal relationships; or

(2) a court of this Commonwealth or a court of another state determines that the child, the child's parents and any person acting as a parent do not presently reside in this Commonwealth.

(b) Modification where court does not have exclusive, continuing jurisdiction.--A court of this Commonwealth which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 5421.

Cross References. Section 5422 is referred to in sections 5210, 5423, 5424, 5428 of this title.

§ 5423. Jurisdiction to modify determination.

Except as otherwise provided in section 5424 (relating to temporary emergency jurisdiction), a court of this Commonwealth

may not modify a child custody determination made by a court of another state unless a court of this Commonwealth has jurisdiction to make an initial determination under section 5421(a)(1) or (2) (relating to initial child custody jurisdiction) and:

(1) the court of the other state determines it no longer has exclusive, continuing jurisdiction under section 5422 (relating to exclusive, continuing jurisdiction) or that a court of this Commonwealth would be a more convenient forum under section 5427 (relating to inconvenient forum); or

(2) a court of this Commonwealth or a court of the other state determines that the child, the child's parents and any person acting as a parent do not presently reside in the other state.

Cross References. Section 5423 is referred to in sections 5210, 5422, 5424, 5428 of this title.

§ 5424. Temporary emergency jurisdiction.

(a) **General rule.**--A court of this Commonwealth has temporary emergency jurisdiction if the child is present in this Commonwealth and the child has been abandoned or it is necessary in an emergency to protect the child because the child or a sibling or parent of the child is subjected to or threatened with mistreatment or abuse.

(b) **No previous custody determination or proceeding.**--If there is no previous child custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 5421 (relating to initial child custody jurisdiction) through 5423 (relating to jurisdiction to modify determination), a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 5421 through 5423. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 5421 through 5423, a child custody determination made under this section becomes a final determination if it so provides and this Commonwealth becomes the home state of the child.

(c) **Previous custody determination or proceeding.**--If there is a previous child custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 5421 through 5423, any order issued by a court of this Commonwealth under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 5421 through 5423. The order issued in this Commonwealth remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) **Mandatory communication between courts.**--A court of this Commonwealth which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in or a child custody determination has been made by a court of a state having jurisdiction under sections 5421 through 5423, shall immediately communicate with the other court. A court of this Commonwealth which is exercising jurisdiction pursuant to sections 5421 through 5423, upon being informed that a child custody proceeding has been commenced in or a child custody determination has been made by a court of another state under

a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child and determine a period for the duration of the temporary order.

Cross References. Section 5424 is referred to in sections 5205, 5421, 5422, 5423, 5426, 5428, 5450, 5454 of this title.

§ 5425. Notice; opportunity to be heard; joinder.

(a) General rule.--Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 5408 (relating to notice to persons outside Commonwealth) must be given to all persons entitled to notice under the laws of this Commonwealth as in child custody proceedings between residents of this Commonwealth, any parent whose parental rights have not been previously terminated and any person having physical custody of the child.

(b) Lack of notice or opportunity to be heard.--This chapter does not govern the enforceability of a child custody determination made without notice or any opportunity to be heard.

(c) Joinder and intervention.--The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the laws of this Commonwealth as in child custody proceedings between residents of this Commonwealth.

§ 5426. Simultaneous proceedings.

(a) General rule.--Except as otherwise provided in section 5424 (relating to temporary emergency jurisdiction), a court of this Commonwealth may not exercise its jurisdiction under this subchapter if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter unless the proceeding has been terminated or is stayed by the court of the other state because a court of this Commonwealth is a more convenient forum under section 5427 (relating to inconvenient forum).

(b) Stay; communication with other court.--Except as otherwise provided in section 5424, a court of this Commonwealth, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 5429 (relating to information to be submitted to court). If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this Commonwealth shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this Commonwealth is a more appropriate forum, the court of this Commonwealth shall dismiss the proceeding.

(c) Modification.--In a proceeding to modify a child custody determination, a court of this Commonwealth shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

- (1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for enforcement; or

(3) proceed with the modification under conditions it considers appropriate.

§ 5427. Inconvenient forum.

(a) General rule.--A court of this Commonwealth which has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion or request of another court.

(b) Factors.--Before determining whether it is an inconvenient forum, a court of this Commonwealth shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) the length of time the child has resided outside this Commonwealth;

(3) the distance between the court in this Commonwealth and the court in the state that would assume jurisdiction;

(4) the relative financial circumstances of the parties;

(5) any agreement of the parties as to which state should assume jurisdiction;

(6) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) the familiarity of the court of each state with the facts and issues in the pending litigation.

(c) Stay.--If a court of this Commonwealth determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) Jurisdiction declined.--A court of this Commonwealth may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

Cross References. Section 5427 is referred to in sections 5421, 5423, 5426, 5428 of this title.

§ 5428. Jurisdiction declined by reason of conduct.

(a) General rule.--Except as otherwise provided in section 5424 (relating to temporary emergency jurisdiction) or by other laws of this Commonwealth, if a court of this Commonwealth has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 5421 (relating to initial child custody

jurisdiction) through 5423 (relating to jurisdiction to modify determination) determines that this Commonwealth is a more appropriate forum under section 5427 (relating to inconvenient forum); or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 5421 through 5423.

(b) Jurisdiction declined; remedy.--If a court of this Commonwealth declines to exercise its jurisdiction pursuant to subsection (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 5421 through 5423.

(c) Jurisdiction declined; expenses.--If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses and child care during the course of the proceedings unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs or expenses against this Commonwealth unless authorized by law other than this chapter.

Cross References. Section 5428 is referred to in section 5421 of this title.

§ 5429. Information to be submitted to court.

(a) General rule.--Subject to the rules set forth in Chapter 53 (relating to child custody) providing for the confidentiality of procedures, addresses and other identifying information in a child custody proceeding, each party in its first pleading or in an attached affidavit shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

(1) has participated as a party or witness or in any other capacity in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number and the date of the child custody determination, if any;

(2) knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights and adoptions, and, if so, identify the court, the case number and the nature of the proceeding; and

(3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of or visitation with the child and, if so, the names and addresses of those persons.

(b) Stay.--If the information required by subsection (a) is not furnished, the court upon motion of a party or its own motion may stay the proceeding until the information is furnished.

(c) Additional information.--If the declaration as to any of the items described in subsection (a)(1) through (3) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the

parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Duty to disclose other proceedings.--Each party has a continuing duty to inform the court of any proceeding in this Commonwealth or any other state that could affect the current proceeding.

(e) Identifying information.--If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or child and determines that the disclosure is in the interest of justice.

Cross References. Section 5429 is referred to in sections 5206, 5426, 5445 of this title.

§ 5430. Appearance of parties and child.

(a) General rule.--In a child custody proceeding in this Commonwealth, the court may order a party to the proceeding who is in this Commonwealth to appear before the court in person with or without the child. The court may order any person who is in this Commonwealth and who has physical custody or control of the child to appear in person with the child.

(b) Party outside this Commonwealth.--If a party to a child custody proceeding whose presence is desired by the court is outside this Commonwealth, the court may order that a notice given pursuant to section 5408 (relating to notice to persons outside Commonwealth) include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) Personal safety.--The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) Expenses.--If a party to a child custody proceeding who is outside this Commonwealth is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

SUBCHAPTER C
ENFORCEMENT

Sec.

- 5441. Definitions.
- 5442. Enforcement under Hague Convention.
- 5443. Duty to enforce.
- 5444. Temporary visitation.
- 5445. Registration of child custody determination.
- 5446. Enforcement of registered determination.
- 5447. Simultaneous proceedings.
- 5448. Expedited enforcement of child custody determination.
- 5449. Service of petition and order.
- 5450. Hearing and order.
- 5451. Warrant to take physical custody of child.
- 5452. Costs, fees and expenses.
- 5453. Recognition and enforcement.

- 5454. Appeals.
- 5455. Role of prosecutor or public official.
- 5456. Role of law enforcement.
- 5457. Costs and expenses.

Cross References. Subchapter C is referred to in sections 5402, 5404, 5405 of this title.

§ 5441. Definitions.

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

"Petitioner." A person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

"Respondent." A person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

§ 5442. Enforcement under Hague Convention.

Under this subchapter a court of this Commonwealth may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

§ 5443. Duty to enforce.

(a) **General rule.--**A court of this Commonwealth shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

(b) **Remedies.--**A court of this Commonwealth may utilize any remedy available under other laws of this Commonwealth to enforce a child custody determination made by a court of another state. The remedies provided in this subchapter are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

§ 5444. Temporary visitation.

(a) **General rule.--**A court of this Commonwealth which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

- (1) a visitation schedule made by a court of another state; or
- (2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) **Time to obtain permanent change in visitation.--**If a court of this Commonwealth makes an order under subsection (a)(2), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Subchapter B (relating to jurisdiction). The order remains in effect until an order is obtained from the other court or the period expires.

Cross References. Section 5444 is referred to in section 5448 of this title.

§ 5445. Registration of child custody determination.

(a) **General rule.--**A child custody determination issued by a court of another state may be registered in this Commonwealth, with or without a simultaneous request for enforcement, by sending to the appropriate court in this Commonwealth:

- (1) a letter or other document requesting registration;
- (2) two copies, including one certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

- (3) except as otherwise provided in section 5429 (relating to information to be submitted to court), the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) Duties of registering court.--On receipt of the documents required by subsection (a), the registering court shall:

- (1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

- (2) serve notice upon the persons named pursuant to subsection (a)(3) and provide them with an opportunity to contest the registration in accordance with this section.

(c) Notice.--The notice required by subsection (b)(2) must state that:

- (1) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this Commonwealth;

- (2) a hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

- (3) failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) Contest over validity of registered order.--A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

- (1) the issuing court did not have jurisdiction under Subchapter B (relating to jurisdiction);

- (2) the child custody determination sought to be registered has been vacated, stayed or modified by a court having jurisdiction to do so under Subchapter B; or

- (3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 5408 (relating to notice to persons outside Commonwealth), in the proceedings before the court that issued the order for which registration is sought.

(e) Failure to contest.--If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(f) Res judicata.--Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Cross References. Section 5445 is referred to in sections 5448, 5450 of this title.

§ 5446. Enforcement of registered determination.

(a) General rule.--A court of this Commonwealth may grant any relief normally available under the laws of this Commonwealth to enforce a registered child custody determination made by a court of another state.

(b) Modification.--A court of this Commonwealth shall recognize and enforce but may not modify, except in accordance with Subchapter B (relating to jurisdiction), a registered child custody determination of a court of another state.

§ 5447. Simultaneous proceedings.

If a proceeding for enforcement under this subchapter is commenced in a court of this Commonwealth and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Subchapter B (relating to jurisdiction), the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

§ 5448. Expedited enforcement of child custody determination.

(a) Verification.--A petition under this subchapter must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) Petition.--A petition for enforcement of a child custody determination must state:

(1) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) whether the determination for which enforcement is sought has been vacated, stayed or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number and the nature of the proceeding;

(3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights and adoptions, and, if so, identify the court, the case number and the nature of the proceeding;

(4) the present physical address of the child and the respondent, if known;

(5) whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials, and, if so, the relief sought; and

(6) if the child custody determination has been registered and confirmed under section 5445 (relating to registration of child custody determination), the date and place of registration.

(c) Hearing.--Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) Contest over validity of custody determination.--An order issued under subsection (c) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate

physical custody of the child and the payment of fees, costs and expenses under section 5452 (relating to costs, fees and expenses) and may schedule a hearing to determine whether further relief is appropriate unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under section 5445 and that:

(i) the issuing court did not have jurisdiction under Subchapter B (relating to jurisdiction);

(ii) the child custody determination for which enforcement is sought has been vacated, stayed or modified by a court having jurisdiction to do so under Subchapter B; or

(iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 5408 (relating to notice to persons outside Commonwealth), in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 5444 (relating to temporary visitation), but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under Subchapter B.

Cross References. Section 5448 is referred to in section 5451 of this title.

§ 5449. Service of petition and order.

Except as otherwise provided in section 5451 (relating to warrant to take physical custody of child), the petition and order must be served by any method authorized by the laws of this Commonwealth upon respondent and any person who has physical custody of the child.

§ 5450. Hearing and order.

(a) **General rule.**--Unless the court issues a temporary emergency order pursuant to section 5424 (relating to temporary emergency jurisdiction), upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under section 5445 (relating to registration of child custody determination) and that:

(i) the issuing court did not have jurisdiction under Subchapter B (relating to jurisdiction);

(ii) the child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so under Subchapter B; or

(iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 5408 (relating to notice to persons outside Commonwealth), in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 5445 but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under Subchapter B.

(b) **Costs, fees and expenses.**--The court shall award the costs, fees and expenses authorized under section 5452 (relating to costs, fees and expenses) and may grant additional relief, including a request for the assistance of law enforcement

officials, and set a further hearing to determine whether additional relief is appropriate.

(c) Refusal to testify.--If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) Spousal privilege unavailable.--A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this subchapter.

§ 5451. Warrant to take physical custody of child.

(a) General rule.--Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this Commonwealth.

(b) Petition.--If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this Commonwealth, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 5448(b) (relating to expedited enforcement of child custody determination).

(c) Warrant.--A warrant to take physical custody of a child must:

- (1) recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;
- (2) direct law enforcement officers to take physical custody of the child immediately; and
- (3) provide for the placement of the child pending final relief.

(d) Time of service.--The respondent must be served with the petition, warrant and order immediately after the child is taken into physical custody.

(e) Enforcement.--A warrant to take physical custody of a child is enforceable throughout this Commonwealth. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(f) Appearance of child.--The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Cross References. Section 5451 is referred to in section 5449 of this title.

§ 5452. Costs, fees and expenses.

(a) General rule.--The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses and child care during the course of the proceedings, unless the party from whom fees

or expenses are sought establishes that the award would be clearly inappropriate.

(b) Assessment against a state.--The court may not assess fees, costs or expenses against a state unless authorized by law other than this chapter.

Cross References. Section 5452 is referred to in sections 5448, 5450 of this title.

§ 5453. Recognition and enforcement.

A court of this Commonwealth shall accord full faith and credit to an order issued by another state and consistent with this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed or modified by a court having jurisdiction to do so under Subchapter B (relating to jurisdiction).

§ 5454. Appeals.

An appeal may be taken from a final order in a proceeding under this subchapter in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 5424 (relating to temporary emergency jurisdiction), the enforcing court may not stay an order enforcing a child custody determination pending appeal.

§ 5455. Role of prosecutor or public official.

(a) General rule.--In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public official may take any lawful action, including resort to a proceeding under this subchapter or any other available civil proceeding to locate a child, obtain the return of a child or enforce a child custody determination if there is:

- (1) an existing child custody determination;
- (2) a request to do so from a court in a pending child custody proceeding;
- (3) a reasonable belief that a criminal statute has been violated; or
- (4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) Authority.--A prosecutor or appropriate public official acting under this section acts on behalf of the court and may not represent any party.

Cross References. Section 5455 is referred to in sections 5204, 5456, 5457 of this title.

§ 5456. Role of law enforcement.

At the request of a prosecutor or other appropriate public official acting under section 5455 (relating to role of prosecutor or public official), a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or appropriate public official with responsibilities under section 5455.

Cross References. Section 5456 is referred to in section 5457 of this title.

§ 5457. Costs and expenses.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under section 5455 (relating to

role of prosecutor or public official) or 5456 (relating to role of law enforcement).

SUBCHAPTER D

INTRASTATE APPLICATION

Sec.

5471. Intrastate application.

§ 5471. Intrastate application.

The provisions of this chapter allocating jurisdiction and functions between and among courts of different states shall also allocate jurisdiction and functions between and among the courts of common pleas of this Commonwealth.

SUBCHAPTER E

MISCELLANEOUS PROVISIONS

Sec.

5481. Application and construction.

5482. Severability.

§ 5481. Application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 5482. Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

CHAPTER 55

LIABILITY FOR TORTIOUS ACTS OF CHILDREN

Sec.

5501. Definitions.

5502. Liability of parents.

5503. Establishing liability in criminal or juvenile proceedings.

5504. Establishing liability in civil proceedings.

5505. Monetary limits of liability.

5506. Double recovery for same injury prohibited.

5507. Indemnity or contribution from child prohibited.

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

5509. Other liability of parent or child unaffected.

Enactment. Chapter 55 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 5501. Definitions.

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:

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

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

"Parent." Includes natural or adoptive parents.

"Person." Includes government units and Federal agencies.

"Tortious act." A willful tortious act resulting in injury.
§ 5502. Liability of parents.

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

§ 5503. Establishing liability in criminal or juvenile proceedings.

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

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

§ 5504. Establishing liability in civil proceedings.

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

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

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

(d) Action against parent.--Notwithstanding any provision to the contrary, a victim of a willful, tortious act of a child may initiate a civil action directly against the parent or parents of the child who committed the tortious act for the purpose of receiving compensation for the injuries suffered, not to exceed the limitations set forth in section 5505.

(Apr. 21, 1994, P.L.128, No.15, eff. 60 days)

1994 Amendment. Act 15 added subsec. (d).

§ 5505. Monetary limits of liability.

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

(1) The sum of \$1,000 for injuries suffered by any one person as a result of one tortious act or continuous series of tortious acts.

(2) The sum of \$2,500 regardless of the number of persons who suffer injury as a result of one tortious act or continuous series of tortious acts.

(b) Proceedings where loss exceeds liability.--In the event that actual loss as ascertained by the court or the judgment against the child exceeds \$2,500, the parents shall be discharged from further liability by the payment of \$2,500 into court. The court shall cause all aggrieved parties to submit itemized statements of loss in writing and shall make distribution proportionately, whether the claims be for injuries to the person or for theft, destruction or loss of property. The court may take testimony to assist it in making proper

distribution and may appoint a master to accomplish this purpose. All costs and fees incurred in these proceedings shall be paid from the \$2,500 paid into court.

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

(Apr. 21, 1994, P.L.128, No.15, eff. 60 days)

Cross References. Section 5505 is referred to in sections 5503, 5504 of this title.

§ 5506. Double recovery for same injury prohibited.

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

§ 5507. Indemnity or contribution from child prohibited.

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

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

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

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

§ 5509. Other liability of parent or child unaffected.

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

CHAPTER 56

STANDBY AND TEMPORARY GUARDIANSHIP

Subchapter

- A. Preliminary Provisions
- B. Standby Guardianship
- C. Temporary Guardianship

Enactment. Chapter 56 was added November 24, 1998, P.L.811, No.103, effective in 60 days.

Chapter Heading. The heading of Chapter 56 was amended October 23, 2018, P.L.583, No.88, effective in 60 days.

Special Provisions in Appendix. See the preamble of Act 103 of 1998 in the appendix to this title for special provisions relating to legislative findings and declarations.

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

- 5601. Short title of chapter.
- 5602. Definitions.
- 5603. Scope.

§ 5601. Short title of chapter.

This chapter shall be known and may be cited as the Standby Guardianship Act.

§ 5602. Definitions.

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:

"Alternate." A person with all the rights, responsibilities and qualifications of a standby guardian who shall become a standby guardian only in the event that the currently designated standby guardian is unable or refuses to fulfill his obligation.

"Attending physician." A physician who has primary responsibility for the treatment and care of the designator. If physicians share responsibility, another physician is acting on the attending physician's behalf or no physician has primary responsibility, any physician who is familiar with the designator's medical condition may act as an attending physician under this chapter.

"Coguardian." A person who along with a parent shares physical or legal custody, or both, of a child.

"Consent." A written authorization signed by the designator in the presence of two witnesses who shall also sign the writing. The witnesses must be 18 years of age or older and not named in the designation.

"Court." Family Court Division or domestic relations section of a court of common pleas unless otherwise provided by local rules of court.

"Debilitation." A person's chronic and substantial inability as a result of a physically incapacitating disease or injury to care for a dependent minor.

"Designation." A written document naming the standby guardian or temporary guardian. A parent, a legal custodian or a legal guardian may designate an alternate standby guardian in the same writing.

"Designator." A parent, a legal custodian or a legal guardian who appoints a standby guardian or temporary guardian.

"Determination of debilitation." A written finding made by an attending physician which states that the designator suffers from a physically incapacitating disease or injury. No identification of the illness in question is required.

"Determination of incapacity." A written finding made by an attending physician which states the nature, extent and probable duration of the designator's mental or organic incapacity.

"Family member." A grandparent, aunt, uncle or adult sibling of a minor.

"Incapacity." A chronic and substantial inability, resulting from a mental or organic impairment, to understand the nature and consequences of decisions concerning the care of the designator's dependent minor and a consequent inability to care for the minor.

"Standby guardian." A person named by a designator to assume the duties of coguardian or guardian of a minor and whose authority becomes effective upon the incapacity, debilitation and consent, or death of the minor's parent.

"Temporary guardian." A family member appointed by a court for a limited period as a guardian of the minor when the minor's custodial parent has entered a rehabilitation facility for treatment of drug or alcohol addiction or has been subject to emergency medical intervention due to abuse of drugs or alcohol.

"Triggering event." A specified occurrence stated in the designation which empowers a standby guardian to assume the powers, duties and responsibilities of guardian or coguardian. (June 22, 2000, P.L.443, No.59, eff. 60 days; Oct. 23, 2018, P.L.583, No.88, eff. 60 days)

§ 5603. Scope.

The provisions of Chapter 53 (relating to custody) and 20 Pa.C.S. Ch. 25 (relating to wills) shall apply to standby guardians, coguardians, guardians, temporary guardians and any alternates unless otherwise specified in this chapter. Nothing in this chapter shall be construed to deprive any parent, custodial or noncustodial, of legal parental rights. Nothing in this chapter shall be construed to relieve any parent, custodial or noncustodial, of a duty to support a child under the provisions of Chapter 43 (relating to support matters generally).

(Oct. 23, 2018, P.L.583, No.88, eff. 60 days)

References in Text. Former Chapter 53 (Custody), referred to in this section, is repealed. The subject is now contained in Chapter 53 (Child Custody).

SUBCHAPTER B
STANDBY GUARDIANSHIP

Sec.

- 5611. Designation.
- 5612. Petition for approval of a designation.
- 5613. Authority of standby guardian.
- 5614. Revocation.
- 5615. Conflicting documents.
- 5616. Bond.

Subchapter Heading. The heading of Subchapter B was amended October 23, 2018, P.L.583, No.88, effective in 60 days.

§ 5611. Designation.

(a) General rule.--A custodial parent, a legal custodian or legal guardian may designate a standby guardian by means of a written designation unless the minor has another parent or adoptive parent:

- (1) whose parental rights have not been terminated or relinquished;
- (2) whose whereabouts are known; and
- (3) who is willing and able to make and carry out the day-to-day child-care decisions concerning the minor.

(b) Exception where other parent consents.--Notwithstanding subsection (a), a parent, legal custodian or legal guardian may designate a standby guardian with the consent of the other parent.

(c) Contents.--

- (1) A designation of a standby guardianship shall identify the custodial parent, legal custodian or legal guardian making the designation, the minor or minors, any other parent, the standby guardian and the triggering event or events upon which a named standby guardian shall become a coguardian or guardian. If desired, different standby guardians may be designated for different triggering events. The designation shall also include the signed consent of the standby guardian and the signed consent of any other parent or an indication why the other parent's consent is not necessary.

(2) The designation shall be signed by the designating parent, legal custodian or legal guardian in the presence of two witnesses who are 18 years of age or older and not otherwise named in the designation, who shall also sign the designation. If the parent, legal custodian or legal guardian is physically unable to sign the designation, the parent, legal custodian or legal guardian may direct another person not named in the designation to sign on the parent's, the legal custodian's or the legal guardian's behalf in the presence of the parent, legal custodian or legal guardian and the witnesses.

(3) A parent, legal custodian or legal guardian may also but need not designate an alternate in the designation.

(4) A designation may but need not be in the following form:

I (insert name of designator) do hereby appoint (insert name, address and telephone number of standby guardian) as the standby guardian of (insert name(s) of minor(s)) to take effect upon the occurrence of the following triggering event or events (insert specific triggering events).

I hereby revoke all former wills and codicils to the extent that there is a conflict between those formerly executed documents and this, my duly executed standby guardian designation.

I am the (insert designator's relationship to minor(s)) of (insert name(s) of minor(s)).

(Insert name(s) of minor(s)'s other parent(s)) is the father/mother of (insert name(s) of minor(s)). His/her address is:

(Check all that apply):

He/she died on (insert date of death).

His/her parental rights were terminated or relinquished on (insert date of termination or relinquishment).

His/her whereabouts are unknown. I understand that all living parents whose rights have not been terminated must be given notice of this designation pursuant to the Pennsylvania Rules of Civil Procedure or a petition to approve this designation may not be granted by the court.

He/she is unwilling and unable to make and carry out day-to-day child-care decisions concerning the minor.

He/she consents to this designation and has signed this form below.

By this designation I am granting (insert name of standby guardian) the authority to act for 60 days following the occurrence of the triggering event as a coguardian with me or, in the event of my death, as guardian of my minor child(ren).

Optional: I hereby nominate (insert name, address and telephone number of alternate standby guardian) as the alternate standby guardian to assume the duties of the standby guardian named above in the event the standby guardian is unable or refuses to act as a standby guardian.

If I have indicated more than one triggering event, it is my intent that the triggering event which occurs first shall take precedence. If I have indicated "my death" as the triggering event, it is my intent that the

person named in the designation to be standby guardian for my minor child(ren) in the event of my death shall be appointed as guardian of my minor child(ren) when I die.

It is my intention to retain full parental rights to the extent consistent with my condition and to retain the authority to revoke the standby guardianship if I so choose.

This designation is made after careful reflection, while I am of sound mind.

(Date) (Designator's signature)

(Witness's signature) (Witness's signature)

(Number and Street) (Number and Street)

(City, State and Zip Code) (City, State and Zip Code)

If applicable: I (insert name of other parent) hereby consent to this designation.

(Date) (Signature of other parent)

(Address of other parent)

I, (insert name of standby guardian) hereby accept my nomination as standby guardian of (insert minor(s)'s name(s)). I understand that my rights and responsibilities toward the minor child(ren) named above will become effective upon the occurrence of the above-stated triggering event or events. I further understand that in order to continue caring for the child(ren), I must file a petition with the court within 60 days of the occurrence of the triggering event.

(Date) (Signature of standby guardian)

(June 22, 2000, P.L.443, No.59, eff. 60 days)

§ 5612. Petition for approval of a designation.

(a) General rule.--A petition for court approval of a designation under this chapter may be made at any time by filing with the court a copy of the designation. If the triggering event has not occurred on or before the time of filing, only the designator may file the petition. If the triggering event has occurred on or before the time of filing, the standby guardian named in the designation may file the petition, and the petition shall also contain one of the following:

- (1) A determination of the designator's incapacity.
- (2) A determination of the designator's debilitation and the designator's signed and dated consent.
- (3) A copy of the designator's death certificate.

(b) Notice.--

(1) The petitioner shall notify any person named in the designation within ten days of the filing of the petition and of any hearing thereon.

(2) If the petition alleges that a nondesignating parent cannot be located, that parent shall be notified in accordance with the notice provisions of the Pennsylvania Rules of Civil Procedure in Custody Matters. No notice is necessary to a parent whose parental rights have previously been terminated or relinquished.

(c) Jurisdiction.--For purposes of determining jurisdiction under this chapter, the provisions of Chapter 54 (relating to uniform child custody jurisdiction and enforcement) shall apply.

(d) Presumptions.--In a proceeding for judicial appointment of a standby guardian, a designation shall constitute a rebuttable presumption that the designated standby guardian is capable of serving as coguardian or guardian. When the designator is the sole surviving parent, when the parental rights of any noncustodial parent have been terminated or relinquished or when all parties consent to the designation, there shall be a rebuttable presumption that entry of the approval order is in the best interest of the child. In any case, if the court finds entry of the approval order to be in the best interest of the child, the court shall enter an order approving the designation petition.

(e) Approval without hearing.--Approval of the designation without a hearing is permitted when the designator is the sole surviving parent, when the parental rights of any noncustodial parent have been terminated or relinquished or when all parties consent to entry of the approval order.

(f) Hearing.--In the event a hearing is required, it shall be conducted in accordance with the proceedings set forth in Chapters 53 (relating to custody) and 54.

(g) Court appearance.--The designator need not appear in court if the designator is medically unable to appear.
(June 15, 2004, P.L.236, No.39, eff. 60 days)

2004 Amendment. Act 39 amended subsecs. (c) and (f).

References in Text. Former Chapter 53 (Custody), referred to in this section, is repealed. The subject matter is now contained in Chapter 53 (Child Custody).

Cross References. Section 5612 is referred to in sections 5613, 5614 of this title.

§ 5613. Authority of standby guardian.

(a) General rule.--The standby guardian shall have authority to act as coguardian or guardian upon the occurrence of the triggering event. The commencement of the standby guardian's authority to act as coguardian pursuant to a determination of incapacity, a determination of debilitation and consent or the receipt of consent alone shall not itself divest the designator of any parental rights but shall confer upon the standby guardian concurrent or shared custody of the child. The commencement of the standby guardian's authority to act as guardian pursuant to the death of the designator shall not confer upon the standby guardian more than physical and legal custody of the child as defined in Chapter 53 (relating to custody). A coguardian shall assure frequent and continuing contact with and physical access to the child and shall further assure the involvement of the parent, to include, to the greatest extent possible, in the decision making on behalf of the child.

(b) Effect of filing.--The designator may file a petition for approval of a designation with the court at any time. If the petition is approved by the court before the occurrence of the triggering event, the standby guardian's authority will commence automatically upon the occurrence of the triggering event. No further petition or confirmation is necessary. If a designation has been made but the petition for approval of the designation has not been filed and a triggering event has occurred, the standby guardian shall have temporary legal authority to act as a coguardian or guardian of the minor without the direction of the court for a period of 60 days. The standby guardian shall within that period file a petition for approval in accordance with section 5612 (relating to petition for approval of a designation). If no petition is filed within

the specified 60 days, the standby guardian shall lose all authority to act as coguardian or guardian. If a petition is filed but the court does not act upon it within the 60-day period, the temporary legal authority to act as coguardian or guardian shall continue until the court orders otherwise.

(c) Parental rights.--The commencement of a coguardian's or guardian's authority under this subchapter may not itself divest a parent or legal guardian of any parental or guardianship rights.

(d) Restored capacity.--If a licensed physician determines that the designator has regained capacity, the coguardian's authority which commenced pursuant to the occurrence of a triggering event shall become inactive, and the coguardian shall return to having no authority. Failure of a coguardian to comply with this provision and to immediately return the minor to the designator's care shall entitle the designator to an emergency hearing in a court of competent jurisdiction.

References in Text. Former Chapter 53 (Custody), referred to in this section, is repealed. The subject matter is now contained in Chapter 53 (Child Custody).

§ 5614. Revocation.

(a) Prepetition.--Prior to a petition being filed under section 5612 (relating to petition for approval of a designation), the designator may revoke a standby guardianship by simple destruction of the designation and notification of the revocation to the standby guardian.

(b) Postpetition.--After a petition has been filed, the designator may revoke a standby guardianship by:

- (1) executing a written revocation;
- (2) filing the revocation with the court; and
- (3) notifying the persons named in the designation of the revocation in writing.

(c) Unwritten revocation.--Regardless of whether a petition has been filed, an unwritten revocation may be considered by the court if it can be proven by clear and convincing evidence.

§ 5615. Conflicting documents.

If a parent has appointed a testamentary guardian of the person or estate of a minor by will under 20 Pa.C.S. § 2519 (relating to testamentary guardian) and there is a conflict between that will and a duly executed written standby guardian designation, the document latest in date of execution shall prevail.

§ 5616. Bond.

In no event shall a standby guardian be required to post bond prior to the occurrence of the triggering event. The court may require a bond if the standby guardian is designated the coguardian or guardian of the estate of a minor but will not require a bond for the coguardianship or guardianship of the person of a minor.

SUBCHAPTER C

TEMPORARY GUARDIANSHIP

Sec.

5621. Designation.
5622. Petition for approval of designation.
5623. Authority of temporary guardian.
5624. Period of temporary guardianship.
5625. Termination of temporary guardianship.

Enactment. Subchapter C was added October 23, 2018, P.L.583, No.88, effective in 60 days.

§ 5621. Designation.

(a) General rule.--Except as provided in subsection (b), a custodial parent may designate a temporary guardian by means of a written designation unless the minor has another parent or adoptive parent:

- (1) whose parental rights have not been terminated or relinquished;
- (2) whose whereabouts are known; and
- (3) who is willing and able to make and carry out the day-to-day child-care decisions concerning the minor.

(b) Exception where other parent consents.--Notwithstanding subsection (a), a parent, legal custodian or legal guardian may designate a temporary guardian with the consent of the other parent.

(c) Contents.--

(1) A designation of a temporary guardianship shall identify the custodial parent, the minor or minors, any other parent, the temporary guardian and the triggering event or events upon which a named temporary guardian shall become a coguardian or guardian. The designation shall also include the signed consent of the temporary guardian and the signed consent of any other parent or an indication why the other parent's consent is not necessary.

(2) The designation shall be signed by the designating parent in the presence of two witnesses who are 18 years of age or older and not otherwise named in the designation, who shall also sign the designation.

(3) A parent may also but need not designate an alternate in the designation.

(4) A designation may but need not be in the following form:

..(Insert name of designator) do hereby appoint (Insert name, address and telephone number of temporary guardian) as the temporary guardian of (Insert name(s) of minor(s) to take effect upon

..... (Date).
I am the mother/father/other to.....
.....
(Insert name(s) of minor(s)).

.....
(Insert name(s) of other parent(s) of minor(s)) is the father/mother/other of

.....
(Insert name(s) of minor(s)).

By this designation, I am granting
(Insert name of temporary guardian) the authority to act for 90 days following the occurrence of
as a coguardian with me or as guardian of my minor child(ren).

It is my intention to retain full parental rights to the extent consistent with my condition and to retain the authority to revoke the temporary guardianship if I so choose.

This designation is made after careful reflection, while I am of sound mind.

.....
(Date)	(Designator's signature)
.....
(Witness's signature)	(Witness's signature)
.....

(Number and Street) (Number and Street)

 (City, State and Zip Code) (City, State and Zip Code)
 If applicable: I,
 (Insert name of other parent)
 hereby consent to this designation.

 (Date) (Signature of other parent)

 (Address of other parent)
 I,
 (Insert name of temporary guardian), hereby accept my
 nomination as temporary guardian of

 (Insert minor(s)'s name(s)). I understand that my rights and
 responsibilities toward the minor child(ren) named above
 will become effective upon (Date)
 I further understand that in order to continue as temporary
 guardian for the child(ren), I must file a petition with the
 court of common pleas within 30 days of the order granting
 the petition for temporary guardianship.

 (Date) (Signature of temporary guardian)
 NOTARY SEAL
 I hereby revoke the above temporary guardianship agreement.
 (Parent signature)
 (Date)
 NOTARY SEAL

§ 5622. Petition for approval of designation.

(a) General rule.--Except as provided in subsection (b), a petition for court approval of a designation under this chapter may be made when an individual who is a custodial parent of a minor has entered a rehabilitation facility for treatment of a drug or alcohol addiction or has been subject to emergency medical intervention due to abuse of drugs or alcohol by filing with the court a copy of the designation.

(b) Exception where designation has not been entered.--If a custodial parent has been subject to emergency medical intervention due to abuse of drugs or alcohol and a written designation has not been executed, a family member shall petition the court to hold a hearing to be designated temporary guardian. The petition, which shall require the notarized signature of the petitioner, shall be provided by the court in the following form:

Petition for Temporary Guardianship without Consent of Parent
 I,
 (Insert Name, Address and Telephone Number of Family Member
 Petitioning for Temporary Guardianship and Relationship to
 Minor), HEREBY DECLARE MY INTENT TO BE APPOINTED TEMPORARY
 GUARDIAN OF
 (Insert Name(s), Address(es) and Telephone Number(s) of Minor(s)
 for whom the appointment of temporary guardian is being sought)
 AS A RESULT OF EMERGENCY MEDICAL INTERVENTION RESULTING FROM
 ABUSE OF DRUGS OR ALCOHOL BY
 (Insert Name, Address and Telephone Number),
 FATHER/MOTHER TO (Insert
 Name(s) of Minor(s)), ON (Insert
 approximate date of the event).
 I HAVE NOTIFIED THE CHILD(REN)'S OTHER PARENT,
 (Insert Name,
 Address and Telephone Number), OF MY INTENT TO PETITION THIS
 COURT FOR TEMPORARY GUARDIANSHIP.

I UNDERSTAND THAT FILING THIS PETITION DOES NOT REVOKE THE PARENTAL RIGHTS OF THE MINOR'S PARENT(S) NOR DOES IT GRANT ME ANY PARENTAL RIGHTS.

I UNDERSTAND THAT MY RIGHTS AND RESPONSIBILITIES AS A TEMPORARY GUARDIAN TOWARD THE MINOR CHILD(REN) NAMED ABOVE WILL BECOME EFFECTIVE UPON THE COMPLETION OF A HEARING AND RENDERING OF A DECISION BY THE COURT.

I UNDERSTAND THAT FILING FEES AND OTHER COSTS ASSOCIATED WITH THESE PROCEEDINGS MAY BE WAIVED IF I DEMONSTRATE THE FEES AND OTHER COSTS WOULD CONSTITUTE A FINANCIAL BURDEN TO ME AND MY FAMILY.

I HEREBY SWEAR OR AFFIRM THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

.....
(DATE) (SIGNATURE OF PETITIONER)

(c) Notice.--

(1) The court shall notify a person named in the designation within 10 days of the filing of the petition and of any hearing on the petition.

(2) If a designation has not been executed, the petitioner shall notify the custodial parent or parents, noncustodial parent or adoptive parent within 10 days of the filing of the petition and of any hearing on the petition.

(3) If the petition alleges that a noncustodial parent cannot be located, that parent shall be notified in accordance with the notice provisions of the Pennsylvania Rules of Civil Procedure in custody matters. No notice is necessary to a parent whose parental rights have previously been terminated or relinquished.

(d) Jurisdiction.--For purposes of determining jurisdiction under this chapter, the provisions of Chapter 54 (relating to uniform child custody jurisdiction and enforcement) shall apply.

(e) Presumptions.--In a proceeding for judicial appointment of a temporary guardian, a designation shall constitute a rebuttable presumption that the designated temporary guardian is capable of serving as coguardian or guardian. When the designator is the sole surviving parent and when the parental rights of any noncustodial parent have been terminated or relinquished or when all parties consent to the designation, there shall be a rebuttable presumption that entry of the approval order is in the best interest of the child. In any case, if the court finds entry of the approval order to be in the best interests of the child, the court shall enter an order approving the designation petition.

(f) Approval without hearing.--Approval of the designation without a hearing is permitted when the designator is the sole surviving parent, when the parental rights of a noncustodial parent have been terminated or relinquished or when all parties consent to entry of the approval order.

(g) Hearing.--If a hearing is required, it shall be conducted in accordance with the proceedings under Chapters 53 (relating to child custody) and 54.

(h) Court appearance.--If a designation has not been executed and a petition for temporary guardianship has been filed with the court by a family member, the custodial parent and noncustodial parent or adoptive parent shall appear in court in order to consent to or oppose the designation. If notice has been given under subsection (c)(3) and a noncustodial parent does not appear in court, it is presumed that consent to the designation has been granted.

(i) Costs.--A court may waive filing fees and other costs upon application when the petitioner demonstrates the fees and

other costs would constitute a financial burden upon the petitioner and the petitioner's family. There shall be a presumption of a financial burden if the income from all sources of the petitioner is less than 300% of the poverty level set by the Federal Government.

Cross References. Section 5622 is referred to in section 5623 of this title.

§ 5623. Authority of temporary guardian.

(a) Authority.--

(1) The temporary guardian shall have the authority to act as coguardian or guardian upon a custodial parent entering into an alcohol or drug treatment facility or upon a court ordering the designation pursuant to hearing under subsection 5622(b) (relating to petition for approval of designation).

(2) The commencement of the temporary guardian's authority to act as coguardian shall not itself divest the custodial parent of parental rights but shall confer upon the temporary guardian concurrent or shared custody of the child.

(3) A coguardian shall assure frequent and continuing contact with and physical access to the child and shall further assure the involvement of the custodial parent, to the greatest extent possible, in the decision making on behalf of the child.

(4) The commencement of a temporary guardian's authority under this subchapter shall not itself divest a parent or legal guardian of parental or guardianship rights.

(b) Limitations on authority.--In addition to any other restrictions placed on a temporary guardian by the court, the temporary guardian may not:

(1) remove the minor or permit the minor to be removed from the United States either permanently or temporarily without the consent of the custodial parent and the approval of the court; or

(2) remove the minor from this Commonwealth absent a court order, which may only be issued after a hearing at which both parents and the minor shall have the right to be present.

§ 5624. Period of temporary guardianship.

(a) Initial period.--Temporary guardianship under this subchapter shall be limited to not more than 90 days from entry of the order of temporary guardianship.

(b) Extension of guardianship.--Upon approval by the court or by written agreement of the temporary guardian and the parent who has entered a rehabilitation facility, temporary guardianship shall be extended for periods of up to 90 additional days.

(c) Total period.--The total period of guardianship under this section shall not exceed 365 days.

§ 5625. Termination of temporary guardianship.

(a) Conditions.--A court shall terminate a temporary guardianship if any of the following exists:

(1) The custodial parent demonstrates the basis for the temporary guardianship no longer exists.

(2) The custodial parent and temporary guardian agree upon termination.

(3) The temporary guardian files a petition with the court seeking termination.

(4) Subject to subsection (b), a noncustodial or adoptive parent files a petition with the court seeking termination of the guardianship.

(5) The temporary guardian or an individual who resides with the temporary guardian commits an offense that results in the temporary guardian or an individual who resides with the temporary guardian being identified as a perpetrator as defined in section 6303 (relating to definitions).

(b) Mandatory considerations.--Before terminating an order for temporary guardianship under subsection (a)(4), the court shall consider if termination of the temporary guardianship is in the best interests of the minor if the individual's parental rights were previously terminated.

CHAPTER 57

SEX TRAFFICKING AND MISSING AND ABDUCTED CHILDREN

Sec.

5701. Definitions.

5702. County responsibilities.

5703. Law enforcement responsibilities.

Enactment. Chapter 57 was added December 28, 2015, P.L.559, No.94, effective January 1, 2016.

§ 5701. Definitions.

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:

"Child." An individual who is under 21 years of age and meets one of the following:

(1) The county agency is conducting an assessment of the need for services.

(2) The county agency is conducting an investigation of suspected child abuse of the child under Chapter 63 (relating to child protective services).

(3) The county agency is providing services to the child.

"County agency." As defined in section 6303 (relating to definitions).

"Department." The Department of Human Services of the Commonwealth.

"Law enforcement." The law enforcement agency which is responsible for investigating cases of missing children under 18 Pa.C.S. § 2908 (relating to missing children).

"Sex trafficking victim." As defined under section 475 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 675).

§ 5702. County responsibilities.

(a) Report of possible sex trafficking victims.--A county agency shall report to law enforcement as soon as practicable, but in no case later than 24 hours after receiving information about a child who:

(1) the county agency has reasonable cause to suspect of being at risk of being a sex trafficking victim; or

(2) the county agency identifies as being a sex trafficking victim.

(b) Child missing from residence or abducted.--A county agency shall report to law enforcement and to the National Center for Missing and Exploited Children as soon as practicable but no later than 24 hours after receiving information about a child who is missing from the child's residence or is abducted.

(c) Report to department.--The county agency shall report annually to the department the total number of children who are sex trafficking victims. The report shall be submitted in the form and by the deadline prescribed by the department.

Cross References. Section 5702 is referred to in section 5703 of this title.

§ 5703. Law enforcement responsibilities.

When law enforcement receives information from a county agency about a child who is missing from the child's residence or is abducted under section 5702(b) (relating to county responsibilities), law enforcement shall enter the information into the National Crime Information Center database.

PART VII
ABUSE OF FAMILY

Chapter

- 61. Protection from Abuse
- 63. Child Protective Services
- 65. Newborn Protection
- 67. Domestic and Sexual Violence Victim Address Confidentiality

Enactment. Part VII was added Dec. 19, 1990, P.L.1240, No.206, effective in 90 days.

CHAPTER 61
PROTECTION FROM ABUSE

Sec.

- 6101. Short title of chapter.
- 6102. Definitions.
- 6103. Jurisdiction.
- 6104. Full faith and credit and foreign protection orders.
- 6105. Responsibilities of law enforcement agencies.
- 6106. Commencement of proceedings.
- 6107. Hearings.
- 6108. Relief.
- 6108.1. Return of relinquished firearms, other weapons and ammunition and additional relief.
- 6108.2. Relinquishment for consignment sale, lawful transfer or safekeeping.
- 6108.3. Relinquishment to third party for safekeeping.
- 6108.4. Registry or database of firearm ownership.
- 6108.5. Penalties for release of information.
- 6108.6. Penalty for failure to secure firearms.
- 6108.7. Order to seal record from public view.
- 6109. Service of orders.
- 6110. Emergency relief by minor judiciary.
- 6111. Domestic violence counselor/advocate.
- 6112. Disclosure of addresses.
- 6113. Arrest for violation of order.
- 6113.1. Private criminal complaints for violation of order or agreement.
- 6114. Contempt for violation of order or agreement.
- 6114.1. Civil contempt or modification for violation of an order or agreement.
- 6115. Reporting abuse and immunity.
- 6116. Confidentiality.

6117. Procedure and other remedies.
6118. Full faith and credit (Repealed).
6119. Immunity.
6120. Inability to pay.
6121. Warrantless searches.
6122. Construction.

Enactment. Chapter 61 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1910.49(6), as amended March 30, 1994, provided that Chapter 61 shall not be deemed suspended or affected by Rules 1910.1 through 1910.31 governing actions for support.

