

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 640

Session of
1979

INTRODUCED BY MESSRS. SCIRICA, BERSON, SPENCER, RHODES,
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LEVIN, LASHINGER, EARLEY, WACHOB, RICHARDSON, KUKOVICH
AND CHESS, MARCH 12, 1979

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 16, 1979

AN ACT

1 Consolidating, revising and amending the divorce and annulment
2 laws of the Commonwealth and making certain repeals.

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1 punishment of matrimonial wrongs.

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

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

7 (6) Effectuate economic justice between parties who are
8 divorced or separated and grant or withhold alimony according
9 to the actual need and ability to pay of the parties and
10 insure a fair and just determination and settlement of their
11 property rights.

12 (b) The objectives set forth in subsection (a) shall be
13