Pennsylvania Rule of Civil Procedure No. 1915.24(4), as amended March 30, 1994, provided that Chapter 61 shall not be deemed suspended or affected by Rules 1915.1 through 1915.18 relating to actions for custody, partial custody and visitation of minor children.

Special Provisions in Appendix. See the preamble to Act 66 of 2005 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Chapter 61 is referred to in sections 3302, 6105 of this title; sections 2711, 2718, 6105, 9121 of Title 18 (Crimes and Offenses); sections 1126, 1725.1, 5750, 5924, 62A18, 6302, 67A01, 9711 of Title 42 (Judiciary and Judicial Procedure); section 1417 of Title 66 (Public Utilities).

§ 6101. Short title of chapter.

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

Cross References. Section 6101 is referred to in section 8127 of Title 42 (Judiciary and Judicial Procedure).

§ 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, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon.

(2) Placing another in reasonable 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).

(5) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

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

"Appropriate law enforcement agency." The duly constituted municipal law enforcement agency that regularly provides primary police services to a political subdivision or, in the absence of any such municipal law enforcement agency, the Pennsylvania State Police installation that regularly provides primary police services to the political subdivision.

"Certified copy." A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court. A raised seal on the copy of the order of the issuing court shall not be required.

"Commercial armory." A for-profit entity which holds the appropriate Federal and State licenses to possess and secure firearms of third persons.

"Comparable court." A foreign court that:

(1) has subject matter jurisdiction and is authorized to issue ex parte, emergency, temporary or final protection orders in that jurisdiction; and

(2) possessed jurisdiction over the parties when the protection order was issued in that jurisdiction.

"Confidential communications." All information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. 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, statistical data, memoranda or working papers, records or the like, given or made in the course of the relationship. The term also includes communications made by or to a linguistic interpreter assisting the victim, counselor or advocate in the course of the relationship.

"Domestic violence counselor/advocate." An individual who is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence, who has undergone 40 hours of training.

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

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

"Firearm." Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon as defined by 18 Pa.C.S. § 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

"Foreign protection order." A protection order as defined by 18 U.S.C. § 2266 (relating to definitions) issued by a comparable court of another state, the District of Columbia, Indian tribe or territory, possession or commonwealth of the United States.

"Hearing officer." A magisterial district judge, judge of the Philadelphia Municipal Court, arraignment court magistrate appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters) and master for emergency relief.

"Master for emergency relief." A member of the bar of the Commonwealth appointed under section 6110(e) (relating to emergency relief by minor judiciary).

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

"Other weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term does not include a firearm.

"Safekeeping permit." A permit issued by a sheriff allowing a person to take possession of any firearm, other weapon or ammunition that a judge ordered a defendant to relinquish in a protection from abuse proceeding.

"Secure visitation facility." A court-approved visitation program offered in a facility with trained professional staff operated in a manner that safeguards children and parents from abuse and abduction.

"Sheriff."

(1) Except as provided in paragraph (2), the sheriff of the county.

(2) In a city of the first class, the chief or head of the police department.

"Victim." A person who is physically or sexually abused by a family or household member. For purposes of section 6116 (relating to confidentiality), a victim is a person against whom abuse is committed who consults a domestic violence counselor or advocate for the purpose of securing advice, counseling or assistance. The term shall also include persons who have a significant relationship with the victim and who seek advice, counseling or assistance from a domestic violence counselor or advocate regarding abuse of the victim.

"Weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a magazine, clip or other components to render it immediately operable and components which can readily be assembled into a weapon as defined by 18 Pa.C.S. § 907 (relating to possessing instruments of crime).

(b) Other terms.--Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa.C.S. (relating to crimes and offenses).

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 added the defs. of "appropriate law enforcement agency" and "commercial armory" in subsec. (a). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

2008 Amendment. Act 98 amended the def. of "hearing officer" in subsec. (a). Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those available to bail commissioners immediately prior to the effective date of Act 98.

2005 Amendment. Act 66 amended the defs. of "confidential communications" and "hearing officer" and added the defs. of "firearm," "master for emergency relief," "other weapon," "safekeeping permit," "sheriff" and "weapon" in subsec. (a).

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

2001 Amendment. Act 39 added the defs. of "certified copy," "comparable court" and "foreign protection order" in subsec. (a).

1995 Amendment. Act 10, 1st Sp.Sess., amended the def. of "abuse" in subsec. (a).

Cross References. Section 6102 is referred to in sections 3701, 5322, 6702, 6711 of this title; sections 2711, 2718, 6102, 6105 of Title 18 (Crimes and Offenses); sections 1726.2, 8127, 9720.8 of Title 42 (Judiciary and Judicial Procedure); section 304 of Title 53 (Municipalities Generally).

§ 6103. Jurisdiction.

(a) **General rule.**--The court shall have jurisdiction over all proceedings under this chapter.

(b) **Effect of departure and nonresidence.**--The right of the plaintiff to relief under this chapter shall not be affected by either of the following:

(1) The plaintiff's leaving the residence or household to avoid further abuse.

(2) The defendant's absence from this Commonwealth or the defendant's nonresidence in this Commonwealth, provided that the court has personal jurisdiction over the defendant in accordance with 42 Pa.C.S. § 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth).

(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

§ 6104. Full faith and credit and foreign protection orders.

(a) **General rule.**--A court shall recognize and enforce a valid foreign protection order issued by a comparable court. The validity of a foreign protection order shall only be determined by a court.

(b) **Affirmative defense.**--Failure by a comparable court to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign protection order. A comparable court shall have complied with that court's notice requirements and shall have given the defendant the opportunity to be heard before the foreign order was issued. In the case of ex parte orders, the comparable court shall have complied with that court's notice requirements and have given the defendant an opportunity to be heard within a reasonable period of time after the order was issued, consistent with due process.

(c) **Invalid orders.**--A foreign protection order issued by a comparable court against a party who has filed a petition, complaint or other written pleading for a protection order is not valid and not entitled to full faith and credit if:

(1) no cross or counter petition, complaint or other written pleading was filed seeking the protection order; or

(2) a cross or counter petition, complaint or other written pleading was filed and the court did not make a specific finding that each party was entitled to a protection order.

(d) **Filing a foreign protection order.**--A plaintiff may file a certified copy of a foreign protection order with the prothonotary in any county within this Commonwealth where the plaintiff believes enforcement may be necessary. The following provisions shall apply:

(1) No costs or fees associated with filing a foreign protection order shall be assigned to the plaintiff, including the cost of obtaining certified copies of the

order. Costs and fees associated with filing a foreign protection order may be assessed against the defendant.

(2) Upon filing of a foreign protection order, a prothonotary shall transmit, in a manner prescribed by the Pennsylvania State Police, a copy of the order to the Pennsylvania State Police registry of protection orders.

(3) Filing of a foreign protection order shall not be a prerequisite for service and enforcement.

(e) Orders issued in another judicial district within this Commonwealth.--The filing of an order issued in another judicial district within this Commonwealth is not required for enforcement purposes.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 amended subsec. (d).

Cross References. Section 6104 is referred to in section 6105 of this title.

§ 6105. Responsibilities of law enforcement agencies.

(a) General rule.--The police department of each municipal corporation, the Pennsylvania State Police and the sheriff of each county shall insure that all their officers, deputies and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers and deputies. All law enforcement agencies within this Commonwealth shall adopt a written domestic violence policy.

(b) Notice of services and rights.--Each law enforcement agency shall provide the abused person with oral and written notice of the availability of safe shelter and of domestic violence services in the community, including the hotline number for domestic violence services. The written notice, which shall be in English and Spanish and any additional language required by local rule of court, shall include the following statement:

"If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the Protection From Abuse Act (23 Pa.C.S. Ch. 61), which could include the following:

(1) An order restraining the abuser from further acts of abuse.

(2) An order directing the abuser to leave your household.

(3) An order preventing the abuser from entering your residence, school, business or place of employment.

(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.

(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(c) Mandatory report.--Each law enforcement agency shall make an incident report, on a form prescribed by the Pennsylvania State Police, consistent with the report required by the Federal National Incident-Based Reporting System (NIBRS). The mandate for incident report completion shall not be operative until the Pennsylvania State Police have implemented NIBRS. The incident report may include the following:

(1) Names, addresses and telephone numbers of the victim, the accused, any witnesses and the caller.

(2) A second permanent address and telephone number for the victim, such as a close family member or a friend.

(3) A statement of the relationship between the victim and the accused.

(4) A narrative for the incident, including the date, time and whether the accused appeared intoxicated or under the influence of a controlled substance.

(5) What, if any, weapons were used or threatened to be used.

(6) A description of any injuries observed by the officer.

(7) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.

(8) Documentation of any evidence that would tend to establish that a crime was committed.

(9) An indication of whether an arrest was made and the reason for electing not to arrest, whether there was a warrantless arrest, an arrest with a warrant or no arrest.

(10) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.

(11) The crimes with which the accused was charged.

(12) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.

(13) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.

(14) The names and ages of any children present in the household and their address and telephone number if children were relocated.

(15) Notation of previous incidents of which the officer is personally aware.

(16) Notation of previous incidents reported by the victim or witnesses.

(17) If an officer was injured in the incident, the nature and circumstances of the injury.

(d) Notice of arrest.--All law enforcement agencies shall make reasonable efforts to notify any adult or emancipated minor protected by an order issued under this chapter of the arrest of the defendant for violation of an order as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after preliminary arraignment.

(e) Statewide registry.--

(1) The Pennsylvania State Police shall establish a Statewide registry of protection orders and shall maintain a complete and systematic record and index of all valid temporary and final court orders of protection, court-approved consent agreements and a foreign protection order filed pursuant to section 6104(d) (relating to full faith and credit and foreign protection orders). The Statewide registry shall include, but need not be limited to, the following:

(i) The names of the plaintiff and any protected parties.

(ii) The name and address of the defendant.

(iii) The relationship between the plaintiff and defendant.

(iv) The date the order was entered.

(v) The date the order expires.

(vi) The relief granted under sections 6108(a)(1), (2), (4), (6) and (7) (relating to relief) and 6110(a) (relating to emergency relief by minor judiciary).

(vii) The judicial district in which the order was entered.

(viii) Where furnished, the Social Security number and date of birth of the defendant.

(ix) Whether or not any or all firearms, other weapons or ammunition were ordered relinquished.

(2) The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of the protection order or approved consent agreement to the Statewide registry of protection orders so that it is received within 24 hours of the entry of the order. Likewise, amendments to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry of protection orders within eight hours of receipt. Vacated or expired orders shall be purged from the registry.

(3) The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid protection order involving any defendant.

(4) When an order granting relief under section 6108(a)(7) has been entered by a court, such information shall be available to the Pennsylvania State Police for the purpose of conducting a criminal history records check in compliance with the applicable provisions of 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act).

(5) Information contained in the Statewide registry shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(f) Information concerning crimes of violence.--Each police department in a city, borough or township and the Pennsylvania State Police shall transmit to the Pennsylvania State Police, in a manner prescribed by the Pennsylvania State Police, the information specified in subsection (c) related to crimes of violence between family or household members.

(g) Annual report.--The Pennsylvania State Police shall annually compile and analyze the incident report data received and publish a Statewide report which includes aggregate, county and department-based statistical profiles. The Pennsylvania State Police shall transmit a copy of the annual report to the Governor, the General Assembly and each domestic violence program in this Commonwealth.

(h) Enforcement of foreign protection orders.--

(1) All foreign protection orders shall have the presumption of validity in this Commonwealth, and police officers shall make arrests for violations thereof in the same manner as set for violations of protection orders issued within this Commonwealth. Until a foreign order is declared to be invalid by a court, it shall be enforced by all law enforcement personnel in this Commonwealth.

(2) A police officer shall rely upon any copy of a foreign protection order which has been presented to the officer by any source and may verify the existence of a protection order consistent with the provisions of section 6113(a) (relating to arrest for violation of order). The fact that a foreign protection order has not been filed with

a prothonotary or entered into the Pennsylvania State Police registry shall not be grounds for law enforcement to refuse to enforce the order.

(i) Immunity.--The following entities shall be immune from civil liability for good faith conduct in any action arising in connection with a court's finding that the foreign order is invalid or unenforceable:

(1) Law enforcement agencies and their agents and employees.

(2) County correctional and detention facilities and their agents and employees.

(3) Prothonotaries and their agents and employees.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 amended subsec. (e).

2001 Amendment. Act 39 amended subsec. (e)(1) and added subsecs. (h) and (i).

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (e)(5), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 6105 is referred to in sections 6106, 6109, 6114 of this title; section 62A04 of Title 42 (Judiciary and Judicial Procedure).

§ 6106. Commencement of proceedings.

(a) General rule.--An adult or an emancipated minor may seek relief under this chapter for that person or any parent, adult 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.

(a.1) False reports.--A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this chapter commits an offense under 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).

(a.2) Notification of defendant's occupation.--The plaintiff shall notify the court if the plaintiff has reason to believe that the defendant is a licensed firearms dealer, is employed by a licensed firearms dealer or manufacturer, is employed as a writer, researcher or technician in the firearms or hunting industry or is required to carry a firearm as a condition of employment.

(a.3) Notification of need to protect plaintiff.--The plaintiff shall notify the court anytime during the period commencing upon filing the petition and granting of an order or approving a consent agreement at a hearing held under section 6107(a) (relating to hearings) if the plaintiff has reason to believe the plaintiff's safety is at risk. In such a case, the court shall direct the Pennsylvania State Police, the municipal police or the sheriff to accompany the plaintiff to the plaintiff's residence to retrieve personal belongings or to accompany the plaintiff while the petition or order is served upon the defendant by the sheriff or competent adult, as set forth in the Pennsylvania Rules of Civil Procedure.

(a.4) Notification regarding child abuse investigation.--

(1) If the plaintiff has knowledge of a founded or indicated report of child abuse under Chapter 63 (relating to child protective services) involving the defendant, the petition shall include that information together with the name of the investigative agency.

(2) The notice of hearing and order shall include notice to the defendant that an order issued under this chapter may have an impact on the defendant under Chapter 63. The court shall develop procedures to implement the provisions of this paragraph.

(b) Plaintiff fees not permitted.--No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with the filing, issuance, registration or service of a petition, motion, complaint, order or any other filing. Prohibited fees or costs shall include, but are not limited to, those associated with modifying, withdrawing, dismissing or certifying copies of a petition, motion, complaint, order or any other filing, as well as any judicial surcharge or computer system fee. No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with filing a motion for reconsideration or an appeal from any order or action taken pursuant to this chapter. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation).

(c) Assessment of fees and costs against the defendant.--When an order is granted pursuant to this chapter, fees and costs shall be assessed against the defendant. The court shall waive fees and costs upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the costs. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1.

(d) Surcharge on order.--When a protection order is granted under section 6107(a), other than pursuant to an agreement of the parties, a surcharge of \$100 shall be assessed against the defendant. All moneys received from surcharges shall be distributed in the following order of priority:

(1) \$25 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105.

(2) \$50 shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(i) \$25 shall be used by the sheriff.

(ii) \$25 shall be used by the court.

(3) \$25 shall be forwarded to the Department of Public Welfare for use for victims of domestic violence in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(d.1) Limitation.--The surcharge allocated under subsection (d)(1) and (3) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.

(e) 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.

(f) Service by sheriff.--If the court so orders, the sheriff or other designated agency or individual shall serve the petition and order.

(g) Service of petition and orders.--The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments and sheriff with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police and sheriff. Failure to serve shall not stay the effect of a valid order.

(g.1) Service of original process of a foreign protection order.--No plaintiff or petitioner shall be charged any costs or fees associated with the service of original process of a foreign protection order. Costs or fees associated with the service of original process of a foreign protection order may be assessed against the defendant.

(h) Assistance and advice to plaintiff.--The courts and hearing officers shall:

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

(2) Provide the plaintiff with written and oral referrals, in English and Spanish, to the local domestic violence program, to the local legal services office and to the county bar association's lawyer referral service.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days; Oct. 24, 2018, P.L.649, No.92, eff. 180 days)

2018 Amendments. Act 79 amended subsec. (d) and added subsec. (a.3) and Act 92 added subsec. (a.4). Section 11 of Act 79 provided that Act 79 shall apply to orders issued pursuant to section 6108 on or after the effective date of section 11. Section 2(1) of Act 92 provided that the addition of subsec. (a.4) shall apply to an action under Chapter 61 filed on or after the effective date of section 2, and section 2(2) provided that the addition of subsec. (a.4) shall apply to a petition to modify or extend a protection from abuse order under Chapter 61 filed on or after the effective date of section 2.

2005 Amendment. Act 66 amended subsecs. (b), (c), (d), (g) and (g.1) and added subsecs. (a.2) and (d.1).

References in Text. The Department of Public Welfare, referred to in subsec. (d), was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6106 is referred to in sections 6107, 6108, 6110 of this title.

§ 6107. Hearings.

(a) General rule.--Within ten business days of the filing of a petition under this chapter, a hearing shall be held before the court, at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall, at the time the defendant is given notice of the hearing, advise the defendant of the right to be represented by counsel, of the right to present evidence, of the right to compel attendance of witnesses, of the method by which witnesses may be compelled, of the possibility that any firearm, other weapon or ammunition owned and any firearm license possessed may be ordered temporarily relinquished, of the options for relinquishment of a firearm pursuant to this chapter, of the possibility that Federal or State law may prohibit the possession of firearms, including an explanation of 18 U.S.C. § 922(g)(8) (relating to

unlawful acts) and 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), and that any protection order granted by a court may be considered in any subsequent proceedings under this title. This notice shall be printed and delivered in a manner which easily attracts attention to its content and shall specify that child custody is one of the proceedings where prior protection orders may be considered.

(b) Temporary orders.--

(1) If a plaintiff petitions for temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex parte proceeding.

(2) The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse. The order shall remain in effect until modified or terminated by the court after notice and hearing.

(3) In addition to any other relief, the court may, pursuant to section 6108 (relating to relief), direct that the defendant temporarily relinquish to the sheriff any firearms, other weapons or ammunition for the duration of the temporary order if the petition demonstrates any of the following:

(i) Abuse which involves a firearm or other weapon.

(ii) An immediate and present danger of abuse. In determining whether an immediate and present danger of abuse exists, the court shall consider a number of factors, including, but not limited to:

(A) Whether the temporary order of protection from abuse is not likely to achieve its purpose in the absence of such a condition.

(B) Whether the defendant has previously violated a protection from abuse order.

(C) Whether past or present abuse to the plaintiff or any of the plaintiff's minor children resulted in injury.

(D) Whether the abuse occurred in public.

(E) Whether the abuse includes:

(I) threats of abuse or suicide;

(II) killing or threatening to kill pets;

(III) an escalation of violence;

(IV) stalking or obsessive behavior;

(V) sexual violence; or

(VI) drug or excessive alcohol use.

(4) If the court orders the defendant to temporarily relinquish any firearm, other weapon or ammunition pursuant to paragraph (3), the defendant shall decide in what manner the defendant is going to relinquish any firearm, other weapon or ammunition listed in the order. Relinquishment may be to the sheriff pursuant to section 6108(a)(7) or to a third party for safekeeping pursuant to section 6108.3 (relating to relinquishment to third party for safekeeping).

(c) Continued hearings.--

(1) If a hearing under subsection (a) is continued and no temporary order is issued, the court may make ex parte temporary orders under subsection (b) as it deems necessary.

(2) If a hearing is scheduled to take place within three business days after a defendant is served under section 6106 (relating to commencement of proceedings), the court shall grant a continuance until the three-business-day period has elapsed, if requested by the defendant.

(3) The court shall notify the defendant of the right to such continuance.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsec. (a) and (c). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

2005 Amendment. Act 66 amended subsecs. (a) and (b).

Cross References. Section 6107 is referred to in sections 6106, 6108 of this title; section 6105 of Title 18 (Crimes and Offenses).

§ 6108. Relief.

(a) General rule.--Subject to subsection (a.1), the court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

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

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff if the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) If the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, with the consent of the plaintiff, ordering the defendant to provide suitable alternate housing.

(4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. In determining whether to award temporary custody or establish temporary visitation rights pursuant to this paragraph, the court shall consider any risk posed by the defendant to the children as well as risk to the plaintiff. The following shall apply:

(i) A defendant shall not be granted custody, partial custody or unsupervised visitation where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant:

(A) abused the minor children of the parties or poses a risk of abuse toward the minor children of the parties; or

(B) has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order or that the defendant poses a risk of violating 18 Pa.C.S. § 2904.

(ii) Where the court finds after a hearing under this chapter that the defendant has inflicted abuse upon the plaintiff or a child, the court may require supervised custodial access by a third party. The third party must agree to be accountable to the court for supervision and execute an affidavit of accountability.

(iii) Where the court finds after a hearing under this chapter that the defendant has inflicted serious abuse upon the plaintiff or a child or poses a risk of abuse toward the plaintiff or a child, the court may:

(A) award supervised visitation in a secure visitation facility; or

(B) deny the defendant custodial access to a child.

(iv) If a plaintiff petitions for a temporary order under section 6107(b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107(a). Where the defendant has forcibly or fraudulently removed any minor child from the care and custody of a plaintiff, the court shall order the return of the child to the plaintiff unless the child would be endangered by restoration to the plaintiff.

(v) Nothing in this paragraph shall bar either party from filing a petition for custody under Chapter 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure.

(vi) In order to prevent further abuse during periods of access to the plaintiff and child during the exercise of custodial rights, the court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.

(5) After a hearing in accordance with section 6107(a), directing the defendant to pay financial support to those persons the defendant has a duty to support, requiring the defendant, under sections 4324 (relating to inclusion of medical support) and 4326 (relating to mandatory inclusion of child medical support), to provide health coverage for the minor child and spouse, directing the defendant to pay all of the unreimbursed medical expenses of a spouse or minor child of the defendant to the provider or to the plaintiff when he or she has paid for the medical treatment, and directing the defendant to make or continue to make rent or mortgage payments on the residence of the plaintiff to the extent that the defendant has a duty to support the plaintiff or other dependent household members. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters 43 (relating to support matters generally) and 45 (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

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

(7) Prohibiting the defendant from acquiring or possessing any firearm for the duration of the order, ordering the defendant to temporarily relinquish to the sheriff or the appropriate law enforcement agency any firearms under the defendant's possession or control, and requiring the defendant to relinquish to the sheriff or the appropriate law enforcement agency any firearm license issued under section 6108.3 (relating to relinquishment to third party for safekeeping) or 18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license) or 6109 (relating to licenses) the defendant may possess. The court may also order the defendant to relinquish the defendant's other weapons or ammunition that have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children. A copy of the court's order shall be transmitted to the chief or head of the appropriate law enforcement agency and to the sheriff of the county of which the defendant is a resident. When relinquishment is ordered, the following shall apply:

(i) (A) The court's order shall require the defendant to relinquish such firearms, other weapons, ammunition and any firearm license pursuant to the provisions of this chapter within 24 hours of service of a temporary order or the entry of a final order or the close of the next business day as necessary by closure of the sheriffs' offices, except for cause shown at the hearing, in which case the court shall specify the time for relinquishment of any or all of the defendant's firearms.

(B) A defendant subject to a temporary order requiring the relinquishment of firearms, other weapons or ammunition shall, in lieu of relinquishing specific firearms, other weapons or ammunition which cannot reasonably be retrieved within the time for relinquishment in clause (A) due to their current location, provide the sheriff or the appropriate law enforcement agency with an affidavit listing the firearms, other weapons or ammunition and their current location. If the defendant, within the time for relinquishment in clause (A), fails to provide the affidavit or fails to relinquish, pursuant to this chapter, any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, the sheriff or the appropriate law enforcement agency shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement authorities. The defendant shall not possess any firearms, other weapons or ammunition specifically listed in the affidavit provided to the sheriff or the appropriate law enforcement agency pursuant to this clause for the duration of the temporary order.

(C) As used in this subparagraph, the term "cause" shall be limited to facts relating to the inability of the defendant to retrieve a specific firearm within 24 hours due to the current location of the firearm.

(ii) The court's order shall contain a list of any firearm, other weapon or ammunition ordered relinquished. Upon the entry of a final order, the defendant shall inform the court in what manner the defendant is going to relinquish any firearm, other weapon or ammunition

ordered relinquished. Relinquishment may occur pursuant to section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 or to the sheriff or the appropriate law enforcement agency pursuant to this paragraph. Where the sheriff or the appropriate law enforcement agency is designated, the sheriff or the appropriate law enforcement agency shall secure custody of the defendant's firearms, other weapons or ammunition and any firearm license listed in the court's order for the duration of the order or until otherwise directed by court order. In securing custody of the defendant's relinquished firearms, the sheriff or the appropriate law enforcement agency shall comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms). In securing custody of the defendant's other weapons and ammunition, the sheriff or the appropriate law enforcement agency shall provide the defendant with a signed and dated written receipt which shall include a detailed description of the other weapon or ammunition and its condition. The court shall inform the defendant that firearms, other weapons or ammunition shall be deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.

(iii) The sheriff or the appropriate law enforcement agency shall provide the plaintiff with the name of the person to which any firearm, other weapon or ammunition was relinquished.

(iv) Unless the defendant has complied with subparagraph (i)(B) or section 6108.2 or 6108.3, if the defendant fails to relinquish any firearm, other weapon, ammunition or firearm license within 24 hours or upon the close of the next business day due to closure of sheriffs' or appropriate law enforcement agencies' offices or within the time ordered by the court upon cause being shown at the hearing, the sheriff or the appropriate law enforcement agency shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies, as appropriate.

(v) Any portion of any order or any petition or other paper which includes a list of any firearm, other weapon or ammunition ordered relinquished shall be kept in the files of the court as a permanent record thereof and withheld from public inspection except:

(A) upon an order of the court granted upon cause shown;

(B) as necessary, by law enforcement and court personnel; or

(C) after redaction of information listing any firearm, other weapon or ammunition.

(vi) As used in this paragraph, the term "defendant's firearms" shall, if the defendant is a licensed firearms dealer, only include firearms in the defendant's personal firearms collection pursuant to 27 CFR § 478.125a (relating to personal firearms collection).

(7.1) If the defendant is a licensed firearms dealer, ordering the defendant to follow such restrictions as the court may require concerning the conduct of his business,

which may include ordering the defendant to relinquish any Federal or State license for the sale, manufacture or importation of firearms as well as firearms in the defendant's business inventory. In restricting the defendant pursuant to this paragraph, the court shall make a reasonable effort to preserve the financial assets of the defendant's business while fulfilling the goals of this chapter.

(8) Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; costs of repair or replacement of real or personal property damaged, destroyed or taken by the defendant or at the direction of the defendant; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorney fees. An award under this chapter shall not constitute a bar to litigation for civil damages for injuries sustained from the acts of abuse giving rise to the award or a finding of contempt under this chapter.

(9) Directing the defendant to refrain from stalking or harassing the plaintiff and other designated persons as defined in 18 Pa.C.S. §§ 2709 (relating to harassment) and 2709.1 (relating to stalking).

(10) Granting any other appropriate relief sought by the plaintiff.

(a.1) Final order or agreement.--The following apply:

(1) Any final order must direct the defendant to refrain from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the plaintiff or minor children and must order that the defendant is subject to the firearms, other weapons or ammunition and firearms license prohibition relinquishment provisions under subsection (a)(7).

(2) A final agreement may direct the defendant to refrain from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the plaintiff or minor children and may order that the defendant is subject to the firearms, other weapons or ammunition and firearms license prohibition and relinquishment provisions under subsection (a)(7).

(b) Identifying information.--Any order issued under this section shall, where furnished by either party, specify the Social Security number and date of birth of the defendant.

(c) Mutual orders of protection.--Mutual orders of protection shall not be awarded unless both parties have filed timely written petitions, complied with service requirements under section 6106 (relating to commencement of proceedings) and are eligible for protection under this chapter. The court shall make separate findings and, where issuing orders on behalf of both petitioners, enter separate orders.

(d) Duration and amendment of order or agreement.--A protection order or approved consent agreement shall be for a fixed period of time not to exceed three years. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(e) Extension of protection orders.--

(1) An extension of a protection order may be granted:

(i) Where the court finds, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 6106 and 6107, that the defendant committed one or more

acts of abuse subsequent to the entry of the final order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff or minor child.

(ii) When a contempt petition or charge has been filed with the court or with a hearing officer in Philadelphia County, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition and may be extended for another term beyond the disposition of the contempt petition.

(iii) If the plaintiff files a petition for an extension of the order and the defendant is or was incarcerated and will be released from custody in the next 90 days or has been released from custody within the past 90 days. The plaintiff does not need to show that the defendant committed one or more acts of abuse subsequent to the entry of the order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff or minor children as set forth in subparagraph (i).

(2) Service of an extended order shall be made in accordance with section 6109 (relating to service of orders).

(3) There shall be no limitation on the number of extensions that may be granted.

(f) Support procedure.--The domestic relations section shall enforce any support award in a protection order where the plaintiff files a complaint for support under subsection (a)(5).

(g) Notice.--Notice shall be given to the defendant, in orders issued under this section, stating that violations of an order will subject the defendant to arrest under section 6113 (relating to arrest for violation of order) or contempt of court under section 6114 (relating to contempt for violation of order or agreement). Resumption of coresidency on the part of the plaintiff and defendant shall not nullify the provisions of the court order.

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

(i) Third parties and affidavits.--A court requiring relinquishment of firearms under this section shall provide for the hearing of petitions by third parties who request the return of a firearm relinquished by the defendant under subsection (a)(7). The following apply:

(1) A third party claiming to be the lawful owner of a firearm relinquished by the defendant under subsection (a)(7) may request the return of the firearm by providing proof of ownership and a sworn affidavit.

(2) The affidavit under paragraph (1) must affirm all of the following:

(i) The third party who is the lawful owner will not intentionally or knowingly return to the defendant the firearm or allow access to the firearm by the defendant.

(ii) The third party who is the lawful owner understands that violating subparagraph (i) constitutes a misdemeanor of the second degree under 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).

(iii) If the third party who is the lawful owner is a family or household member of the defendant, any firearm returned under this section must be stored in a gun safe to which the defendant does not have access and

will not be permitted to access, or stored in a location outside the third party's home to which the defendant does not have access.

(3) If the court orders the return of a firearm under this section, prior to the return of the firearm, the sheriff shall independently confirm that the person seeking relief under this section is legally eligible to possess firearms under Federal and State law. The sheriff shall conduct the background check as soon as practicable after the court enters an order under this section.

(June 23, 1993, P.L.124, No.28, eff. imd.; Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. 60 days; May 10, 2000, P.L.35, No.10, eff. imd.; Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsec. (a) intro. par. and (7) and added subsecs. (a.1), (e)(1)(iii) and (i). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

References in Text. Chapter 45, referred to in subsec. (a)(5), was repealed by the act of April 4, 1996, P.L.58, No.20. The subject matter is now contained in Parts VIII and VIII-A of this title.

Former Chapter 53 (Custody), referred to in this section, is repealed. The subject matter is now contained in Chapter 53 (Child Custody).

Cross References. Section 6108 is referred to in sections 6105, 6107, 6108.2, 6108.3, 6108.5, 6108.7, 6110, 6113, 6117, 6120, 6303, 6711 of this title; sections 2709, 2709.1, 6105, 6106, 6128 of Title 18 (Crimes and Offenses).

§ 6108.1. Return of relinquished firearms, other weapons and ammunition and additional relief.

(a) General rule.--Any court order requiring the relinquishment of firearms, other weapons or ammunition shall provide for the return of the relinquished firearms, other weapons or ammunition to the defendant upon expiration of the order or dismissal of a petition for a protection from abuse order. The defendant may take custody of the firearms, other weapons and ammunition provided that the defendant is otherwise eligible to lawfully possess the relinquished items. The defendant shall not be required to pay any fees, costs or charges associated with the returns, whether those fees, costs or charges are imposed by the Pennsylvania State Police, any local law enforcement agency or any other entity, including a licensed importer, licensed manufacturer or licensed dealer in order to secure return of the relinquished firearms, other weapons or ammunition. The sheriff's or the appropriate law enforcement agency's office shall maintain a weapons return form that the defendant may fill out and return to the office once a temporary or final protection from abuse order has been dismissed or expires.

(a.1) Conditions for return.--The following conditions must be satisfied prior to the firearms, other weapons or ammunition being returned to the defendant:

(1) The firearms, other weapons or ammunition relinquished must not be evidence of a crime.

(2) The defendant or owner must not be otherwise prohibited by applicable Federal or State law, or another condition, including, but not limited to, bail, from taking

possession of the firearms, other weapons or ammunition seized.

(3) The defendant or owner must have been given a clearance by the Pennsylvania State Police Instant Check System Unit or through the National Instant Criminal Background Check System (NICS), requested by the sheriff's office.

(a.2) Notice to plaintiff.--The plaintiff of the protection from abuse order shall be notified of the defendant's request to return the firearms, other weapons or ammunition.

(a.3) Petition for return.--If there is a determination under subsection (a.1) that the defendant is ineligible to regain possession of the firearms, other weapons or ammunition, the defendant or owner may file a petition appealing that determination and seeking their return. A copy of the petition must be served upon the plaintiff, sheriff and the district attorney.

(a.4) Abandonment.--Any firearms, other weapons or ammunition shall be deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.

(b) Modification of court's order providing for return of relinquished firearm, other weapon or ammunition.--Any other person may petition the court to allow for the return of that other person's firearms, other weapons and ammunition prior to the expiration of the court's order. The petition shall be served upon the plaintiff, and the plaintiff shall be given notice and an opportunity to be heard regarding that petition.

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(c) Modification of court's order to provide for alternative means of relinquishing firearms, other weapons or ammunition.--The defendant may petition the court for modification of the order to provide for an alternative means of relinquishment in accordance with this chapter. The petition shall be served upon the plaintiff, and the plaintiff shall have an opportunity to be heard at the hearing as provided in subsection (d). Where the court orders a modification pursuant to this subsection providing for alternative means of relinquishment, the sheriff shall proceed as directed by the court.

(d) Hearing.--Within ten business days of the filing of any petition under this section, a hearing shall be held before the court.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Other person." Any person, except the defendant, who is the lawful owner of a firearm, other weapon or ammunition relinquished pursuant to this chapter.

"Safekeeping." The secure custody of a firearm, other weapon or ammunition ordered relinquished by an active protection from abuse order.

(Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsecs. (a) and (b) and added subsecs. (a.1), (a.2), (a.3) and (a.4). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

2005 Amendment. Act 66 added section 6108.1.

Cross References. Section 6108.1 is referred to in section 6108.3 of this title; section 6105 of Title 18 (Crimes and Offenses).

§ 6108.2. Relinquishment for consignment sale, lawful transfer or safekeeping.

(a) General rule.--Notwithstanding any other provision of law, a defendant who is the subject of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff or the appropriate law enforcement agency, relinquish to a dealer licensed pursuant to 18 Pa.C.S. § 6113 (relating to licensing of dealers) any firearms, other weapons or ammunition for consignment sale, lawful transfer or safekeeping. The dealer may charge the defendant a reasonable fee for accepting relinquishment and for storage of any firearms, other weapons or ammunition.

(b) Affidavit.--A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall obtain an affidavit from the dealer on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:

- (1) The caption of the case in which the protection from abuse order was issued.
- (2) The name, address, date of birth and Social Security number of the defendant.
- (3) A list of the firearms, other weapons or ammunition, including, if applicable, the manufacturer, model and serial number.
- (4) The name and license number of the dealer licensed pursuant to 18 Pa.C.S. § 6113 and the address of the licensed premises.
- (5) An acknowledgment that the firearms, other weapons or ammunition will not be returned to the defendant or sold or transferred to a person the dealer knows is a member of the defendant's household, while the defendant is the subject of an active protection from abuse order pursuant to section 6108, which order provides for the relinquishment of the firearm, other weapon or ammunition being returned, sold or transferred.
- (6) An acknowledgment that the firearms, other weapons or ammunition, if sold or transferred, will be sold or lawfully transferred in compliance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).

(c) Failure to provide affidavit.--A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons or ammunition, provide to the sheriff the affidavit obtained pursuant to subsection (b) and relinquish to the sheriff any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, in an affidavit provided in accordance with section 6108(a)(7)(i)(B) (relating to relief) or in an acknowledgment of receipt from a third party provided to the sheriff pursuant to section 6108.3 (relating to relinquishment to third party for safekeeping). If the defendant fails to comply with this subsection, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.

(d) Form.--The Pennsylvania State Police shall develop and make available a form to be used by dealers to accept possession

of firearms, other weapons and ammunition for consignment sale, lawful transfer or safekeeping pursuant to this section.

(e) Transfer upon entry of final order.--Upon entry of a final protection from abuse order issued pursuant to section 6108, a defendant who had relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order may request that the firearms, other weapons or ammunition be relinquished to a dealer for consignment sale, lawful transfer or safekeeping pursuant to this section. If the defendant can identify a licensed dealer willing to accept the firearms, other weapons or ammunition in compliance with this section, the court shall order the sheriff to transport the firearms, other weapons or ammunition to the licensed dealer at no cost to the defendant or the licensed dealer.

(f) Nondisclosure.--The affidavit obtained under subsection (c) shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(g) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Safekeeping." The secure custody of firearms, other weapons or ammunition ordered relinquished by an active protection from abuse order.

"Sale or lawful transfer." Any sale or transfer to a person other than the defendant or a member of the defendant's household which is conducted in accordance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles). (Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsecs. (a) and (e). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

2005 Amendment. Act 66 added section 6108.2.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (f), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 6108.2 is referred to in sections 6108, 6108.3 of this title; sections 6105, 6106 of Title 18 (Crimes and Offenses).

§ 6108.3. Relinquishment to third party for safekeeping.

(a) General rule.--A defendant who is the subject of a protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff, relinquish any firearms, other weapons or ammunition for safekeeping to a third party who meets the requirements of a third party under subsection (b) (3).

(b) Transfer to third party.--

(1) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons and ammunition, report to the sheriff's office in the county where the order was entered along with the third party.

(2) Upon determination by the sheriff that the third party is not prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law and after the defendant and third party have executed the affidavits required under paragraph (3), the sheriff shall

issue a safekeeping permit to the third party, which shall include, at a minimum, a list of the firearms, other weapons and ammunition which will be relinquished to the third party. The permit shall be issued at no cost to the third party or defendant. The permit shall require the third party to possess the defendant's firearms, other weapons and ammunition until the time that:

(i) the sheriff revokes the safekeeping permit pursuant to subsection (c)(1); or

(ii) the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(3) (i) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party pursuant to subsection (a) shall, in the presence of the sheriff or the sheriff's designee, execute an affidavit on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:

(A) The caption of the case in which the protection from abuse order was issued.

(B) The name, address, date of birth and the Social Security number of the defendant.

(C) The name, address and date of birth of the third party.

(D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.

(E) An acknowledgment that the defendant will not take possession of any firearm, other weapon or ammunition relinquished to the third party until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(F) A plain-language summary of 18 Pa.C.S. § 6105(a.1)(2) and (c)(6) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

(G) A plain-language summary of 18 U.S.C. § 922(g)(8) (relating to unlawful acts).

(ii) A third party who will be accepting possession of firearms, other weapons and ammunition pursuant to subsection (a) shall, in the presence of the sheriff or the sheriff's designee, execute an affidavit on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:

(A) The caption of the case in which the protection from abuse order was issued.

(B) The name, address and date of birth of the defendant.

(C) The name, address, date of birth and the Social Security number of the third party.

(D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.

(E) An acknowledgment that no firearm, other weapon or ammunition relinquished to the third party will be returned to the defendant until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).

(F) A plain-language summary of 18 Pa.C.S. §§ 6105(a.1)(5) and (c)(6), 6111(c) (relating to sale

or transfer of firearms) and 6115 (relating to loans on, or lending or giving firearms prohibited).

(G) A plain-language summary of this section.

(H) An acknowledgment that the third party is not prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law.

(I) An acknowledgment that the third party is not subject to an active protection from abuse order.

(J) An acknowledgment that the defendant has never been the subject of a protection from abuse order issued on behalf of the third party.

(K) An acknowledgment that any firearms, other weapons and ammunition relinquished to the third party will be stored using a locking device as defined in paragraph (1) of the definition of "locking device" in 18 Pa.C.S. § 6142(f) (relating to locking device for firearms) or in a secure location to which the defendant does not have access.

(L) A detailed description of the third party liability pursuant to this section relating to civil liability.

(M) An acknowledgment that the third party shall inform the sheriff of any change of address for the third party within seven days of the change of address.

(N) An acknowledgment that the third party and the defendant are not family or household members.

(O) An acknowledgment that the third party is one of the following:

(I) An attorney at law, and further acknowledgment that the attorney at law and the defendant are in an attorney-client relationship. The attorney at law and the defendant shall sign a written agreement stating in substantially the following form: "Firearm(s) can be relinquished to the attorney at law upon the express, written condition that firearm(s) will be returned to the defendant, or otherwise transferred, only if in strict conformance with applicable law."

(II) A commercial armory, and further acknowledgment that the owner or operator of the commercial armory is not a family or household member of the defendant; the commercial armory is a secure storage facility designed to store firearms; the commercial armory possesses all Federal and State licenses to store firearms; and a form stating substantially the following: "Firearms can be relinquished to the commercial armory upon the express, written condition that firearm(s) will be returned, or transferred, to the defendant only in strict conformance with applicable law."

(4) The defendant shall, within the time frame specified in the order and in lieu of relinquishment to the sheriff, relinquish the firearms, other weapons and ammunition specified in the affidavits provided to the sheriff pursuant to paragraph (3) to the third party who has been issued a safekeeping permit pursuant to paragraph (2). Upon relinquishment of the firearms to the third party, the third party shall sign an acknowledgment of receipt on a form prescribed by the Pennsylvania State Police, which shall

include, at a minimum, an acknowledgment that the firearms were relinquished to the third party within the time frame specified in the order.

(5) Within 24 hours of the issuance of the safekeeping permit issued to the third party pursuant to paragraph (2) or by close of the next business day as necessary due to the closure of the sheriff's office, the defendant shall return the signed acknowledgment of receipt required under paragraph (4) to the sheriff in the county where the order was entered.

(6) If the defendant fails to provide the acknowledgment of receipt to the sheriff as required under paragraph (5), an affidavit prepared in accordance with section 6108(a)(7)(i)(B) (relating to relief), an affidavit under section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or fails to relinquish any firearms, other weapons or ammunition, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.

(c) Revocation of safekeeping permit.--

(1) The sheriff shall revoke a third party's safekeeping permit and require the third party to relinquish to the sheriff any firearms, other weapons or ammunition which were relinquished to the third party by a defendant pursuant to subsection (a) upon determining or being notified that any of the following apply:

(i) A protection from abuse order has been entered against the third party.

(ii) The third party is prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law.

(iii) The defendant has been convicted of a violation of 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles) or any other offense involving the use of a firearm.

(iv) The defendant has been held in indirect criminal contempt for violating a provision of the protection from abuse order consistent with section 6108(a)(1), (2), (6), (7) or (9) (relating to relief).

(2) Upon revocation of a safekeeping permit, the sheriff shall seize the safekeeping permit and all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party. If revocation of the safekeeping permit was:

(i) Required pursuant to paragraph (1)(i) or (ii), the sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may report to the sheriff's office in order to relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.

(ii) Required pursuant to paragraph (1)(iii) or (iv), the sheriff shall maintain possession of the firearms, other weapons and ammunition until the defendant is no longer prohibited from possessing firearms, other weapons and ammunition pursuant to any Federal or State law unless:

(A) the defendant has the firearms, other weapons and ammunition relinquished to a licensed dealer pursuant to section 6108.2; or

(B) the sheriff is directed to relinquish the firearms, other weapons and ammunition pursuant to a court order.

(d) Return of safekeeping permit.--

(1) Following expiration of a protection from abuse order, which order provided for the relinquishment of firearms, other weapons or ammunition, the defendant and the third party shall report to the sheriff's office to return the safekeeping permit. Upon a determination by the sheriff that the defendant is:

(i) Not prohibited from possessing firearms, other weapons and ammunition, the sheriff shall accept the return of the safekeeping permit, and the third party shall relinquish to the defendant all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party pursuant to this section.

(ii) Prohibited from possessing a firearm, other weapon or ammunition pursuant to any Federal or State law, the sheriff shall accept return of the permit and seize from the third party all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party pursuant to this section. The sheriff shall return to the defendant any firearm, other weapon or ammunition which the defendant is lawfully entitled to possess.

(2) Upon issuance of a court order pursuant to 18 Pa.C.S. §§ 6105(f)(2) or 6108.1(b) (relating to return of relinquished firearms, other weapons and ammunition and additional relief) which modifies a valid protection from abuse order by allowing the defendant to take possession of a firearm, other weapon or ammunition that had previously been ordered relinquished, the defendant and the third party shall report to the sheriff's office to return the safekeeping permit. The sheriff shall proceed as directed by the court order.

(3) If a third party wishes to relinquish the defendant's firearms, other weapons and ammunition prior to return of the safekeeping permit pursuant to paragraph (1), the sheriff shall accept return of the safekeeping permit and shall seize all of the defendant's firearms, other weapons and ammunition from the third party. The sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.

(e) Civil liability.--A third party who intentionally or knowingly violates any of the provisions of this section shall, in addition to any other penalty prescribed in this chapter or 18 Pa.C.S. Ch. 61, be civilly liable to any person for any damages caused thereby and, in addition, shall be liable to any person for punitive damages in an amount not to exceed \$5,000, and the court shall award a prevailing plaintiff a reasonable attorney fee as part of the costs.

(f) Forms.--The Pennsylvania State Police shall develop and make available:

(1) Forms to be used by sheriffs to issue safekeeping permits pursuant to subsection (b)(2).

(2) Affidavit forms and receipt forms to be used by defendants and third parties as required under subsection (b)(3) and (4).

(g) Transfer upon final entry.--A defendant who has previously relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order shall be permitted to have the firearms, other weapons and ammunition relinquished to a third party pursuant to this section following entry of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect.

(h) Nondisclosure.--All copies of the safekeeping permit issued under subsection (b)(2) retained by the sheriff and the affidavits and forms obtained under subsection (b)(3) and (4) shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(i) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Safekeeping." The secure custody of firearms, other weapons or ammunition which were ordered relinquished by an active protection from abuse order.

"Third party." A person, other than the defendant, who:

(1) Is not a member of the defendant's household.

(2) Is not prohibited from possessing firearms pursuant to any Federal or State law.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsec. (a) and added subsec. (b)(3)(ii)(N) and (O). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

2005 Amendment. Act 66 added section 6108.3.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (h), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 6108.3 is referred to in sections 6107, 6108, 6108.2 of this title; sections 6105, 6105.2, 6106, 6115 of Title 18 (Crimes and Offenses).

§ 6108.4. Registry or database of firearm ownership.

(a) Confidentiality.--Information retained to ensure compliance with this chapter and to document the return of firearms shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(b) Construction.--Nothing in this chapter shall be construed to allow a government agency or law enforcement agency, or an agent or employee of either, or any other person or entity to create, maintain or operate a database or registry of firearm ownership within this Commonwealth. However, information may be retained to ensure compliance with this chapter and to document the return of firearms.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6108.4.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (a), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 6108.5. Penalties for release of information.

Any person who violates section 6108(a)(7)(v) (relating to relief) by releasing information with the intent and purpose

of committing such violation commits a misdemeanor of the third degree.

(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6108.5.

§ 6108.6. Penalty for failure to secure firearms.

In addition to any other penalty provided by 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act), a commercial armory which violates the provisions of this chapter regarding safekeeping shall forfeit all Federal and State licenses related to firearms.

(Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 added section 6108.6. Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

§ 6108.7. Order to seal record from public view.

(a) General rule.--Notwithstanding any other provision of this chapter, an individual who has entered into a consent agreement approved by the court under section 6108(a) (relating to relief) may petition the court for an order to seal the record of the individual from public view. The court may grant the order if the petitioner proves all of the following by clear and convincing evidence:

(1) The consent agreement for which the individual seeks relief under this section is the only such consent agreement to which the individual has ever been subject and that, during the period in which the consent agreement was in effect, the individual did not violate an order or consent agreement under section 6108.

(2) A period of at least ten years has elapsed since the expiration of the consent agreement.

(3) The individual has not been subject to another final protection from abuse order under section 6108.

(4) The individual has not been convicted of one of the following offenses where the victim is a family or household member:

(i) An offense set forth in 18 Pa.C.S. § 2711 (relating to probable cause arrests in domestic violence cases).

(ii) An offense equivalent to subparagraph (i) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(b) Notice to district attorney and plaintiff.--

(1) The petitioner shall serve a copy of the petition under subsection (a) to the district attorney and to the plaintiff within ten days of the filing of the petition.

(2) The district attorney and the plaintiff shall have an opportunity to be heard at the hearing.

(3) Within 30 days of receipt of notice, the district attorney or plaintiff may file objections to the petition.

(4) If no objection under paragraph (3) is timely filed, the court may grant the petition without further hearing if the requirements of this section have been met.

(5) As used in this subsection, the term "plaintiff" means the person who entered into the consent agreement with the defendant.

(c) Notice to prothonotary.--Notice of an order to seal the individual's record from public view shall promptly be submitted to the prothonotary of the county holding the record. The prothonotary may not permit a member of the public from

accessing the individual's record regarding the consent agreement. Nothing in this section shall be construed to limit access of the record of the individual by a criminal justice agency as defined in 18 Pa.C.S. § 9102 (relating to definitions).

(Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 added section 6108.7. Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

§ 6109. Service of orders.

(a) Issuance.--A copy of an order under this chapter shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement in accordance with the provisions of this chapter or as ordered by the court or hearing officer.

(b) Placement in registry.--Upon receipt of an order, the police department shall immediately place the order in a county registry of protection orders. The police department shall assure that the registry is current at all times and that orders are removed upon expiration thereof. County registries shall not be required when the Pennsylvania State Police registry provided for in section 6105(e) (relating to responsibilities of law enforcement agencies) is established and is fully operational.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

1994 Amendment. Act 85 amended subsec. (b).

Cross References. Section 6109 is referred to in section 6108 of this title.

§ 6110. Emergency relief by minor judiciary.

(a) General rule.--When:

(1) in counties with less than four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning;

(ii) from the end of the business week to the beginning of the business week; and

(iii) during the business day by reason of duties outside the county, illness or vacation;

(2) in counties with at least four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning; and

(ii) from the end of the business week to the beginning of the business week;

a petition may be filed before a hearing officer who may grant relief in accordance with section 6108(a)(1), (2) and (6) or (1) and (6) (relating to relief) if the hearing officer deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an ex parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for the purposes of this subsection.

(b) Expiration of order.--An order issued under subsection (a) shall expire at the end of the next business day the court deems itself available. The court shall schedule hearings on protection orders entered by hearing officers under subsection (a) and shall review and continue in effect protection orders that are necessary to protect the plaintiff or minor children from abuse until the hearing, at which time the plaintiff may seek a temporary order from the court.

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

(d) Instructions regarding the commencement of proceedings.--Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court of common pleas at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of programs for victims of domestic violence in the county or in nearby counties and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them.

(e) Master for emergency relief.--The president judge of a court of common pleas of a judicial district may, with the approval of the Administrative Office of Pennsylvania Courts, provide for the selection and appointment of a master for emergency relief on a full-time or part-time basis. The number of masters for emergency relief shall be fixed by the president judge with the approval of the Administrative Office of Pennsylvania Courts. The compensation of a master for emergency relief shall be fixed and paid by the county.

(July 9, 1992, P.L.400, No.87, eff. 60 days; Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added subsec. (e).

1994 Amendment. Act 85 amended subsecs. (a) and (b).

Cross References. Section 6110 is referred to in sections 6102, 6105 of this title; section 4137 of Title 42 (Judiciary and Judicial Procedure).

§ 6111. Domestic violence counselor/advocate.

A domestic violence counselor/advocate may accompany a party to any legal proceeding or hearing under this chapter.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

§ 6112. Disclosure of addresses.

During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or plaintiff's family is endangered by disclosure of the permanent or temporary address of the plaintiff or minor children. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a domestic violence program. Where the court concludes that the defendant poses a threat of continued danger to the plaintiff and where the plaintiff requests that his or her address, telephone number and information about whereabouts not be disclosed, the court shall enter an order directing that law enforcement agencies, human service agencies and school districts (both in which a plaintiff's child in custody of the plaintiff is or has been enrolled) shall not disclose the presence of the plaintiff or the child in the jurisdiction or district or furnish any address, telephone number or any other

demographic information about the plaintiff and child except by further order of the court.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

§ 6113. Arrest for violation of order.

(a) General rule.--An arrest for violation of an order issued pursuant to this chapter or a foreign protection order may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer or sheriff in circumstances where the defendant has violated a provision of an order consistent with section 6108(a)(1), (2), (3), (4), (6), (7) or (9) (relating to relief). The police officer or sheriff may verify the existence of a protection order by telephone, radio or other electronic communication with the appropriate police department, Pennsylvania State Police registry, protection order file or issuing authority. A police officer or sheriff shall arrest a defendant for violating an order issued under this chapter by a court within the judicial district, issued by a court in another judicial district within this Commonwealth or a foreign protection order issued by a comparable court.

(b) Seizure of firearms, other weapons and ammunition.--Subsequent to an arrest, the police officer or sheriff shall seize all firearms, other weapons and ammunition used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in the defendant's possession. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated firearms, other weapons and ammunition to the office of the sheriff. The sheriff shall maintain possession of the firearms, other weapons and ammunition until the court issues an order specifying the firearms, other weapons and ammunition to be relinquished and the persons to whom the firearms, other weapons and ammunition shall be relinquished.

(c) Procedure following arrest.--Subsequent to an arrest, the defendant shall be taken by the police officer or sheriff without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer or sheriff shall convey the defendant to a magisterial district judge designated as appropriate by local rules of court or, in the city of Pittsburgh, to a magistrate of the Pittsburgh Magistrates Court or, in counties of the first class, to the appropriate hearing officer. For purposes of procedure relating to arraignments for arrest for violation of an order issued under this chapter, the judges of Pittsburgh Magistrates Court shall be deemed to be magisterial district judges.

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

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

(f) Hearing.--A hearing shall be scheduled within ten days of the filing of the charge or complaint of indirect criminal contempt. The hearing and any adjudication shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing or adjudication on other criminal charges preclude a hearing on a charge of indirect criminal contempt. (Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 6113 is referred to in sections 6105, 6108, 6121 of this title.

§ 6113.1. Private criminal complaints for violation of order or agreement.

(a) General rule.--A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a noneconomic violation of any provision of an order or court-approved consent agreement issued under this chapter or a foreign protection order, with the court, the office of the district attorney or the magisterial district judge in the jurisdiction or county where the violation occurred, except that, in a city of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of the district attorney.

(b) Procedure service.--Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule. No fees or costs associated with the prosecution of the private criminal complaint shall be assigned to the plaintiff at any stage of the proceeding, including, but not limited to, filing, service, failure to prosecute, withdrawal or dismissal. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation).

(c) Fees and costs.--After a finding of indirect criminal contempt, fees and costs may be assessed against the defendant. The court shall waive fees and costs imposed pursuant to this chapter upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the costs associated with the indirect criminal contempt action. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1. (Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 6114. Contempt for violation of order or agreement.

(a) General rule.--Where the police, sheriff or the plaintiff have filed charges of indirect criminal contempt against a defendant for violation of a protection order issued under this chapter, a foreign protection order or a court-approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(a.1) Jurisdiction.--A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order issued pursuant to this chapter in the county where the violation occurred and in the county where the protection order was granted. A court shall have jurisdiction over indirect criminal contempt charges for violation of a foreign protection order in the county where the violation occurred.

(a.2) Minor defendant.--Any defendant who is a minor and who is charged with indirect criminal contempt for allegedly violating a protection from abuse order shall be considered to have committed an alleged delinquent act as that term is defined in 42 Pa.C.S. § 6302 (relating to definitions) and shall be

treated as provided in 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(b) Trial and punishment.--

(1) A sentence for contempt under this chapter may include:

(i) (A) a fine of not less than \$300 nor more than \$1,000 and imprisonment up to six months; or

(B) a fine of not less than \$300 nor more than \$1,000 and supervised probation not to exceed six months; and

(ii) an order for other relief set forth in this chapter.

(2) All money received under this section shall be distributed in the following order of priority:

(i) \$100 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).

(ii) \$100 shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(A) \$50 shall be used by the sheriff.

(B) \$50 shall be used by the court.

(iii) \$100 shall be forwarded to the Department of Public Welfare for use for victims of domestic violence in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(iv) Any additional money shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105.

(3) The defendant shall not have a right to a jury trial on a charge of indirect criminal contempt. However, the defendant shall be entitled to counsel.

(4) Upon conviction for indirect criminal contempt and at the request of the plaintiff, the court shall also grant an extension of the protection order for an additional term.

(5) Upon conviction for indirect criminal contempt, the court shall notify the sheriff of the jurisdiction which issued the protection order of the conviction.

(6) The minimum fine required by subsection (b)(1) allocated pursuant to subsection (b)(2)(i) and (iii) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.

(c) Notification upon release.--The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection (b). Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody. The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(d) Multiple remedies.--Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to

the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Mar. 24, 1998, P.L.204, No.36, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6114 is referred to in sections 5329, 6108 of this title; sections 4136, 4137 of Title 42 (Judiciary and Judicial Procedure).

§ 6114.1. Civil contempt or modification for violation of an order or agreement.

(a) General rule.--A plaintiff may file a petition for civil contempt with the issuing court alleging that the defendant has violated any provision of an order or court-approved agreement issued under this chapter or a foreign protection order.

(b) Civil contempt order.--Upon finding of a violation of a protection order or court-approved consent agreement issued under this chapter or a foreign protection order, the court, either pursuant to petition for civil contempt or on its own accord, may hold the defendant in civil contempt and constrain him in accordance with law.

(c) Sentencing.--A sentence for civil contempt under this chapter may include imprisonment until the defendant complies with provisions in the order or consent agreement or demonstrates the intent to do so, but in no case shall a term of imprisonment under this section exceed a period of six months.

(d) Jury trial and counsel.--The defendant shall not have a right to a jury trial; however, the defendant shall be entitled to counsel.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days)

2001 Amendment. Act 39 amended subsecs. (a) and (b).

1994 Amendment. Act 85 added section 6114.1.

§ 6115. Reporting abuse and immunity.

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

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

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

§ 6116. Confidentiality.

Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate or a coparticipant who is present during domestic violence counseling/advocacy shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter 63 (relating to child protective services), a

Federal or State mandatory reporting statute or a local mandatory reporting ordinance.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

Cross References. Section 6116 is referred to in section 6102 of this title.

§ 6117. Procedure and other remedies.

(a) **General rule.**--Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies. The plaintiff and the defendant may seek modification of an order issued under section 6108 (relating to relief) at any time during the pendency of an order. Except as otherwise indicated in this chapter, modification may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.

(b) **Remedies for bad faith.**--Notwithstanding any other provision of law, upon finding that an individual commenced a proceeding under this chapter in bad faith, a court shall direct the individual to pay to the defendant actual damages and reasonable attorney fees. Failure to prove an allegation of abuse by a preponderance of the evidence shall not, by itself, result in a finding of bad faith.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

§ 6118. Full faith and credit (Repealed).

2001 Repeal. Section 6118 was repealed June 22, 2001, P.L.576, No.39, effective in 60 days.

§ 6119. Immunity.

(a) **General rule.**--Law enforcement agencies and their employees, including police officers and sheriffs, shall, except as provided in subsection (b), be immune from civil liability for actions taken in good faith to carry out their duties relating to the seizure and relinquishment of firearms, other weapons and ammunition as provided for in this chapter, except for gross negligence, intentional misconduct or reckless, willful or wanton misconduct.

(b) **Exception.**--Law enforcement agencies and their employees, including police officers and sheriffs, shall be liable to the lawful owner of confiscated, seized or relinquished firearms in accordance with 18 Pa.C.S. § 6105(f) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) and shall be liable to the lawful owner of confiscated, seized or relinquished other weapons or ammunition for any loss, damage or substantial decrease in the value of the other weapons or ammunition that is a direct result of a lack of reasonable care by the law enforcement agency or its employees.

(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6119.

§ 6120. Inability to pay.

(a) **Order for installment payments.**--Upon plea and proof that a person is without the financial means to pay a fine, a fee, economic relief ordered under section 6108(a)(8) (relating to relief) or a cost, a court may order payment of money owed in installments appropriate to the circumstances of the person and shall fix the amounts, times and manner of payment.

(b) Use of credit cards.--The treasurer of each county may allow the use of credit cards and bank cards in the payment of money owed under this chapter.

(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6120.

§ 6121. Warrantless searches.

Except as provided in section 6113 (relating to arrest for violation of order), nothing in this chapter shall authorize a warrantless search for firearms, other weapons or ammunition.

(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6121.

§ 6122. Construction.

Nothing in this chapter shall be construed to preclude an action for wrongful use of civil process pursuant to 42 Pa.C.S. Ch. 83 Subch. E (relating to wrongful use of civil proceedings) or criminal prosecution for a violation of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6122.

CHAPTER 63

CHILD PROTECTIVE SERVICES

Subchapter

- A. Preliminary Provisions
- B. Provisions and Responsibilities for Reporting Suspected Child Abuse
- C. Powers and Duties of Department
 - C.1. Students in Public and Private Schools (Repealed)
 - C.2. Background Checks for Employment in Schools (Repealed)
- D. Organization and Responsibilities of Child Protective Service
- E. Miscellaneous Provisions

Enactment. Chapter 63 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1915.24, as amended March 30, 1994, provided that Chapter 63 shall not be deemed suspended or affected by Rules 1915.1 through 1915.18 relating to actions for custody, partial custody and visitation of minor children.

Cross References. Chapter 63 is referred to in sections 5329.1, 5701, 6102, 6106, 6116, 6344, 6504.3, 6508, 6509 of this title; sections 4304, 4906.1, 4958, 9121 of Title 18 (Crimes and Offenses); sections 5945, 62A16, 6311, 6342 of Title 42 (Judiciary and Judicial Procedure).

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

- 6301. Short title of chapter.
- 6302. Findings and purpose of chapter.
- 6303. Definitions.
- 6304. Exclusions from child abuse.
- 6305. Electronic reporting.
- 6306. Regulations.

§ 6301. Short title of chapter.

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

§ 6302. Findings and purpose of chapter.

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

(b) Purpose.--It is the purpose of this chapter to encourage more complete reporting of suspected child abuse; to the extent permitted by this chapter, to involve law enforcement agencies in responding to child abuse; and to establish in each county protective services for the purpose of investigating the reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve, stabilize and protect the integrity of family life wherever appropriate or to provide another alternative permanent family when the unity of the family cannot be maintained. It is also the purpose of this chapter to ensure that each county children and youth agency establish a program of protective services with procedures to assess risk of harm to a child and with the capabilities to respond adequately to meet the needs of the family and child who may be at risk and to prioritize the response and services to children most at risk.

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

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999)

1998 Amendment. Act 127 amended subsec. (b).

§ 6303. 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:

"Accept for service." Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

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

"Adult family member." A person 18 years of age or older who has the responsibility to provide care or services to an individual with an intellectual disability or chronic psychiatric disability.

"Bodily injury." Impairment of physical condition or substantial pain.

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

"Child-care services." Includes any of the following:

- (1) Child day-care centers.
- (2) Group day-care homes.
- (3) Family child-care homes.
- (4) Foster homes.
- (5) Adoptive parents.
- (6) Boarding homes for children.
- (7) Juvenile detention center services or programs for delinquent or dependent children.
- (8) Mental health services for children.
- (9) Services for children with intellectual disabilities.
- (10) Early intervention services for children.
- (11) Drug and alcohol services for children.

(12) Day-care services or programs that are offered by a school.

(13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the department or a county social services agency or that are provided pursuant to a contract with the department or a county social services agency.

The term does not apply to services provided by administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Child protective services." Those services and activities provided by the department and each county agency for child abuse cases.

"Children's advocacy center." A local public agency in this Commonwealth or a not-for-profit entity incorporated in this Commonwealth which:

(1) is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)); and

(2) operates within this Commonwealth for the primary purpose of providing a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse that, at a minimum, either onsite or through a partnership with another entity or entities, assists county agencies, investigative teams and law enforcement by providing services, including forensic interviews, medical evaluations, therapeutic interventions, victim support and advocacy, team case reviews and a system for case tracking.

"Cooperation with an investigation or assessment." Includes, but is not limited to, a school or school district which permits authorized personnel from the department or county agency to interview a student while the student is in attendance at school.

"County agency." The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the department under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Department." The Department of Human Services of the Commonwealth.

"Direct contact with children." The care, supervision, guidance or control of children or routine interaction with children.

"Direct volunteer contact." The care, supervision, guidance or control of children and routine interaction with children.

"Education enterprise." An educational activity in this Commonwealth:

(1) for which college credits or continuing education units are awarded, continuing professional education is offered or tuition or fees are charged or collected; and

(2) that is sponsored by a corporation, entity or institution that is incorporated or authorized by other means in a state other than this Commonwealth and is approved and authorized to operate in this Commonwealth under 15 Pa.C.S. Pt. II Subpt. B (relating to business corporations) or C (relating to nonprofit corporations) and 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

"Electronic technologies." The transfer of information in whole or in part by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic

or photo-optical systems, or similar capabilities. The term includes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.

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

"Family child-care home." A residence where child day care is provided at any time to no less than four children and no more than six children who are not relatives of the caregiver.

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

"Founded report." A child abuse report involving a perpetrator that is made pursuant to this chapter, if any of the following applies:

(1) There has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following:

(i) The entry of a plea of guilty or nolo contendere.

(ii) A finding of guilt to a criminal charge.

(iii) A finding of dependency under 42 Pa.C.S. § 6341 (relating to adjudication) if the court has entered a finding that a child who is the subject of the report has been abused.

(iv) A finding of delinquency under 42 Pa.C.S. § 6341 if the court has entered a finding that the child who is the subject of the report has been abused by the child who was found to be delinquent.

(2) There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.

(3) There has been a consent decree entered in a juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the decree involves the same factual circumstances involved in the allegation of child abuse and the terms and conditions of the consent decree include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent.

(4) A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and:

(i) only one individual is charged with the abuse in the protection from abuse action;

(ii) only that individual defends against the charge;

(iii) the adjudication involves the same factual circumstances involved in the allegation of child abuse; and

(iv) the protection from abuse adjudication finds that the child abuse occurred.

"Founded report for school employee." (Deleted by amendment).

"General protective services." Those services and activities provided by each county agency for cases requiring protective services, as defined by the department in regulations.

"Health care facility." As defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Health care provider." A licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.

"Immediate vicinity." An area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.

"Independent contractor." An individual who provides a program, activity or service to an agency, institution, organization or other entity, including a school or regularly established religious organization, that is responsible for the care, supervision, guidance or control of children. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Indicated report."

(1) Subject to paragraphs (2) and (3), a report of child abuse made pursuant to this chapter if an investigation by the department or county agency determines that substantial evidence of the alleged abuse by a perpetrator exists based on any of the following:

- (i) Available medical evidence.
- (ii) The child protective service investigation.
- (iii) An admission of the acts of abuse by the

perpetrator.

(2) A report may be indicated under paragraph (1)(i) or (ii) for any child who is the victim of child abuse, regardless of the number of alleged perpetrators.

(3) A report may be indicated under paragraph (1)(i) or (ii) listing the perpetrator as "unknown" if substantial evidence of abuse by a perpetrator exists, but the department or county agency is unable to identify the specific perpetrator.

"Indicated report for school employee." (Deleted by amendment).

"Individual residing in the same home as the child."

(Deleted by amendment).

"Institution of higher education." Any of the following:

(1) A community college which is an institution now or hereafter created pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.

(2) An independent institution of higher education which is an institution of higher education located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college," "university" or "seminary" as provided for by standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65.

- (3) A State-owned institution.
- (4) A State-related institution.
- (5) An education enterprise.

"Intentionally." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Knowingly." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Law enforcement official." The term includes the following:

- (1) The Attorney General.
- (2) A Pennsylvania district attorney.
- (3) A Pennsylvania State Police officer.
- (4) A municipal police officer.

"Mandated reporter." A person who is required by this chapter to make a report of suspected child abuse.

"Matriculated student." A student who is enrolled in an institution of higher education and pursuing a program of study that results in a postsecondary credential, such as a certificate, diploma or degree.

"Near fatality." A child's serious or critical condition, as certified by a physician, where that child is a subject of the report of child abuse.

"Newborn." As defined in section 6502 (relating to definitions).

"Nonaccidental." (Deleted by amendment).

"Parent." A biological parent, adoptive parent or legal guardian.

"Perpetrator." A person who has committed child abuse as defined in this section. The following shall apply:

- (1) The term includes only the following:
 - (i) A parent of the child.
 - (ii) A spouse or former spouse of the child's parent.
 - (iii) A paramour or former paramour of the child's parent.
 - (iv) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.
 - (v) An individual 14 years of age or older who resides in the same home as the child.
 - (vi) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.
 - (vii) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).
- (2) Only the following may be considered a perpetrator for failing to act, as provided in this section:
 - (i) A parent of the child.
 - (ii) A spouse or former spouse of the child's parent.
 - (iii) A paramour or former paramour of the child's parent.
 - (iv) A person 18 years of age or older and responsible for the child's welfare.
 - (v) A person 18 years of age or older who resides in the same home as the child.

"Person affiliated with." A person that directly or indirectly, through one or more intermediaries, controls, is

controlled by or is under common control with a specified person.

"Person responsible for the child's welfare." A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

"Police department." A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.

"Police officer." A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.

"Police station." The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.

"Private agency." A children and youth social service agency subject to the requirements of 55 Pa. Code Ch. 3680 (relating to administration and operation of a children and youth social service agency).

"Program, activity or service." Any of the following in which children participate and which is sponsored by a school or a public or private organization:

- (1) A youth camp or program.
- (2) A recreational camp or program.
- (3) A sports or athletic program.
- (4) A community or social outreach program.
- (5) An enrichment or educational program.
- (6) A troop, club or similar organization.

"Protective services." Those services and activities provided by the department and each county agency for children who are abused or are alleged to be in need of protection under this chapter.

"Recent act." Any act committed within two years of the date of the report to the department or county agency.

"Recent act or failure to act." Any act or failure to act committed within two years of the date of the report to the department or county agency.

"Recklessly." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Resource family." A family which provides temporary foster or kinship care for children who need out-of-home placement and may eventually provide permanency for those children, including an adoptive family.

"Risk assessment." A Commonwealth-approved systematic process that assesses a child's need for protection or services based on the risk of harm to the child.

"Routine interaction." Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.

"Safety assessment." A Commonwealth-approved systematic process that assesses a child's need for protection or services, based on the threat to the safety of the child.

"School." A facility providing elementary, secondary or postsecondary educational services. The term includes the following:

- (1) Any school of a school district.
- (2) An area vocational-technical school.
- (3) A joint school.
- (4) An intermediate unit.

- (5) A charter school or regional charter school.
- (6) A cyber charter school.
- (7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.
- (8) A private school accredited by an accrediting association approved by the State Board of Education.
- (9) A nonpublic school.
- (10) An institution of higher education.
- (11) (Deleted by amendment).
- (12) (Deleted by amendment).
- (13) (Deleted by amendment).
- (14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.

(15) The Hiram G. Andrews Center.

(16) A private residential rehabilitative institution as defined in section 914.1-A(c) of the Public School Code of 1949.

"School employee." An individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Secretary." The Secretary of Human Services of the Commonwealth.

"Serious bodily injury." Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

"Serious mental injury." A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

(1) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or

(2) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

"Serious physical injury." (Deleted by amendment).

"Serious physical neglect." Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(1) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

"Sexual abuse or exploitation." Any of the following:

(1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

(i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

This paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.

(2) Any of the following offenses committed against a child:

(i) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(ii) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(iii) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(iv) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(v) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(vi) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(vii) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(viii) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(x) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(xi) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(xii) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(xiii) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

"Student." An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.

"Subject of the report." Any child, parent, guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator in a report made to the department or a county agency under this chapter.

"Substantial evidence." Evidence which outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.

"Substantiated child abuse." Child abuse as to which there is an indicated report or founded report.

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

"Unfounded report." Any report made pursuant to this chapter unless the report is a "founded report" or an "indicated report."

(b) Child abuse.--(Deleted by amendment).

(b.1) Child abuse.--The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:

(1) Causing bodily injury to a child through any recent act or failure to act.

(2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.

(3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.

(4) Causing sexual abuse or exploitation of a child through any act or failure to act.

(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(7) Causing serious physical neglect of a child.

(8) Engaging in any of the following recent acts:

(i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

(ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.

(iii) Forcefully shaking a child under one year of age.

(iv) Forcefully slapping or otherwise striking a child under one year of age.

(v) Interfering with the breathing of a child.

(vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.

(B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(D) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(9) Causing the death of the child through any act or failure to act.

(10) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined

under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

(c) Restatement of culpability.--Conduct that causes injury or harm to a child or creates a risk of injury or harm to a child shall not be considered child abuse if there is no evidence that the person acted intentionally, knowingly or recklessly when causing the injury or harm to the child or creating a risk of injury or harm to the child.

(d) Child abuse exclusions.--The term "child abuse" does not include any conduct for which an exclusion is provided in section 6304 (relating to exclusions from child abuse). (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Nov. 29, 2004, P.L.1291, No.160, eff. 60 days; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1195, No.117, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1201, No.119, eff. Dec. 31, 2014; Jan. 22, 2014, P.L.6, No.4, eff. 90 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; July 2, 2014, P.L.843, No.91, eff. 60 days; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.; Oct. 28, 2016, P.L.966, No.115, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendments. Act 10 amended the def. of "child abuse" in subsec. (b.1)(8)(vii) and Act 29 reenacted subsec. (b.1)(8)(vii).

2016 Amendment. Act 115 added par. (1)(vii) of the def. of "perpetrator" in subsec. (a) and added subsec. (b.1)(10).

2015 Amendment. Act 15 amended the defs. of "child-care services," "independent contractor," "perpetrator," "person responsible for the child's welfare," "program, activity or service," "school" and "school employee" and added the defs. of "adult family member," "direct volunteer contact," "education enterprise," "family child-care home," "immediate vicinity," "institution of higher education," "matriculated student" and "routine interaction" in subsec. (a).

2014 Amendments. Act 4 added the defs. of "health care provider" and "safety assessment" in subsec. (a), Act 29 amended the defs. of "child-care services" and added the defs. of "electronic technologies," "law enforcement official" and "mandated reporter" in subsec. (a), Act 33 amended the def. of "school employee" and added the defs. of "adult," "direct contact with children," "health care facility," "independent contractor," "mandated reporter," "person affiliated with," "program, activity or service" and "school" in subsec. (a), Act 44 amended the defs. of "bodily injury," "founded report," "general protective services," "near fatality" and "school employee," added the def. of "school" and deleted the defs. of "indicated report for school employee" and "individual residing in the same home as the child" in subsec. (a), Act 45 amended the defs. of "serious physical neglect" and "subject of the report" and deleted the def. of "founded report for school employee" in subsec. (a), Act 91 added the defs. of "police department," "police officer" and "police station" in subsec. (a) and Act 153 amended par. (13) of the def. of "child-care services" and the defs. of "child protective services,"

"cooperation with an investigation or assessment," "county agency," "department," "indicated report," "protective services," "recent act," "recent act or failure to act," "secretary" and "subject of the report" in subsec. (a). The amendments by Acts 29 and 33, adding the def. of "mandated reporter," are identical and have both been given effect in setting forth the text of "mandated reporter." The amendments by Acts 33 and 44, amending the def. of "school employee," are identical and have both been given effect in setting forth the text of "school employee."

2013 Amendments. Act 108 amended the defs. of "child," "founded report," "indicated report," "recent acts or omissions" and "sexual abuse or exploitation," added the defs. of "bodily injury," "intentionally," "knowingly," "parent," "recent act," "recklessly" and "serious physical neglect" and deleted the defs. of "nonaccidental" and "serious physical injury" in subsec. (a), added subsecs. (b.1), (c) and (d) and deleted subsec. (b), Act 117 amended the defs. of "perpetrator" and "person responsible for the child's welfare" in subsec. (a) and Act 119 added the def. of "child-care services" in subsec. (a).

2008 Amendment. Act 33 added the defs. of "children's advocacy center" and "substantiated child abuse."

2006 Amendments. Act 146 added the defs. of "near fatality" and "nonaccidental" in subsec. (a) and Act 179 amended the def. of "sexual abuse or exploitation" in subsec. (a).

2004 Amendment. Act 160 added the defs. of "private agency" and "resource family" in subsec. (a).

2002 Amendment. Act 201 added the defs. of "child" and "newborn" in subsec. (a).

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (a), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 6303 is referred to in sections 2511, 5701, 6340, 6368, 6502 of this title; sections 4306, 4958 of Title 18 (Crimes and Offenses); sections 62A05, 6302, 6336.1 of Title 42 (Judiciary and Judicial Procedure); section 4109 of Title 51 (Military Affairs); section 1905 of Title 75 (Vehicles).

§ 6304. Exclusions from child abuse.

(a) Environmental factors.--No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors, such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides. This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

(b) Practice of religious beliefs.--If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. In such cases the following shall apply:

(1) The county agency shall closely monitor the child and the child's family and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.

(2) All correspondence with a subject of the report and the records of the department and the county agency shall not reference child abuse and shall acknowledge the religious basis for the child's condition.

(3) The family shall be referred for general protective services, if appropriate.

(4) This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.

(5) This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

(c) Use of force for supervision, control and safety purposes.--Subject to subsection (d), the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:

(1) The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.

(2) The use of reasonable force is necessary:

(i) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;

(ii) to prevent the child from self-inflicted physical harm;

(iii) for self-defense or the defense of another individual; or

(iv) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.

(d) Rights of parents.--Nothing in this chapter shall be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.

(e) Participation in events that involve physical contact with child.--An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this chapter.

(f) Child-on-child contact.--

(1) Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator.

(2) Notwithstanding paragraph (1), the following shall apply:

(i) Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this chapter:

(A) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);

(B) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

(C) sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);

(D) aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);

(E) indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault); and

(F) indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(ii) No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.

(iii) A law enforcement official who receives a report of suspected child abuse is not required to make a report to the department under section 6334(a) (relating to disposition of complaints received), if the person allegedly responsible for the child abuse is a nonperpetrator child.

(g) Defensive force.--Reasonable force for self-defense or the defense of another individual, consistent with the provisions of 18 Pa.C.S. §§ 505 (relating to use of force in self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

(Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014)

2013 Amendment. Act 108 added section 6304.

Cross References. Section 6304 is referred to in section 6303 of this title.

§ 6305. Electronic reporting.

(a) Departmental procedures.--The department shall establish procedures for the secure and confidential use of electronic technologies to transmit information under this chapter, including:

(1) the filing of reports and other required records, including those of the county agency; and

(2) the verification of records and signatures on forms.

(b) Confirmation of reports.--A confirmation by the department of the receipt of a report of suspected child abuse submitted electronically shall relieve the person making the report of making an additional oral or written report of suspected child abuse, subject to section 6313 (relating to reporting procedure).

(c) Effect on other law.--Nothing in this chapter shall be construed to supersede the act of December 16, 1999 (P.L.971, No.69), known as the Electronic Transactions Act. Any procedures developed by the department under this section shall comply with all applicable Federal and State laws regarding confidentiality of personally identifiable information.
(Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 added section 6305.

Cross References. Section 6305 is referred to in section 6313 of this title.

§ 6306. Regulations.

The department shall promulgate regulations necessary to implement this chapter.

(Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 added section 6306.

PROVISIONS AND RESPONSIBILITIES FOR
REPORTING SUSPECTED CHILD ABUSE

Sec.

- 6311. Persons required to report suspected child abuse.
- 6311.1. Privileged communications.
- 6312. Persons encouraged to report suspected child abuse.
- 6313. Reporting procedure.
- 6314. Photographs, medical tests and X-rays of child subject to report.
- 6315. Taking child into protective custody.
- 6316. Admission to private and public hospitals.
- 6317. Mandatory reporting and postmortem investigation of deaths.
- 6318. Immunity from liability.
- 6319. Penalties.
- 6320. Protection from employment discrimination.

Subchapter Heading. The heading of Subchapter B was amended December 16, 1994, P.L.1292, No.151, effective July 1, 1995.

§ 6311. Persons required to report suspected child abuse.

(a) Mandated reporters.--The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:

- (1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
- (2) A medical examiner, coroner or funeral director.
- (3) An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.
- (4) A school employee.
- (5) An employee of a child-care service who has direct contact with children in the course of employment.
- (6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.
- (7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, is a person responsible for the child's welfare or has direct contact with children.
- (8) An employee of a social services agency who has direct contact with children in the course of employment.
- (9) A peace officer or law enforcement official.
- (10) An emergency medical services provider certified by the Department of Health.
- (11) An employee of a public library who has direct contact with children in the course of employment.
- (12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), who has direct contact with children in the course of employment.
- (13) An independent contractor.
- (14) An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.
- (15) A foster parent.

(16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) Basis to report.--

(1) A mandated reporter enumerated in subsection (a) shall make a report of suspected child abuse in accordance with section 6313 (relating to reporting procedure), if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service.

(ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(c) Staff members of institutions, etc.--Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall report immediately in accordance with section 6313 and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification, the person in charge or the designated agent, if any, shall facilitate the cooperation of the institution, school, facility or agency with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is subject to the provisions of 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases). This chapter does not require more than one report from any such institution, school, facility or agency.

(d) Civil action for discrimination against person filing report.--(Deleted by amendment).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 15, 2014, P.L.414, No.32, eff. 60 days; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.425, No.34, eff. Dec. 31, 2014; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

2015 Amendment. Act 15 amended subsec. (a)(7) and (12) and added subsec. (a)(16).

2014 Amendments. Act 32 amended subsec. (a) and deleted subsec. (b), Act 33 amended subssecs. (a) and (c) and added subsec. (b), Act 34 deleted subsec. (d), Act 44 amended subsec. (c) and Act 153 amended subsec. (b)(1) intro. par. and added subsec. (a)(15). Act 33 overlooked the amendment by Act 32, but the amendments do not conflict in substance and have both been given effect in setting forth the text of subsec. (b). Act 44 overlooked the amendment by Act 33, but the amendments do not conflict in substance (except for the deletion of "assume the responsibility and," as to which Act 44 has been given effect) and have both been given effect in setting forth the text of subsec. (c).

Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of subssecs. (a) and (b) shall take effect December 31, 2014.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (a), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 6311 is referred to in sections 6313, 6318, 6320, 6340, 6340.1 of this title.

§ 6311.1. Privileged communications.

(a) General rule.--Subject to subsection (b), the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not:

(1) Apply to a situation involving child abuse.

(2) Relieve the mandated reporter of the duty to make a report of suspected child abuse.

(b) Confidential communications.--The following protections shall apply:

(1) Confidential communications made to a member of the clergy are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen).

(2) Confidential communications made to an attorney are protected so long as they are within the scope of 42 Pa.C.S. §§ 5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), the attorney work product doctrine or the rules of professional conduct for attorneys.

(Apr. 15, 2014, P.L.414, No.32, eff. 60 days)

2014 Amendment. Act 32 added section 6311.1.

Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, section 6311.1 shall take effect December 31, 2014.

§ 6312. Persons encouraged to report suspected child abuse.

Any person may make an oral or written report of suspected child abuse, which may be submitted electronically, or cause a report of suspected child abuse to be made to the department, county agency or law enforcement, if that person has reasonable cause to suspect that a child is a victim of child abuse.

(Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

Cross References. Section 6312 is referred to in section 6320 of this title.

§ 6313. Reporting procedure.

(a) Report by mandated reporter.--

(1) A mandated reporter shall immediately make an oral report of suspected child abuse to the department via the Statewide toll-free telephone number under section 6332 (relating to establishment of Statewide toll-free telephone number) or a written report using electronic technologies under section 6305 (relating to electronic reporting).

(2) A mandated reporter making an oral report under paragraph (1) of suspected child abuse shall also make a written report, which may be submitted electronically, within 48 hours to the department or county agency assigned to the case in a manner and format prescribed by the department.

(3) The failure of the mandated reporter to file the report under paragraph (2) shall not relieve the county agency from any duty under this chapter, and the county agency shall proceed as though the mandated reporter complied with paragraph (2).

(b) Contents of report.--A written report of suspected child abuse, which may be submitted electronically, shall include the following information, if known:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(2) Where the suspected abuse occurred.

(3) The age and sex of each subject of the report.

(4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.

(5) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.

(6) Family composition.

(7) The source of the report.

(8) The name, telephone number and e-mail address of the person making the report.

(9) The actions taken by the person making the report, including those actions taken under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).

(10) Any other information required by Federal law or regulation.

(11) Any other information that the department requires by regulation.

(c) Written reports.--(Deleted by amendment).

(d) Failure to confirm oral report.--(Deleted by amendment).

(e) Applicability of Mental Health Procedures

Act.--Notwithstanding any other provision of law, a mandated reporter enumerated under section 6311 (relating to persons required to report suspected child abuse) who makes a report of suspected child abuse pursuant to this section or who makes a report of a crime against a child to law enforcement officials shall not be in violation of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, by releasing information necessary to complete the report.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

2014 Amendment. Act 153 added subsec. (e).

Cross References. Section 6313 is referred to in sections 6305, 6311, 6334, 6336, 6339, 6340, 6349, 6367, 6368 of this title.

§ 6314. Photographs, medical tests 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 child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county agency at the time the written report is sent or within 48 hours after a report is made by electronic technologies or as soon thereafter as possible. The county agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases pursuant to section 6340(a)(9) or (10) (relating to release of information in confidential reports).
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

Cross References. Section 6314 is referred to in sections 6313, 6318 of this title.

§ 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 under this chapter.

(3) By a physician or the director, or a person specifically designated by the director, of a hospital pursuant to Chapter 65 (relating to newborn protection) if the child is a newborn.

(4) Subject to this section and after receipt of a court order, the county agency shall take a child into protective custody for protection from abuse. No county agency worker may take custody of the child without judicial authorization based on the merits of the situation.

(5) By a police officer at a police station under Chapter 65.

(6) By an emergency services provider on the grounds of an entity that employs or otherwise provides access to the emergency services provider under Chapter 65.

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

(c) Notice of custody.--

(1) Except as provided in paragraph (2), an individual taking a child into protective custody under this chapter shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child, unless prohibited by court order, and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate county agency in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.

(2) In the case of a newborn taken into protective custody pursuant to subsection (a)(3), the county agency shall within 24 hours make diligent efforts to notify a parent, guardian, custodian or other family member of the whereabouts of the newborn, unless prohibited by court order, and the reasons for the need to take the newborn into protective custody.

(d) Informal hearing.--In no case shall protective custody under this chapter be maintained longer than 72 hours without an informal hearing under 42 Pa.C.S. § 6332 (relating to informal hearing). If, at the hearing, it is determined that protective custody shall be continued and the child is alleged to be without proper parental care or control or is alleged to be a dependent child under 42 Pa.C.S. § 6302 (relating to definitions), the county agency shall within 48 hours file a petition with the court under 42 Pa.C.S. Ch. 63 alleging that the child is a dependent child.

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

(f) Conference with parent or other custodian.--A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the employee designated by the county agency to be responsible for the child shall be held within 48 hours of the time that the child is taken into custody for the purpose of:

(1) Explaining to the parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, unless prohibited by court order.

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

(3) Explaining to the parent, guardian or other custodian the rights provided for under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights). (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

2017 Amendment. Act 68 added subsec. (a)(6).

2014 Amendments. Act 33 added subsec. (a)(4) and Act 91 added subsec. (a)(5).

2002 Amendment. Act 201 amended subsecs. (a) and (c).

Cross References. Section 6315 is referred to in sections 6313, 6316, 6318, 6375, 6504, 6504.1, 6504.2, 6508, 6509 of this title.

§ 6316. Admission to private and public hospitals.

(a) General rule.--Children appearing to suffer any physical or mental condition which may constitute child abuse shall be admitted to, treated and maintained in facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.

(a.1) Newborns.--A newborn taken into protective custody pursuant to section 6315(a)(3) or (5) (relating to taking child into protective custody) shall be admitted to, treated and maintained in facilities of public and private hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care. Once a newborn is taken into protective custody pursuant to section 6315(a)(3) or (5), the newborn shall be considered immediately eligible for Medicaid for payment of medical services provided. Until otherwise provided by court order, the county agency shall assume the responsibility for making decisions regarding the newborn's medical care.

(b) Failure of hospital to admit child or newborn.--The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) or (a.1) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; July 2, 2014, P.L.843, No.91, eff. 60 days)

2014 Amendment. Act 91 amended subsec. (a.1).

2002 Amendment. Act 201 amended subsec. (b) and added subsec. (a.1).

Cross References. Section 6316 is referred to in sections 6313, 6318 of this title.

§ 6317. Mandatory reporting and postmortem investigation of deaths.

A person or official required to report cases of suspected child abuse, including employees of a county agency, who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the appropriate coroner or medical examiner. The coroner or medical examiner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate county agency and, if the report is made by a hospital, the hospital.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

Cross References. Section 6317 is referred to in sections 6313, 6318, 6367 of this title.

§ 6318. Immunity from liability.

(a) General rule.--A person, hospital, institution, school, facility, agency or agency employee acting in good faith shall have immunity from civil and criminal liability that might otherwise result from any of the following:

(1) Making a report of suspected child abuse or making a referral for general protective services, regardless of whether the report is required to be made under this chapter.

(2) Cooperating or consulting with an investigation under this chapter, including providing information to a child fatality or near-fatality review team.

(3) Testifying in a proceeding arising out of an instance of suspected child abuse or general protective services.

(4) Engaging in any action authorized under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).

(b) Departmental and county agency immunity.--An official or employee of the department or county agency who refers a report of suspected child abuse for general protective services to law enforcement authorities or provides services as authorized by this chapter shall have immunity from civil and criminal liability that might otherwise result from the action.

(c) Presumption of good faith.--For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014)

§ 6319. Penalties.

(a) Failure to report or refer.--

(1) A person or official required by this chapter to report a case of suspected child abuse or to make a referral to the appropriate authorities commits an offense if the person or official willfully fails to do so.

(2) An offense under this section is a felony of the third degree if:

(i) the person or official willfully fails to report;

(ii) the child abuse constitutes a felony of the first degree or higher; and

(iii) the person or official has direct knowledge of the nature of the abuse.

(3) An offense not otherwise specified in paragraph (2) is a misdemeanor of the second degree.

(4) A report of suspected child abuse to law enforcement or the appropriate county agency by a mandated reporter, made in lieu of a report to the department, shall not constitute an offense under this subsection, provided that the report was made in a good faith effort to comply with the requirements of this chapter.

(b) Continuing course of action.--If a person's willful failure under subsection (a) continues while the person knows or has reasonable cause to believe the child is actively being subjected to child abuse, the person commits a misdemeanor of the first degree, except that if the child abuse constitutes a felony of the first degree or higher, the person commits a felony of the third degree.

(c) Multiple offenses.--A person who commits a second or subsequent offense under subsection (a) commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offenses is a felony of the second degree.

(d) Statute of limitations.--The statute of limitations for an offense under subsection (a) shall be either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.
(Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 15, 2014, P.L.414, No.32, eff. 60 days)

Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of section 6319 shall take effect December 31, 2014.

Cross References. Section 6319 is referred to in sections 6320, 6335 of this title.

§ 6320. Protection from employment discrimination.

(a) Basis for relief.--A person may commence an action for appropriate relief if all of the following apply:

(1) The person is required to report under section 6311 (relating to persons required to report suspected child abuse) or encouraged to report under section 6312 (relating to persons encouraged to report suspected child abuse).

(2) The person acted in good faith in making or causing the report of suspected child abuse to be made.

(3) As a result of making the report of suspected child abuse, the person is discharged from employment or is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment.

(b) Applicability.--This section does not apply to an individual making a report of suspected child abuse who is found to be a perpetrator because of the report or to any individual who fails to make a report of suspected child abuse as required under section 6311 and is subject to conviction under section 6319 (relating to penalties) for failure to report or to refer.

(c) Location.--An action under this section must be filed in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred.

(d) Relief.--Upon a finding in favor of the plaintiff, the court may grant appropriate relief, which may include reinstatement of the plaintiff with back pay.

(e) Departmental intervention.--The department may intervene in an action commenced under this section.
(Apr. 15, 2014, P.L.425, No.34, eff. Dec. 31, 2014)

2014 Amendment. Act 34 added section 6320.

SUBCHAPTER C
POWERS AND DUTIES OF DEPARTMENT

Sec.

- 6331. Establishment of Statewide database.
- 6332. Establishment of Statewide toll-free telephone number.
- 6333. Continuous availability of department.
- 6334. Disposition of complaints received.
- 6334.1. Responsibility for investigation.
- 6335. Access to information in Statewide database.
- 6336. Information in Statewide database.
- 6337. Disposition and expunction of unfounded reports and general protective services reports.
- 6338. Disposition of founded and indicated reports.
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6341. Amendment or expunction of information.
6342. Studies of data in records.
6343. Investigating performance of county agency.
6343.1. Citizen review panels.
6344. Employees having contact with children; adoptive and foster parents.
6344.1. Information relating to certified or licensed child-care home residents.
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6344.3. Continued employment or participation in program, activity or service.
6344.4. Recertification.
6345. Audits by Attorney General.
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6347. Reports to Governor and General Assembly.
6348. Regulations.
6349. Penalties.

§ 6331. Establishment of Statewide database.

There shall be established in the department a Statewide database of protective services, which shall include the following, as provided by section 6336 (relating to information in Statewide database):

- (1) Reports of suspected child abuse pending investigation.
 - (2) Reports with a status of pending juvenile court or pending criminal court action.
 - (3) Indicated and founded reports of child abuse.
 - (4) Unfounded reports of child abuse awaiting expunction.
 - (5) Unfounded reports accepted for services.
 - (6) Reports alleging the need for general protective services.
 - (7) General protective services reports that have been determined to be valid.
 - (8) Reports alleging the need for general protective services that have been determined invalid and are awaiting expunction.
 - (9) A family case record for all reports accepted for investigation, assessment or services.
 - (10) Information on reports made to the agency, but not accepted for investigation or assessment.
 - (11) False reports of child abuse pursuant to a conviction under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) for the purpose of identifying and tracking patterns of intentionally false reports.
- (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended the entire section and Act 45 amended par. (11).

Cross References. Section 6331 is referred to in section 6334 of this title.

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

(a) General rule.--The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse or children allegedly in need of general protective services. A county agency or law enforcement official shall use the Statewide toll-free telephone number or electronic

technologies for determining the existence of reports of child abuse or general protective services reports in the Statewide database or reports under investigation.

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

(c) Posting Statewide toll-free telephone number in schools.--All public and nonpublic schools that enroll students in grades kindergarten through 12 shall publicly display at each school campus a poster uniformly designed by the department that contains the Statewide toll-free telephone number for reporting suspected child abuse or neglect and any Statewide toll-free telephone number relating to school safety. The following apply:

(1) The poster shall be posted in a high-traffic, public area of the school that is readily accessible to and widely used by students.

(2) The department shall, in consultation with the Department of Education, design the poster, which shall:

(i) be 11 inches by 17 inches or larger;

(ii) display in bold print the Statewide toll-free telephone number for reporting suspected child abuse or neglect and any Statewide toll-free telephone number relating to school safety; and

(iii) include the department's publicly accessible Internet website that provides information and resources related to child protection.

(3) The department and the Department of Education shall make the poster available on their publicly accessible Internet websites to all public and nonpublic schools.

(d) Posting Statewide toll-free telephone numbers in hospitals.--All hospitals shall publicly display a poster that contains the Statewide toll-free telephone number for reporting suspected child abuse or neglect and any Statewide toll-free telephone number relating to school safety. The poster shall be 11 inches by 17 inches or larger and of a uniform design approved by the department in consultation with the Department of Health. The poster shall be posted in a high-traffic, public area of the emergency department of the hospital. The Statewide toll-free telephone numbers shall be printed in bold print. The poster shall also include the department's publicly accessible Internet website that provides information and resources related to child protection.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; June 28, 2018, P.L.375, No.54, eff. 60 days)

2018 Amendment. Act 54 added subsecs. (c) and (d).

2014 Amendment. Act 29 amended subsec. (a).

Cross References. Section 6332 is referred to in sections 6313, 6368 of this title.

§ 6333. Continuous availability of department.

The department shall be capable of receiving oral reports of child abuse, reports of children in need of general protective services, reports made by electronic technologies

pursuant to this chapter and report summaries from county agencies. The department shall be capable of immediately identifying prior reports in the Statewide database and reports under investigation with a pending status and of monitoring the provision of child protective services 24 hours a day, seven days a week.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

§ 6334. Disposition of complaints received.

(a) Receipt of reports by county agencies and law enforcement.--After ensuring the immediate safety of the child and any other child in the child's home, a county agency or law enforcement official that receives a report of suspected child abuse shall immediately notify the department of the report. If the report is an oral report by telephone, the county agency or law enforcement official shall attempt to collect as much of the information listed in section 6313(c) (relating to reporting procedure) as possible and shall submit the information to the department within 48 hours through a report in writing or by electronic technologies.

(b) Receipt of reports by department and referral to county agency.--The department shall immediately transmit an oral notice or a notice by electronic technologies to the county agency of the county where the suspected child abuse is alleged to have occurred. The notice shall contain the following information:

- (1) That a report of suspected child abuse by a perpetrator has been received.
- (2) The substance of the report.
- (3) The existence in the Statewide database of a prior report or a current investigation or assessment concerning a subject of the report.

(c) Receipt of reports by department and referral to law enforcement.--If the department receives a report of suspected child abuse that also alleges that a criminal offense has been committed against the child, the department shall immediately transmit an oral notice or notice by electronic technologies to the appropriate law enforcement official in the county where the suspected child abuse is alleged to have occurred. The notice shall contain the following information, consistent with section 6340(a)(9) and (10) (relating to release of information in confidential reports):

- (1) That a report of suspected child abuse has been received.
- (2) The substance of the report.
- (3) The existence in the Statewide database under section 6331 (relating to establishment of Statewide database) of a prior report or a current investigation or assessment concerning a subject of the report.

(d) Notice of joint referrals.--When a report is referred to the county agency under subsection (b) and is also referred to a law enforcement official under subsection (c), the notice shall include information as to the name and contact information of any persons receiving the referral, if known.

(e) Jurisdictional overlap.--If the residency of any subject of a report is a factor that requires the cooperation of more than one county agency, the department shall develop procedures to ensure the cooperation of those agencies in carrying out the requirements of this chapter.

(f) Referral for services or investigation.--If the report received does not suggest a need for protective services but does suggest a need for social services or other services or

investigation, the department shall transmit the information to the county agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has reasonable cause to suspect after investigation that abuse occurred. If the agency has reasonable cause to suspect that abuse occurred, the agency shall notify the department, and the initial report shall be considered to have been a child abuse report.

(g) Recording of pending reports.--Upon receipt of a report of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the Statewide database. Upon receipt of a report under section 6353.2 (relating to responsibilities of county agency), the department shall maintain a record of the report in the Statewide database under section 6331.

(h) Child abuse in another state where the victim child and the alleged perpetrator are residents of the Commonwealth.--A report of suspected child abuse by a resident perpetrator occurring in another state shall be referred by the department to the county agency where the child resides in this Commonwealth and shall be investigated by the county agency as any other report of suspected child abuse by a perpetrator if the other state's child protective services agency cannot or will not investigate the report.

(i) Child abuse in another state where only the alleged perpetrator is a resident of this Commonwealth.--If suspected child abuse occurs in a jurisdiction other than this Commonwealth and only the alleged perpetrator is a resident of this Commonwealth, the report of suspected child abuse shall be referred to the county agency where the alleged perpetrator resides. The county agency shall do all of the following:

(1) Notify the children and youth social service agency of the jurisdiction in which the suspected child abuse occurred.

(2) If requested by the other agency, assist in investigating the suspected child abuse.

(j) Child abuse in another state where only the victim child is a resident of this Commonwealth.--A report of suspected child abuse occurring in another state where only the victim child resides in this Commonwealth and where the other state's child protective services agency cannot or will not investigate the report shall be assigned as a general protective services report to the county agency where the child resides.

(k) Copies of report.--A copy of a report of suspected child abuse under subsections (h), (i) and (j) shall be provided to the other state's child protective services agency and, if appropriate, to law enforcement officials where the incident occurred.

(l) Communication.--Reports and information under subsections (h), (i) and (j) shall be provided within seven calendar days of completion of the investigation. (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; July 7, 2005, P.L.196, No.43, eff. imd.; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

References in Text. Section 6353.2, referred to in this section, was repealed by the act of May 14, 2014 (P.L.645, No.44) and by the act of May 14, 2014 (P.L.653, No.45).

Cross References. Section 6334 is referred to in sections 6304, 6335, 6368 of this title.

§ 6334.1. Responsibility for investigation.

The department shall establish procedures regarding the following different responses to address suspected child abuse and protective services depending on the person's allegedly committing the suspected child abuse or causing a child to be in need of protective services:

(1) If the suspected child abuse is alleged to have been committed by a perpetrator, the appropriate county agency shall investigate the allegation as provided in this chapter.

(2) If the suspected child abuse is alleged to have been committed by a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, the appropriate county agency and law enforcement officials shall jointly investigate the allegation through the investigative team established in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse) and as provided in this chapter.

(3) If the suspected child abuse is alleged to have been committed by a person who is not a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, law enforcement officials where the suspected child abuse is alleged to have occurred shall be solely responsible for investigating the allegation.

(4) If a child is alleged to be in need of other protective services, the appropriate county agency shall assess the needs of the child as provided in this chapter. (Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 added section 6334.1.

Cross References. Section 6334.1 is referred to in section 6340 of this title.

§ 6335. Access to information in Statewide database.

(a) Request for information.--A county agency or law enforcement official shall use the Statewide toll-free telephone number, or any manner prescribed by the department, to determine the existence of any prior reports involving a subject of the report. If the Statewide database contains information related to a report or a pending investigation or assessment concerning a subject of the report, the department shall immediately convey this information to the county agency or law enforcement official.

(b) Verification of need.--Information may be released under this section if a request for information is made orally or in writing and the department has done all of the following:

(1) Identified the requester, including electronic verification of the requester's identity.

(2) Determined whether the requester is authorized to obtain the information under this section.

(3) Provided notice to the requester that access and dissemination of the information is restricted as provided by this chapter.

(4) Obtained an affirmation by the requester that the request is within the scope of that person's official duties and the provisions of this chapter.

(c) Use by county agency or law enforcement official.--A county agency or law enforcement official may only request the information under subsection (a) for the purposes of investigating reports of child abuse, assessing allegations that a child is in need of general protective services, providing protective services to a child or investigating a

crime against a child criminal offense. The following shall apply where information is requested pursuant to this section:

(1) A law enforcement official may use information contained in the Statewide database for the purpose of investigating a criminal offense as follows:

(i) Information regarding indicated and founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for the purposes of investigating a crime involving harm or threatened harm to a child, an alleged violation of section 6319 (relating to penalties for failure to report or to refer) or 6349 (relating to penalties) or an alleged violation of 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) or 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).

(2) A county agency may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the county agency when determining that a new report of suspected abuse is an indicated report.

(3) The department may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the department when determining that a new report of suspected abuse is an indicated report.

(4) Information in the Statewide database may not be used for any purpose not authorized by this chapter.

(d) Authorized releases for governmental functions.--No person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall have access to any information in the Statewide database except as provided under this section and the following:

(1) Section 6334 (relating to disposition of complaints received).

(2) Section 6340 (relating to release of information in confidential reports).

(3) Section 6342 (relating to studies of data in records).

(4) Section 6343 (relating to investigating performance of county agency).

(5) Section 6343.1 (relating to citizen review panels).

(6) Section 6347 (relating to reports to Governor and General Assembly).

(e) Certifications.--Information provided in response to inquiries under section 6344 (relating to employees having contact with children; adoptive and foster parents), 6344.1 (relating to information relating to certified or licensed

child-care home residents) or 6344.2 (relating to volunteers having contact with children) shall not include unfounded reports of child abuse or reports related to general protective services and shall be limited to the following:

(1) Whether the person was named as a perpetrator of child abuse in a founded or indicated report.

(2) Whether there is an investigation pending in which the individual is an alleged perpetrator.

(3) The number, date of the incidents upon which the report is based and the type of abuse or neglect involved in any reports identified under paragraph (1).

(f) Electronic technologies.--Requests under this section may be made using electronic technologies if appropriate verification is made in accordance with subsection (b).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

2015 Amendment. Act 15 amended subsec. (e).

§ 6336. Information in Statewide database.

(a) Information authorized.--The Statewide database shall include and shall be limited to the following information:

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

(2) The date or dates and the nature and extent of the alleged instances that created the need for protective services.

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

(4) The county in which the alleged incidents that created the need for protective services occurred.

(5) Family composition.

(6) The name and relationship to the child in question and of other persons named in the report.

(7) Factors contributing to the need for protective services.

(8) The source of the report.

(9) Services planned or provided.

(10) If the report alleges child abuse, whether the report was determined to be founded, indicated or unfounded.

(11) If the report alleged the child was in need of general protective services, whether the report was valid or invalid.

(12) If the report was accepted for services and the reasons for the acceptance.

(13) If the report was not accepted for services, the reason the report was not accepted and whether the family was referred to other community services.

(14) Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency.

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

(16) Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.

(17) In the case of an unfounded or invalid report, if it is later determined that the initial report was a false report, a notation to that effect regarding the status of the report.

(18) Unfounded reports of child abuse, limited to the information authorized under section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports).

(19) Any additional information provided in section 6313(c) (relating to reporting procedure).

(20) Any additional demographic information that the department requires to comply with section 6342 (relating to studies of data in records).

(21) A family case record for each family accepted for investigation, assessment or services which shall be maintained consistent with regulatory requirements.

(22) With respect to cases that are not accepted for child abuse investigation or general protective services assessment or are referred to community services:

(i) The reason the report was not accepted.

(ii) Any information provided to the referral source or the family related to other services or option available to address the report.

(23) Any other information that is necessary to maintain the names of persons convicted of a violation under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) or the names of persons who made a false report of the need for general protective services.

No information other than that permitted in this subsection shall be retained in the Statewide database.

(b) Type of information released.--(Deleted by amendment).

(c) Limitation on release of information.--(Deleted by amendment).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

Cross References. Section 6336 is referred to in section 6331 of this title.

§ 6337. Disposition and expunction of unfounded reports and general protective services reports.

(a) General rule.--When a report of suspected child abuse is determined by the appropriate county agency to be an unfounded report, the information concerning that report of suspected child abuse shall be maintained for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged from the Statewide database, as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department, and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department. The expunction shall be mandated and guaranteed by the department.

(b) Absence of other determination.--If an investigation of a report of suspected child abuse conducted by the appropriate county agency pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is a founded report, an indicated report or an unfounded report, or unless within that same 60-day period court action has been initiated and is responsible for the delay, the report shall be considered to be an unfounded report, and all information identifying the subjects of the report shall be expunged no later than 120 days following the expiration of one year after the date the report was received by the department. The agency shall advise the department that court action or an arrest has

been initiated so that the Statewide database is kept current regarding the status of all legal proceedings and expunction is delayed.

(c) Unfounded reports accepted for services.--Information on an unfounded report shall be retained in the Statewide database if the county agency has accepted the family for services and the report of suspected child abuse is clearly identified as an unfounded report. The county agency shall notify the department immediately upon closure of the case, and the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the family case was closed. If the subject child of the unfounded report becomes 23 years of age prior to the closure of the family case, the unfounded report shall be expunged when the subject child reaches 23 years of age.

(d) Expunction of valid general protective services reports.--Information concerning valid general protective services reports shall be maintained in the Statewide database as follows:

(1) Reports that are assessed by the county agency and are determined to be valid, but are not accepted for services, shall be reported to the department and entered into the Statewide database. The reports shall be maintained for a period of ten years or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first. Following the expiration of ten years after the date the report was received by the department or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the ten-year period following the date the report was received by the department or the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first.

(2) Reports that are assessed by the county agency and accepted for services shall be reported to the department, except as otherwise provided in subsection (f)(2), and entered into the Statewide database. The reports shall be maintained for a period of ten years after the closure of services by the county agency or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first. Following the expiration of ten years after the closure of services by the county agency or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the ten-year period following the closure of services by the county agency or the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first.

(3) The expunction of information on general protective services under this subsection shall be mandated and guaranteed by the department.

(e) Expunction of invalid general protective services reports.--When a report alleging the need for general protective services is determined by the appropriate county agency to be an invalid report, the information concerning that report shall be maintained for a period of one year. Following the expiration

of one year after the date the report was received by the department, the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department. The expunction shall be mandated and guaranteed by the department.

(f) County agency records.--Information concerning protective services reports shall be maintained by a county agency as follows:

(1) County agency records of protective services shall be used and maintained in a manner that is consistent with the use and maintenance of information in the Statewide database, as provided under this chapter, except as otherwise provided in paragraph (2). If required under this chapter to amend or expunge information in the Statewide database, the department shall notify the appropriate county agency of the amendment or expungement within ten days. The county agency shall amend or expunge its records in a commensurate manner within ten days of receiving notification from the department.

(2) A county agency may maintain information regarding protective services reports that have been expunged in the Statewide database for access by the county agency to assist in future risk and safety assessments and research.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; June 28, 2018, P.L.375, No.54, eff. 365 days)

2018 Amendment. Act 54 amended subsecs. (d) and (f). See section 3 of Act 54 in the appendix to this title for special provisions relating to expunction.

Cross References. Section 6337 is referred to in sections 6336, 6349 of this title.

§ 6338. Disposition of founded and indicated reports.

(a) General rule.--When a report of suspected child abuse is determined by the appropriate county agency to be a founded report or an indicated report, the status of the report shall be changed from pending to founded or indicated in the Statewide database. Notice of the determination that a report is a founded, indicated or unfounded report shall be made as provided in section 6368(f) (relating to investigation of reports).

(b) Expunction of information when child attains 23 years of age.--Except as provided in subsection (c), all information which identifies the subjects of founded and indicated child abuse reports shall be expunged when the subject child reaches the age of 23. The expunction shall be mandated and guaranteed by the department.

(c) Retention of information.--The Statewide database shall indefinitely retain the names of perpetrators of child abuse and school employees who are subjects of founded or indicated reports only if the individual's Social Security number or date of birth is known to the department. The entry in the Statewide database shall not include identifying information regarding other subjects of the report.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended subsecs. (a) and (c) and Act 45 amended subsec. (a).

Cross References. Section 6338 is referred to in section 6349 of this title.

§ 6338.1. Expunction of information of perpetrator who was under 18 years of age when child abuse was committed.

(a) General rule.--The name of a perpetrator who is the subject of an indicated report of child abuse and who was under 18 years of age when the individual committed child abuse shall be expunged from the Statewide database when the individual reaches 21 years of age or when five years have elapsed since the perpetrator's name was added to the database, whichever is later, if the individual meets all of the following:

(1) The individual has not been named as a perpetrator in any subsequent indicated report of child abuse and is not named as an alleged perpetrator in a child abuse report pending investigation.

(2) The individual has never been convicted or adjudicated delinquent following a determination by the court that the individual committed an offense under section 6344(c) (relating to employees having contact with children; adoptive and foster parents), and no proceeding is pending seeking such conviction or adjudication.

(3) The child abuse which resulted in the inclusion of the perpetrator's name in the database did not involve the use of a deadly weapon, as defined under 18 Pa.C.S. § 2301 (relating to definitions).

(b) Mandated expunction.--If the perpetrator meets all of the requirements under subsection (a), the expunction shall be mandated and guaranteed by the department.

(c) Nonapplicability.--The provisions of this section shall not apply to any of the following cases:

(1) A perpetrator who is the subject of a founded report of child abuse.

(2) A sexually violent delinquent child, as defined in 42 Pa.C.S. § 9799.12 (relating to definitions), who meets all of the following:

(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

(ii) Was found delinquent as a result of the same acts which resulted in the sexually violent delinquent child being named a perpetrator of child abuse.

(3) A juvenile offender, as defined in 42 Pa.C.S. § 9799.12, who meets all of the following:

(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H as a result of an adjudication of delinquency for the same acts which resulted in the juvenile offender being named a perpetrator of child abuse.

(ii) Has not been removed from the Statewide Registry of Sexual Offenders pursuant to 42 Pa.C.S. § 9799.17 (relating to termination of period of registration for juvenile offenders).

(4) An individual who:

(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H or I (relating to continued registration of sexual offenders) as a result of a criminal conviction for the same acts which resulted in the sexual offender being named a perpetrator of child abuse.

(ii) Has not completed the period of registration required under 42 Pa.C.S. Subch. H or I.

(Dec. 18, 2013, P.L.1195, No.117, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014,

P.L.2529, No.153, eff. Dec. 31, 2014; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendments. Act 10 amended subsec. (c)(4) and Act 29 reenacted subsec. (c)(4).

2014 Amendments. Act 45 amended subsec. (a)(1) and Act 153 amended subsec. (a)(2).

2013 Amendment. Act 117 added section 6338.1.

Cross References. Section 6338.1 is referred to in section 6341 of this title.

§ 6339. Confidentiality of reports.

Except as otherwise provided in this subchapter or by the Pennsylvania Rules of Juvenile Court Procedure, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and reports made pursuant to section 6313 (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department or a county agency shall be confidential.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

Suspension by Court Rule. Section 6339 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(9), adopted August 21, 2006, insofar as it is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of reports if the reports are going to be used as evidence in a hearing to prove dependency of a child.

Cross References. Section 6339 is referred to in sections 6340, 6341, 6365 of this title.

§ 6340. Release of information in confidential reports.

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

(1) An authorized official of a county agency, of a Federal agency that has a need for such information to carry out its responsibilities under law to protect children from abuse and neglect or of an agency of another state that performs protective services analogous to those services performed by county agencies or the department in the course of the official's duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to voluntary or court-ordered services; findings of child abuse).

(2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child or a child alleged to be in need of protection under this chapter.

(3) A guardian ad litem or court designated advocate for the child.

(4) An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of county agency).

(5) A court of competent jurisdiction, including a magisterial district judge, a judge of the Philadelphia

Municipal Court and a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under section 6303(b) (relating to definitions). Disclosure through testimony shall be subject to the restrictions of subsection (c).

(5.1) A court of common pleas in connection with any matter involving custody of a child as set forth in sections 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services) or temporary guardianship of a child under Chapter 56 (relating to standby and temporary guardianship).

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

(7) The Attorney General.

(8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not remove identifiable reports or copies thereof from the department or county agencies.

(9) Law enforcement officials of any jurisdiction, as long as the information is relevant in the course of investigating cases of:

(i) Homicide or other criminal offense set forth in section 6344(c) (relating to employees having contact with children; adoptive and foster parents), sexual abuse or exploitation, bodily injury or serious bodily injury caused by a perpetrator or nonperpetrator.

(ii) Child abuse other than that identified under subparagraph (i) by a nonperpetrator.

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

(iv) A missing child report.

(v) Severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

(10) The district attorney's office or other law enforcement official, as set forth in county protocols for multidisciplinary investigative teams required in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse), shall receive, immediately after the county agency has ensured the safety of the child, reports of abuse according to regulations, from the department or county agency in which the initial report of suspected child abuse or initial inquiry into the report gives evidence that the abuse is:

(i) a criminal offense set forth under section 6344.3 (relating to grounds for denying employment or participation in program, activity or service), not including an offense under 18 Pa.C.S. § 4304 (relating to endangering welfare of children) or an equivalent crime under Federal law or law of another state; or

(ii) child abuse under section 6334.1 (relating to responsibility for investigation).

(11) Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:

(i) The board of commissioners in counties other than counties of the first class.

(ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L.665, No.155), known as the First Class City Home Rule Act.

(iii) An individual serving as a county chief executive as designated by a county home rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.

(12) A mandated reporter of suspected child abuse under section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child shall be limited to the following:

(i) Whether the child abuse report is indicated, founded or unfounded.

(ii) Any services provided, arranged for or to be provided by the county agency to protect the child.

(13) School administrators and child-care service employers, as provided under this paragraph. The following shall apply:

(i) If the alleged perpetrator is a school employee or child-care service employee, school administrators and child-care service employers shall receive notice of a pending allegation and the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.

(ii) Information disclosed pursuant to this paragraph shall be provided to the school administrator or child-care service employer within ten days of the completion of the investigation.

(iii) If the perpetrator is a school employee, the notice of the final status of the report shall be sent to the Department of Education within ten days of the completion of the investigation.

(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the prospective parent may make an informed decision to adopt.

(15) Appropriate officials of another county or state regarding an investigation related to child abuse or protective services when a family has moved to that county or state. Reports under this paragraph shall include general protective service reports and related information. Reports and information under this paragraph shall be provided within seven calendar days. The department shall promulgate regulations as necessary to carry out the purposes of this paragraph.

(16) Members of citizen review panels convened pursuant to section 6343.1 (relating to citizen review panels), provided that such members shall not disclose to any person or government official any identifying information about any specific child protective services case with respect to which the panel is provided information.

(17) A member of a child fatality or near fatality review team under section 6365(d).

(18) The Department of the Auditor General in conjunction with the performances of the duties designated to the Office of Auditor General, except that the Auditor

General may not remove identifiable reports or copies thereof from the department or county agency.

(b) Release of information to subject.--Upon a written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide database or in any report filed pursuant to section 6313 (relating to reporting procedure).

(c) Protecting identity.--Except for reports under subsection (a)(9) and (10) and in response to a law enforcement official investigating allegations of false reports under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse), the release of data by the department, county, institution, school, facility or agency or designated agent of the person in charge that would identify the person who made a report of suspected child abuse or who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential informants.

(d) Exclusion of information.--Except as provided under section 6341(c.2)(4) (relating to amendment or expunction of information), information maintained in the Statewide database obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official. Information in the Statewide database or a confidential report provided under section 6341(c.2)(4) shall be subject to subsection (c).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.; Oct. 28, 2016, P.L.966, No.115, eff. imd.; Oct. 23, 2018, P.L.583, No.88, eff. 60 days)

2018 Amendment. Act 88 amended subsec. (a)(5.1).

2016 Amendment. Act 115 added subsec. (a)(9)(v).

2015 Amendment. Act 15 added subsec. (a)(18).

2014 Amendments. Act 29 amended subsecs. (a)(9), (10), (12) and (13), (b), (c) and (d) and Act 153 amended subsecs. (a)(9)(i) and (c).

2013 Amendment. See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

2008 Amendment. Act 33 added subsec. (a)(17).

2006 Amendment. Act 146 amended subsec. (a)(1) and added subsec. (a)(16).

2004 Amendment. Act 207 amended subsec. (a)(5). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1998 Amendment. Act 127 amended subsec. (a)(5), (9) and (10) and added subsec. (a)(15), effective immediately as to subsec. (a)(5) and (15) and March 1, 1999, as to the remainder of the section.

References in Text. The act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law, referred to in subsec. (a), was repealed by the act of December 19, 1996 (P.L.1158, No.177). The subject matter is now contained in Subpart E of Part III of Title 53 (Municipalities Generally).

Cross References. Section 6340 is referred to in sections 5329.1, 6314, 6334, 6335, 6341, 6343, 6346, 6365, 6375 of this title.

§ 6340.1. Exchange of information.

(a) Certified medical practitioners.--In circumstances which negatively affect the medical health of a child, a certified medical practitioner shall, in a timely manner, provide the county agency with the following information when an assessment for general protective services or a child abuse investigation is being conducted or when the family has been accepted for services by a county agency:

(1) Relevant medical information known to the certified medical practitioner regarding the child's prior and current health.

(2) Information from a subsequent examination.

(3) Information regarding treatment of the child.

(4) Relevant medical information known regarding any other child in the child's household where such information may contribute to the assessment, investigation or provision of services by the county agency to the child or other children in the household.

(b) Parental consent.--Parental consent is not required for the certified medical practitioner to provide the information under subsection (a).

(c) Request by certified medical practitioner.--If requested by the child's primary care physician or a certified medical practitioner who is providing medical care to the child, the county agency, in order to ensure the proper medical care of the child, shall provide the following information as it pertains to circumstances which negatively affect the medical health of the child:

(1) The final status of any assessment of general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.

(2) Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311 (relating to persons required to report suspected child abuse).

(3) If accepted for services, any service provided, arranged for or to be provided by the county agency.

(4) The identity of other certified medical practitioners providing medical care to the child to obtain the child's medical records to allow for coordination of care between medical practitioners.

(d) Notification by county agency.--In circumstances which negatively affect the medical health of a child, the county agency shall notify the certified medical practitioner who is the child's primary care provider, if known, of the following information:

(1) The final status of any assessment of general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.

(2) Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311.

(3) If accepted for services, any service provided, arranged for or to be provided by the county agency.

(Oct. 22, 2014, P.L.2876, No.176, eff. Dec. 31, 2014)

2014 Amendment. Act 176 added section 6340.1.

§ 6341. Amendment or expunction of information.

(a) General rule.--Notwithstanding section 6338.1 (relating to expunction of information of perpetrator who was under 18 years of age when child abuse was committed):

(1) At any time, the secretary may amend or expunge any record in the Statewide database under this chapter upon good cause shown and notice to the appropriate subjects of the report. The request shall be in writing in a manner prescribed by the department. For purposes of this paragraph, good cause shall include, but is not limited to, the following:

(i) Newly discovered evidence that an indicated report of child abuse is inaccurate or is being maintained in a manner inconsistent with this chapter.

(ii) A determination that the perpetrator in an indicated report of abuse no longer represents a risk of child abuse and that no significant public purpose would be served by the continued listing of the person as a perpetrator in the Statewide database.

(2) Any person named as a perpetrator, and any school employee named, in an indicated report of child abuse may, within 90 days of being notified of the status of the report, request an administrative review by, or appeal and request a hearing before, the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. The request shall be in writing in a manner prescribed by the department.

(3) Within 60 days of a request under paragraph (1) or a request for administrative review under paragraph (2), the department shall send notice of the secretary's decision.

(b) Review of grant of request.--If the secretary grants the request under subsection (a)(2), the Statewide database, appropriate county agency, appropriate law enforcement officials and all subjects shall be so advised of the decision. The county agency and any subject have 90 days in which to file an administrative appeal with the secretary. If an administrative appeal is received, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, attending departmental regulations. If no administrative appeal is received within the designated time period, the Statewide database shall comply with the decision of the secretary and advise the county agency to amend or expunge the information in their records so that the records are consistent at both the State and local levels.

(c) Review of refusal of request.--Subject to subsection (c.1), if the secretary refuses a request under subsection (a)(1) or a request for administrative review under subsection (a)(2), or does not act within the prescribed time, the perpetrator or school employee shall have the right to appeal and request a hearing before the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. The request for hearing must be made within 90 days of notice of the decision. The appropriate county agency and appropriate law enforcement officials shall be given notice of the hearing. The burden of proof in the hearing shall be on the appropriate county agency. The department shall assist the county agency as necessary.

(c.1) Founded reports.--A person named as a perpetrator in a founded report of child abuse must provide to the department a court order indicating that the underlying adjudication that formed the basis of the founded report has been reversed or vacated.

(c.2) Hearing.--A person making an appeal under subsection (a)(2) or (c) shall have the right to a timely hearing to determine the merits of the appeal. A hearing shall be scheduled according to the following procedures:

(1) Within ten days of receipt of an appeal pursuant to this section, the department shall schedule a hearing on the merits of the appeal.

(2) The department shall make reasonable efforts to coordinate the hearing date with both the appellee and appellant.

(3) After reasonable efforts required by paragraph (2) have been made, the department shall enter a scheduling order, and proceedings before the Bureau of Hearings and Appeals shall commence within 90 days of the date the scheduling order is entered, unless all parties have agreed to a continuance. Proceedings and hearings shall be scheduled to be heard on consecutive days whenever possible, but if not on consecutive days, then the proceeding or hearing shall be concluded not later than 30 days from commencement.

(4) The department or county agency shall provide a person making an appeal with evidence gathered during the child abuse investigation within its possession that is relevant to the child abuse determination, subject to sections 6339 (relating to confidentiality of reports) and 6340 (relating to release of information in confidential reports).

(5) The department or county agency shall bear the burden of proving by substantial evidence that the report should remain categorized as an indicated report.

(c.3) Prompt decision.--The administrative law judge's or hearing officer's decision in a hearing under subsection (c.2) shall be entered, filed and served upon the parties within 45 days of the date upon which the proceeding or hearing is concluded unless, within that time, the tribunal extends the date for the decision by order entered of record showing good cause for the extension. In no event shall an extension delay the entry of the decision more than 60 days after the conclusion of the proceeding or hearing.

(c.4) Notice of decision.--Notice of the decision shall be made to the Statewide database, the appropriate county agency, any appropriate law enforcement officials and all subjects of the report, except for the abused child.

(d) Stay of proceedings.--Any administrative appeal proceeding pursuant to subsection (b) shall be automatically stayed upon notice to the department by either of the parties when there is a pending criminal proceeding or a dependency or delinquency proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), including any appeal thereof, involving the same factual circumstances as the administrative appeal.

(e) Order.--The secretary or designated agent may make any appropriate order respecting the amendment or expunction of such records to make them accurate or consistent with the requirements of this chapter.

(f) Notice of expunction.--Written notice of an expunction of any child abuse record made pursuant to the provisions of this chapter shall be served upon the subject of the record who was responsible for the abuse or injury and the appropriate county agency. Except as provided in this subsection, the county agency, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse records and inform, for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating

to reports to department and coroner). Whenever the county agency investigation reveals, within 60 days of receipt of the report of suspected child abuse, that the report is unfounded but that the subjects need services provided or arranged by the county agency, the county agency shall retain those records and shall specifically identify that the report was an unfounded report of suspected child abuse. An unfounded report regarding subjects who receive services shall be expunged no later than 120 days following the expiration of one year after the termination or completion of services provided or arranged by the county agency.

(g) Reconsideration and appeal.--Parties to a proceeding or hearing held under subsection (c.2) have 15 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to request the secretary to reconsider the decision. Parties to a proceeding or hearing held under this section have 30 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to perfect an appeal to Commonwealth Court. The filing for reconsideration shall not toll the 30 days provided.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendment. Act 45 reenacted and amended the entire section. Section 16 of Act 45 provided that, notwithstanding section 7(2) of Act 119 of 2013, subsecs. (c.1), (c.2), (c.3), (c.4) and (g) shall apply on and after December 31, 2014.

2013 Amendment. Section 6 of Act 119 provided that the amendment of section 6341 shall apply to appeals filed on or after the effective date of section 6.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (b), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 6341 is referred to in sections 6340, 6368, 6381 of this title.

§ 6342. Studies of data in records.

(a) Studies.--The department may conduct or authorize the conducting of studies of the data contained in the Statewide database and by county agencies and distribute the results of the studies. No study may contain the name or other information by which a subject of a report could be identified. The department may allow Federal auditors access to nonidentifiable duplicates of reports in the Statewide database if required for Federal financial participation in funding of agencies.

(b) Data form.--The department shall develop a data form to facilitate the collection of statistical and demographic information from a child fatality or near fatality review team and a county agency, which can be incorporated into a study conducted by the department.

(July 3, 2008, P.L.276, No.33, eff. 180 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 amended subsec. (a).

Cross References. Section 6342 is referred to in sections 6335, 6336 of this title.

§ 6343. Investigating performance of county agency.

(a) General rule.--If, within 30 days from the date of an initial report of suspected child abuse, the appropriate county agency has not investigated the report and informed the department that the report is an indicated report or an unfounded report or unless within that same 30-day period the report is determined to be a founded report, the department shall have the authority to begin an inquiry into the performance of the county agency which inquiry may include a performance audit of the county agency as provided in subsection (b). On the basis of that inquiry, the department shall take appropriate action to require that the provisions of this chapter be strictly followed, which action may include, without limitation, the institution of appropriate legal action and the withholding of reimbursement for all or part of the activities of the county agency. The department shall determine in its review whether the county agency has sufficiently documented reasons why the investigation has not been completed in the 30-day period.

(b) Performance audit.--Notwithstanding any other provision of this chapter, the secretary or a designee of the secretary may direct, at their discretion, and after reasonable notice to the county agency, a performance audit of any activity engaged in pursuant to this chapter.

(c) Department reviews and reports of child fatalities and near fatalities.--

(1) The department shall conduct a child fatality and near fatality review and provide a written report on any child fatality or near fatality, if child abuse is suspected. The department shall summarize:

- (i) the circumstances of the child's fatality or near fatality;
- (ii) the nature and extent of its review;
- (iii) statutory and regulatory compliance by the county agency in the county where:
 - (A) the fatality or near fatality occurred; and
 - (B) the child resided within the 16 months preceding the fatality or near fatality;
- (iv) its findings; and
- (v) recommendations for reducing the likelihood of future child fatalities and near fatalities resulting from child abuse.

(2) The department's child fatality or near fatality review shall be commenced immediately upon receipt of a report to the department that a child died or nearly died as a result of suspected child abuse. The department shall provide assistance and relevant information to the child fatality or near fatality review team and attempt to coordinate its fact-finding efforts and interviews with the team to avoid duplication. The department's child fatality or near fatality review and report shall be completed as soon as possible but no later than six months from receipt of the initial report of the child fatality or near fatality.

(3) Prior to completing its report, the department may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:

- (i) The identity of the child, only in the case of a child's fatality.
- (ii) If the child was in the custody of a public or private agency, the identity of the agency.
- (iii) The identity of the public or private agency under contract with a county agency to provide services

to the child and the child's family in the child's home prior to the child's death or near fatality.

(iv) A description of services provided under subparagraph (iii).

(v) The identity of the county agency that convened a child fatality or near fatality review team with respect to the child.

(4) Upon completion of the review and report, the department's child fatality or near fatality report shall be made available to the county agency, the child fatality or near fatality review team and designated county officials under section 6340(a)(11) (relating to release of information in confidential reports). The report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's report shall be made available to the public, but identifying information shall be removed from the contents of the report except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The report shall not be released to the public if the district attorney certifies that release of the report may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; July 3, 2008, P.L.276, No.33, eff. 180 days; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014)

2014 Amendment. Act 44 amended subsec. (c)(3).

2008 Amendment. Act 33 added subsec. (c).

Cross References. Section 6343 is referred to in sections 6335, 6340, 6368 of this title.

§ 6343.1. Citizen review panels.

(a) Establishment.--The department shall establish a minimum of three citizen review panels. The department may designate a child fatality or near fatality review team under section 6365(d) (relating to services for prevention, investigation and treatment of child abuse) as a citizen review panel as long as the team has the capacity to perform as a citizen review panel.

(b) Function.--The panels shall examine all of the following:

(1) Policies, procedures and practices of State and local agencies and, where appropriate, specific cases to evaluate the extent to which State and local child protective services system agencies are effectively discharging their child protection responsibilities under section 106(b) of the Child Abuse Prevention and Treatment Act (Public Law 93-247, 42 U.S.C. § 5106a(b)).

(2) Other criteria the panel considers important to ensure the protection of children, including:

(i) a review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established

under Part E of Title IV of the Social Security Act (49 Stat. 620, 42 U.S.C. § 670 et seq.); and

(ii) a review of child fatalities and near fatalities, including, but not limited to, a review of any child fatality or near fatality involving a child in the custody of a public or private agency where there is no report of suspected child abuse and the cause of death is neither the result of child abuse nor natural causes.

(c) Membership.--The panels shall be composed of volunteer members who represent the community, including members who have expertise in the prevention and treatment of child abuse and neglect.

(d) Meetings.--Each citizen review panel shall meet not less than once every three months.

(e) Reports.--The department shall issue an annual report summarizing the activities and recommendations of the panels and summarizing the department response to the recommendations. (Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; July 3, 2008, P.L.276, No.33, eff. 180 days)

2008 Amendment. Act 33 amended subsecs. (a) and (b)(2)(ii).

2006 Amendment. Act 146 added section 6343.1.

Cross References. Section 6343.1 is referred to in sections 6335, 6340 of this title.

§ 6344. Employees having contact with children; adoptive and foster parents.

(a) Applicability.--Beginning December 31, 2014, this section applies to the following individuals:

- (1) An employee of child-care services.
- (2) A foster parent.
- (3) A prospective adoptive parent.
- (4) A self-employed provider of child-care services in a family child-care home.
- (5) (i) Except as provided under subparagraph (ii), an individual 14 years of age or older who is applying for or holding a paid position as an employee with a program, activity or service, as a person responsible for the child's welfare or having direct contact with children.
(ii) If the program, activity or service is an internship, externship, work study, co-op or similar program, an adult applying for or holding a paid position with an employer that participates in the internship, externship, work study, co-op or similar program with a school and whom the employer and the school identify as the child's supervisor and the person responsible for the child's welfare while the child participates in the program with the employer. The adult identified under this subparagraph as the person responsible for the child's welfare is required to be in the immediate vicinity at regular intervals with the child during the program.
- (6) Any individual seeking to provide child-care services under contract with a child-care facility or program.
- (7) An individual 18 years of age or older who resides in the home of a foster parent for at least 30 days in a calendar year or who resides in the home of a prospective adoptive parent for at least 30 days in a calendar year.
- (8) An individual 18 years of age or older who resides for at least 30 days in a calendar year in the following

homes which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code:

- (i) A family living home.
- (ii) A community home for individuals with an intellectual disability.
- (iii) A host home for children.

This paragraph does not include an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.

(a.1) School employees.--This section shall apply to school employees as follows:

(1) School employees governed by the provisions of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall be subject to the provisions of section 111 of the Public School Code of 1949, except that this section shall apply with regard to the certification required under subsection (b)(2).

(2) (i) School employees not governed by the provisions of the Public School Code of 1949 shall be governed by this section.

(ii) This paragraph shall not apply to an employee of an institution of higher education whose direct contact with children, in the course of employment, is limited to either:

- (A) prospective students visiting a campus operated by the institution of higher education; or
- (B) matriculated students who are enrolled with the institution.

(iii) The exemption under subparagraph (ii)(B) shall not apply to students who are enrolled in a secondary school.

(a.2) Minors.--An individual between 14 and 17 years of age who applies for or holds a paid position as an employee who is a person responsible for the child's welfare or a person with direct contact with children through a program, activity or service prior to the commencement of employment or under section 6344.4 (relating to recertification) shall be required to submit only the information under subsection (b)(1) and (2) to an employer, administrator, supervisor or other person responsible for employment decisions, if the following apply:

(1) The individual has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under subsection (b)(3) at any time since establishing residency in this Commonwealth and provides a copy of the certification to the employer.

(2) The individual and the individual's parent or legal guardian swear or affirm in writing that the individual is not disqualified from service under subsection (c) or has not been convicted of an offense similar in nature to those crimes listed in subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(a.3) Exchange visitor.--An individual in possession of a nonimmigrant visa issued pursuant to 8 U.S.C. § 1101(a)(15)(J) (relating to definitions) to an exchange visitor, commonly referred to as a "J-1" Visa, shall not be required to submit information under subsection (b) if all of the following apply:

(1) The individual is applying for or holds a paid position with a program, activity or service for a period not to exceed a total of 90 days in a calendar year.

(2) The individual has not been employed previously in this Commonwealth or another state, the District of Columbia or the Commonwealth of Puerto Rico.

(3) The individual swears or affirms in writing that the individual is not disqualified from service under subsection (c) or has not been convicted of an offense similar in nature to the crimes listed under subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(b) Information to be submitted.--An individual identified in subsection (a)(7) or (8) at the time the individual meets the description set forth in subsection (a)(7) or (8) and an individual identified in subsection (a)(1), (2), (3), (4), (5)(i) or (6), (a.1) or (a.2) prior to the commencement of employment or service or in accordance with section 6344.4 shall be required to submit the following information to an employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers:

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

(2) A certification from the department as to whether the applicant is named in the Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report.

(3) A report of Federal criminal history record information. The applicant shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a record check, and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

(b.1) Required documentation to be maintained and produced.--The employer, administrator, supervisor or other person responsible for employment decisions or acceptance of the individual to serve in any capacity identified in subsection (a)(1), (2), (3), (4), (5)(i) or (6), (a.1) or (a.2) shall maintain a copy of the required information and require the individual to submit the required documents prior to employment or acceptance to serve in any such capacity or as required in section 6344.4, except as allowed under subsection (m).

(b.2) Investigation.--An employer, administrator, supervisor or other person responsible for employment decisions shall require an applicant to submit the required documentation set forth in this chapter or as required in section 6344.4. An employer, administrator, supervisor or other person responsible for employment decisions that intentionally fails to require an applicant to submit the required documentation before the

applicant's hiring or upon recertification commits a misdemeanor of the third degree.

(b.3) Volunteer certification prohibition.--An employer, administrator, supervisor or other person responsible for employment decisions is prohibited from accepting a certification that was obtained for volunteering purposes under section 6344.2 (relating to volunteers having contact with children).

(c) Grounds for denying employment or participation in program, activity or service.--

(1) In no case shall an administrator hire or approve an applicant where the department has verified that the applicant is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.

(2) In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted of one or more of the following offenses under Title 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the law of another state:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

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

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

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

The attempt, solicitation or conspiracy to commit any of the offenses set forth in this paragraph.

(3) In no case shall an employer, administrator, supervisor or other person responsible for employment decisions hire or approve an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.

(c.1) Dismissal.--If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment or approval pursuant to subsection (c), the applicant shall be immediately dismissed from employment or approval.

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

(1) In the course of causing an investigation to be made pursuant to section 2535(a) (relating to investigation), an agency or person designated by the court to conduct the investigation shall require prospective adoptive parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection (b) for review in accordance with this section. If a prospective adoptive parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous five-year period, the agency or person designated by the court shall require that person to submit a certification obtained within the previous one-year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the agency or person designated by the court shall forward the certification to the department for review. The agency or person designated by the court shall not approve the prospective adoptive parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period.

(2) In the course of approving a prospective foster parent, a foster family care agency shall require prospective foster parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection (b) for review by the foster family care agency in accordance with this section. If a prospective foster parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous five-year period, the foster family care agency shall require that person to submit a certification obtained within the previous one-year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the foster family care agency shall forward the certification to the department for review. The foster family care agency shall not approve the prospective foster parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period. In addition, the foster family care agency shall consider the following when assessing the ability of applicants for approval as foster parents:

(i) The ability to provide care, nurturing and supervision to children.

(ii) Mental and emotional well-being. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the foster family care agency shall require a psychological evaluation of that person before approving the foster family home.

(iii) Supportive community ties with family, friends and neighbors.

(iv) Existing family relationships, attitudes and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.

(v) Ability of the applicant to accept a foster child's relationship with his own parents.

(vi) The applicant's ability to care for children with special needs.

(vii) Number and characteristics of foster children best suited to the foster family.

(viii) Ability of the applicant to work in partnership with a foster family care agency. This subparagraph shall not be construed to preclude an applicant from advocating on the part of a child.

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(4.1) If a foster parent, prospective adoptive parent or an individual over 18 years of age residing in the home is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter or is named as a perpetrator in a founded or indicated report, the foster parent or prospective adoptive parent shall provide the foster family care agency or the agency listed to provide adoption services with written notice not later than 72 hours after the arrest, conviction or notification that the individual was named as a perpetrator in the Statewide database.

(5) Foster parents and prospective adoptive parents shall be required to report any other change in the family household composition within 30 days of the change for review by the foster family care agency or the agency listed to provide adoption services. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home of an approved foster family or a prospective adoptive family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency or the agency listed to provide adoption services a certification obtained from the Statewide database, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator. If the certification shows that the person is named as a perpetrator within the previous five-year period, the foster family care agency or the agency listed to provide adoption services shall forward the certification to the department for review. If the department determines that the person is named as the equivalent of a perpetrator of a founded report within the previous five-year period and the person does not cease residing in the home immediately, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

(6) In cases where foster parents knowingly fail to submit the material information required in paragraphs (4.1) and (5) and section 6344.4 such that it would disqualify them as foster parents, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge

cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

(7) An approved foster parent shall not be considered an employee for any purpose, including, but not limited to, liability, unemployment compensation, workers' compensation or other employee benefits provided by the county agency.

(8) The department shall require information based upon certain criteria for foster and adoptive parent applications. The criteria shall include, but not be limited to, information provided by the applicant or other sources in the following areas:

(i) Previous addresses within the last 10 years.

(ii) Criminal history background certification generated by the process outlined in this section.

(iii) Child abuse certification generated by the process outlined in this section.

(iv) Composition of the resident family unit.

(v) Protection from abuse orders filed by or against either parent, provided that such orders are accessible to the county or private agency.

(vi) Details of any proceedings brought in family court, provided that such records in such proceedings are accessible to the county or private agency.

(vii) Drug-related or alcohol-related arrests, if criminal charges or judicial proceedings are pending, and any convictions or hospitalizations within the last five years. If the applicant provides information regarding convictions or hospitalizations in that five-year period, then information on the prior five years shall be requested related to any additional convictions or hospitalizations.

(viii) Evidence of financial stability, including income verification, employment history, current liens and bankruptcy findings within the last 10 years.

(ix) Number of and ages of foster children and other dependents currently placed in the home.

(x) Detailed information regarding children with special needs currently living in the home.

(xi) Previous history as a foster parent, including number and types of children served.

(xii) Related education, training or personal experience working with foster children or the child welfare system.

(d.1) Establishment of a resource family registry.--

(1) The department shall establish a registry of resource family applicants.

(2) The foster family care agency or adoption agency shall register all resource family applicants on the resource family registry in accordance with subsection (d.2).

(3) The foster family care agency or adoption agency shall register all resource families that are approved on the effective date of this subsection within six months of the effective date of this subsection.

(4) Any resource family that is voluntarily registered on the foster parent registry shall be maintained on the resource family registry mandated under this section.

(d.2) Information in the resource family registry.--

(1) The resource family registry shall include, but not be limited to, the following:

(i) The name, Social Security number, date of birth, sex, marital status, race and ethnicity of the applicants.

(ii) The date or dates of the resource family application.

(iii) The current and previous home addresses of the applicants.

(iv) The county of residence of the applicants.

(v) The name, date of birth, Social Security number and relationship of all household members.

(vi) The name, address and telephone number of all current and previous foster family care agency or adoption agency affiliations.

(vii) The foster family care agency or adoption agency disposition related to the approval or disapproval of the applicants and the date and basis for the disposition.

(viii) The type of care the resource family will provide.

(ix) The number of children that may be placed in the resource family home.

(x) The age, race, gender and level of special needs of children that may be placed in the resource family home.

(xi) The ability of the resource family to provide care for sibling groups.

(xii) The date and reason for any closure of the resource family home.

(xiii) The appeal activity initiated by a resource family applicant or an approved resource family and the basis for the appeal. This subparagraph shall not be construed to limit legitimate appeals.

(xiv) The status and disposition of all appeal-related activities. This subparagraph shall not be construed to limit legitimate appeals.

(2) The information maintained in the resource family registry may be released to the following individuals when the department has positively identified the individual requesting the information and the department, except in the case of subparagraphs (iii) and (iv), has inquired into whether and if it is satisfied that the individual has a legitimate need within the scope of the individual's official duties to obtain the information:

(i) An authorized official of a county or private agency, a Federal agency or an agency of another state who performs resource family approvals or the department in the course of the official's duties.

(ii) A guardian ad litem or court-designated advocate for a child. The information is limited to the information related to the resource family with whom the child resides.

(iii) A court of competent jurisdiction, including a district justice, a judge of the Municipal Court of Philadelphia or a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under Chapter 63 (relating to child protective services).

(iv) A court of competent jurisdiction in connection with any matter involving custody of a child. The department shall provide to the court any files that the court considers relevant.

(v) The Attorney General.

(vi) Federal auditors, if required for Federal financial participation in funding of agencies, except that Federal auditors may not remove identifiable information or copies thereof from the department or county or private agencies.

(vii) Law enforcement agents of any jurisdiction, as long as the information is relevant in the course of investigating crimes involving the resource family.

(viii) Appropriate officials of a private agency or another county or state regarding a resource family that has applied to become a resource family for that agency, county or state.

(3) At any time and upon written request, a resource family may receive a copy of all information pertaining to that resource family contained in the resource family registry.

(d.3) Family living homes, community homes for individuals with an intellectual disability and host homes.--

(1) The following shall apply to an individual over 18 years of age residing in a family living home, a community home for individuals with an intellectual disability or a host home for children, which are subject to supervision or licensure by the department under Articles IX and X of the Public Welfare Code:

(i) If an individual is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter, or is named as a perpetrator in a founded or indicated report, the individual shall provide the agency with written notice not later than 72 hours after the arrest, conviction or notification that the individual was named as a perpetrator in the Statewide database.

(ii) The adult family member who is providing services to a child in the home shall be required to report any other change in the household composition within 30 days of the change for review by the agency. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home, that individual shall, within 30 days of beginning residence, submit to the agency a certification obtained from the Statewide database, or its equivalent in each state in which the individual has resided within the previous five-year period, as to whether the person is named as a perpetrator. If the certification shows that the person is named as a perpetrator within the previous five-year period, the agency shall forward the certification to the department for review.

(2) This subsection shall not apply to an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.

(3) As used in this subsection, the term "agency" means a family living home agency, community home agency for individuals with an intellectual disability or a host home agency.

(e) Self-employed family child-care providers.--Self-employed family child-care providers who apply for a license with the department shall submit with their licensure application the information set forth under subsection (b) for review in accordance with this section.

(f) Submissions by operators of child-care services.--The department shall require persons seeking to operate child-care

services to submit the information set forth in subsection (b) for review in accordance with this section.

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

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

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

(h) Fees.--(Repealed).

(h.1) Form of payment.--Payment of the fee authorized under subsection (h) may be made by an individual or organization by check, money order, credit card or debit card.

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

(j) Voluntary certification of child caretakers.--The department shall develop a procedure for the voluntary certification of child caretakers to allow persons to apply to the department for a certificate indicating the person has met the requirements of subsection (b). The department shall also provide for the biennial recertification of child caretakers.

(k) Existing or transferred employees.--(Deleted by amendment).

(l) Temporary employees under special programs.--(Deleted by amendment).

(m) Provisional employees for limited periods.--Notwithstanding subsection (b), employers, administrators, supervisors or other persons responsible for employment decisions may employ applicants on a provisional basis for a single period not to exceed 90 days, if all of the following conditions are met:

(1) The applicant has applied for the information required under subsection (b) and the applicant provides a copy of the appropriate completed request forms to the employer, administrator, supervisor or other person responsible for employment decisions.

(2) The employer, administrator, supervisor or other person responsible for employment decisions has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (c).

(3) The applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (c) or has not been convicted of an offense similar in nature to those crimes listed in subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(4) If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment pursuant to subsection (c), the applicant shall be immediately dismissed by the employer, administrator, supervisor or other person responsible for employment decisions.

(5) The employer, administrator, supervisor or other person responsible for employment decisions requires that the applicant not be permitted to work alone with children

and that the applicant work in the immediate vicinity of a permanent employee.

(n) Confidentiality.--The information provided and compiled under this section, including, but not limited to, the names, addresses and telephone numbers of applicants and foster and adoptive parents, shall be confidential and shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation.

(o) Use of information.--A foster family care agency may not approve a prospective foster parent if the prospective foster parent or an individual 18 years of age or older who resides for at least 30 days in a calendar year with the prospective foster parent meets either of the following:

(1) Is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.

(2) Has been found guilty of an offense listed in subsection (c).

(p) Use of information.--A prospective adoptive parent may not be approved if the prospective adoptive parent or an individual 18 years of age or older who resides for at least 30 days in a calendar year with the prospective adoptive parent meets either of the following:

(1) Is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.

(2) Has been found guilty of an offense listed in subsection (c).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 15, 1998, P.L.963, No.127, eff. Jan. 1, 1999; Dec. 17, 2001, P.L.942, No.112, eff. imd.; Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Nov. 29, 2004, P.L.1291, No.160, eff. 60 days; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Dec. 18, 2007, P.L.469, No.73; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.; Oct. 30, 2017, P.L.379, No.40, eff. imd.; June 28, 2018, P.L.375, No.54, eff. imd.)

2018 Amendment. Act 54 amended subsecs. (b) intro. par. and (b.1).

2017 Amendment. Act 40 repealed subsec. (h).

2015 Amendment. Act 15 amended subsecs. (a), (a.1), (b), (b.1), (b.2), (d)(4.1), (5), (6) and (8) and (e) and added subsecs. (a.2), (a.3), (b.3) and (d.3).

2014 Amendments. Act 29 amended subsecs. (b)(2), (o)(1) and (p)(1) and added subsec. (h.1), Act 45 amended subsecs. (b), (c) hdg. and (1), (o) and (p) and Act 153 amended the section heading and subsecs. (a), (b), (c)(3), (d)(5) and (6), (m), (n) and (p), added subsecs. (a.1), (b.1), (b.2), (c.1) and (d)(4.1) and deleted subsecs. (d)(3) and (4), (k) and (l).

2007 Amendment. Act 73 amended subsecs. (b), (d)(1), (2), (3), (4) and (5), (e), (f) and (k) and added subsec. (b.1), effective immediately as to subsec. (b.1), January 1, 2008, as to subsecs. (b) and (d)(1), (2), (3), (4) and (5) and July 1, 2008, as to subsecs. (e), (f) and (k).

2006 Amendment. Act 179 amended subsecs. (a) and (c)(1) and added subsecs. (o) and (p).

2004 Amendment. Act 160 amended subsecs. (d) and (g) and added subsecs. (d.1), (d.2) and (n).

2002 Amendment. Act 218 amended subsec. (c) (2).

2001 Amendment. Act 112 amended subsec. (h).

1998 Amendment. Act 127 amended subsecs. (b), (c) and (h).

Special Provisions in Appendix. See section 28 of Act 207 of 2004 in the appendix to this title for special provisions relating to applicability.

See section 6 of Act 33 of 2008 in the appendix to this title for special provisions relating to Department of Public Welfare reports.

See section 15 of Act 153 of 2014 in the appendix to this title for special provisions relating to study by Department of Human Services.

References in Text. Subsec. (a) (1), (2), (3), (4), (5) and (6), referred to in subsec. (b), do not exist.

The Statewide central registry, referred to in subsec. (d) (1) and (2), shall be deemed a reference to the Statewide database.

The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsections (a) and (d.3), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Subsec. (h), referred to in subsec. (h.1), was repealed by the act of October 30, 2017, P.L.379, No.40.

Cross References. Section 6344 is referred to in sections 2530, 6335, 6338.1, 6340, 6344.1, 6344.2, 6344.3, 6344.4, 6349, 6383 of this title; section 6351.1 of Title 42 (Judiciary and Judicial Procedure).

§ 6344.1. Information relating to certified or licensed child-care home residents.

(a) General rule.--In addition to the requirements of section 6344 (relating to employees having contact with children; adoptive and foster parents), an individual who applies to the department for a certificate of compliance or a license to provide child day care in a residence shall include criminal history record and child abuse record information required under section 6344(b) for every individual 18 years of age or older who resides in the home for at least 30 days in a calendar year.

(b) Required information.--Child abuse record information required under subsection (a) shall include certification by the department as to whether the applicant is named in the Statewide database as the perpetrator of a founded report or an indicated report.

(c) Effect on certification or licensure.--The department shall refuse to issue or renew a certificate of compliance or license or shall revoke a certificate of compliance or license if the day-care home provider or individual 18 years of age or older who has resided in the home for at least 30 days in a calendar year:

(1) is named in the Statewide database as the perpetrator of a founded report committed within the immediately preceding five-year period; or

(2) has been convicted of an offense enumerated in section 6344(c).

(d) Regulations.--The department shall promulgate regulations to administer this section.

(Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

2015 Amendment. Act 15 amended the section heading and subsecs. (a) and (c).

2014 Amendments. Act 29 amended subsecs. (b) and (c)(1), Act 45 amended subsec. (b) and Act 153 amended the section heading and subsecs. (a), (b) and (c).

2006 Amendment. Act 179 added section 6344.1.

Cross References. Section 6344.1 is referred to in section 6335 of this title.

§ 6344.2. Volunteers having contact with children.

(a) Applicability.--This section applies to an adult applying for or holding an unpaid position as a volunteer with a child-care service, a school or a program, activity or service, as a person responsible for the child's welfare or having direct volunteer contact with children and an individual identified under section 6344(a)(5)(ii) (relating to employees having contact with children; adoptive and foster parents).

(b) Investigation.--Employers, administrators, supervisors or other persons responsible for selection of volunteers shall require an applicant to submit to all requirements set forth in section 6344(b) except as provided in subsection (b.1). An employer, administrator, supervisor or other person responsible for selection of volunteers regarding an applicable prospective volunteer under this section that intentionally fails to require the submissions before approving that individual commits a misdemeanor of the third degree.

(b.1) Exception.--

(1) A person responsible for the selection of volunteers under this chapter shall require an applicable prospective volunteer prior to the commencement of service to submit only the information under section 6344(b)(1) and (2), if the following apply:

(i) The position the prospective volunteer is applying for is unpaid or the prospective volunteer is an individual identified under section 6344(a)(5)(ii).

(ii) The prospective volunteer has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under section 6344(b)(3) at any time since establishing residency in this Commonwealth and provides a copy of the certification to the person responsible for the selection of volunteers.

(iii) The prospective volunteer swears or affirms in writing that the prospective volunteer is not disqualified from service pursuant to section 6344(c) or has not been convicted of an offense similar in nature to those crimes listed in section 6344(c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(2) If the information obtained pursuant to section 6344(b) reveals that the prospective volunteer applicant is disqualified from service pursuant to section 6344(c), the applicant shall not be approved for service.

(3) If all of the following apply, an individual shall not be required to obtain the certifications required under subsection (b):

(i) The individual is currently enrolled in a school.

(ii) The individual is not a person responsible for the child's welfare.

(iii) The individual is volunteering for an event that occurs on school grounds.

(iv) The event is sponsored by the school in which the individual is enrolled as a student.

(v) The event is not for children who are in the care of a child-care service.

(c) Grounds for denial.--Each prospective volunteer shall be subject to the requirements of section 6344(c).

(d) Departmental treatment of information.--Information provided and compiled under this section by the department shall be confidential and shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation. The department may charge a fee to conduct a certification as required by section 6344(b)(2) in accordance with the provisions of section 6344(h). The department shall promulgate regulations necessary to carry out this subsection.

(e) Construction.--(Deleted by amendment).

(f) Nonresident volunteer certification.--Employers, administrators, supervisors or other persons responsible for selection of volunteers may allow a volunteer to serve on a provisional basis not to exceed a total of 30 days in a calendar year if the volunteer is in compliance with the clearance standards under the law of the jurisdiction where the volunteer is domiciled. The nonresident volunteer must provide the employer, administrator, supervisor or other person responsible for selection of volunteers with documentation of certifications.

(g) Waiver of fees for certain background certifications.--The fees for certifications required under section 6344(b)(1) and (2) which a volunteer is required to submit under this section shall be waived, and the certifications shall be provided free of charge to the volunteer under the following conditions:

(1) The background certifications are necessary to comply with the requirements of subsection (b).

(2) The background certifications may not be used and shall not be valid to satisfy the requirements for employment under section 6344(b) or any other law for which a similar background check may be required.

(3) Background certifications shall only be provided free of charge to a volunteer once every 57 months.

(4) The volunteer swears or affirms, in writing, under penalty of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), the following:

(i) The background certifications are necessary to satisfy the requirements under subsection (b).

(ii) The volunteer has not received background certifications free of charge within the previous 57 months.

(iii) The volunteer understands that the certifications shall not be valid or used for any other purpose.

(h) Presumption of good faith.--For the purposes of criminal liability under this section, an employer, administrator, supervisor or other persons responsible for the selection of volunteers are presumed to have acted in good faith when identifying individuals required to submit certifications and maintain records as required by this section.

(Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.; June 28, 2018, P.L.375, No.54, eff. imd.)

2018 Amendment. Act 54 amended subsecs. (a), (b) and (b.1)(1)(i).

2015 Amendment. Act 15 amended subsecs. (a), (b), (b.1) and (f), added subsecs. (g) and (h) and deleted subsec. (e).

2014 Amendments. Act 45 amended subsec. (b) and added subsec. (a.1) and Act 153 amended the entire section.

Cross References. Section 6344.2 is referred to in sections 6335, 6344, 6344.3, 6344.4 of this title.

§ 6344.3. Continued employment or participation in program, activity or service.

(a) (Reserved).

(b) (Reserved).

(c) (Reserved).

(d) (Reserved).

(e) **Noninterference with decisions.--**Nothing in this chapter shall be construed to otherwise interfere with the ability of an employer or person responsible for a program, activity or service to make employment, discipline or termination decisions or from establishing additional standards as part of the hiring or selection process for employees or volunteers.

(f) **Portability of certification.--**

(1) Subject to the restrictions under section 6344(b.3) (relating to employees having contact with children; adoptive and foster parents), if an individual's certifications are current under section 6344.4 (relating to recertification) and the individual completes an affirmation under paragraph (2), the individual may use the certifications as follows:

(i) to apply for employment as identified in section 6344 (relating to employees having contact with children; adoptive and foster parents);

(ii) to serve as an employee as identified in section 6344;

(iii) to apply as a volunteer under section 6344.2 (relating to volunteers having contact with children); and

(iv) to serve as a volunteer under section 6344.2.

(2) Prior to commencing employment or service, an individual must swear or affirm in writing that the individual has not been disqualified from employment or service under section 6344(c) or has not been convicted of an offense similar in nature to a crime listed in section 6344(c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(3) An employer, administrator, supervisor, other person responsible for employment decisions or other person responsible for the selection of volunteers shall make a determination of employment or volunteer matters based on a review of the information required under section 6344(b) prior to employment or acceptance to service in any such capacity and must maintain a copy of the required information.

(g) **Written notice of new arrest, conviction or substantiated child abuse.--**

(1) If an employee or volunteer subject to section 6344 (relating to employees having contact with children; adoptive

and foster parents) or 6344.2 (relating to volunteers having contact with children) is arrested for or convicted of an offense that would constitute grounds for denying employment or participation in a program, activity or service under this chapter, or is named as a perpetrator in a founded or indicated report, the employee or volunteer shall provide the administrator or designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the Statewide database.

(2) If the person responsible for employment decisions or the administrator of a program, activity or service has a reasonable belief that an employee or volunteer was arrested or convicted for an offense that would constitute grounds for denying employment or participation in a program, activity or service under this chapter, or was named as a perpetrator in a founded or indicated report, or the employee or volunteer has provided notice as required under this section, the person responsible for employment decisions or administrator of a program, activity or service shall immediately require the employee or volunteer to submit current information as required under subsection 6344(b). The cost of the information set forth in subsection 6344(b) shall be borne by the employing entity or program, activity or service.

(h) Effect of noncompliance.--An employee or volunteer who willfully fails to disclose information required by subsection (g)(1) commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment or volunteer position.

(Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

2015 Amendment. Act 15 amended subsecs. (e) and (f).

2014 Amendment. Act 153 added section 6344.3.

Special Provisions in Appendix. See section 15 of Act 153 of 2014 in the appendix to this title for special provisions relating to study by Department of Human Services.

Cross References. Section 6344.3 is referred to in section 6340 of this title.

§ 6344.4. Recertification.

New certifications shall be obtained in accordance with the following:

(1) Effective December 31, 2014:

(i) Except as provided in subparagraph (v), a person identified in section 6344 (relating to employees having contact with children; adoptive and foster parents) shall be required to obtain the certifications required by this chapter every 60 months.

(ii) School employees identified in section 6344(a.1)(1) shall be required to obtain reports under section 111 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and under section 6344(b)(2) every 60 months.

(iii) Any person identified in section 6344 with a current certification issued prior to the effective date of this section shall be required to obtain the certifications required by this chapter within 60 months from the date of the person's oldest certification or, if the current certification is older than 60 months, within one year of the effective date of this section.

(iv) A person identified in section 6344 without a certification or who was previously not required to have a certification shall be required to obtain the certifications required by this chapter no later than December 31, 2015.

(2) (i) Effective August 25, 2015, a person identified in section 6344.2 (relating to volunteers having contact with children) shall be required to obtain the certifications required by this chapter every 60 months from the date of the person's most recent certification or, if the current certification is older than 60 months, within one year of the effective date of this section.

(ii) A person identified under section 6344.2 without a certification or who was previously not required to have a certification shall be required to obtain the certifications required by this chapter no later than July 1, 2016.

(3) For renewals of certification required under this chapter, the date for required renewal under this section shall be from the date of the oldest certification under section 6344(b).

(Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

Special Provisions in Appendix. See section 15 of Act 153 of 2014 in the appendix to this title for special provisions relating to study by Department of Human Services.

References in Text. Subparagraph (v), referred to in paragraph (1)(i), does not exist.

Cross References. Section 6344.4 is referred to in sections 6344, 6344.3 of this title.

§ 6345. Audits by Attorney General.

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

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6346. Cooperation of other agencies.

(a) **General rule.**--The secretary may request and shall receive from Commonwealth agencies, political subdivisions, an authorized agency or any other agency providing services under the local protective services plan any assistance and data that will enable the department and the county agency to fulfill their responsibilities properly, including law enforcement officials when assistance is needed in conducting an investigation or an assessment of safety or risk to the child. School districts shall cooperate with the department and the agency by providing them upon request with the information as is consistent with law.

(b) **Willful failure to cooperate.**--Any agency, school or facility or any person acting on behalf of an agency, school or facility that violates this section by willfully failing to cooperate with the department or a county agency when investigating a report of suspected child abuse or when assessing safety or risk to a child commits a misdemeanor of the third degree for a first violation and a misdemeanor of the second degree for subsequent violations.

(c) **Cooperation of county agency and law enforcement officials.**--Consistent with the provisions of this chapter, the county agency and law enforcement officials shall cooperate and coordinate, to the fullest extent possible, their efforts to respond to and investigate reports of suspected child abuse.

(d) Advice to county agency.--Whenever a report of suspected child abuse is referred from a county agency to a law enforcement official pursuant to section 6340(a)(9) and (10) (relating to release of information in confidential reports), as soon as possible, and without jeopardizing the criminal investigation or prosecution, the law enforcement official shall advise the county agency as to whether a criminal investigation has been undertaken and the results of the investigation and of any criminal prosecution. The county agency shall ensure that the information is referred to the Statewide database. (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended the entire section and Act 45 amended subsecs. (b) and (c).

§ 6347. Reports to Governor and General Assembly.

(a) General rule.--No later than May 1 of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the Statewide database and protective services provided by county agencies. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department and the reports of general protective services made to the department or county agencies, together with a report on the implementation of this chapter and its total cost to the Commonwealth, the evaluation of the secretary of services offered under this chapter and recommendations for repeal or for additional legislation to fulfill the purposes of this chapter. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom. The report shall also include an explanation of services provided to children who were the subjects of founded or indicated reports while receiving child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

(b) Reports from county agencies.--To assist the department in preparing its annual report and the quarterly reports required under subsection (c), each county agency shall submit a quarterly report to the department, including, at a minimum, the following information, on an aggregate basis, regarding general protective services and child protective services:

(1) The number of referrals received and referrals accepted.

(2) The number of children over whom the agency maintains continuing supervision.

(3) The number of cases which have been closed by the agency.

(4) The services provided to children and their families.

(5) A summary of the findings with nonidentifying information about each case of child abuse or neglect which has resulted in a child fatality or near fatality.

(c) Quarterly reports.--The department shall prepare and transmit to the Governor and the General Assembly a quarterly report that includes a summary of the findings with nonidentifying information about each case of child abuse or neglect that has resulted in a child fatality or near fatality. One of the quarterly reports may be included within the annual report required under subsection (a).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended subsec. (a) and Act 45 amended subsecs. (a) and (b).

2006 Amendment. Act 146 amended the section heading and subsec. (b) intro. par., added subsecs. (b)(5) and (c) and carried without amendment subsec. (a).

Cross References. Section 6347 is referred to in section 6335 of this title.

§ 6348. Regulations.

The department shall adopt regulations necessary to implement this chapter.

Special Provisions in Appendix. See section 10(2) of Act 151 of 1994 in the appendix to this title for special provisions relating to promulgation of regulations pertaining to general protective services.

§ 6349. Penalties.

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

(1) A person or official authorized to keep the records mentioned in section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports) or 6338 (relating to disposition of founded and indicated reports) who willfully fails to amend or expunge the information when required commits a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.

(2) A person who willfully fails to obey a final order of the secretary or designated agent of the secretary to amend or expunge the summary of the report in the Statewide database or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a misdemeanor of the third degree.

(b) Unauthorized release of information.--A person who willfully releases or permits the release of any information contained in the Statewide database or the county agency records required by this chapter to persons or agencies not permitted by this chapter to receive that information commits a misdemeanor of the second degree. Law enforcement officials shall insure the confidentiality and security of information under this chapter. A person, including a law enforcement official, who violates the provisions of this subsection shall, in addition to other civil or criminal penalties provided by law, be denied access to the information provided under this chapter.

(b.1) Unauthorized access or use of information.--A person who willfully accesses, attempts to access or uses information in the Statewide database for a purpose not authorized under this chapter commits a misdemeanor of the second degree. A person who uses information in the Statewide database for a purpose not authorized under this chapter with intent to harass, embarrass or harm another person commits a misdemeanor of the first degree.

(c) Noncompliance with child-care personnel regulations.--An administrator, or other person responsible for employment decisions in a child-care facility or program, who willfully fails to comply with the provisions of section 6344 (relating to employees having contact with children; adoptive and foster parents) commits a violation of this chapter and shall be

subject to a civil penalty as provided in this subsection. The department shall have jurisdiction to determine violations of section 6344 and may, following a hearing, assess a civil penalty not to exceed \$2,500. The civil penalty shall be payable to the Commonwealth.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended subsecs. (a) and (b), added subsec. (b.1) and carried without amendment subsec. (c) and Act 153 amended subsec. (c).

Cross References. Section 6349 is referred to in section 6335 of this title.

SUBCHAPTER C.1

STUDENTS IN PUBLIC AND PRIVATE SCHOOLS (Repealed)

2014 Repeal. Subchapter C.1 (§§ 6351 - 6353.4) was added December 16, 1994, P.L.1292, No.151, and repealed May 14, 2014, P.L.645, No.44, effective December 31, 2014, and May 14, 2014, P.L.653, No.45, effective December 31, 2014.

SUBCHAPTER C.2

BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS (Repealed)

2014 Repeal. Subchapter C.2 (§§ 6354 - 6358) was added December 16, 1994, P.L.1292, No.151, and repealed May 14, 2014, P.L.653, No.45, effective December 31, 2014.

SUBCHAPTER D

ORGANIZATION AND RESPONSIBILITIES OF CHILD PROTECTIVE SERVICE

Sec.

- 6361. Organization for child protective services.
- 6362. Responsibilities of county agency for child protective services.
- 6363. County plan for protective services.
- 6364. Purchasing services of other agencies.
- 6365. Services for prevention, investigation and treatment of child abuse.
- 6366. Continuous availability to receive reports.
- 6367. Reports to department and coroner.
- 6368. Investigation of reports.
- 6369. Taking child into protective custody (Repealed).
- 6370. Voluntary or court-ordered services; findings of child abuse.
- 6371. Rehabilitative services for child and family.
- 6372. Protecting well-being of children maintained outside home.
- 6373. General protective services responsibilities of county agency.
- 6374. Principles and goals of general protective services.
- 6375. County agency requirements for general protective services.
- 6376. Appeals with respect to general protective services.

6377. Caseloads.

6378. Purchase of services.

§ 6361. Organization for child protective services.

(a) Establishment.--Every county agency shall make available child protective services within the agency. The department may waive the requirement that a county agency be the sole civil agency for receipt and investigation of reports pursuant to section 6362 (relating to responsibilities of county agency for child protective services) upon a showing by the county that:

(1) It is participating in a demonstration project for or has become part of an approved combined intake system for public human service agencies as permitted by department regulations. Nothing in this paragraph is intended to permit noncounty government agencies to participate in the receipt and investigation of the reports.

(2) The goals and objectives of this chapter will continue to be met if a waiver is granted.

If the department grants a waiver under this subsection, the county agency and its agents shall be bound by all other provisions of this chapter, including requirements concerning the maintenance and disclosure of confidential information and records.

(b) Staff and organization.--The county agency shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way to maximize the continuity of responsibility, care and services of individual workers toward individual children and families. The department, by regulation, shall set forth staff-to-family ratios for the various activities required of the county agency under this chapter, including reports and investigations of suspected child abuse, risk assessment and the provision or monitoring of services to abused children and their families.

(c) Functions authorized.--The county agency staff shall perform those functions assigned to it by this chapter and such other functions as would further the purposes of this chapter. (Dec. 16, 1994, P.L.1292, No.151)

1994 Amendment. Act 151 amended the entire section, effective July 1, 1996, as to subsec. (b) and July 1, 1995, as to the remainder of the section.

Cross References. Section 6361 is referred to in sections 6362, 6364, 6375 of this title.

§ 6362. Responsibilities of county agency for child protective services.

(a) General rule.--The county agency shall be the sole civil agency responsible for receiving and investigating all reports of child abuse made pursuant to this chapter, specifically including, but not limited to, reports of child abuse in facilities operated by the department and other public agencies, for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the well-being and development of the child and to preserve and stabilize family life wherever appropriate.

(b) Assumption of responsibility by department.--When the suspected abuse has been committed by the county agency or any of its agents or employees, the department shall assume the role of the agency with regard to the investigation and directly refer the child for services.

(c) Action by agencies for abuse by agents or employees.--Where suspected child abuse has occurred and an employee or agent of the department or the county agency or a

private or public institution is a subject of the report, the department, agency or institution shall be informed of the investigation so that it may take appropriate action.

(d) Reliance on factual investigation.--An agency charged by this section or section 6361 (relating to organization for child protective services) with investigating a report of child abuse may rely on a factual investigation of substantially the same allegations by a law enforcement agency to support the agency's finding. This reliance shall not, however, limit the duties imposed by section 6368(a) (relating to investigation of reports).

(e) Risk assessment.--Each county agency shall implement a State-approved risk assessment process in performance of its duties under this subchapter.

(f) Weekly face-to-face contacts.--For those children assessed as being at high risk for abuse or neglect who are remaining in or returning to the home in which the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.

(Dec. 16, 1994, P.L.1292, No.151; Nov. 24, 1999, P.L.542, No.50, eff. 60 days)

1999 Amendment. Act 50 added subsec. (f).

1994 Amendment. Act 151 amended the entire section, effective July 1, 1995, as to subsecs. (a), (b), (c) and (d). See section 10(1) of Act 151 in the appendix to this title for special provisions relating to the effective date of subsec. (e).

Cross References. Section 6362 is referred to in sections 6361, 6364 of this title.

§ 6363. County plan for protective services.

The county agency shall include provisions for protective services in its annual plan as required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code. (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 6363 is referred to in section 6364 of this title.

§ 6364. Purchasing services of other agencies.

Any other provision of law notwithstanding but consistent with sections 6361 (relating to organization for child protective services) and 6362 (relating to responsibilities of county agency for child protective services), the county agency, based upon the plan of services as provided in section 6363 (relating to county plan for protective services), may purchase and utilize the services of any appropriate public or private agency.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6365. Services for prevention, investigation and treatment of child abuse.

(a) Instruction and education.--Each county agency shall make available among its services for the prevention and treatment of child abuse instruction and education for parenthood and parenting skills, protective and preventive

social counseling, outreach and counseling services to prevent newborn abandonment, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of self-help groups organized for the prevention and treatment of child abuse, part-day services, out-of-home placement services, therapeutic activities for child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

(b) Multidisciplinary review team.--The county agency shall make available among its services a multidisciplinary review team for the prevention, investigation and treatment of child abuse and shall convene the multidisciplinary review team at any time, but not less than annually:

(1) To review substantiated cases of child abuse, including responses by the county agency and other agencies providing services to the child.

(2) Where appropriate to assist in the development of a family service plan for the child.

(c) Multidisciplinary investigative team.--A multidisciplinary investigative team shall be used to coordinate child abuse investigations between county agencies and law enforcement. The county agency and the district attorney shall develop a protocol for the convening of multidisciplinary investigative teams for any case of child abuse by a perpetrator involving crimes against children which are set forth in section 6340(a)(9) and (10) (relating to release of information in confidential reports). The county multidisciplinary investigative team protocol shall include standards and procedures to be used in receiving and referring reports and coordinating investigations of reported cases of child abuse and a system for sharing the information obtained as a result of any interview. The protocol shall include any other standards and procedures to avoid duplication of fact-finding efforts and interviews to minimize the trauma to the child. The district attorney shall convene the multidisciplinary investigative team in accordance with the protocol. The multidisciplinary investigative team shall consist of those individuals and agencies responsible for investigating the abuse or for providing services to the child and shall at a minimum include a health care provider, county caseworker and law enforcement official.

(d) Child fatality or near fatality review team and written report.--

(1) A child fatality or near fatality review team shall be convened by a county agency in accordance with a protocol developed by the county agency, the department and the district attorney in a case when a child dies or nearly dies as a result of child abuse as to which there is an indicated report or when the county agency has not made a status determination within 30 days. The team may convene after a county agency makes a determination of an indicated report and shall convene no later than 31 days from the receipt of the oral report to the department of the suspected child abuse. A county agency in the county where the abuse occurred and in any county where the child resided within the 16 months preceding the fatality or near fatality shall convene a child fatality or near fatality review team. A team shall consist of at least six individuals who are broadly representative of the county where the team is established and who have expertise in prevention and treatment of child abuse. With consideration given to the circumstances of each

case and availability of individuals to serve as members, the team may consist of the following individuals:

- (i) A staff person from the county agency.
- (ii) A member of the advisory committee of the county agency.
- (iii) A health care professional.
- (iv) A representative of a local school, educational program or child care or early childhood development program.
- (v) A representative of law enforcement or the district attorney.
- (vi) An attorney-at-law trained in legal representation of children or an individual trained under 42 Pa.C.S. § 6342 (relating to court-appointed special advocates).
- (vii) A mental health professional.
- (viii) A representative of a children's advocacy center that provides services to children in the county. The individual under this subparagraph must not be an employee of the county agency.
- (ix) The county coroner or forensic pathologist.
- (x) A representative of a local domestic violence program.
- (xi) A representative of a local drug and alcohol program.
- (xii) An individual representing parents.
- (xiii) Any individual whom the county agency or child fatality or near fatality review team determines is necessary to assist the team in performing its duties.

(2) Members of the team shall be responsible for all of the following:

- (i) Maintaining confidentiality of information under sections 6339 (relating to confidentiality of reports) and 6340.
- (ii) Providing and discussing relevant case-specific information.
- (iii) Attending and participating in all meetings and activities as required.
- (iv) Assisting in the development of the report under paragraph (4) (v).

(3) The county agency, in accordance with the protocol and in consultation with the team, shall appoint an individual who is not an employee of the county agency to serve as chairperson.

(4) The team shall perform the following:

- (i) Review the circumstances of the child's fatality or near fatality resulting from suspected or substantiated child abuse.
- (ii) Review the delivery of services to the abused child and the child's family provided by the county agency and review services provided to the perpetrator by the county agency in each county where the child and family resided within the 16 months preceding the fatality or near fatality and the services provided to the child, the child's family and the perpetrator by other public and private community agencies or professionals. This subparagraph includes law enforcement, mental health services, programs for young children and children with special needs, drug and alcohol programs, local schools and health care providers.

(iii) Review relevant court records and documents related to the abused child and the child's family.

(iv) Review the county agency's compliance with statutes and regulations and with relevant policies and procedures of the county agency.

(v) Within 90 days of convening, submit a final written report on the child fatality or near fatality to the department and designated county officials under section 6340(a)(11). Within 30 days after submission of the report to the department, the report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The report shall be made available to the public, but identifying information shall be removed from the contents of the report except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The report shall not be released to the public if the district attorney certifies that release of the report may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney. The report shall include:

(A) Deficiencies and strengths in:

(I) compliance with statutes and regulations; and

(II) services to children and families.

(B) Recommendations for changes at the State and local levels on:

(I) reducing the likelihood of future child fatalities and near fatalities directly related to child abuse and neglect;

(II) monitoring and inspection of county agencies; and

(III) collaboration of community agencies and service providers to prevent child abuse and neglect.

(d.1) Release by county agency.--Prior to completing its child fatality or near fatality report, the investigating county agency may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:

(1) The identity of the child, only in the case of a child's fatality.

(2) If the child was in the custody of a public or private agency, the identity of the agency.

(3) The identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality.

(4) A description of services provided under paragraph (3).

(e) Response by department.--Within 45 days of receipt of a report of a child fatality or near fatality under subsection

(d), the department shall review the findings and recommendations of the report and provide a written response to the county agency and the child fatality review team or near fatality review team. The department's response to the report of the child fatality or near fatality review team shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's response shall be made available to the public, but identifying information shall be removed from the contents of the response, except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The response shall not be released to the public if the district attorney certifies that release of the response may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney.

(f) Construction.--The provisions of this section shall be construed to assist in the improvement of services designed to identify and prevent child abuse. The provisions shall not be construed to impede or interfere with criminal prosecutions of persons who have committed child abuse.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1235, No.123, eff. 90 days; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014)

2014 Amendment. Act 44 added subsec. (d.1).

2013 Amendment. Act 123 amended subsecs. (b) and (c).

2008 Amendment. Act 33 added subsecs. (d), (e) and (f).

2002 Amendment. Act 201 amended subsec. (a).

Cross References. Section 6365 is referred to in sections 6334.1, 6340, 6343.1, 6368, 6509 of this title.

§ 6366. Continuous availability to receive reports.

Each county agency shall receive 24 hours a day, seven days a week, all reports, both oral and written, of suspected child abuse in accordance with this chapter, the county plan for the provision of child protective services and the regulations of the department.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6367. Reports to department and coroner.

(a) Reports to department.--Upon the receipt of each report of suspected child abuse made pursuant to this chapter, the county agency shall immediately transmit a child abuse report summary as provided in section 6313 (relating to reporting procedure) to the department. Supplemental reports shall be made at regular intervals thereafter in a manner and form the department prescribes by regulation to the end that the department is kept fully informed and up-to-date concerning the status of reports of child abuse.

(b) Reports to coroner.--The county agency shall give telephone notice and forward immediately a copy of reports made pursuant to this chapter which involve the death of a child to

the appropriate coroner pursuant to section 6317 (relating to mandatory reporting and postmortem investigation of deaths).

(c) Child deaths and near fatalities.--A county agency shall immediately provide information to the department regarding its involvement with the child and with the child's parent, guardian or custodian when a child dies or nearly dies and child abuse is suspected. The county agency shall inform the department of any history of child protective or general protective services provided to the child prior to the child's death or near fatality and of services provided to other children of the child's parent, guardian or custodian by the county agency or by court order. The county agency shall inform the department if the child was in the agency's custody at the time of the child's death or near fatality. The county agency shall provide this information in writing on forms provided by the department within 48 hours of the oral report.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; July 3, 2008, P.L.276, No.33, eff. 180 days)

2008 Amendment. Act 33 added subsec. (c).

Cross References. Section 6367 is referred to in section 6341 of this title.

§ 6368. Investigation of reports.

(a) Response to direct reports.--Upon receipt of a report of suspected child abuse by a perpetrator from an individual, the county agency shall ensure the safety of the child and any other child in the child's home and immediately contact the department in accordance with the provisions of section 6334 (relating to disposition of complaints received).

(b) Response to reports referred to county agency by department.--Upon receipt of a report of suspected child abuse from the department, the county agency shall immediately commence an investigation and see the child within the following time frames:

(1) Immediately, if:

(i) emergency protective custody is required, has been or will be taken; or

(ii) it cannot be determined from the report whether emergency protective custody is needed.

(2) Within 24 hours of receipt of the report in all other cases.

(c) Investigation.--An investigation under this section shall include the following:

(1) A determination of the safety of or risk of harm to the child or any other child if each child continues to remain in the existing home environment.

(2) A determination of the nature, extent and cause of any condition listed in the report.

(3) Any action necessary to provide for the safety of the child or any other child in the child's household.

(4) The taking of photographic identification of the child or any other child in the child's household, which shall be maintained in the case file.

(5) Communication with the department's service under section 6332 (relating to establishment of Statewide toll-free telephone number).

(d) Investigative actions.--During the investigation, all of the following shall apply:

(1) The county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination under this section.

(2) If the investigation indicates bodily injury, the county agency may require that a medical examination by a certified medical practitioner be performed on the child.

(3) Where there is reasonable cause to suspect that there is a history of prior or current abuse, the medical practitioner has the authority to arrange for further medical tests or the county agency has the authority to request further medical tests.

(4) The investigation shall include interviews with all subjects of the report, including the alleged perpetrator. If a subject of the report is not able to be interviewed or cannot be located, the county agency shall document its reasonable efforts to interview the subject and the reasons for its inability to interview the subject. The interview may be reasonably delayed if notice of the investigation has been delayed pursuant to subsection (m).

(e) Review of indicated reports.--A final determination that a report of suspected child abuse is indicated shall be approved by:

(1) the county agency administrator or a designee and reviewed by a county agency solicitor, when the county agency is investigating; or

(2) the secretary or a designee and reviewed by legal counsel for the department, when the department is investigating.

(f) Final determination.--Immediately upon conclusion of the child abuse investigation, the county agency shall provide the results of its investigation to the department in a manner prescribed by the department. Within three business days of receipt of the results of the investigation from the county agency, the department shall send notice of the final determination to the subjects of the report, other than the abused child. The determination shall include the following information:

(1) The status of the report.

(2) The perpetrator's right to request the secretary to amend or expunge the report.

(3) The right of the subjects of the report to services from the county agency.

(4) The effect of the report upon future employment opportunities involving children.

(5) The fact that the name of the perpetrator, the nature of the abuse and the final status of a founded or indicated report will be entered in the Statewide database, if the perpetrator's Social Security number or date of birth are known.

(6) The perpetrator's right to file an appeal of an indicated finding of abuse pursuant to section 6341 (relating to amendment or expunction of information) within 90 days of the date of notice.

(7) The perpetrator's right to a fair hearing on the merits on an appeal of an indicated report filed pursuant to section 6341.

(8) The burden on the investigative agency to prove its case by substantial evidence in an appeal of an indicated report.

(g) Notice.--Notice under subsection (f) shall constitute mailing of the final determination to the recipient's last known address. The determination is presumed received when not returned by the postal authorities as undeliverable. If the determination is returned as undeliverable, the entry in the Statewide database shall include information that the department

was unable to provide notice. No further efforts to provide notice shall be required, except that the department shall resume reasonable efforts to provide notice if new information is received regarding the whereabouts of an individual who is entitled to receive notice under subsection (f).

(h) Notice to mandated reporter.--If a report was made by a mandated reporter under section 6313 (relating to reporting procedure), the department shall notify the mandated reporter who made the report of suspected child abuse of all of the following within three business days of the department's receipt of the results of the investigation:

(1) Whether the child abuse report is founded, indicated or unfounded.

(2) Any services provided, arranged for or to be provided by the county agency to protect the child.

(i) Investigation concerning a school or child-care service employee.--

(1) Upon notification that an investigation involves suspected child abuse by a school or child-care service employee, including, but not limited to, a service provider, independent contractor or administrator, the school or child-care service shall immediately implement a plan of supervision or alternative arrangement for the individual under investigation to ensure the safety of the child and other children who are in the care of the school or child-care service.

(2) The plan of supervision or alternative arrangement shall be approved by the county agency and kept on file with the agency until the investigation is completed.

(j) Referral for investigation.--If the complaint of suspected abuse is determined to be one that cannot be investigated under this chapter because the person accused of the abuse is not a perpetrator within the meaning of section 6303 (relating to definitions), but does suggest the need for investigation, the county agency shall immediately transmit the information to the appropriate law enforcement officials in accordance with the county protocols for multidisciplinary investigative teams required under section 6365(c) (relating to services for prevention, investigation and treatment of child abuse).

(k) Need for social services.--If the investigation determines that the child is being harmed by factors beyond the control of the parent or other person responsible for the child's welfare, the county agency shall promptly take all steps available to remedy and correct these conditions, including the coordination of social services for the child and the family or referral of the family to appropriate agencies for the provision of services.

(l) Notice of investigation.--

(1) Prior to interviewing a subject of a report, the county agency shall orally notify the subject, except for the alleged victim, who is about to be interviewed of the following information:

(i) The existence of the report.

(ii) The subject's rights under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights).

(iii) The subject's rights pursuant to this chapter in regard to amendment or expungement.

(iv) The subject's right to have an attorney present during the interview.

(2) Written notice shall be given to the subject within 72 hours following oral notification, unless delayed as provided in subsection (m).

- (m) Delay of notification.**--The notice under subsection (1) (2) may be reasonably delayed, subject to the following:
- (1) If the notification is likely to:
 - (i) threaten the safety of a victim, a subject of the report who is not a perpetrator or the investigating county agency worker;
 - (ii) cause the perpetrator to abscond; or
 - (iii) significantly interfere with the conduct of a criminal investigation.
 - (2) The written notice shall be provided to all subjects of the report prior to the county agency reaching a finding on the validity of the report.

(n) Completion of investigation.--Investigations shall be completed in accordance with the following:

- (1) Investigations to determine whether to accept the family for service and whether a report is founded, indicated or unfounded shall be completed within 60 days in all cases.
- (2) If, due to the particular circumstances of the case, the county agency cannot complete the investigation within 30 days, the particular reasons for the delay shall be described in the child protective service record and made available to the department for purposes of determining whether either of the following occurred:
 - (i) The county agency strictly followed the provisions of this chapter.
 - (ii) The county agency is subject to action as authorized under section 6343 (relating to investigating performance of county agency).
- (3) Where a petition has been filed under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) alleging that a child is a dependent child, the county agency shall make all reasonable efforts to complete the investigation to enable the hearing on the petition to be held as required by 42 Pa.C.S. § 6335 (relating to release or holding of hearing). (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Oct. 27, 2006, P.L.1192, No.126, eff. 60 days; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1235, No.123, eff. 90 days)

2013 Amendments. Act 108 added subsecs. (e), (f), (g) and (h) and Act 123 amended the entire section. Act 123 overlooked the amendment by Act 108, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 6368.

2006 Amendments. Section 3 of Act 126 provided that the Department of Public Welfare may promulgate rules and regulations to administer and enforce the amendment of section 6368 effected by Act 126.

1994 Amendment. See section 9 of Act 151 in the appendix to this title for special provisions relating to Department of Public Welfare study.

Cross References. Section 6368 is referred to in sections 6338, 6362 of this title.

§ 6369. Taking child into protective custody (Repealed).

2014 Repeal. Section 6369 was repealed April 15, 2014, P.L.417, No.33, effective December 31, 2014.

§ 6370. Voluntary or court-ordered services; findings of child abuse.

(a) General rule.--Based on the investigation and evaluation conducted pursuant to this chapter, the county agency shall provide or contract with private or public agencies for the protection of the child at home whenever possible and those services necessary for adequate care of the child when placed in protective custody. Prior to offering these services to a family, the agency shall explain that it has no legal authority to compel the family to receive the services but may inform the family of the obligations and authority of the county agency to initiate appropriate court proceedings.

(b) Initiation of court proceeding.--

(1) In those cases in which an appropriate offer of service is refused and the county agency determines that the best interests of the child require court action, the county agency shall initiate the appropriate court proceeding. The county agency shall assist the court during all stages of the court proceeding in accordance with the purposes of this chapter.

(2) (i) If the county agency deems it appropriate in a dependency or delinquency proceeding, including an instance in which the alleged perpetrator has access or poses a threat to a child, the county agency may petition the court under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) for a finding of child abuse.

(ii) If the court makes a specific finding that child abuse as defined by this chapter has not occurred, the county agency shall consider the court's finding to be a determination that the report of suspected abuse was an unfounded report. The county agency shall immediately notify the department of the change in the status of the report from an indicated report to an unfounded report. Upon notice, the department shall be responsible for expunging the indicated report consistent with the expunction requirements of this chapter.

(iii) If there is a determination that the subjects of the unfounded report need services provided or arranged by the county agency, the county agency may retain those records only if it specifically identifies the report as an unfounded report of suspected child abuse.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

Cross References. Section 6370 is referred to in section 6340 of this title.

§ 6371. Rehabilitative services for child and family.

The county agency shall provide or arrange for and monitor rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the court.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6372. Protecting well-being of children maintained outside home.

The county agency shall be as equally vigilant of the status, well-being and conditions under which a child is living and being maintained in a facility other than that of a parent, custodian or guardian from which the child has been removed as the service is of the conditions in the dwelling of the parent, custodian or guardian. Where the county agency finds that the placement for any temporary or permanent custody, care or treatment is for any reason inappropriate or harmful in any way to the physical or mental well-being of the child, it shall

take immediate steps to remedy these conditions including petitioning the court.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6373. General protective services responsibilities of county agency.

(a) Program objectives.--Each county agency is responsible for administering a program of general protective services to children and youth that is consistent with the agency's objectives to:

- (1) Keep children in their own homes, whenever possible.
- (2) Prevent abuse, neglect and exploitation.
- (3) Overcome problems that result in dependency.
- (4) Provide temporary, substitute placement in a foster family home or residential child-care facility for a child in need of care.
- (5) Reunite children and their families whenever possible when children are in temporary, substitute placement.
- (6) Provide a permanent, legally assured family for a child in temporary, substitute care who cannot be returned to his own home.
- (7) Provide services and care ordered by the court for children who have been adjudicated dependent.

(b) Efforts to prevent need for removal from home.--In its effort to assist the child and the child's parents, pursuant to Federal regulations, the county agency will make reasonable efforts prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his home and to make it possible for the child to return to home.

(c) Assistance in obtaining available benefits.--The county agency shall aid the child and the family in obtaining benefits and services for which they may qualify under Federal, State and local programs.

(d) Duplication of services.--Except where ordered by the court in a proceeding brought under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), a county agency shall not be required to duplicate services which are the statutory responsibility of any other agency.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6373.

§ 6374. Principles and goals of general protective services.

(a) Primary purpose.--The primary purpose of general protective services is to protect the rights and welfare of children so that they have an opportunity for healthy growth and development.

(b) Assistance to parents.--Implicit in the county agency's protection of children is assistance to parents in recognizing and remedying conditions harmful to their children and in fulfilling their parental duties more adequately.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6374.

§ 6375. County agency requirements for general protective services.

(a) Duties of county agency.--The county agency shall make available a program of general protective services within each agency. The county agency shall perform those functions assigned by this chapter and others that would further the purposes of this chapter. It shall have sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way as to maximize the continuity of

responsibility, care and service of individual workers toward individual children and families. The department by regulation shall set forth staff-to-family ratios for the receipt and assessment of reports of children in need of protective services and for the provision of services to neglected children and their families.

(b) Organization of county agency.--Each county agency shall be organized and staffed to ensure that the agency can provide intake for general protective services. Intake occurs when a report or referral is made to the agency or when a parent or person responsible for the child's welfare requests the assistance of the agency.

(c) Assessment for services.--

(1) Within 60 days of receipt of a report, an assessment shall be completed and a decision on whether to accept the family for service shall be made. The county agency shall provide or arrange for services necessary to protect the child during the assessment period.

(1.1) The county agency shall immediately notify the department upon the completion of the assessment whether the report was determined to be valid or invalid and whether the family was accepted for services or referred to community services.

(1.2) The county agency shall immediately notify the department upon the closure of services for a child or family that has been accepted for services.

(2) Each county agency shall implement a State-approved risk assessment process in performance of its duties.

(d) Receiving and assessing reports.--The county agency shall be the sole civil agency responsible for receiving and assessing all reports of children in need of protective services made pursuant to this chapter for the purpose of providing protective services to prevent abuse or neglect to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development and to preserve and stabilize family life wherever appropriate. The department may waive the receipt and assessment requirement pursuant to section 6361 (relating to organization for child protective services). Nothing in this subsection limits 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers).

(e) Family service plan.--The county agency shall prepare a written family service plan in accordance with regulations adopted by the department.

(f) Types of services.--Each county agency shall make available for the prevention and treatment of child abuse and neglect: multidisciplinary teams, instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, part-day services, out-of-home placement services, therapeutic activities for the child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

(g) Monitoring, evaluating and assessing.--The county agency shall frequently monitor the provision of services, evaluate the effectiveness of the services, conduct in-home visits and make a periodic assessment of the risk of harm to the child, which shall include maintaining an annually updated photograph of the child and verification of the identification of the child.

(h) Emergency coverage.--As part of its general protective services program, a county agency shall provide 24-hour-a-day emergency coverage and be accessible to the public.

(i) Protective custody.--Pursuant to section 6315 (relating to taking child into protective custody) and after receipt of a court order, the county agency shall take a child into protective custody to protect the child from abuse or further neglect. No county agency worker may take custody of a child without judicial authorization based on the merits of the situation.

(j) Court action.--If the county agency determines that protective services are in the best interest of a child and if an offer of those services is refused or if any other reason exists to warrant court action, the county agency shall initiate the appropriate court proceedings.

(k) Adjudication of dependency.--The county agency shall maintain its responsibility for petitioning the court when necessary for the adjudication of dependency of a child pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(l) Assistance to court.--The county agency shall assist the court during all stages of a court proceeding in accordance with the purposes of this chapter.

(m) Weekly face-to-face contacts.--For those children assessed under this section as being at high risk for abuse or neglect who are remaining in or returning to the home in which the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.

(n) Transfer of files between county agencies.--Whenever a county agency transfers to another county agency a file relating to a child who receives or is in need of protective services under this chapter, the file shall include any photographic identification and an annual photograph taken of the child.

(o) Availability of information.--Information related to reports of a child in need of general protective services shall be available to individuals and entities to the extent they are authorized to receive information under section 6340 (relating to release of information in confidential reports).

(Dec. 16, 1994, P.L.1292, No.151; Nov. 24, 1999, P.L.542, No.50, eff. 60 days; Oct. 27, 2006, P.L.1192, No.126, eff. 60 days; Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 amended subsec. (c).

2013 Amendment. Act 107 added subsec. (o). See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

2006 Amendment. Act 126 amended subsec. (g) and added subsec. (n). Section 3 of Act 126 provided that the Department of Public Welfare may promulgate rules and regulations to administer and enforce the amendment of section 6375 effected by Act 126.

1999 Amendment. Act 50 added subsec. (m).

1994 Amendment. Act 151 added section 6375, effective July 1, 1997, except as to subsec. (c)(2). See section 10(1) of Act 151 in the appendix to this title for special provisions relating to the effective date of subsec. (c)(2).

§ 6376. Appeals with respect to general protective services.

(a) Right to appeal.--A custodial parent or person who has primary responsibility for the welfare of a child may appeal

the county agency's decision to accept the family for services. Written notice of this right, along with an explanation of the agency's decision, shall be given to the family within seven days of the decision to accept for service. The department has no authority to modify an order of a court of common pleas.

(b) Receipt and grounds of appeal.--Appeals must be received by the county agency within 45 days of the date when the notice was mailed to the custodial parent or person who has primary responsibility for the welfare of a child. Requests must be made on the grounds that the child is or is not at risk of abuse or neglect.

(c) Review and decision and request for hearing.--The county agency shall review the request and issue a written decision within 45 days of receipt of the appeal. If the agency denies the request, the custodial parent or person who has primary responsibility for the welfare of a child may request a hearing before the department. The request must be made within 45 days of the date of the county agency's decision.

(d) Hearing.--If a hearing is requested, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and applicable department regulations. The burden of proof in the hearing shall be on the county agency. The department shall assist the county agency as necessary.

(e) Order.--The department is authorized and empowered to make any appropriate order regarding records to make them accurate or consistent with the requirements of this chapter.

(f) Other appeals.--Action by a custodial parent or person who has primary responsibility for the welfare of a child under this section does not preclude his right to exercise other appeals available through department regulations or the courts. (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6376.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (d), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 6377. Caseloads.

The department by regulation shall set forth staff-to-family ratios for general protective services.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6377.

§ 6378. Purchase of services.

Except for the receipt and assessment of reports alleging a need for protective services, the county agency may purchase and utilize the services of any appropriate public or private agency. The department shall promulgate regulations establishing standards and qualifications of persons or agencies providing services for a county agency. The department may, by regulation, provide for the establishment of regional facilities or a regional coordination of licensed professional service providers to provide county agencies with access to licensed physicians and psychologists, as required by this section.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6378.

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec.

- 6381. Evidence in court proceedings.
- 6382. Guardian ad litem for child in court proceedings
(Repealed).
- 6383. Education and training.
- 6384. Legislative oversight.
- 6385. Reimbursement to county agencies.
- 6386. Notification to department and development of plan of
safe care for children under one year of age.

§ 6381. Evidence in court proceedings.

(a) General rule.--In addition to the rules of evidence provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the rules of evidence in this section shall govern in child abuse proceedings in court or in any department administrative hearing pursuant to section 6341 (relating to amendment or expunction of information).

(b) Reports of unavailable persons.--Whenever a person required to report under this chapter is unavailable due to death or removal from the jurisdiction of the court, the written report of that person shall be admissible in evidence in any proceedings arising out of child abuse other than proceedings under Title 18 (relating to crimes and offenses). Any hearsay contained in the reports shall be given such weight, if any, as the court determines to be appropriate under all of the circumstances. However, any hearsay contained in a written report shall not of itself be sufficient to support an adjudication based on abuse.

(c) Privileged communications.--Except for privileged communications between a lawyer and a client and between a minister and a penitent, a privilege of confidential communication between husband and wife or between any professional person, including, but not limited to, physicians, psychologists, counselors, employees of hospitals, clinics, day-care centers and schools and their patients or clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse or the cause of child abuse.

(d) Prima facie evidence of abuse.--Evidence that a child has suffered child abuse of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the welfare of the child shall be prima facie evidence of child abuse by the parent or other person responsible for the welfare of the child.

(e) Child victims and witnesses.--In addition to the provisions of this section, any consideration afforded to a child victim or witness pursuant to 42 Pa.C.S. Ch. 59 Subch. D (relating to child victims and witnesses) in any prosecution or adjudication shall be afforded to a child in child abuse proceedings in court or in any department administrative hearing pursuant to section 6341.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014)

2013 Amendment. Act 108 added subsec. (e).

1994 Amendment. Act 151 amended subsecs. (a) and (d).

§ 6382. Guardian ad litem for child in court proceedings
(Repealed).

2000 Repeal. Section 6382 was repealed May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 6383. Education and training.

(a) Duties of department and county agencies.--The department and each county agency, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse and child neglect, including the prevention of newborn abandonment, the identification of abused and neglected children and the provision of necessary ameliorative services to abused and neglected children and their families. The department and each county agency shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families. In addition, the department shall, by regulation, establish a program of training and certification for persons classified as protective services workers. The regulations shall provide for the grandfathering of all current permanent protective services workers as certified protective services workers. Upon request by the county agency and approval of the department, the agency may conduct the training of the county's protective services workers.

(a.1) Study by department.--The department shall conduct a study to determine the extent of the reporting of suspected child abuse in this Commonwealth where the reports upon investigation are determined to be unfounded and to be knowingly false and maliciously reported or it is believed that a minor was persuaded to make or substantiate a false and malicious report. The department shall submit the report to the Governor, General Assembly and Attorney General no later than June 1, 1996. The report shall include the department's findings and recommendations on how to reduce the incidence of knowingly false and malicious reporting.

(a.2) Information for mandated and permissive reporters.--

(1) In addition to the requirements of subsection (a), the department shall provide specific information related to the recognition and reporting of child abuse on its Internet website in forms, including, but not limited to, the following:

- (i) Website content.
- (ii) Printable booklets and brochures.
- (iii) Educational videos.
- (iv) Internet-based interactive training exercises.

(2) Information shall be pertinent to both mandated and permissive reporters and shall address topics, including, but not limited to:

- (i) Conduct constituting child abuse under this chapter.
- (ii) Persons classified as mandated reporters.
- (iii) Reporting requirements and procedures.
- (iv) The basis for making a report of suspected child abuse.
- (v) Penalties for failure to report.
- (vi) Background clearance requirements for individuals who work or volunteer with children.
- (vii) Recognition of the signs and symptoms of child abuse.
- (viii) Alternative resources to assist with concerns not related to child abuse.

(3) The department shall include the following with all certifications provided pursuant to section 6344(b)(2) (relating to employees having contact with children; adoptive and foster parents):

(i) Information that certain persons are required by law to report suspected child abuse.

(ii) The Internet address where the information and guidance required by this subsection can be obtained.

(iii) A telephone number and mailing address where guidance materials can be requested by individuals who cannot access the department's Internet website.

(4) The department shall implement this subsection within 180 days of the effective date of this subsection.

(b) Duties of Department of State.--

(1) The Department of State shall make training and educational programs and materials available for all professional licensing boards whose licensees are charged with responsibilities for reporting child abuse under this chapter with a program of distributing educational materials to all licensees.

(2) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall promulgate regulations within one year of the effective date of this subsection on the responsibilities of mandated reporters. These regulations shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse.

(3) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall:

(i) Require all persons applying for a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least three hours of approved child abuse recognition and reporting training. Training shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Training shall be approved by the department. The training may occur as part of the continuing education requirement of the license.

(ii) Require all persons applying for the renewal of a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least two hours of approved continuing education per licensure cycle. Continuing education shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Continuing education curricula shall be approved by the licensing board in consultation with the department. The two hours of continuing education on child abuse recognition and reporting shall be completed by each licensee as a portion of the total continuing education required for biennial license renewal.

(4) A licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter may exempt an applicant or licensee from the training or continuing education required by paragraph (3) if all of the following apply:

(i) The applicant or licensee submits documentation acceptable to the licensing board that the person has already completed child abuse recognition training.

(ii) The training was:

(A) required by section 1205.6 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the department; or

(B) required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and the training program was approved by the department.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required by paragraph (3).

(5) Upon biennial renewal of a license, a licensing board shall provide to professional licensees under its jurisdiction identified as mandated reporters information related to mandatory reporting of child abuse and the reporting requirements of licensees.

(6) A professional licensee identified as a mandated reporter may apply to the licensing board with jurisdiction over the licensee for an exemption from the training or continuing education required by paragraph (3). A licensing board may exempt the licensee if the licensee submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.

(c) Training of persons subject to department regulation.--

(1) The following persons shall be required to meet the child abuse recognition and reporting training requirements of this subsection:

(i) Operators of institutions, facilities or agencies which care for children and are subject to supervision by the department under Article IX of the Public Welfare Code, and their employees who have direct contact with children.

(ii) Foster parents.

(iii) Operators of facilities and agencies which care for children and are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.

(iv) Caregivers in family child-care homes which are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.

(v) The adult family member who is a person responsible for the child's welfare and is providing services to a child in a family living home, a community home for individuals with an intellectual disability or a host home which is subject to supervision or licensure by the department under Articles IX and X of the Public Welfare Code.

(2) Within six months of the effective date of this subsection, operators and caregivers shall receive three hours of training prior to the issuance of a license or approval certificate and three hours of training every five years thereafter.

(3) Employees who have direct contact with children and foster parents shall receive three hours of training within

six months of the issuance of a license or approval certificate and three hours of training every five years thereafter. New employees and new foster parents shall receive three hours of training within 90 days of hire or approval as a foster parent and three hours of training every five years thereafter.

(4) Training curriculum shall be approved by the department and shall address, but not be limited to, the following:

(i) Recognition of the signs of abuse and reporting requirements for suspected abuse in this Commonwealth.

(ii) For institutions, facilities and agencies under paragraph (1)(i), their policies related to reporting of suspected abuse.

(5) A person may be exempted from the requirements of this subsection if all of the following apply:

(i) The person provides documentation that the person has already completed child abuse recognition and reporting training.

(ii) The training was:

(A) required by section 1205.6 of the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the department; or

(B) required by this chapter and the training program was approved by the department.

(iii) The amount of training received equals or exceeds the amount of training required by this subsection.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Direct contact with children." The care, supervision, guidance or control of children or routine interaction with children.

"Operator." An executive or facility director. The term does not include a person who is not involved in managerial decisions related to the provision of services for or care of children with regard to any of the following:

(1) Personnel.

(2) Policy and procedures.

(3) Regulatory compliance.

(4) Services related to the general or medical care of children.

(5) Supervision of children.

(6) Safety of children.

(Dec. 16, 1994, P.L.1292, No.151; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Apr. 15, 2014, P.L.411, No.31, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

2015 Amendment. Act 15 amended subsec. (c)(1), (2) and (3).

2014 Amendments. Act 31 added subsecs. (b)(3), (4), (5) and (6), (c) and (d), Act 33 added subsec. (a.2) and Act 153 amended subsec. (a.2)(3). Section 2 of Act 31 provided that the amendment shall apply to persons applying for a license, certification, approval or registration, or for the renewal of a license, certification, approval or registration, on or after January 1, 2015.

2002 Amendment. Act 201 amended subsec. (a).

1994 Amendment. Section 10 of Act 151 provided that the amendment of subsec. (a) shall take effect July 1, 1996, and the remainder of the section shall take effect July 1, 1995.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsections (b) and (c), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 6383 is referred to in section 6509 of this title.

§ 6384. Legislative oversight.

A committee of the Senate designated by the President pro tempore of the Senate and a committee of the House of Representatives designated by the Speaker of the House of Representatives, either jointly or separately, shall review the manner in which this chapter has been administered at the State and local level for the following purposes:

(1) Providing information that will aid the General Assembly in its oversight responsibilities.

(2) Enabling the General Assembly to determine whether the programs and services mandated by this chapter are effectively meeting the goals of this chapter.

(3) Assisting the General Assembly in measuring the costs and benefits of this program and the effects and side-effects of mandated program services.

(4) Permitting the General Assembly to determine whether the confidentiality of records mandated by this chapter is being maintained at the State and local level.

(5) Providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this chapter.

Cross References. Section 6384 is referred to in section 6340 of this title.

§ 6385. Reimbursement to county agencies.

The department shall certify in accordance with the needs-based budgeting provisions of Article VII of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, a level of funds sufficient to meet the cost of services required by the provisions of this chapter which are reasonable and allowable as defined in Article VII.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

1994 Amendment. Act 151 added section 6385.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 6386. Notification to department and development of plan of safe care for children under one year of age.

(a) Notification to department.--For the purpose of assessing a child and the child's family for a plan of safe care, a health care provider shall immediately give notice or cause notice to be given to the department if the provider is involved in the delivery or care of a child under one year of age and the health care provider has determined, based on standards of professional practice, the child was born affected by:

(1) substance use or withdrawal symptoms resulting from prenatal drug exposure; or

(2) a Fetal Alcohol Spectrum Disorder.

- (i) (Deleted by amendment).
- (ii) (Deleted by amendment).
- (3) (Deleted by amendment).

(a.1) Notification not to constitute child abuse report.--The notification by a health care provider to the department and any transmittal to the county agency by the department shall not constitute a child abuse report.

(b) Safety or risk assessment.--(Deleted by amendment).

(b.1) Development of interagency protocols and plan of safe care.--The department, in collaboration with the Department of Health and the Department of Drug and Alcohol Programs, shall develop written protocols that include, but are not limited to:

(1) Definitions and evidence-based screening tools, based on standards of professional practice, to be utilized by health care providers to identify a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder.

(2) Notification to the department that a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder has been born and identified. Ongoing involvement of the county agency after taking into consideration the individual needs of the child and the child's parents and immediate caregivers may not be required.

(3) Collection of data to meet Federal and State reporting requirements.

(4) Identification, informed by an assessment of the needs of the child and the child's parents and immediate caregivers, of the most appropriate lead agency responsible for developing, implementing and monitoring a plan of safe care, informed by a multidisciplinary team meeting that is held prior to the child's discharge from the health care facility, which may include:

- (i) public health agencies;
- (ii) maternal and child health agencies;
- (iii) home visitation programs;
- (iv) substance use disorder prevention and treatment providers;
- (v) mental health providers;
- (vi) public and private children and youth agencies;
- (vii) early intervention and developmental services;
- (viii) courts;
- (ix) local education agencies;
- (x) managed care organizations and private insurers;

and

- (xi) hospitals and medical providers.

(5) Engagement of the child's parents and immediate caregivers in order to identify the need for access to treatment for any substance use disorder or other physical or behavioral health condition that may impact the safety, early childhood development and well-being of the child.

(c) County agency duties.--(Deleted by amendment).
(Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Jan. 22, 2014, P.L.6, No.4, eff. 90 days; July 1, 2015, P.L.94, No.15, eff. imd.; June 28, 2018, P.L.375, No.54, eff. Oct. 1, 2018)

CHAPTER 65

NEWBORN PROTECTION

Sec.

6501. Short title of chapter.

6502. Definitions.
6503. Nonliability.
6504. Health care providers accepting newborns.
6504.1. Police officers accepting newborns.
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6505. Reporting acceptance of newborns.
6506. Failure to report acceptance of newborns.
6507. Immunity.
6508. Duty of hospital.
6509. Duties of department.

Enactment. Chapter 65 was added December 9, 2002, P.L.1549, No.201, effective in 60 days.

Cross References. Chapter 65 is referred to in section 6315 of this title; section 4306 of Title 18 (Crimes and Offenses).

§ 6501. Short title of chapter.

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

§ 6502. Definitions.

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:

"Child abuse." Child abuse as defined in section 6303(b) (relating to definitions).

"County agency" or "agency." County agency as defined in section 6303(a) (relating to definitions).

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

"Emergency services provider." An emergency medical responder, emergency medical technician, advanced emergency medical technician or a paramedic as defined in 35 Pa.C.S. § 8103 (relating to definitions).

"Health care provider." A person who is licensed or certified by the laws of this Commonwealth to administer health care in the ordinary course of business or practice of a profession. For purposes of accepting a newborn as provided in section 6504(a)(1) (relating to accepting newborns) and for immunity provided pursuant to section 6507 (relating to immunity), the term includes administrative, managerial and security personnel and any other person employed by a hospital.

"Hospital." An institution having an organized medical staff which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services or rehabilitation services for the care or rehabilitation of people who are injured, disabled, pregnant, diseased, sick or mentally ill. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific medical specialties, but not facilities caring exclusively for people with mental illness or those facilities primarily engaged in providing rehabilitation services or long-term care.

"Newborn." A child less than 28 days of age as reasonably determined by a physician.

"Police department." A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.

"Police officer." A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.

"Police station." The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.

(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

2017 Amendment. Act 68 added the def. of "emergency services provider."

2014 Amendment. Act 91 amended the def. of "health care provider" and added the defs. of "police department," "police officer" and "police station."

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 6303(b), referred to in the def. of "child abuse," was deleted by Act 108 of 2013.

Cross References. Section 6502 is referred to in section 6303 this title; section 4306 of Title 18 (Crimes and Offenses).

§ 6503. Nonliability.

A parent of a newborn shall not be criminally liable under any provision of Title 18 (relating to crimes and offenses) if the criteria set forth in 18 Pa.C.S § 4306 (relating to newborn protection) are met.

§ 6504. Health care providers accepting newborns.

(a) General rule.--A health care provider at a hospital shall do all of the following relating to a newborn accepted under this chapter:

(1) Take the newborn into protective custody as provided in section 6315(a)(3) (relating to taking child into protective custody) or 6504.1(a)(2) (relating to police officers accepting newborns).

(2) Perform a medical evaluation as well as perform any act necessary to care for and protect the physical health and safety of the newborn.

(3) Notify the county agency and the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists as provided in section 6505 (relating to reporting acceptance of newborns).

(b) Accepting newborns.--When a health care provider accepts a newborn pursuant to this chapter, a parent, police officer or emergency services provider may provide a health care provider with information about the newborn's medical history and any identifying information.

(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

2017 Amendment. Act 68 amended subsec. (b).

2014 Amendment. Act 91 amended the section heading and subsecs. (a)(1) and (b).

Cross References. Section 6504 is referred to in sections 6502, 6504.1, 6504.2 of this title.

§ 6504.1. Police officers accepting newborns.

(a) Duties.--A police officer at a police station shall do all of the following relating to a newborn accepted under this chapter:

(1) Take the newborn into protective custody under section 6315(a)(5) (relating to taking child into protective custody).

(2) Ensure the newborn is transported to a hospital and placed into the care of a health care provider under section 6504 (relating to health care providers accepting newborns).

(b) Information.--When a police officer accepts a newborn pursuant to this chapter, a parent may provide the police officer with information about the newborn's medical history and any identifying information.

(July 2, 2014, P.L.843, No.91, eff. 60 days)

2014 Amendment. Act 91 added section 6504.1.

Cross References. Section 6504.1 is referred to in sections 6504, 6505 of this title.

§ 6504.2. Emergency services providers accepting newborns.

(a) Duties.--In accepting a newborn under this chapter, an emergency services provider shall:

(1) take the newborn into protective custody as specified under section 6315(a)(6) (relating to taking child into protective custody); and

(2) ensure the newborn is transported to a hospital and placed into the care of a health care provider as specified under section 6504 (relating to health care providers accepting newborns).

(b) Medical history.--When an emergency services provider accepts a newborn under this chapter, a parent may provide the emergency services provider with information about the newborn's medical history and identifying information.

(c) Temporary signage.--An entity employing an emergency services provider accepting newborns under this chapter shall ensure its grounds or the grounds of an entity otherwise providing access to an emergency services provider clearly indicate, for a minimum of 18 months, that emergency services providers may accept newborns under section 6315(a) and 18 Pa.C.S. § 4306 (relating to newborn protection).

(Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

2017 Amendment. Act 68 added section 6504.2.

Cross References. Section 6504.2 is referred to in section 6505 of this title.

§ 6504.3. Incubators for newborns.

(a) Provision optional.--A hospital, police station or other entity employing or otherwise providing access to an emergency services provider may provide an incubator for the care of a newborn accepted under this chapter.

(b) Regulations.--The Department of Health shall promulgate regulations for providing an incubator under subsection (a). The regulations shall include all of the following:

(1) Sanitation standards for an incubator.

(2) Procedures to provide emergency care for an infant placed in an incubator.

(3) Manufacturing and manufacturer standards for an incubator.

(4) Design and function requirements for an incubator which shall include all of the following:

(i) Installation of an incubator at a hospital, police station or other entity which employs or otherwise provides access to an emergency services provider.

(ii) Allowance of an infant to be placed in the incubator anonymously by the parent.

(iii) Locking an incubator after the parent places the infant in the incubator to prevent third parties from having access to the infant.

(iv) Providing a controlled environment to protect and care for the infant.

(v) Providing notice to the personnel of a hospital, police station or other entity which employs or otherwise

provides access to an emergency services provider within 30 seconds of the infant being placed by the parent in the incubator.

(vi) Triggering a 911 call if the personnel of a hospital, police station or other entity which employs or otherwise provides access to an emergency services provider does not respond within a reasonable amount of time under subparagraph (v).

(5) Operating policy, supervision and maintenance requirements for an incubator, including that only an emergency services provider at an entity that employs or otherwise provides access to the emergency services provider, a health care provider at a hospital or police officer at a police station may take an infant into protective custody in accordance with Chapter 63 (relating to child protective services).

(6) Qualifications to install an incubator.

(7) Procedures and forms for the free registration with the Department of Health of installers qualified to install incubators in accordance with this chapter.

(8) Procedures for the free registration with the Department of Health of an incubator installed in accordance with this chapter.

(9) The creation and installation of signs near an incubator to provide information to parents about how to use the incubators.

(10) Any other provisions deemed necessary by the Department of Health to ensure the safety of an infant and the safe use of an incubator by a parent.

(c) Notice.--The Department of Health shall publish notice in the Pennsylvania Bulletin of the promulgation of final regulations regarding incubators under subsection (b).
(Dec. 22, 2017, P.L.1219, No.68)

2017 Amendment. Act 68 added section 6504.3. Section 7(1)(ii) of Act 68 provided that subsecs. (b) and (c) shall take effect immediately. Section 7(2) of Act 68 provided that subsec. (a) shall take effect 120 days after the publication in the Pennsylvania Bulletin of the promulgation of final regulations under 23 Pa.C.S. § 6504.3(c).

§ 6505. Reporting acceptance of newborns.

A health care provider at a hospital shall in all cases notify the county agency and the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists immediately by telephone regarding a newborn accepted by a hospital under this chapter. A written report shall be submitted to the county agency and local municipal police department or the Pennsylvania State Police within 48 hours after the oral report. This section applies in the case of a hospital accepting a newborn pursuant to sections 6504.1(a)(2) (relating to police officers accepting newborns) and 6504.2(a)(2) (relating to emergency services providers accepting newborns). For purposes of this section, the term "health care provider" shall include administrative, managerial and security personnel employed by a hospital.
(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

Cross References. Section 6505 is referred to in section 6504 of this title.

§ 6506. Failure to report acceptance of newborns.

A health care provider at a hospital who intentionally or knowingly fails to report the acceptance by a hospital of a newborn as required by this chapter commits a summary offense. A second or subsequent failure to report such acceptance is a misdemeanor of the third degree.

Cross References. Section 6506 is referred to in section 6507 of this title.

§ 6507. Immunity.

Except for a violation of section 6506 (relating to failure to report acceptance of newborns), no emergency services provider, entity that employs or otherwise provides access to an emergency services provider, hospital, health care provider at a hospital or police department, police officer or administrative or managerial personnel of a police department shall be subject to civil liability or criminal penalty solely by reason of complying with the provisions of this chapter. (July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

Cross References. Section 6507 is referred to in section 6502 of this title.

§ 6508. Duty of hospital.

A hospital shall insure that its officers, health care providers and employees are familiar with the provisions of this chapter, section 6315(a)(3) (relating to taking child into protective custody) and other applicable provisions of Chapter 63 (relating to child protective services) that relate to newborn protection and shall insure that the appropriate officers, health care providers and employees, as the case may be, receive educational materials provided by the department as established under section 6509 (relating to duties of department). Information concerning this chapter, section 6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection and regulations adopted by the department shall be made part of the training at each hospital. Each hospital shall adopt a written policy in accordance with the provisions of this chapter, section 6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection.

§ 6509. Duties of department.

The department shall provide educational materials for use by emergency services providers, entities which employ or otherwise provide access to emergency services providers, hospitals, health care providers, employees at hospitals and police officers regarding this chapter, section 6315(a)(3) (relating to taking child into protective custody) and other applicable provisions of Chapter 63 (relating to child protective services) that relate to newborn protection. The department shall promulgate such regulations as may be necessary to implement this chapter, section 6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection. The department shall also provide emergency services providers, entities which employ or otherwise provide access to emergency services providers, health care providers, hospitals, the Pennsylvania State Police and police departments with an informational pamphlet regarding this chapter, section 6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection which may be distributed to the public. In addition, the department shall comply with the provisions regarding infant abandonment in sections 6365 (relating to services for prevention, investigation and

treatment of child abuse) and 6383 (relating to education and training). A report shall be made annually to the General Assembly on the number and disposition of newborns accepted in accordance with this chapter, section 6315(a)(3) and (5) and other applicable provisions of Chapter 63 that relate to newborn protection.

(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. imd.)

Cross References. Section 6509 is referred to in section 6508 of this title.

CHAPTER 67

DOMESTIC AND SEXUAL VIOLENCE VICTIM ADDRESS CONFIDENTIALITY

Sec.

- § 6701. Short title of chapter.
- § 6702. Definitions.
- § 6703. Address Confidentiality Program.
- § 6704. Persons eligible to apply.
- § 6705. Application and certification process.
- § 6706. Cancellation, expiration and voluntary withdrawal.
- § 6707. Agency use of designated address.
- § 6708. Disclosure of actual address.
- § 6709. Waiver process.
- § 6710. Emergency disclosure.
- § 6711. Penalties.
- § 6712. Rules and regulations.
- § 6713. Civil immunity.

Enactment. Chapter 67 was added November 30, 2004, P.L.1474, No.188, effective in 180 days.

Cross References. Chapter 67 is referred to in sections 1302, 5336 of this title; sections 4521.1, 62A18 of Title 42 (Judiciary and Judicial Procedure); section 8865 of Title 53 (Municipalities Generally); sections 1103.1, 1132.1, 1305, 1510 of Title 75 (Vehicles).

§ 6701. Short title of chapter.

This chapter shall be known and may be cited as the Domestic and Sexual Violence Victim Address Confidentiality Act.

§ 6702. Definitions.

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:

"Actual address." A residential address, school address or work address of an individual.

"Law enforcement agency." A police department of a city, borough, incorporated town or township, the Pennsylvania State Police, district attorneys' offices and the Office of Attorney General.

"Office of Victim Advocate." The office established under section 301 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, that is responsible for the address confidentiality program pursuant to this chapter.

"Program participant." A person certified by the Office of Victim Advocate as eligible to participate in the address confidentiality program established by this chapter.

"Substitute address." The official address of the Office of Victim Advocate or a confidential address designated by the Office of Victim Advocate.

"Victim of domestic violence." A person who is a victim as defined by section 6102 (relating to definitions).

"Victim of sexual assault." A victim of an offense enumerated in 18 Pa.C.S. §§ 3121 (relating to rape), 4302 (relating to incest), 6312 (relating to sexual abuse of children), 6318 (relating to unlawful contact with minor) and 6320 (relating to sexual exploitation of children).

"Victim of stalking." A victim of an offense enumerated in 18 Pa.C.S. § 2709.1 (relating to stalking).

§ 6703. Address Confidentiality Program.

(a) Establishment.--The Office of Victim Advocate shall establish a program to be known as the Address Confidentiality Program. Upon application and certification, persons eligible under section 6704 (relating to persons eligible to apply) shall receive a confidential substitute address provided by the Office of Victim Advocate.

(b) Administration.--The Office of Victim Advocate shall forward all first class, registered and certified mail at no expense to a program participant within three business days. The Office of Victim Advocate may arrange to receive and forward other classes or kinds of mail at the program participant's expense.

(c) Notice.--Upon certification, the Office of Victim Advocate shall provide notice of participation and the program participant's substitute address to appropriate officials involved in an ongoing civil or criminal case in which a program participant is a victim, witness, plaintiff or defendant.

(d) Records.--All records relating to applicants and program participants are the property of the Office of Victim Advocate. These records, including program applications, participants' actual addresses and waiver proceedings, shall be kept confidential and shall not be subject to the provisions of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, except that records may be released as specifically set forth in this chapter and to a district attorney to the extent necessary for the prosecution of conduct as set forth in section 6711 (relating to penalties).

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (d), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 6704. Persons eligible to apply.

The following persons shall be eligible to apply to become program participants:

(1) A victim of domestic violence who files an affidavit with the Office of Victim Advocate stating the affiant's eligibility for a protection from abuse order and further stating that the affiant fears future violent acts by the perpetrator of the abuse.

(2) A victim of sexual assault who files an affidavit with the Office of Victim Advocate describing the perpetrator's violent actions or threatened violent actions toward the affiant and further stating that the affiant fears future violent acts by the perpetrator of the sexual violence.

(3) A victim of stalking who files an affidavit with the Office of Victim Advocate describing the perpetrator's course of conduct or repeated actions toward the affiant meeting the criteria enumerated in 18 Pa.C.S. § 2709.1 (relating to stalking) and further stating that the affiant fears future violent acts by the perpetrator of the stalking.

(4) A person who is a member of the same household as a program participant.

(5) A program participant who notifies the Office of Victim Advocate of the participant's intent to continue in the program prior to the expiration of certification.

Cross References. Section 6704 is referred to in sections 6703, 6705, 6711 of this title.

§ 6705. Application and certification process.

(a) **General rule.**--A person must file an application with the Office of Victim Advocate on a form prescribed by the Office of Victim Advocate. The Office of Victim Advocate shall certify eligible applicants as program participants in accordance with the procedures outlined in subsection (b). Certification shall be valid for a period of three years following the date of certification unless the certification is withdrawn or canceled before the expiration of that period.

(b) **Requirements for certification.**--The Office of Victim Advocate shall certify an applicant as a program participant if:

(1) The applicant meets the eligibility requirements under section 6704 (relating to persons eligible to apply).

(2) The applicant designates the Office of Victim Advocate as an agent for the purpose of receiving service of process.

(3) The application contains the applicant's actual address and telephone number where the applicant can be contacted.

(4) The application contains a list of all pending civil and criminal proceedings in which the applicant is a victim, witness, plaintiff or defendant and, if applicable, the applicant's involvement with State and county probation and parole.

(5) The application contains a statement signed by the applicant affirming that the information provided by the applicant is true to the best of the applicant's information, knowledge and belief.

(6) The application contains a statement signed by the applicant acknowledging that the applicant has a continuing duty to notify the Office of Victim Advocate of any change in the information provided to the Office of Victim Advocate in accordance with this chapter. The duty shall remain in effect for the duration of participation in the program.

(7) The application contains the date, the applicant's signature and the signature of any person who assisted in the preparation of the application.

Cross References. Section 6705 is referred to in section 6711 of this title.

§ 6706. Cancellation, expiration and voluntary withdrawal.

(a) **Cancellation.**--The Office of Victim Advocate shall cancel the certification of a program participant if:

(1) the program participant willingly provided false information on any portion of the application;

(2) the program participant failed to notify the Office of Victim Advocate within five days of a name change or an address change; or

(3) the program participant's mail is returned to the Office of Victim Advocate as nondeliverable.

(b) **Expiration.**--Certification as a program participant shall expire three years from the date on which an applicant was certified as a program participant. The Office of Victim

Advocate shall send written notification of pending expiration to a program participant's last known actual address 30 days prior to the expiration of certification.

(c) Withdrawal.--A program participant may withdraw at any time by notifying the Office of Victim Advocate in writing.

(d) Effect of cancellation, expiration or withdrawal.--Notwithstanding cancellation, expiration or prior withdrawal from the program, all persons eligible to apply to become program participants may reapply for participation in the program.

§ 6707. Agency use of designated address.

State and local government agencies shall accept the substitute address designated on a valid program participation card issued to the program participant by the Office of Victim Advocate as the program participant's address except as follows:

(1) when the State or local government agency has been granted a waiver pursuant to section 6709 (relating to waiver process); or

(2) when the program participant is any of the following:

(i) a released offender complying with State or county probation or parole requirements; or

(ii) a convicted sexual offender who has fulfilled the offender's sentence but must register the offender's community residence as required under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) or any similar registration requirement imposed by any other jurisdiction.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 10 amended section 6707 and Act 29 reenacted section 6707.

§ 6708. Disclosure of actual address.

The Office of Victim Advocate shall not disclose the actual address of a program participant except to any of the following:

(1) A State or local government agency when the State or local government agency has been granted a waiver by the Office of Victim Advocate and the disclosure is made pursuant to section 6709 (relating to waiver process).

(2) A person or agency when disclosure is determined by the Office of Victim Advocate to be required due to an emergency and the disclosure is made pursuant to section 6710 (relating to emergency disclosure).

(3) A person identified in an order of court directing the Office of Victim Advocate to disclose the program participant's actual address and disclosure is made pursuant to the court order.

Cross References. Section 6708 is referred to in section 6711 of this title.

§ 6709. Waiver process.

(a) Request for waiver.--A State or local government agency requesting disclosure of a program participant's actual address pursuant to this section shall make such a request in writing on agency letterhead and shall provide the Office of Victim Advocate with the following information:

(1) The name of the program participant for whom the agency seeks disclosure of the actual address.

(2) A statement, with explanation, setting forth the reason or reasons that the agency needs the program participant's actual address and a statement that the agency cannot meet its statutory or administrative obligations without disclosure of the program participant's actual address.

(3) A particular statement of facts showing that other methods to locate the program participant or the program participant's actual address have been tried and have failed or that the methods reasonably appear to be unlikely to succeed.

(4) A statement that the agency has adopted a procedure setting forth the steps the agency will take to protect the confidentiality of the program participant's actual address.

(b) Notice to program participant.--

(1) Except as provided in paragraph (3), the Office of Victim Advocate shall provide the program participant with notice of a request for waiver received pursuant to subsection (a), and, to the extent possible, the program participant shall be afforded an opportunity to be heard regarding the request.

(2) Except as provided in paragraph (3), the Office of Victim Advocate shall provide the program participant with written notification whenever a waiver has been granted or denied pursuant to this section.

(3) No notice or opportunity to be heard shall be given to the program participant when the request for disclosure is made by a State or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the program participant or when providing notice to the program participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.

(c) Review of request for waiver.--The Office of Victim Advocate shall promptly conduct a review of all requests received pursuant to this section. In conducting a review, the Office of Victim Advocate shall consider all information received pursuant to subsections (a) and (b) and any other appropriate information that the Office of Victim Advocate may require.

(d) Criteria for granting a request for waiver.--The Office of Victim Advocate shall grant a State or local government agency's request for waiver and release a program participant's actual address pursuant to this section if:

(1) the agency has a bona fide statutory or administrative need for the actual address;

(2) the actual address will only be used for the purpose stated in the request;

(3) other methods to locate the program participant or the program participant's actual address have been tried and have failed or such methods reasonably appear to be unlikely to succeed; and

(4) the agency has adopted a procedure for protecting the confidentiality of the actual address of the program participant.

(e) Form of waiver.--Upon granting a request for waiver pursuant to this section, the Office of Victim Advocate shall provide the State or local government agency receiving the waiver with a form containing:

(1) the program participant's actual address;

(2) a statement setting forth the permitted use of the actual address and the names or classes of persons permitted to have access to and use of the actual address;

(3) a statement that the agency receiving the waiver is required to limit access to and use of the actual address to the permitted use and persons set forth in the waiver; and

(4) the date on which the waiver expires if the permitted use makes the expiration appropriate, after which the agency may no longer maintain, use or have access to the actual address.

(f) Requirements of a State and local government agency receiving a waiver.--A State or local government agency granted a waiver by the Office of Victim Advocate pursuant to this section shall:

(1) limit the use of the program participant's actual address to the purposes set forth in the waiver;

(2) limit the access to the program participant's actual address to the persons or classes of persons set forth in the waiver;

(3) cease to use and dispose of the program participant's actual address upon the expiration of the waiver; and

(4) except as otherwise set forth in the waiver, maintain the confidentiality of a program participant's actual address.

(g) Denial of request for waiver.--Upon denial of a State or local government agency's request for waiver, the Office of Victim Advocate shall provide prompt written notification to the agency stating that the agency's request has been denied and setting forth the specific reasons for the denial.

(h) Filing of exceptions.--A State or local government agency may file written exceptions with the Office of Victim Advocate no more than 15 days after written notification is provided pursuant to subsection (g). The exceptions shall restate the information contained in the request for waiver, state the grounds upon which the agency asserts that the request for waiver should be granted and specifically respond to the Office of Victim Advocate's specific reasons for denial.

(i) Review of exceptions and determination.--Unless the State or local government agency filing exceptions agrees otherwise, the Office of Victim Advocate shall make a final determination regarding the exceptions within 30 days after the filing of exceptions pursuant to subsection (h). Prior to making a final determination regarding the exceptions, the Office of Victim Advocate may request additional information from the agency or the program participant and conduct a hearing. If the final determination of the Office of Victim Advocate is that the denial of the agency's request for waiver was properly denied, the Office of Victim Advocate shall provide the agency with written notification of this final determination stating that the agency's request has again been denied and setting forth the specific reasons for the denial. If the final determination of the Office of Victim Advocate is that the denial of the agency's request for waiver has been improperly denied, the Office of Victim Advocate shall grant the agency's request for waiver in accordance with this section. The final determination of the Office of Victim Advocate shall be the final order of the Office of Victim Advocate.

(j) Agency appeal of final determination.--Within 30 days after notification that the Office of Victim Advocate has made a final determination affirming the denial of a State or local government agency's request for waiver, an agency may file a petition for review or any such other document as permitted or required by general court rules. The Office of Victim Advocate

shall be given notice of any action commenced in accordance with this subsection or general rule and shall be afforded an opportunity to respond as permitted or required by general court rules.

(k) Record on appeal.--The record before any court hearing an agency appeal pursuant to subsection (j) shall consist of the State or local government agency's request for waiver, the Office of Victim Advocate's written response, the agency's exceptions, the hearing transcript, if any, and the Office of Victim Advocate's final determination.

(l) Use of substitute address during certain periods.--During any period of review, evaluation or appeal, the agency shall, to the extent possible, accept and use the program participant's substitute address.

(m) Waiver.--Nothing in this section shall be construed to prevent the Office of Victim Advocate from granting a waiver to a State or local government agency pursuant to this section upon receipt of a program participant's written consent to do so.

Cross References. Section 6709 is referred to in sections 6707, 6708 of this title.

§ 6710. Emergency disclosure.

(a) General rule.--The Office of Victim Advocate shall establish a system to respond to requests for emergency disclosures that will provide for 24-hour access to a program participant's actual address.

(b) Request for emergency disclosure.--A government agency may request that the Office of Victim Advocate disclose a program participant's actual address through the system established pursuant to subsection (a). The Office of Victim Advocate shall disclose a program participant's actual address if the disclosure:

(1) will prevent physical harm to a program participant or to a program participant's family member; or

(2) is made to a law enforcement agency for law enforcement purposes and the circumstances warrant immediate disclosure.

(c) Requirements for emergency disclosure.--Prior to disclosing a program participant's actual address pursuant to this section, the Office of Victim Advocate shall require:

(1) verification of the requester's identity and the requester's employment with a government agency;

(2) verification of the stated reason for the request to adequately ensure that emergency disclosure is required pursuant to subsection (b);

(3) proof, to the satisfaction of the Office of Victim Advocate, that other methods to locate the program participant or the program participant's actual address have been tried and have failed or that the methods reasonably appear to be unlikely to succeed given the circumstances of the stated reason for the request;

(4) that the program participant's actual address only be used by the requester or the agency to the extent necessary to respond to the stated reason for the request;

(5) that the requester and the requester's agency maintain the confidentiality of the actual address of the program participant; and

(6) that the requester and the requester's agency agree to dispose of the program participant's actual address as soon as practicable after the circumstances surrounding the

stated reason for the request no longer require emergency disclosure pursuant to this section.

Cross References. Section 6710 is referred to in section 6708 of this title.

§ 6711. Penalties.

(a) **False information.--**Any person who knowingly provides false information in regard to a material fact contained in any application made pursuant to section 6704 (relating to persons eligible to apply) or 6705 (relating to application and certification process) shall be subject to termination from the program and to criminal penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) **Access by fraud or misrepresentation.--**

(1) Except as provided in paragraph (2), any person who intentionally, knowingly or recklessly attempts to gain access to or gains access to a program participant's actual address by fraud or misrepresentation commits a misdemeanor of the second degree. A second or subsequent violation of this paragraph shall be graded as a felony of the third degree.

(2) A first offense under paragraph (1) shall be graded as a felony of the third degree if it is committed by any person who has previously been convicted of a crime of violence involving the program participant under paragraph (1) or the program participant's family or household member as defined in section 6102 (relating to definitions), including:

- 18 Pa.C.S. § 2701 (relating to simple assault);
- 18 Pa.C.S. § 2702 (relating to aggravated assault);
- 18 Pa.C.S. § 2705 (relating to recklessly endangering another person);
- 18 Pa.C.S. § 2709 (relating to harassment);
- 18 Pa.C.S. § 2709.1 (relating to stalking);
- 18 Pa.C.S. § 2901 (relating to kidnapping);
- 18 Pa.C.S. § 3121 (relating to rape);
- 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
- 18 Pa.C.S. § 4954 (relating to protective orders); or
- 23 Pa.C.S. § 6108 (relating to relief).

(c) **Unauthorized use of disclosed actual address.--**A person who lawfully obtains a program participant's actual address pursuant to an exception contained in section 6708 (relating to disclosure of actual address) and who subsequently discloses or uses the actual address in a manner not authorized by this chapter commits a summary offense.

Cross References. Section 6711 is referred to in section 6703 of this title.

§ 6712. Rules and regulations.

The Office of Victim Advocate shall have the following duties in order to implement this chapter:

(1) The Office of Victim Advocate shall adopt and use guidelines which shall be published in the Pennsylvania Bulletin. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) By July 1, 2006, the Office of Victim Advocate shall in accordance with law promulgate regulations to replace the guidelines under paragraph (1).

(3) The guidelines under paragraph (1) shall take effect in 180 days and expire on the earlier of the effective date of regulations promulgated under paragraph (2) or July 1, 2007.

§ 6713. Civil immunity.

Except for gross negligence, recklessness or intentional misconduct, the Office of Victim Advocate, law enforcement agencies and all agents, contractors and employees of the Office of Victim Advocate or a law enforcement agency shall be immune from civil liability in any action arising in connection with this chapter.

PART VIII

UNIFORM INTERSTATE FAMILY SUPPORT

Chapter

- 71. General Provisions
- 72. Jurisdiction
- 73. Civil Provisions of General Application
- 74. Establishment of Support Order
- 75. Direct Enforcement of Order of Another State Without Registration
- 76. Enforcement and Modification of Support Order After Registration
- 77. Determination of Parentage (Repealed)
- 77A. Support Proceeding Under Convention
- 78. Interstate Rendition
- 79. Miscellaneous Provisions

Enactment. Part VIII was added April 4, 1996, P.L.58, No.20, effective immediately.

CHAPTER 71

GENERAL PROVISIONS

Sec.

- 7101. Short title of part.
- 7101.1. Definitions.
- 7102. Remedies cumulative (Repealed).
- 7103. State tribunal and support enforcement agency.
- 7104. Cumulative remedies.
- 7105. Application of part to resident of foreign country and foreign support proceeding.

Enactment. Chapter 71 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 71 is referred to in sections 7105, 7210, 7613, 77A02 of this title.

§ 7101. Short title of part.

(a) **Short title of part.**--(Deleted by amendment).

(b) **Definitions.**--(Deleted by amendment).

This part shall be known and may be cited as the Uniform Interstate Family Support Act.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 amended the defs. of "income-withholding order," "initiating state," "responding state" and "state" in subsec. (b). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as

amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 7101 is referred to in sections 4302, 4308.1 of this title.

§ 7101.1. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Child." An individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

"Child support order." A support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

"Convention." The Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at the Hague on November 23, 2007.

"Department." The Department of Human Services of the Commonwealth.

"Duty of support." An obligation imposed or imposable by law to provide support for a child, spouse or former spouse. The term includes an unsatisfied obligation to provide support.

"Foreign country." A country, including a political subdivision of a country other than the United States, which authorized the issuance of support orders and:

(1) has been declared under the law of the United States to be a foreign reciprocating country;

(2) has established a reciprocal arrangement for child support with this State as provided in section 7308 (relating to supervisory duty);

(3) has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this part; or

(4) in which the convention is in force with respect to the United States.

"Foreign support order." A support order of a foreign tribunal.

"Foreign tribunal." A court, administrative agency or quasi-judicial entity of a foreign country which is authorized to establish, enforce or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

"Home state." The state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with the parent or such person. A period of temporary absence of the parent or such person is counted as part of the six-month or other period.

"Income." The term includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

"Income-withholding order." An order or other legal process directed to an obligor's employer or other debtor, in accordance with section 4348 (relating to attachment of income), to withhold support from the income of the obligor.

"Initiating tribunal." The tribunal of a state or a foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

"Issuing foreign country." The foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

"Issuing state." The state in which a tribunal issues a support order or a judgment determining parentage of a child.

"Issuing tribunal." The tribunal of a state or a foreign country that issues a support order or a judgment determining parentage of a child.

"Law." The term includes decisional and statutory law and rules and regulations having the force of law.

"Obligee." Any of the following:

(1) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued.

(2) A foreign country, state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support.

(3) An individual seeking a judgment determining parentage of the individual's child.

(4) The Department of Human Services.

(5) A person who is a creditor in a proceeding under Chapter 77A (relating to support proceeding under convention).

"Obligor." An individual or the estate of a decedent that:

(1) owes or is alleged to owe a duty of support;

(2) is alleged but has not been adjudicated to be a parent of a child;

(3) is liable under a support order; or

(4) is a debtor in a proceeding under Chapter 77A (relating to support proceeding under convention).

"Outside this State." A location in another state or a country other than the United States, whether or not the country is a foreign country.

"Person." An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision or agency or instrumentality or any other legal or commercial entity.

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Register." To record in a tribunal of this State a support order or judgment determining parentage of a child issued in another state or foreign country.

"Registering tribunal." A tribunal in which a support order or judgment determining parentage of a child is registered.

"Responding state." A state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or foreign country.

"Responding tribunal." The authorized tribunal in a responding state or foreign country.

"Secretary." The Secretary of Human Services of the Commonwealth.

"Spousal support order." A support order for a spouse or former spouse of the obligor.

"State." A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation tribe.

"Support enforcement agency." A public official, governmental entity or private agency authorized to:

- (1) seek enforcement of support orders or laws relating to the duty of support;
 - (2) seek establishment or modification of child support;
 - (3) request determination of parentage of a child;
 - (4) attempt to locate obligors or assets of an obligor;
- or
- (5) request determination of the controlling child support order.

"Support order." A judgment, decree, order, decision or directive, whether temporary, final or subject to modification, issued in a state or a foreign country for the benefit of a child, spouse or former spouse, which provides for monetary support, health care, arrearages, retroactive support or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees and other relief.

"Tribunal." A court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage.

"Tribunal of this State." A court of common pleas.
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7101.1.

Cross References. Section 7101.1 is referred to in sections 7307, 77A01 of this title.

§ 7102. Remedies cumulative (Repealed).

2015 Repeal. Section 7102 was repealed December 28, 2015, P.L.559, No.94, effective immediately.

§ 7103. State tribunal and support enforcement agency.

(a) Tribunals.--The courts of common pleas are the tribunals of this State.

(b) Support enforcement agency.--The department's Bureau of Child Support Enforcement is the support enforcement agency of this State.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7103.

§ 7104. Cumulative remedies.

(a) Remedies.--Remedies provided by this part are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.

(b) Limitations.--This part does not:

- (1) provide the exclusive method of establishing or enforcing a support order under the law of this State; or
- (2) grant a tribunal of this State jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this part.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7104.

§ 7105. Application of part to resident of foreign country and foreign support proceeding.

(a) Applicability.--A tribunal of this State shall apply Chapter 71 (relating to general provisions), 72 (relating to jurisdiction), 73 (relating to civil provisions of general application), 74 (relating to establishment of support order or determination of parentage), 75 (relating to enforcement of support order without registration) or 76 (relating to registration, enforcement and modification of support order) and, as applicable, Chapter 77A (relating to support proceeding under convention), to a support proceeding involving any of the following:

- (1) A foreign support order.
- (2) A foreign tribunal.
- (3) An obligee, obligor or child residing in a foreign country.

(b) Discretionary.--A tribunal of this State that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Chapter 71, 72, 73, 74, 75 or 76.

(c) Limitations.--Chapter 77A applies only to a support proceeding under the convention. In a proceeding, if a provision of Chapter 77A is inconsistent with Chapter 71, 72, 73, 74, 75 or 76, Chapter 77A shall control.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7105.

CHAPTER 72
JURISDICTION

Subchapter

- A. Extended Personal Jurisdiction
- B. Proceedings Involving Two or More States
- C. Reconciliation of Multiple Orders

Enactment. Chapter 72 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 72 is referred to in sections 7105, 7210, 7613, 77A02 of this title.

SUBCHAPTER A
EXTENDED PERSONAL JURISDICTION

Sec.

7201. Bases for jurisdiction over nonresident.

7202. Procedure when exercising jurisdiction over nonresident (Repealed).

7202.1. Duration of personal jurisdiction.

§ 7201. Bases for jurisdiction over nonresident.

(a) Jurisdiction.--In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if any of the following apply:

- (1) The individual is personally served with a writ of summons, complaint or other appropriate pleading within this State.
- (2) The individual submits to the jurisdiction of this State by consent in a record, by entering a general

appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.

(3) The individual resided with the child in this State.

(4) The individual resided in this State and provided prenatal expenses or support for the child.

(5) The child resides in this State as a result of the acts or directives of the individual.

(6) The individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse.

(7) The individual acknowledged parentage of the child on a form filed with the department under section 5103 (relating to acknowledgment and claim of paternity).

(8) There is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

(b) Modification.--The bases of personal jurisdiction set forth in subsection (a) or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of this State to modify a child support order of another state unless the requirements of section 7611 (relating to modification of child support order of another state) are met or, in the case of a foreign support order, unless the requirements of section 7615 (relating to jurisdiction to modify child support order of a foreign country) are met. (Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7201 is referred to in sections 7611, 77A08 of this title.

§ 7202. Procedure when exercising jurisdiction over nonresident (Repealed).

2015 Repeal. Section 7202 was repealed December 28, 2015, P.L.559, No.94, effective immediately.

§ 7202.1. Duration of personal jurisdiction.

Personal jurisdiction acquired by a tribunal of this State in a proceeding under this part or other law of this State relating to a support order continues as long as a tribunal of this State has continuing exclusive jurisdiction to modify the tribunal's order or continuing jurisdiction to enforce the tribunal's order as provided by sections 7205 (relating to continuing, exclusive jurisdiction to modify child support orders), 7206 (relating to continuing jurisdiction to enforce child support orders) and 7211 (relating to continuing, exclusive jurisdiction to modify spousal support order). (Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7202.1.

SUBCHAPTER B

PROCEEDINGS INVOLVING TWO OR MORE STATES OR A FOREIGN COUNTRY

Sec.

7203. Initiating and responding tribunal of this State.

7204. Simultaneous proceedings.

7205. Continuing, exclusive jurisdiction to modify child support orders.

7206. Continuing jurisdiction to enforce child support orders.

Subchapter Heading. The heading of Subchapter B was amended December 28, 2015, P.L.559, No.94, effective immediately.

§ 7203. Initiating and responding tribunal of this State.

Under this part, a tribunal of this State may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7204. Simultaneous proceedings.

(a) Permissible.--A tribunal of this State may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state or a foreign country only if all of the following apply:

(1) The petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state or a foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or a foreign country.

(2) The contesting party timely challenges the exercise of jurisdiction in the other state or a foreign country.

(3) If relevant, this State is the home state of the child.

(b) Impermissible.--A tribunal of this State may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if all of the following apply:

(1) The petition or comparable pleading in the other state or a foreign country is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State.

(2) The contesting party timely challenges the exercise of jurisdiction in this State.

(3) If relevant, the other state or a foreign country is the home state of the child.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7205. Continuing, exclusive jurisdiction to modify child support orders.

(a) Extent.--A tribunal of this State that has issued a child support order consistent with the law of this State has and shall exercise continuing, exclusive jurisdiction to modify the child support order if the order is the controlling order and:

(1) at the time of the filing of a request for modification this State is the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued; or

(2) even if this State is not the residence of the obligor, the individual obligee or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this State may continue to exercise jurisdiction to modify the order.

(b) Restriction.--A tribunal of this State that has issued a child support order consistent with the law of this State may not exercise its continuing, exclusive jurisdiction to modify the order if:

(1) all of the parties who are individuals file consent in a record with the tribunal of this State that a tribunal of another state, that has jurisdiction over at least one of the parties who is an individual or that is located in

the state of residence of the child, may modify the order and assume continuing, exclusive jurisdiction; or

(2) the order is not the controlling order.

(c) Modification.--(Deleted by amendment).

(d) Faith and credit.--If a tribunal of another state has issued a child support order under a law substantially similar to this part which modifies a child support order of a tribunal of this State, tribunals of this State shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

(d.1) Modification.--A tribunal of this State that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

(e) Interim orders.--A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) Duration and modification of spousal support orders.--(Deleted by amendment).

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 7205 is referred to in sections 7202.1, 7207 of this title.

§ 7206. Continuing jurisdiction to enforce child support orders.

(a) Initiating tribunal.--A tribunal of this State that has issued a child support order consistent with the law of this State may serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) the order, if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction under a law substantially similar to this part; or

(2) a money judgment for arrears of support and interest on the order that accrued before a determination that an order of a tribunal of another state is the controlling order.

(b) Responding tribunal.--A tribunal of this State having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

(c) Lack of jurisdiction.--(Deleted by amendment).
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7206 is referred to in sections 7202.1, 7207 of this title.

SUBCHAPTER C

RECONCILIATION OF MULTIPLE ORDERS

Sec.

7207. Determination of controlling child support order.

7208. Multiple child support orders for two or more obligees.

7209. Credit for payments.

7210. Application of part to nonresident subject to personal jurisdiction.

7211. Continuing, exclusive jurisdiction to modify spousal support order.

Subchapter Heading. The heading of Subchapter C was amended December 16, 1997, P.L.549, No.58, effective January 1, 1998.

§ 7207. Determination of controlling child support order.

(a) Single child support order.--If a proceeding is brought under this part and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(a.1) Multiple orders.--If a proceeding is brought under this part and two or more child support orders have been issued by tribunals of this State, another state or a foreign country with regard to the same obligor and same child, a tribunal of this State having personal jurisdiction over both the obligor and the individual obligee shall apply the following rules and by order shall determine which order controls and must be recognized:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of that tribunal controls.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this part, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but, if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this part, the tribunal of this State shall issue a child support order, which controls.

(a.2) Request to determine controlling order.--If two or more child support orders have been issued for the same obligor and the same child, upon request of a party who is an individual or which is a support enforcement agency, a tribunal of this State having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (a.1). The request may be filed with a registration for enforcement or registration for modification under Chapter 76 (relating to registration, enforcement and modification of support order) or may be filed as a separate proceeding. The request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(b) Exclusive jurisdiction.--The tribunal that issued the controlling order under subsection (a), (a.1) or (a.2) is the tribunal that has continuing jurisdiction under section 7205 (relating to continuing, exclusive jurisdiction to modify child support orders) or 7206 (relating to continuing jurisdiction to enforce child support orders).

(c) Basis of order.--A tribunal of this State which determines by order the identity of the controlling order under subsection (a.1)(1) or (2) or (a.2) or which issues a new controlling order under subsection (a.1)(3) shall state all of the following in that order:

(1) The basis upon which the tribunal made its determination.

(2) The amount of prospective support, if any.

(3) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited under section 7209 (relating to credit for payments).

(d) Filing of copy of order.--Within 30 days after issuance of an order determining the identity of the controlling order, the party obtaining the determining order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency that obtains a determining order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. Failure to file a copy of the determining order does not affect the validity or enforceability of the controlling order.

(e) Recognition.--An order which has been determined to be the controlling order or a judgment for consolidated arrears of support and interest, if any, made under this section must be recognized in proceedings under this part.
(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 7207 is referred to in section 7611 of this title.

§ 7208. Multiple child support orders for two or more obligees.

In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees at least one of which was issued by a tribunal of another state or a foreign country, a tribunal of this State shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this State.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7209. Credit for payments.

Amounts collected and credited for a particular period pursuant to a child support order issued by a tribunal of another state or a foreign country must be credited against the amounts accruing or accrued for the same period under a child support order for the same child issued by the tribunal of this State.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7209 is referred to in section 7207 of this title.

§ 7210. Application of part to nonresident subject to personal jurisdiction.

A tribunal of this State exercising personal jurisdiction over a nonresident in a proceeding under this part, under other law of this State relating to a support order or recognizing a foreign support order, may receive evidence from outside this State under section 7316 (relating to special rules of evidence and procedure), communicate with a tribunal outside this State pursuant to section 7317 (relating to communications between tribunals) and obtain discovery through a tribunal outside this State under section 7318 (relating to assistance with discovery). In all other respects, Chapter 71 (relating to general provisions), 72 (relating to jurisdiction), 73 (relating to civil provisions of general application), 74 (relating to

establishment of support order or determination of parentage), 75 (relating to enforcement of support order without registration) or 76 (relating to registration, enforcement and modification of support order) do not apply, and the tribunal shall apply the procedural and substantive law of this State. (Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7210.

§ 7211. Continuing, exclusive jurisdiction to modify spousal support order.

(a) Modification.--A tribunal of this State issuing a spousal support order consistent with the law of this State has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(b) Prohibition.--A tribunal of this State may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

(c) Tribunal.--A tribunal of this State that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(1) an initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this State; or

(2) a responding tribunal to enforce or modify the spousal support order issued by the tribunal.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7211.

Cross References. Section 7211 is referred to in section 7202.1 of this title.

CHAPTER 73

CIVIL PROVISIONS OF GENERAL APPLICATION

Sec.

- 7301. Proceedings under this part.
- 7302. Action by minor parent.
- 7303. Application of law of this State.
- 7304. Duties of initiating tribunal.
- 7305. Duties and powers of responding tribunal.
- 7306. Inappropriate tribunal.
- 7307. Duties of support enforcement agency.
- 7308. Supervisory duty.
- 7309. Private counsel.
- 7310. Duties of department.
- 7311. Pleadings and accompanying documents.
- 7312. Nondisclosure of information in exceptional circumstances.
- 7313. Costs and fees.
- 7314. Limited immunity of petitioner.
- 7315. Nonparentage as defense.
- 7316. Special rules of evidence and procedure.
- 7317. Communications between tribunals.
- 7318. Assistance with discovery.
- 7319. Receipt and disbursement of payments.

Enactment. Chapter 73 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 73 is referred to in sections 7105, 7210, 7613, 77A02 of this title.

§ 7301. Proceedings under this part.

(a) **Scope.**--Except as otherwise provided in this part, this Chapter applies to all proceedings under this part.

(b) **Proceedings.**--(Deleted by amendment).

(c) **Commencement.**--An individual petitioner or a support enforcement agency may commence a proceeding authorized under this part by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country which has or can obtain personal jurisdiction over the respondent.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7301 is referred to in section 7305 of this title.

§ 7302. Action by minor parent.

A minor parent or a guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child.

§ 7303. Application of law of this State.

Except as otherwise provided by this part, a responding tribunal of this State:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

§ 7304. Duties of initiating tribunal.

(a) **Copies of petition.**--Upon the filing of a petition authorized by this part, an initiating tribunal of this State shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) **Special circumstances.**--

(1) If requested by the responding tribunal, a tribunal of this State shall issue a certificate or other document and make findings required by the law of the responding state.

(2) If the responding tribunal is in a foreign country, upon request, the tribunal of this State shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rates as publicly reported and provide other documents necessary to satisfy the requirements of the responding foreign tribunal.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 amended subsec. (b).

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7305. Duties and powers of responding tribunal.

(a) Filing and notice.--If a responding tribunal of this State receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 7301(c) (relating to proceedings under this part), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) Action.--A responding tribunal of this State, to the extent otherwise not prohibited by law, may do any of the following:

(1) Establish or enforce a support order, modify a child support order, determine the controlling child support order or determine parentage of a child.

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

(3) Order income withholding.

(4) Determine the amount of any arrearages and specify a method of payment.

(5) Enforce orders by civil or criminal contempt, or both.

(6) Set aside property for satisfaction of the support order.

(7) Place liens and order execution on the obligor's property.

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, e-mail address, telephone number, employer, address of employment and telephone number at the place of employment.

(9) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any state and local computer systems for criminal warrants.

(10) Order the obligor to seek appropriate employment by specified methods.

(11) Award reasonable attorney fees and other fees and costs.

(12) Grant any other available remedy.

(c) Calculations.--A responding tribunal of this State shall include in a support order issued under this part or in the documents accompanying the order the calculations on which the support order is based.

(d) Visitation.--A responding tribunal of this State may not condition the payment of a support order issued under this part upon compliance by a party with provisions for visitation.

(e) Notice.--If a responding tribunal of this State issues an order under this part, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating agency or tribunal, if any.

(f) Foreign currency.--If requested to enforce a support order, arrears or judgment or modify a support order stated in a foreign currency, a responding tribunal of this State shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rates as publicly reported.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 7305 is referred to in section 7401 of this title.

§ 7306. Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of this State, it shall forward the pleading and accompanying documents to an appropriate tribunal in this State or another state and notify the petitioner where and when the pleading was sent.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7307. Duties of support enforcement agency.

(a) General duty.--In a proceeding under this part, a support enforcement agency of this State, upon request:

(1) Shall provide services to a petitioner residing in a state.

(2) Shall provide services to a petitioner requesting services through a central authority of a foreign country as defined in paragraph (1) or (4) of the definition of "foreign country" in section 7101.1 (relating to definitions).

(3) May provide services to a petitioner who is an individual not residing in a state.

(b) Specific duties.--A support enforcement agency that is providing services to the petitioner shall do all of the following:

(1) Take all steps necessary to enable an appropriate tribunal of this State, another state or a foreign country to obtain jurisdiction over the respondent.

(2) Request an appropriate tribunal to set a date, time and place for a hearing.

(3) Make a reasonable effort to obtain relevant information, including information as to income and property of the parties.

(4) Within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a notice in a record from an initiating, responding or registering tribunal, send a copy of the notice to the petitioner.

(5) Within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner.

(6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(b.1) Registration.--A support enforcement agency of this State that requests registration of a child support order in this State for enforcement or for modification shall make reasonable efforts to do one of the following:

(1) Ensure that the order to be registered is the controlling order.

(2) If two or more child support orders exist and the identity of the controlling order has not been determined, ensure that a request for a determination is made in a tribunal having jurisdiction.

(b.2) Conversion.--A support enforcement agency of this State that requests registration and enforcement of a support order, arrears or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the

equivalent amounts in dollars under the applicable official or market exchange rates as publicly reported.

(b.3) Payment.--A support enforcement agency of this State shall request a tribunal of this State to issue a child support order and an income withholding order that redirect payment of current support, arrears and interest, if requested to do so by a support enforcement agency of another state under section 7319 (relating to receipt and disbursement of payments).

(c) Fiduciaries.--This part does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7308. Supervisory duty.

(a) Secretary.--If the secretary determines that a support enforcement agency is neglecting or refusing to provide services to an individual, the secretary may order the agency to perform its duties under this part or may provide those services directly to the individual.

(b) Reciprocity.--The secretary may determine that a foreign country has established a reciprocal arrangement for child support with this State and take appropriate action for notification of the determination.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 7308 is referred to in section 7101.1 of this title.

§ 7309. Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this part.

§ 7310. Duties of department.

(a) Designation.--The department is the State information agency under this part.

(b) Duties.--The department shall do all of the following:

(1) Compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under this part and any support enforcement agencies in this State and transmit a copy to the state information agency of every other state.

(2) Maintain a register of tribunals and support enforcement agencies received from other states.

(3) Forward to the appropriate tribunal in the place in this State in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, documents concerning a proceeding under this part received from another state or a foreign country.

(4) Obtain information concerning the location of the obligor and the obligor's property within this State not

exempt from execution by such means as postal verification; Federal or State locator services; examination of telephone directories; requests for the obligor's address from employers; and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses and Social Security.

(5) (Deleted by amendment).

(6) (Deleted by amendment).

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7311. Pleadings and accompanying documents.

(a) Verification and content.--In a proceeding under this part, a petitioner seeking to establish a support order to determine parentage of a child or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under section 7312 (relating to nondisclosure of information in exceptional circumstances), the petition or accompanying documents must provide, so far as known, the name, residential address and Social Security number of the obligor and the obligee or the parent and alleged parent and the name, sex, residential address, Social Security number and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

(b) Relief.--The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by Federal law for use in cases filed by a support enforcement agency.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7311 is referred to in section 77A06 of this title.

§ 7312. Nondisclosure of information in exceptional circumstances.

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of the specific identifying information, the specific identifying information must be sealed and may not be disclosed to the other party or the public. After a hearing in which the tribunal takes into consideration the health, safety or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7312 is referred to in sections 7311, 7602 of this title.

§ 7313. Costs and fees.

(a) Petitioner.--The petitioner may not be required to pay a filing fee or other costs.

(b) Obligor.--If an obligee prevails, a responding tribunal of this State may assess against an obligor filing fees, reasonable attorney fees, other costs and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs or expenses against the obligee or the support enforcement agency of either the initiating state or the responding state or foreign country except as provided by other law. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) Dilatory actions.--The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under Chapter 76 (relating to registration, enforcement and modification of support order), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7314. Limited immunity of petitioner.

(a) Jurisdiction over person.--Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) Service.--A petitioner is not amenable to service of civil process while physically present in this State to participate in a proceeding under this part.

(c) Exception.--The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this part committed by a party while present in this State to participate in the proceeding.

§ 7315. Nonparentage as defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this part.

§ 7316. Special rules of evidence and procedure.

(a) Physical presence.--The physical presence of a nonresident party who is an individual in a tribunal of this State is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) Hearsay exception.--A petition, affidavit or document, substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, are admissible in evidence if given under penalty of perjury by a party or witness residing outside this State.

(c) Payment record.--A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

(d) Bills.--Copies of bills for testing for parentage of a child and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

(e) Transmission of documentary evidence.--Documentary evidence transmitted from outside this State to a tribunal of this State by telephone, telecopier or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) Testimony.--In a proceeding under this part, a tribunal of this State may permit a party or witness residing outside this State to be deposed or to testify under penalty of perjury by telephone, audiovisual means or other electronic means at a designated tribunal or other location. A tribunal of this State shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.

(g) Self-incrimination.--If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) Spousal communications.--A privilege against disclosure of communications between spouses does not apply in a proceeding under this part.

(i) Family immunity.--The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this part.

(j) Parentage.--A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7316 is referred to in section 7210 of this title.

§ 7317. Communications between tribunals.

A tribunal of this State may communicate with a tribunal outside this State in a record or by telephone, e-mail or other means to obtain information concerning the laws; the legal effect of a judgment, decree or order of that tribunal; and the status of a proceeding. A tribunal of this State may furnish similar information by similar means to a tribunal outside this State.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7317 is referred to in section 7210 of this title.

§ 7318. Assistance with discovery.

A tribunal of this State may do all of the following:

(1) Request a tribunal outside this State to assist in obtaining discovery.

(2) Upon request, compel a person subject to its jurisdiction to respond to a discovery order issued by a tribunal outside this State.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7318 is referred to in section 7210 of this title.

§ 7319. Receipt and disbursement of payments.

(a) Payments.--A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal outside this State or of a foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.

(b) Residency.--If the obligor, the obligee who is an individual and the child do not reside in this State, upon

request from the support enforcement agency of this State or another state, the support enforcement agency of this State or a tribunal of this State shall do all of the following:

(1) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services.

(2) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(c) Certificated records.--The support enforcement agency of this State receiving redirected payments from another state under a law similar to subsection (b) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7319 is referred to in section 7307 of this title.

CHAPTER 74

ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE

Sec.

7401. Establishment of support order.

7402. Proceeding to determine parentage.

Chapter Heading. The heading of Chapter 74 was amended December 28, 2015, P.L.559, No.94, effective immediately.

Enactment. Chapter 74 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 74 is referred to in sections 7105, 7210, 7613, 77A02 of this title.

§ 7401. Establishment of support order.

(a) Jurisdiction.--If a support order entitled to recognition under this part has not been issued, a responding tribunal of this State with personal jurisdiction over the parties may issue a support order if any of the following apply:

(1) The individual seeking the order resides outside this State.

(2) The support enforcement agency seeking the order is located outside this State.

(b) Temporary orders.--The tribunal may issue a temporary child support order if the tribunal determines that an order is appropriate and the individual ordered to pay is any of the following:

(1) A presumed father of the child.

(2) Petitioning to have his paternity adjudicated.

(3) Identified as the father of the child through genetic testing.

(4) An alleged father who has declined to submit to genetic testing.

(5) Shown by clear and convincing evidence to be the father of the child.

(6) An acknowledged father as provided by applicable state law.

(7) The mother of the child.

(8) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(c) Relief.--Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 7305 (relating to duties and powers of responding tribunal).

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7402. Proceeding to determine parentage.

A tribunal of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this part or a law or procedure substantially similar to this part.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7402.

CHAPTER 75

ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION

Sec.

7501. Employer's receipt of income-withholding order of another state.

7501.1. Employer's compliance with income-withholding order of another state.

7501.2. Compliance with multiple income-withholding orders.

7501.3. Immunity from civil liability.

7501.4. Penalties for noncompliance.

7501.5. Contest by obligor.

7502. Administrative enforcement of orders.

Chapter Heading. The heading of Chapter 75 was amended December 28, 2015, P.L.559, No.94, effective immediately.

Enactment. Chapter 75 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 75 is referred to in sections 4348, 7105, 7210, 7613, 77A02 of this title.

§ 7501. Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person or entity defined as the obligor's employer under section 4302 (relating to definitions) without first filing a petition or comparable pleading or registering the order with a tribunal of this State.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7501.1. Employer's compliance with income-withholding order of another state.

(a) Copy of order.--Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) Treatment of order.--The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State.

(c) Withholding and distribution of funds.--Except as otherwise provided in subsection (d) and section 7501.2 (relating to compliance with multiple income-withholding orders), the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

- (1) the duration and amount of periodic payments of current child support, stated as a sum certain;
- (2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;
- (3) medical support, whether in the form of periodic cash payments of a sum certain or order to the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
- (4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal and the obligee's attorney, stated as sums certain; and
- (5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) Compliance with law of obligor's place of employment.--An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

- (1) the employer's fee for processing an income-withholding order;
 - (2) the maximum amount permitted to be withheld from the obligor's income; and
 - (3) the times within which the employer must implement the withholding order and forward the child support payment.
- (Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 added section 7501.1. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7501.2. Compliance with multiple income-withholding orders.

If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child-support obligees.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 added section 7501.2. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 7501.2 is referred to in section 7501.1 of this title.

§ 7501.3. Immunity from civil liability.

An employer who complies with an income-withholding order issued in another state in accordance with this chapter is not subject to civil liability to an individual or agency with

regard to the employer's withholding of child support from the obligor's income.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 added section 7501.3. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7501.4. Penalties for noncompliance.

An employer that willfully fails to comply with an income-withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7501.5. Contest by obligor.

An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State by registering the order in a tribunal of this State and filing a contest to that order as provided in Chapter 76 (relating to registration, enforcement and modification of support order) or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this State. The obligor shall give notice of the contest to:

(1) a support enforcement agency providing services to the obligee;

(2) each employer that has directly received an income-withholding order relating to the obligor; and

(3) the person or agency designated to receive payments in the income-withholding order or, if no person or agency is designated, to the obligee.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7502. Administrative enforcement of orders.

(a) Initiation.--A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state or a support order issued by a foreign country may send the documents required for registering the order to a support enforcement agency of this State.

(b) Procedure.--Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor

contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this part.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 amended subsec. (a).

CHAPTER 76

REGISTRATION, ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER

Subchapter

- A. Registration for Enforcement of Support Order
- B. Contest of Validity or Enforcement
- C. Registration and Modification of Child Support Order of Another State
- D. Registration and Modification of Foreign Child Support Order

Chapter Heading. The heading of Chapter 76 was amended December 28, 2015, P.L.559, No.94, effective immediately.

Enactment. Chapter 76 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 76 is referred to in sections 7105, 7207, 7210, 7313, 7501.5, 77A02, 77A06, 8313 of this title.

SUBCHAPTER A

REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

Sec.

- 7601. Registration of order for enforcement.
- 7602. Procedure to register order for enforcement.
- 7603. Effect of registration for enforcement.
- 7604. Choice of law.

Subchapter Heading. The heading of Subchapter A was amended December 28, 2015, P.L.559, No.94, effective immediately.

Cross References. Subchapter A is referred to in sections 7609, 7616 of this title.

§ 7601. Registration of order for enforcement.

A support order or an income-withholding order issued in another state or a foreign support order may be registered in this State for enforcement.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7602. Procedure to register order for enforcement.

(a) General rule.--Except as otherwise provided in section 77A06 (relating to registration of convention support order), a support order or income-withholding order of another state or a foreign support order may be registered in this State by sending all of the following records to the appropriate tribunal in this State:

- (1) A letter of transmittal to the tribunal requesting registration and enforcement.
- (2) Two copies, including one certified copy, of the order to be registered, including any modification of the order.
- (3) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage.

- (4) The name of the obligor and, if known:
- (i) the obligor's address and Social Security number;
 - (ii) the name and address of the obligor's employer and any other source of income of the obligor; and
 - (iii) a description and the location of property of the obligor in this State not exempt from execution.

(5) Except as set forth in section 7312 (relating to nondisclosure of information in exceptional circumstances), the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) Docketing.--On receipt of a request for registration, the registering tribunal shall file the order as an order of a tribunal of another state or a foreign support order, together with one copy of the documents and information, regardless of their form.

(c) Simultaneous relief.--A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

(d) Multiple orders.--If two or more orders are in effect, the person requesting registration shall do all of the following:

(1) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section.

(2) Specify the order alleged to be the controlling order, if any.

(3) Specify the amount of consolidated arrears, if any.

(e) Request for determination.--A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7602 is referred to in section 77A06 of this title.

§ 7603. Effect of registration for enforcement.

(a) Procedure.--A support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this State.

(b) Enforcement.--A registered support order issued in another state or a foreign county is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.

(c) Faith and credit.--Except as otherwise provided in this chapter, a tribunal of this State shall recognize and enforce but may not modify a registered support order if the issuing tribunal had jurisdiction.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7604. Choice of law.

(a) General rule.--Subject to subsection (d), the law of the issuing state or foreign country governs the following:

(1) The nature, extent, amount and duration of current payments under a registered support order.

(2) The computation and payment of arrearages and accrual of interest on the arrearages under the support order.

(3) The existence and satisfaction of other obligations under the support order.

(b) Proceeding for arrearages.--In a proceeding for arrearages under a registered support order, the statute of limitation under the laws of this State or of the issuing state or foreign country, whichever is longer, applies.

(c) Procedures and remedies.--A responding tribunal of this State shall apply the procedures and remedies of this State to enforce current support and collect arrearages and interest due on a support order of another state or a foreign country registered in this State.

(d) Controlling order.--After a tribunal of this State or another state determines which is the controlling order and issues an order consolidating arrearages, if any, a tribunal of this State shall prospectively apply the law of the state or foreign country issuing the controlling order, including the law on interest on arrearages, on current and future support and on consolidated arrearages.
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7604 is referred to in section 7607 of this title.

SUBCHAPTER B

CONTEST OF VALIDITY OR ENFORCEMENT

Sec.

- 7605. Notice of registration of order.
- 7606. Procedure to contest validity or enforcement of registered support order.
- 7607. Contest of registration or enforcement.
- 7608. Confirmed order.

Cross References. Subchapter B is referred to in sections 7609, 7616 of this title.

§ 7605. Notice of registration of order.

(a) Requirement.--When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of this State shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) Contents.--The notice must inform the nonregistering party of all of the following:

- (1) That a registered support order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State.
- (2) That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice unless the registered order is under section 77A07 (relating to contest of registered convention support order).
- (3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages.
- (4) The amount of any alleged arrearages.

(b.1) Multiple orders.--If the registering party asserts that two or more orders are in effect, a notice must also do all the following:

(1) Identify the two or more orders and order alleged by the registering party to be the controlling order and the consolidated arrearages, if any.

(2) Notify the nonregistering party of the right to a determination of which is the controlling order.

(3) State that the procedure under subsection (b) applies to the determination of which is the controlling order.

(4) State that the failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(c) Employer.--Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to section 4348 (relating to attachment of income). (Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7605 is referred to in sections 7606, 77A07 of this title.

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 7606. Procedure to contest validity or enforcement of registered support order.

(a) Action.--A nonregistering party seeking to contest the validity or enforcement of a registered support order in this State must request a hearing within the time required under section 7605 (relating to notice of registration of order). The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 7607 (relating to contest of registration or enforcement).

(b) Inaction.--If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, the order is confirmed by operation of law.

(c) Hearing.--If a nonregistering party requests a hearing to contest the validity or enforcement of the registered support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time and place of the hearing.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Dec. 28, 2015, P.L.559, No.94, eff. imd.)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

Cross References. Section 7606 is referred to in section 77A07 of this title.

§ 7607. Contest of registration or enforcement.

(a) Defenses.--A party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving any of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party.

- (2) The order was obtained by fraud.
- (3) The order has been vacated, suspended or modified by a later order.
- (4) The issuing tribunal has stayed the order pending appeal.
- (5) There is a defense under the law of this State to the remedy sought.
- (6) Full or partial payment has been made.
- (7) The statute of limitation under section 7604 (relating to choice of law) precludes enforcement of some or all of the arrearages.
- (8) The alleged controlling order is not the controlling order.

(b) Relief.--If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of a registered support order, continue the proceeding to permit production of additional relevant evidence and issue other appropriate orders. An uncontested portion of the registered support order may be enforced by all remedies available under the law of this State.

(c) Affirmance.--If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of a registered support order, the registering tribunal shall issue an order confirming the order.
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7607 is referred to in sections 7606, 77A07 of this title.

§ 7608. Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7608 is referred to in section 77A07 of this title.

SUBCHAPTER C

REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE

Sec.

- 7609. Procedure to register child support order of another state for modification.
- 7610. Effect of registration for modification.
- 7611. Modification of child support order of another state.
- 7612. Recognition of order modified in another state.
- 7613. Jurisdiction to modify child support order of another state when individual parties reside in this State.
- 7614. Notice to issuing tribunal of modification.

Subchapter Heading. The heading of Subchapter C was amended December 28, 2015, P.L.559, No.94, effective immediately.

§ 7609. Procedure to register child support order of another state for modification.

A party or support enforcement agency seeking to modify or to modify and enforce a child support order issued in another state must register that order in this State in the same manner provided in Subchapter A (relating to registration for enforcement of support order) or B (relating to contest of

validity or enforcement) if the order has not been registered. A petition for modification may be filed at the same time as a request for registration or later. The pleading must specify the grounds for modification.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7610. Effect of registration for modification.

A tribunal of this State may enforce a child support order of another state registered for purposes of modification in the same manner as if the order had been issued by a tribunal of this State, but the registered support order may be modified only if the requirements of section 7611 (relating to modification of child support order of another state) or 7613 (relating to jurisdiction to modify child support order of another state when individual parties reside in this State) have been met.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7611. Modification of child support order of another state.

(a) Authority.--After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order, upon petition, only if section 7613 (relating to jurisdiction to modify child support order of another state when individual parties reside in this State) does not apply and after notice and hearing it finds one of the following:

(1) The following requirements are met:

(i) the child, the individual obligee and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this State seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this State.

(2) This State is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this State; and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) General rule.--Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by a tribunal of this State, and the order may be enforced and satisfied in the same manner.

(c) Restriction.--A tribunal of this State may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under section 7207 (relating to determination of controlling child support order) establishes the aspects of the support order which are not modifiable.

(c.1) Modification.--In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this State.

(d) Continuing, exclusive jurisdiction.--On issuance of an order by a tribunal of this State modifying a child support order issued in another state, a tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

(e) Filing.--(Deleted by amendment).

(f) Retained jurisdiction.--Notwithstanding subsection (a), (b), (c) or (d) or section 7201(b) (relating to bases for jurisdiction over nonresident), a tribunal of this State retains jurisdiction to modify an order issued by a tribunal of this State if the following are met:

(1) One party resides in another state.

(2) The other party resides outside the United States.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7611 is referred to in sections 7201, 7610, 7615 of this title.

§ 7612. Recognition of order modified in another state.

If a child support order issued by a tribunal of this State is modified by a tribunal of another state which assumed jurisdiction under a law substantially similar to this part, all of the following are available to a tribunal of this State:

(1) A tribunal may enforce the order that was modified only as to arrears and interest accruing before the modification.

(2) (Deleted by amendment).

(3) A tribunal may provide appropriate relief for violations of that order which occurred before the effective date of the modification.

(4) A tribunal shall recognize the modifying order of the other state upon registration for the purpose of enforcement.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7613. Jurisdiction to modify child support order of another state when individual parties reside in this State.

(a) General rule.--If all of the parties who are individuals reside in this State and the child does not reside in the issuing state, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) Applicable law.--A tribunal of this State exercising jurisdiction under this section shall apply the provisions of Chapters 71 (relating to general provisions) and 72 (relating to jurisdiction), this Chapter and the procedural and substantive law of this State to the proceeding for enforcement or modification. Chapters 73 (relating to civil provisions of general application), 74 (relating to establishment of support order or determination of parentage), 75 (relating to enforcement of support order without registration), 77A (relating to support proceeding under convention) and 78 (relating to interstate rendition) do not apply.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

Cross References. Section 7613 is referred to in sections 7610, 7611 of this title.

§ 7614. Notice to issuing tribunal of modification.

Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and in each tribunal in which the party knows the earlier order had been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 added section 7614. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

SUBCHAPTER D REGISTRATION AND MODIFICATION OF FOREIGN CHILD SUPPORT ORDER

Sec.

7615. Jurisdiction to modify child support order of a foreign country.
7616. Procedure to register child support order of a foreign country for modification.

Enactment. Subchapter D was added December 28, 2015, P.L.559, No.94, effective immediately.

§ 7615. Jurisdiction to modify child support order of a foreign country.

(a) Jurisdiction.--Except as otherwise provided under section 77A11 (relating to modification of convention child support order), if a foreign country lacks or refuses to exercise jurisdiction to modify a child support order issued by the foreign country under the foreign country's laws, a tribunal of this State may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child support order otherwise required of the individual under section 7611 (relating to modification of child support order of another state) has been given or whether the individual seeking modification is a resident of this State or of a foreign country.

(b) Controlling order.--An order issued by a tribunal of this State modifying a foreign child support order under this section is the controlling order.

Cross References. Section 7615 is referred to in section 7201 of this title.

§ 7616. Procedure to register child support order of a foreign country for modification.

A party or support enforcement agency seeking to modify or to modify and enforce a foreign child support order not under the convention may register that order in this State under Subchapter A (relating to registration for enforcement of support order) or B (relating to contest of validity or enforcement) if the order has not been registered. A petition for modification may be filed at the same time as a request for registration or at another time. The petition must specify the grounds for modification.

CHAPTER 77 DETERMINATION OF PARENTAGE (Repealed)

2015 Repeal. Chapter 77 (§ 7701) was added April 4, 1996, P.L.58, No.20, and repealed December 28, 2015, P.L.559, No.94, effective immediately.

CHAPTER 77A
SUPPORT PROCEEDING UNDER CONVENTION

Sec.

- 77A01. Definitions.
- 77A02. Applicability.
- 77A03. Relationship of department to United States central authority.
- 77A04. Initiation by department of support proceeding under convention.
- 77A05. Direct request.
- 77A06. Registration of convention support order.
- 77A07. Contest of registered convention support order.
- 77A08. Recognition and enforcement of registered convention support order.
- 77A09. Partial enforcement.
- 77A10. Foreign support agreement.
- 77A11. Modification of convention child support order.
- 77A12. Personal information.
- 77A13. Record in original language.

Enactment. Chapter 77A was added December 28, 2015, P.L.559, No.94, effective immediately.

Cross References. Chapter 77A is referred to in sections 7101.1, 7105, 7613 of this title.

§ 77A01. Definitions.

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:

"Application." A request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

"Central authority." The entity designated by the United States or a foreign country defined in paragraph (4) of the definition of "foreign country" in section 7101.1 (relating to definitions) to perform the functions specified in the convention.

"Convention support order." A support order of a tribunal of a foreign country defined in paragraph (4) of the definition of "foreign country" in section 7101.1.

"Direct request." A petition filed by an individual in a tribunal of this State in a proceeding involving an obligee, obligor or child residing outside the United States.

"Foreign central authority." The entity designated by a foreign country defined in paragraph (4) of the definition of "foreign country" in section 7101.1 to perform the functions specified in the convention.

"Foreign support agreement."

- (1) An agreement for support in a record that:
 - (i) is enforceable as a support order in the country of origin;
 - (ii) has been:
 - (A) formally prepared or registered as an authentic instrument by a foreign tribunal; or
 - (B) authenticated by or concluded, registered, or filed with a foreign tribunal; and
 - (iii) may be reviewed and modified by a foreign tribunal.
- (2) The term includes a maintenance arrangement or authentic instrument under the convention.

"United States central authority." The Secretary of the United States Department of Health and Human Services.

§ 77A02. Applicability.

This chapter applies only to a support proceeding under the convention. In a proceeding, if a provision of this chapter is inconsistent with Chapter 71 (relating to general provisions), 72 (relating to jurisdiction), 73 (relating to civil provisions of general application), 74 (relating to establishment of support order or determination of parentage), 75 (relating to enforcement of support order without registration) or 76 (relating to registration, enforcement and modification of support order), this chapter controls.

§ 77A03. Relationship of department to United States central authority.

The department is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

§ 77A04. Initiation by department of support proceeding under convention.

(a) Duties.--In a support proceeding under this chapter, the department shall do all of the following:

- (1) Transmit and receive applications.
- (2) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this State.

(b) Obligee support proceedings.--All of the following support proceedings are available to an obligee under the convention:

- (1) Recognition or recognition and enforcement of a foreign support order.
- (2) Enforcement of a support order issued or recognized in this State.
- (3) Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child.
- (4) Establishment of a support order if recognition of a foreign support order is refused under section 77A08(b)(2), (4) or (9) (relating to recognition and enforcement of registered convention support order).
- (5) Modification of a support order of a tribunal of this State.
- (6) Modification of a support order of a tribunal of another state or a foreign country.

(c) Obligor support proceedings.--All of the following support proceedings are available under the convention to an obligor against which there is an existing support order:

- (1) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this State.
- (2) Modification of a support order of a tribunal of this State.
- (3) Modification of a support order of a tribunal of another state or a foreign country.

(d) Prohibition.--A tribunal of this State may not require security, bond or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

Cross References. Section 77A04 is referred to in section 77A08 of this title.

§ 77A05. Direct request.

(a) General rule.--A petitioner may file a direct request seeking:

(1) Establishment or modification of a support order or determination of parentage of a child. In the proceeding, the determination of parentage of a child under the law of this State applies.

(2) Recognition and enforcement of a support order or support agreement. In the proceeding, sections 77A06 (relating to registration of convention support order), 77A07 (relating to contest of registered convention support order), 77A08 (relating to recognition and enforcement of registered convention support order), 77A09 (relating to partial enforcement), 77A10 (relating to foreign support agreement), 77A11 (relating to modification of convention child support order), 77A12 (relating to personal information) and 77A13 (relating to record in original language) apply.

(b) Requirements.--In a direct request for recognition and enforcement of a convention support order or foreign support agreement, the following apply:

(1) A security, bond or deposit may not be required to guarantee the payment of costs and expenses.

(2) An obligee or obligor that, in the issuing country, has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this State under the same circumstances.

(c) (Reserved).

(d) Assistance.--A petitioner filing a direct request is not entitled to assistance from the department.

(e) Application of other laws.--This chapter does not prevent the application of laws of this State that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

§ 77A06. Registration of convention support order.

(a) Registration required.--Except as otherwise provided in this chapter, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this State as provided in Chapter 76 (relating to registration, enforcement and modification of support order).

(b) Documentation required.--Notwithstanding sections 7311 (relating to pleadings and accompanying documents) and 7602(a) (relating to procedure to register order for enforcement), a request for registration of a convention support order must be accompanied by the following:

(1) A complete text of the support order or an abstract of the support order prepared by the issuing foreign tribunal, which may be in the form recommended by the Hague Conference on Private International Law.

(2) A record stating that the support order is enforceable in the issuing country.

(3) If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal.

(4) A record showing the amount of arrears, if any, and the date the amount was calculated.

(5) A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations.

(6) If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) Recognition and partial enforcement.--A request for registration of a convention support order may seek recognition and partial enforcement of the order.

(d) Vacating registration.--A tribunal of this State may vacate the registration of a convention support order without the filing of a contest under section 77A07 (relating to contest of registered convention support order) only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) Notification.--The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

Cross References. Section 77A06 is referred to in sections 7602, 77A05, 77A08 of this title.

§ 77A07. Contest of registered convention support order.

(a) Applicability.--Except as otherwise provided in this chapter, sections 7605 (relating to notice of registration of order), 7606 (relating to procedure to contest validity or enforcement of registered support order), 7607 (relating to contest of registration or enforcement) and 7608 (relating to confirmed order) apply to a contest of a registered convention support order.

(b) Time.--A party contesting a registered convention support order must file a contest:

(1) Not later than 30 days after notice of the registration if the contesting party resides in the United States.

(2) Not later than 60 days after notice of the registration if the contesting party does not reside in the United States.

(c) Failure to contest.--If the nonregistering party fails to contest the registered convention support order by the time specified in subsection (b), the order is enforceable.

(d) Basis of contest.--A contest of a registered convention support order may be based only on grounds set forth in section 77A08 (relating to recognition and enforcement of registered convention support order). The contesting party shall bear the burden of proof.

(e) Tribunal duties.--In a contest of a registered convention support order, a tribunal of this State:

(1) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) may not review the merits of the order.

(f) Notification of decision.--A tribunal of this State deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

(g) Appeals.--A challenge or appeal does not stay the enforcement of a convention support order unless there are exceptional circumstances.

Cross References. Section 77A07 is referred to in sections 7605, 77A05, 77A06 of this title.

§ 77A08. Recognition and enforcement of registered convention support order.

(a) General rule.--Except as otherwise provided in subsection (b), a tribunal of this State shall recognize and enforce a registered convention support order.

(b) Refusal of recognition or enforcement.--The following grounds are the only grounds on which a tribunal of this State may refuse recognition and enforcement of a registered convention support order:

(1) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard.

(2) The issuing tribunal lacked personal jurisdiction consistent with section 7201 (relating to bases for jurisdiction over nonresident).

(3) The order is not enforceable in the issuing country.

(4) The order was obtained by fraud in connection with a matter of procedure.

(5) A record transmitted in accordance with section 77A06 (relating to registration of convention support order) lacks authenticity or integrity.

(6) A proceeding between the same parties and having the same purpose is pending before a tribunal of this State and that proceeding was the first to be filed.

(7) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this part in this State.

(8) Payment, to the extent alleged arrears have been paid in whole or in part.

(9) In a case in which the respondent did not appear and was not represented in the proceeding in the issuing foreign country:

(i) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(ii) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal.

(10) The order was made in violation of section 77A11 (relating to modification of convention child support order).

(c) Procedure in certain situations.--If a tribunal of this State does not recognize a convention support order under subsection (b) (2), (4) or (9):

(1) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

(2) the department shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 77A04 (relating to initiation by department of support proceeding under convention).

Cross References. Section 77A08 is referred to in sections 77A04, 77A05, 77A07, 77A11 of this title.

§ 77A09. Partial enforcement.

If a tribunal of this State does not recognize and enforce a convention support order in the order's entirety, the tribunal shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

Cross References. Section 77A09 is referred to in section 77A05 of this title.

§ 77A10. Foreign support agreement.

(a) Recognition and enforcement.--Except as otherwise provided in subsections (c) and (d), a tribunal of this State shall recognize and enforce a foreign support agreement registered in this State.

(b) Documentation required.--An application or direct request for recognition and enforcement of a foreign support agreement must be accompanied by the following:

(1) A complete text of the foreign support agreement.

(2) A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(c) Vacating registration.--A tribunal of this State may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) Contested agreements.--In a contest of a foreign support agreement, a tribunal of this State may refuse recognition and enforcement of the agreement if it finds any of the following:

(1) Recognition and enforcement of the agreement is manifestly incompatible with public policy.

(2) The agreement was obtained by fraud or falsification.

(3) The agreement is incompatible with a support order involving the same parties and having the same purpose in this State, another state or a foreign country if the support order is entitled to recognition and enforcement under this part in this State.

(4) The record submitted under subsection (b) lacks authenticity or integrity.

(e) Suspension during appeal.--A proceeding for recognition and enforcement of a foreign support agreement must be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Cross References. Section 77A10 is referred to in section 77A05 of this title.

§ 77A11. Modification of convention child support order.

(a) General rule.--A tribunal of this State may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless one of the following occurs:

(1) The obligee submits to the jurisdiction of a tribunal of this State, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity.

(2) The foreign tribunal lacks or refuses to exercise jurisdiction to modify the support order or issue a new support order.

(b) Order not recognized.--If a tribunal of this State does not modify a convention child support order because the order is not recognized in this State, section 77A08(c) (relating to recognition and enforcement of registered convention support order) applies.

Cross References. Section 77A11 is referred to in sections 7615, 77A05, 77A08 of this title.

§ 77A12. Personal information.

Personal information gathered or transmitted under this chapter may be used only for the purposes for which the information was gathered or transmitted.

Cross References. Section 77A12 is referred to in section 77A05 of this title.

§ 77A13. Record in original language.

A record filed with a tribunal of this State under this part must be in the original language and, if not in English, must be accompanied by an English translation.

Cross References. Section 77A13 is referred to in section 77A05 of this title.

CHAPTER 78

INTERSTATE RENDITION

Sec.

7801. Grounds for rendition.

7802. Conditions of rendition.

Enactment. Chapter 78 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 78 is referred to in section 7613 of this title.

§ 7801. Grounds for rendition.

(a) Definition of Governor.--For purposes of this chapter, "Governor" includes an individual performing the functions of Governor or the executive authority of a state covered by this part.

(b) Authority of Governor.--The Governor of this State may do either of the following:

(1) Demand that the Governor of another state surrender an individual found in the other state who is charged criminally in this State with having failed to provide for the support of an obligee.

(2) On the demand by the Governor of another state, surrender an individual found in this State who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) Extended extradition.--A provision for extradition of individuals not inconsistent with this part applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from the demanding state.
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 amended subsec. (b).

§ 7802. Conditions of rendition.

(a) Extradition to this State.--Before making demand that the Governor of another state surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the Governor of this State may require a prosecutor of this State to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this part or that the proceeding would be of no avail.

(b) Extradition from this State.--If under this part or a law substantially similar to this part the Governor of another state makes a demand that the Governor of this State surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) **Declining to honor demand.**--If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.
(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 amended subsec. (b).

CHAPTER 79

MISCELLANEOUS PROVISIONS

Sec.

7901. Uniformity of application and construction.

Enactment. Chapter 79 was added April 4, 1996, P.L.58, No.20, effective immediately.

§ 7901. Uniformity of application and construction.

In applying and construing this uniform part, consideration must be given to the need to promote uniformity of the law with respect to the law's subject matter among states which enact this uniform law.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

§ 7902. Transitional provision.

This part applies to proceedings beginning on or after the effective date of this section to do any of the following:

- (1) Establish a support order.
- (2) Determine parentage of a child.
- (3) Register, recognize, enforce or modify a prior support order, determination or agreement, whenever issued or entered.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7902.

§ 7903. Severability.

If any provision of this part or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

(Dec. 28, 2015, P.L.559, No.94, eff. imd.)

2015 Amendment. Act 94 added section 7903.

PART VIII-A

INTRASTATE FAMILY SUPPORT

Chapter

81. General Provisions
82. Jurisdiction
83. Civil Provisions of General Application
84. Enforcement and Modification of Support Order After Registration

Enactment. Part VIII-A was added April 4, 1996, P.L.58, No.20, effective immediately.

CHAPTER 81

GENERAL PROVISIONS

Sec.

8101. Short title of part and definitions.

8102. Scope.

8103. Remedies cumulative.

Enactment. Chapter 81 was added April 4, 1996, P.L.58, No.20, effective immediately.

§ 8101. Short title of part and definitions.

(a) Short title of part.--This part shall be known and may be cited as the Intrastate Family Support Act.

(b) Definitions.--Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Child." An individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

"Child support order." A support order for a child, including a child who has attained the age of majority.

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

"Duty of support." An obligation imposed or imposable by law to provide support for a child, spouse or former spouse. The term includes an unsatisfied obligation to provide support.

"Income." The term includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the laws of this Commonwealth.

"Income-withholding order." An order or other legal process directed to an obligor's employer or other debtor, in accordance with section 4348 (relating to attachment of income), to withhold support from the income of the obligor.

"Initiating county." A county in which a proceeding under this part or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding county.

"Initiating tribunal." The authorized tribunal in an initiating county.

"Issuing county." The county in which a tribunal issues a support order or renders a judgment determining parentage.

"Issuing tribunal." The tribunal that issues a support order or renders a judgment determining parentage.

"Law." The term includes decisional and statutory law and rules and regulations having the force of law.

"Obligee." Any of the following:

(1) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered.

(2) A political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee.

(3) An individual seeking a judgment determining parentage of the individual's child.

(4) The Department of Public Welfare.

"Obligor." An individual or the estate of a decedent that:
 (1) owes or is alleged to owe a duty of support;
 (2) is alleged but has not been adjudicated to be a parent of a child; or
 (3) is liable under a support order.

"Register." To record a support order or judgment determining parentage in the office designated by a court of common pleas.

"Registering tribunal." A tribunal in which a support order is registered.

"Responding county." A county to which a proceeding is forwarded under this part.

"Responding tribunal." The authorized tribunal in a responding county.

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

"Spousal support order." A support order for a spouse or former spouse of the obligor.

"Support enforcement agency." The department, a domestic relations section of a tribunal, a public official or a public agency authorized to seek:

- (1) enforcement of support orders or laws relating to the duty of support;
- (2) establishment or modification of child support;
- (3) determination of parentage; or
- (4) location of obligors or their assets.

"Support order." A judgment, decree or order, whether temporary, final or subject to modification, whether incidental to a pending divorce, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement. The term includes related costs and fees, interest, income withholding, attorney fees and other relief.

"Title IV-D attorney." The official in the appropriate county who, by statute, contract or appointment, has the duty to represent obligees in support actions brought in the county.

"Tribunal." A court of common pleas.
(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 amended the def. of "income-withholding order" in subsec. (b). Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

§ 8102. Scope.

This part applies to actions between parties from different counties in this Commonwealth. This part does not apply to actions under Part VIII (relating to uniform interstate family support).

§ 8103. Remedies cumulative.

Remedies provided by this part are cumulative and do not affect the availability of remedies under other law. The procedures established by Pa.R.C.P. No. 1910.1 et seq. (relating to action for support) shall be used in preference to the procedures of this part unless any of the following applies:

(1) The tribunal or domestic relations section determines that use of this part is necessary for the effective establishment or enforcement of support because any of the following apply:

(i) After diligent effort, the obligee is unable to effect service upon the obligor.

(ii) It is not possible to enter an order against the obligor in the county where the obligee resides.

(iii) The obligor is already subject to an order for support in the case at bar or in any other case.

(2) The obligee requests proceedings under this part.

CHAPTER 82

JURISDICTION

Sec.

8201. Continuing, exclusive jurisdiction.

8202. Recognition of support orders.

8203. Credit for payments.

Enactment. Chapter 82 was added April 4, 1996, P.L.58, No.20, effective immediately.

§ 8201. Continuing, exclusive jurisdiction.

(a) **Extent.**--A tribunal issuing a support order has continuing, exclusive jurisdiction over a support order unless otherwise provided by Part VIII (relating to uniform interstate family support) or this part.

(b) **Faith and credit.**--A tribunal shall recognize the continuing, exclusive jurisdiction of another tribunal which has issued a support order.

§ 8202. Recognition of support orders.

(a) **Principles.**--If a proceeding is brought under this part and more than one support order has been issued in this Commonwealth with regard to the same obligation, a tribunal shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If two or more tribunals have issued support orders for the same obligation and only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued support orders for the same obligation and more than one of the tribunals would have continuing, exclusive jurisdiction under this part, an order issued by a tribunal in the county where the obligee resides must be recognized, but, if an order has not been issued in the county where the obligee resides, the order most recently issued must be recognized.

(3) If two or more tribunals have issued support orders for the same obligation and none of the tribunals would have continuing, exclusive jurisdiction under this part, the tribunal may issue a support order which must be recognized.

(b) **Result.**--The tribunal that has issued an order recognized under subsection (a) is the tribunal having continuing, exclusive jurisdiction.

§ 8203. Credit for payments.

Amounts collected and credited for a particular period pursuant to a support order issued by one tribunal must be credited against the amounts accruing or accrued for the same period under a support order issued by another tribunal.

CHAPTER 83
CIVIL PROVISIONS OF GENERAL APPLICATION

Sec.

- 8301. Proceedings under this part.
- 8302. Action by minor parent.
- 8303. Duties of initiating tribunal.
- 8304. Duties and powers of responding tribunal.
- 8305. Inappropriate tribunal.
- 8306. Duties of support enforcement agency.
- 8307. Supervisory duty.
- 8308. Private counsel.
- 8309. Nondisclosure of information in exceptional circumstances.
- 8310. Nonparentage not a defense.
- 8311. Special rules of evidence and procedure.
- 8312. Assistance with discovery.
- 8313. Costs and fees.

Enactment. Chapter 83 was added April 4, 1996, P.L.58, No.20, effective immediately.

Prior Provisions. Former Chapter 83, which related to legitimacy of children, was added October 15, 1980, P.L.934, No.163, and repealed December 19, 1990, P.L.1240, No.206, effective in 90 days.

§ 8301. Proceedings under this part.

(a) Scope.--This part provides for the following proceedings:

(1) Establishment of an order for spousal support or child support.

(2) Registration of an order for spousal support or child support of another county for enforcement or modification pursuant to Chapter 84 (relating to enforcement and modification of support order after registration).

(b) Commencement.--An individual petitioner or a support enforcement agency must commence a proceeding authorized under this part by filing a petition or complaint in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or complaint directly in a tribunal of another county which has or can obtain personal jurisdiction over the respondent.

Cross References. Section 8301 is referred to in section 8304 of this title.

§ 8302. Action by minor parent.

A minor parent or a guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child.

§ 8303. Duties of initiating tribunal.

Upon the filing of a petition or complaint authorized by this part, an initiating tribunal shall forward one copy of the petition or complaint and its accompanying documents to the responding tribunal.

Cross References. Section 8303 is referred to in section 2512 of this title.

§ 8304. Duties and powers of responding tribunal.

(a) Filing and notice.--If a responding tribunal receives a petition, a complaint or comparable pleading from an initiating tribunal or directly pursuant to section 8301(b) (relating to proceedings under this part), it shall file the

pleading and notify the petitioner by first class mail where and when it was filed.

(b) Action.--A responding tribunal, to the extent otherwise authorized by law, may do any of the following:

(1) Exercise continuing, exclusive jurisdiction to issue or enforce a support order, modify a support order or render a judgment to determine parentage.

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

(3) Order income withholding.

(4) Determine the amount of any arrearages and specify a method of payment.

(5) Enforce orders by civil or criminal contempt, or both.

(6) Set aside property for satisfaction of the support order.

(7) Place liens and order execution on the obligor's property.

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment and telephone number at place of employment.

(9) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any state and local computer systems for criminal warrants.

(10) Order the obligor to seek appropriate employment by specified methods.

(11) Award reasonable attorney fees and other fees and costs.

(12) Issue a temporary child support order pending judicial resolution of a dispute regarding paternity if any of the following apply:

(i) The obligor has signed an acknowledgment of paternity.

(ii) The obligor has been determined under State law to be the parent.

(iii) There is clear and convincing evidence that the obligor is the child's parent.

(13) Grant any other available remedy.

(c) Findings of fact.--A responding tribunal shall include in a support order issued under this part or in the documents accompanying the order the findings of fact on which the support order is based.

(d) Visitation.--A responding tribunal may not condition the payment of a support order issued under this part upon compliance by a party with provisions for visitation.

(e) Notice.--If a responding tribunal issues an order under this part, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

§ 8305. Inappropriate tribunal.

If a petition, complaint or comparable pleading is received by an inappropriate tribunal, it shall forward the pleading and accompanying documents to an appropriate tribunal and notify the petitioner by first class mail where and when the pleading was sent.

§ 8306. Duties of support enforcement agency.

(a) General duty.--A support enforcement agency upon request shall provide services to an obligee in a proceeding under this part.

(b) Specific duties.--A support enforcement agency that is providing services to the petitioner as appropriate shall do all of the following:

(1) Take all steps necessary to enable an appropriate tribunal to obtain jurisdiction over the respondent.

(2) Request an appropriate tribunal to set a date, time and place for a hearing.

(3) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties.

(4) Within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written notice from an initiating, responding or registering tribunal, send a copy of the notice by first class mail to the petitioner.

(5) Within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written communication from the respondent, send a copy of the communication by first class mail to the petitioner.

(6) Provide to the petitioner and respondent notice of all proceedings within two days, exclusive of Saturdays, Sundays and legal holidays, of setting a date for proceedings pursuant to this part.

(7) Provide to the petitioner and respondent a copy of all recommendations and court orders, including findings of fact, within two days, exclusive of Saturdays, Sundays and legal holidays, of issuing the recommendations or court order.

(8) Provide to the petitioner and respondent a copy of the court's procedure to file a demand for a de novo hearing or to file exception to the recommendation of the hearing officer.

(9) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) Fiduciaries.--This part does not create a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

§ 8307. Supervisory duty.

If the secretary determines that a support enforcement agency is neglecting or refusing to provide services to an individual, the secretary may order the agency to perform its duties under this part or may provide those services directly to the individual.

(Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998)

1997 Amendment. Act 58 of 1997 was suspended by Pennsylvania Rule of Civil Procedure No. 1910.50(3), as amended May 31, 2000, insofar as it is inconsistent with Rule No. 1910.20 relating to the availability of remedies for collection of past due and overdue support.

§ 8308. Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this part.

§ 8309. Nondisclosure of information in exceptional circumstances.

Upon a finding, which may be made ex parte, that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this part.

§ 8310. Nonparentage not a defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this part.

§ 8311. Special rules of evidence and procedure.

(a) **Physical presence.**--The physical presence of the petitioner in a responding tribunal is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage.

(b) **Representation.**--The interests of the Commonwealth in establishing and enforcing support orders shall be represented, where appropriate, by the county Title IV-D attorney in a proceeding brought before the responding tribunal.

(c) **Hearsay exception.**--A verified petition, affidavit or document, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness.

(d) **Payment record.**--A copy of the record of support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

(e) **Bills.**--Copies of bills for testing for parentage and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.

(f) **Transmission of documentary evidence.**--Documentary evidence transmitted to a tribunal by telephone, telecopier or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(g) **Testimony.**--In a proceeding under this part, a tribunal may permit a party or witness to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location. Tribunals shall cooperate in designating an appropriate location for the deposition or testimony.

§ 8312. Assistance with discovery.

A tribunal may do any of the following:

(1) Request another tribunal to assist in obtaining discovery.

(2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by another tribunal.

§ 8313. Costs and fees.

(a) **Prohibition.**--The department or a support enforcement agency may not be required to pay a filing fee or other costs.

(b) **Obligor.**--If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney fees, other costs and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs or expenses against the department or against the support enforcement agency of either the initiating county or the responding county except as provided by other law. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) Dilatory actions.--Except as provided in subsection (a), the tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under Chapter 76 (relating to enforcement and modification of support order after registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

CHAPTER 84

ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION

Subchapter

- A. Registration of Support Order
- B. Contest of Validity or Enforcement

Enactment. Chapter 84 was added April 4, 1996, P.L.58, No.20, effective immediately.

Cross References. Chapter 84 is referred to in section 8301 of this title.

SUBCHAPTER A

REGISTRATION OF SUPPORT ORDER

Sec.

8401. Registration of order.

8402. Procedure to register order.

§ 8401. Registration of order.

A support order issued by a tribunal may be registered in any tribunal of competent jurisdiction.

§ 8402. Procedure to register order.

(a) General rule.--A support order may be registered by sending the following documents and information to the appropriate tribunal:

(1) A letter of transmittal to the tribunal requesting registration and enforcement.

(2) Two copies, including one certified copy, of the order to be registered, including any modification of the order.

(3) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage.

(4) The name of the obligor and, if known:

(i) the obligor's address and Social Security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor not exempt from execution.

(5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) Docketing.--On receipt of a request for registration, the registering tribunal shall file the order as a foreign judgment, together with one copy of the documents and information, regardless of their form.

SUBCHAPTER B

CONTEST OF VALIDITY OR ENFORCEMENT

Sec.

- 8411. Notice of registration of order.
- 8412. Procedure to contest validity of registered order.
- 8413. Contest of registration or enforcement.
- 8414. Confirmed order.
- 8415. Effect of a confirmed order.

§ 8411. Notice of registration of order.

(a) **Requirement.**--If a support order or order issued by another tribunal is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first class, certified or registered mail or by any means of personal service authorized by the law. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) **Contents.**--The notice must inform the nonregistering party of all of the following:

(1) A registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal.

(2) A hearing to contest the validity of the registered order must be requested within 20 days after the date of mailing or personal service of the notice.

(3) Failure to contest the validity of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and will preclude further contest of that order with respect to any matter that could have been asserted.

(4) The amount of any alleged arrearages.

§ 8412. Procedure to contest validity of registered order.

(a) **Action.**--A nonregistering party seeking to contest the validity of a registered order must request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration or the amount of any alleged arrearages pursuant to section 8413 (relating to contest of registration or enforcement).

(b) **Inaction.**--If the nonregistering party fails to contest the validity of the registered order in a timely manner, the order is confirmed by operation of law.

(c) **Hearing.**--If a nonregistering party requests a hearing to contest the validity of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time and place of the hearing.

§ 8413. Contest of registration or enforcement.

(a) **Defenses.**--A party contesting the validity of a registered order or seeking to vacate the registration has the burden of proving one of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party.

(2) The order was obtained by fraud.

(3) The order has been vacated, suspended or modified by a later order.

(4) The issuing tribunal has stayed the order pending appeal.

(5) Full payment has been made and there is no continuing support obligation.

(b) **Relief.**--If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the

proceeding to permit production of additional relevant evidence and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available.

(c) Affirmance.--If the contesting party does not establish a defense under subsection (a) to the validity of the order, the registering tribunal shall issue an order confirming the order.

Cross References. Section 8413 is referred to in section 8412 of this title.

§ 8414. Confirmed order.

Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

§ 8415. Effect of a confirmed order.

A confirmed order has the following effect:

(1) It confers continuing, exclusive jurisdiction to the responding tribunal which registered the order.

(2) It eliminates the jurisdiction of the tribunal which issued the order or requested that the order be registered.

APPENDIX TO TITLE 23
DOMESTIC RELATIONS

Supplementary Provisions of Amendatory Statutes

1980, OCTOBER 15, P.L.934, NO.163

§ 3. Applicability.

This act shall apply to all proceedings begun after the effective date of this act. Proceedings in progress and not completed before the effective date of this act may be amended with leave of court after January 1, 1981 to conform to this act; otherwise, the proceedings shall be carried to their conclusion under the act of July 24, 1970 (P.L.620, No.208), known as the "Adoption Act."

Explanatory Note. Act 163 added Parts III and IX of Title 23.

1990, DECEMBER 19, P.L.1240, NO.206

§ 5. Construction of Divorce Code.

The provisions of 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all cases, whether the cause for divorce or annulment arose prior or subsequent to the enactment of this act. The provisions of 23 Pa.C.S. Pt. IV shall not affect any suit or action pending on the effective date of the Divorce Code of 1980, but the suit or action may be proceeded with and concluded either under the laws in existence when the suit or action was instituted, notwithstanding the repeal of such laws, or, upon application granted, under the provisions of 23 Pa.C.S. Pt. IV. The provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in which a decree has been rendered prior to the effective date of the Divorce Code of 1980. The provisions of

23 Pa.C.S. Pt. IV shall not affect any marital agreement executed prior to the effective date of the Divorce Code of 1980 or any amendment or modification thereto.

Explanatory Note. Act 206 added Parts I, II, IV and VII, Chapters 41, 51 and 55, Subchapter E of Chapter 25 and Subchapter D of Chapter 43 of Title 23.

§ 6. Repeals.

* * *

(b) Nothing in this act shall repeal, modify or supplant section 7 of the act of February 12, 1988 (P.L.66, No.13), entitled "An act amending the act of April 2, 1980 (P.L.63, No.26), entitled 'An act consolidating, revising and amending the divorce and annulment laws of the Commonwealth and making certain repeals,' further providing for grounds for divorce, enforcement of foreign decrees, procedure, jurisdiction, marital property, relief and alimony; providing for agreements between parties; making editorial changes; and making a repeal."

* * *

1993, JULY 2, P.L.431, NO.62

Preamble

It is the intention of the General Assembly by enacting 23 Pa.C.S. § 4327 (relating to postsecondary educational costs) to codify the decision of the Superior Court in the case of Ulmer v. Sommerville, 200 Pa. Superior Ct. 640, 190 A.2d 182 (1963), and the subsequent line of cases interpreting Ulmer prior to the decision of the Pennsylvania Supreme Court in Blue v. Blue, 532 Pa. 521, 616 A.2d 628 (1992), decided on November 13, 1992.

Further, the General Assembly finds that it has a rational and legitimate governmental interest in requiring some parental financial assistance for a higher education for children of parents who are separated, divorced, unmarried or otherwise subject to an existing support obligation.

Explanatory Note. Act 62 amended or added sections 4302, 4306, 4309, 4327, 4342, 4355 and 5103 of Title 23.

1994, DECEMBER 16, P.L.1292, NO.151

§ 9. Department of Public Welfare Study.

The Department of Public Welfare shall study the advisability of the adoption of a protocol for the screening of anonymous referrals of suspected child abuse which might include requiring some corroboration of the alleged abuse prior to the commencement of an appropriate investigation under 23 Pa.C.S. The Department of Public Welfare shall report its conclusions and recommendations to the General Assembly regarding anonymous referrals no later than June 1, 1996.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Explanatory Note. Act 151 amended or added sections 6302 and 6303, the heading of Subchapter B of Chapter 63, sections 6311, 6313, 6314, 6315, 6316, 6317, 6318, 6331, 6332, 6333,

6334, 6335, 6336, 6337, 6338, 6339, 6340, 6341, 6343, 6344, 6345, 6346, 6347 and 6349, Subchapters C.1 and C.2 and sections 6361, 6362, 6363, 6364, 6365, 6366, 6367, 6368, 6369, 6370, 6371, 6372, 6373, 6374, 6375, 6376, 6377, 6378, 6381, 6382, 6383 and 6385 of Title 23.

§ 10. Effective date.

This act shall take effect as follows:

(1) (i) The addition of 23 Pa.C.S. §§ 6362(e) and 6375(c)(2) shall take effect upon the effective date of regulations promulgated by the Department of Public Welfare to implement the provisions of this act or within three years from July 1, 1995, whichever is earlier.

(ii) Subparagraph (i) does not preclude the department from continuing to support the county agencies in the development of risk assessment processes prior to the adoption of regulations, as required under subparagraph (i).

(2) (i) The department shall promulgate regulations pertaining to general protective services as provided under this act no later than July 1, 1997.

(ii) Regulations pertaining to general protective services that have been adopted by the department under 55 Pa. Code Ch. 3480 (relating to Child Protective Services - General) shall remain in effect until regulations have been adopted pursuant to subparagraph (i).

* * *

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

1998, NOVEMBER 24, P.L.811, NO.103

Preamble

The General Assembly finds and declares as follows:

(1) Existing law does not provide adequately for the needs of a parent who is terminally ill or who is periodically incapable of caring for the needs of a minor due to the parent's incapacity or debilitation resulting from illness and who desires to make long-term plans for the future of a minor without terminating or limiting in any way the parent's legal rights.

(2) It is the intent of the General Assembly to create an expeditious procedure which will enable a parent who is terminally ill or periodically incapable or debilitated to make long-term plans for a minor without terminating or limiting in any manner parental rights.

Explanatory Note. Act 103 added Chapter 56 of Title 23.

2004, NOVEMBER 29, P.L.1357, NO.175

§ 5. Applicability.

This act shall apply as follows:

(1) The amendment of the definition of "separate and apart" in 23 Pa.C.S. § 3103 shall apply to complaints served before, on or after the effective date of this paragraph.

(2) The addition of 23 Pa.C.S. § 3106 shall apply to premarital agreements executed on or after the effective date of this paragraph.

(3) The amendment or addition of 23 Pa.C.S. § 3323(c) and (c.1) shall apply to bifurcation proceedings commenced on or after the effective date of this paragraph.

(4) The amendment or addition of 20 Pa.C.S. § 2203(a) and (c) and 23 Pa.C.S. § 3323(d.1) shall apply to the death of one of the parties on or after the effective date of this paragraph irrespective of whether the divorce proceeding was commenced before, on or after the effective date of this paragraph.

(5) The addition of 23 Pa.C.S. § 3323(g) shall apply to bifurcation proceedings commenced on or after the effective date of this paragraph and cases in which one of the parties dies on or after the effective date of this paragraph.

(6) The amendment or addition of 23 Pa.C.S. § 3501(a) (3) and (a.1) shall apply to all equitable distribution proceedings irrespective of whether the proceeding was commenced before, on or after the effective date of this paragraph.

(7) (Repealed).

(8) The amendment or addition of 23 Pa.C.S. § 3502(a) introductory paragraph, (10.1) and (10.2) shall apply to all equitable distribution proceedings irrespective of whether the proceeding was commenced before, on or after the effective date of this paragraph.

(9) The addition of 23 Pa.C.S. § 3502(f) shall apply to all divorce proceedings irrespective of whether the action was commenced before, on or after the effective date of this paragraph.

(10) The amendment of 23 Pa.C.S. § 3505(d) shall apply to all equitable distribution proceedings irrespective of whether the proceeding was commenced before, on or after the effective date of this paragraph.

(11) The amendment of 23 Pa.C.S. § 3506 shall apply to all orders made on or after the effective date of this paragraph.

(June 15, 2005, P.L.7, No.4, eff. imd.)

2005 Repeal. Act 5 repealed par. (7).

Explanatory Note. Act 175 amended or added sections 3103, 3106, 3323, 3501, 3502, 3505 and 3506 of Title 23.

2004, NOVEMBER 30, P.L.1618, NO.207

§ 28. Applicability.

This act shall apply as follows:

(1) Except as otherwise provided in paragraph (2), any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

(2) Paragraph (1) shall not apply to the provisions of 71 Pa.C.S.

Explanatory Note. Act 207 amended sections 102, 1503, 6102, 6113, 6113.1, and 6340 of Title 23.

§ 29. Construction of law.

Nothing in this act shall be construed or deemed to provide magisterial district judges with retirement benefits or rights that are different from those available to district justices or justices of the peace immediately prior to the effective date of this act. Nothing in this act shall be construed or deemed to provide senior magisterial district judges with retirement benefits or rights that are different from those available to senior district justices immediately prior to the effective date of this act.

2005, JULY 7, P.L.196, NO.43

§ 4. Continuation of prior law.

The addition of 23 Pa.C.S. Ch. 46 is a continuation of the act of June 24, 1937 (P.L.2045, No.397), known as The Support Law. The following apply:

(1) Except as otherwise provided in 23 Pa.C.S. Ch. 46, all activities initiated under The Support Law shall continue and remain in full force and effect and may be completed under 23 Pa.C.S. Ch. 46. Orders, regulations and decisions which were made under The Support Law and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 23 Pa.C.S. Ch. 46. Contracts, obligations and agreements entered into under The Support Law are not affected nor impaired by the repeal of The Support Law.

(2) No provision of The Support Law which was suspended by order of the Supreme Court shall be revived by the addition of 23 Pa.C.S. Ch. 46.

(3) Except as set forth in paragraph (4), any difference in language between 23 Pa.C.S. Ch. 46 and The Support Law is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of The Support Law.

(4) Paragraph (3) does not apply to the addition of 23 Pa.C.S. § 4604(c) and (d).

(5) Any reference in a statute or a regulation to The Support Law shall be deemed a reference to 23 Pa.C.S. Ch. 46.

Explanatory Note. Act 43 amended or added Chapter 46 and section 6334 of Title 23.

2005, NOVEMBER 10, P.L.335, NO.66

Preamble

The General Assembly finds and declares as follows:

(1) The provisions of 23 Pa.C.S. Ch. 61 (relating to protection from abuse) are necessary and proper in that they further the Commonwealth's compelling State interest to protect victims of domestic violence from abuse.

(2) The Second Amendment to the Constitution of the United States and section 21 of Article I of the Constitution of Pennsylvania recognize a fundamental right to keep and bear arms.

(3) The limitation of firearm rights for the duration of a protection from abuse order as authorized by 23 Pa.C.S. Ch. 61 is a reasonable regulation, a valid exercise of the

police power of the Commonwealth and furthers the compelling State interest to protect victims from abuse.

(4) As provided in 23 Pa.C.S. Ch. 61, a court may impose limitations on firearm rights prohibiting someone who has engaged in domestic violence from possessing firearms when the court deems it appropriate to do so in order to protect a victim.

Explanatory Note. Act 66 amended or added sections 6102, 6105, 6106, 6109 and 6115 of Title 18 and sections 6102, 6103, 6104, 6105, 6106, 6107, 6108, 6108.1, 6108.2, 6108.3, 6108.4, 6108.5, 6110, 6113, 6113.1, 6114, 6117, 6119, 6120, 6121 and 6122 of Title 23.

2008, JULY 9, P.L.276, NO.33

§ 6. Department of Public Welfare reports.

Within 12 months of the effective date of this section, the Department of Public Welfare shall submit a report to the Governor and General Assembly on implementation of child abuse and criminal history information requirements under the act of December 18, 2007 (P.L.469, No.73), entitled "An act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for information relating to prospective child-care personnel." Information shall include, but not be limited to:

(1) A summary of the requirements of the act of December 18, 2007 (P.L.469, No.73), entitled "An act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for information relating to prospective child-care personnel."

(2) The number of applicants for child-care services, day-care providers and foster and adoptive parents and adult persons who reside in their homes who are impacted by the requirements.

(3) Fees for Federal criminal history record checks.

(4) A description of the administrative process for the electronic transmission of fingerprints to the Federal Bureau of Investigation for Federal criminal history records.

(5) Any findings and recommendations.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Explanatory Note. Act 33 amended or added sections 6303, 6318, 6340, 6342, 6343, 6343.1, 6365 and 6367 of Title 23.

2013, DECEMBER 18, P.L.1167, NO.107

§ 6. Applicability.

The amendment or addition of 23 Pa.C.S. §§ 5328(a)(2.1), 5329.1, 6340(a)(5.1) and 6375(o) and 42 Pa.C.S. §§ 6307(a)(4.1) and (6.5) and 6308(a)(6) shall apply to:

(1) Any action regarding custody of a child under 23 Pa.C.S. Ch. 53 that is filed on or after the effective date of this section.

(2) Any petition to modify a custody order under 23 Pa.C.S. Ch. 53 that is filed on or after the effective date of this section.

Explanatory Note. Act 107 amended or added sections 5328, 5329.1, 6340 and 6375 of Title 23 and sections 6307 and 6308 of Title 42.

2014, OCTOBER 22, P.L.2529, NO.153

§ 15. Study by Department of Human Services.

The Department of Human Services, in conjunction with the Department of Education and the Pennsylvania Commission on Crime and Delinquency, shall conduct a study to analyze and make recommendations on employment bans for those having contact with children in this Commonwealth. The following apply:

(1) The study shall include recommendations on all of the following:

(i) Changes in permanent and temporary employment bans, which realign and make uniform the provisions of section 111 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and 23 Pa.C.S. Ch. 63 with regard to employment bans, including the offenses relating to the welfare of a child to be included in any ban.

(ii) An appeals process.

(2) The Department of Human Services shall, by December 31, 2015, report the study's findings and recommendations to:

(i) The chairman and minority chairman of the Aging and Youth Committee of the Senate.

(ii) The chairman and minority chairman of the Public Health and Welfare Committee of the Senate.

(iii) The chairman and minority chairman of the Children and Youth Committee of the House of Representatives.

(iv) The chairman and minority chairman of the Health Committee of the House of Representatives.

Explanatory Note. Act 153 amended or added sections 2530, 6303, 6311, 6313, 6335, 6338.1, 6339, 6340, 6344, 6344.1, 6344.2, 6344.3, 6344.4, 6349, 6383 of Title 23 and section 6351.1 of Title 42.

2017, DECEMBER 22, P.L.1249, NO.78

§ 7. Applicability.

This act shall apply as follows:

(1) This act shall apply to transfers made or obligations incurred on or after the effective date of this act.

(2) This act shall not apply to transfers made or obligations incurred before the effective date of this act.

(3) This act shall not apply to rights of action that have accrued before the effective date of the enacting legislation.

(4) For a purpose specified under this section, transfers are made and obligations are incurred at the time provided under 12 Pa.C.S. § 5106.

Explanatory Note. Act 78 amended, added or renumbered the heading of Chapter 51 and sections 5101, 5102, 5103, 5104, 5105,

5106, 5107, 5108, 5109, 5110, 5111, 5112, 5113 and 5114 of Title 12; section 4352 of Title 23.

2018, JUNE 28, P.L.375, NO.54

§ 3. Expunction.

A report under 23 Pa.C.S. § 6337(d), which is due to be expunged from the Statewide database during the 365-day period following the enactment of this act, shall continue to be maintained in the Statewide database and shall be subject to the expunction provisions of 23 Pa.C.S. § 6337(d) on and after the effective date of the amendment of 23 Pa.C.S. § 6337(d).

Explanatory Note. Act 54 amended sections 6332, 6337, 6344, 6344.2 and 6386 of Title 23.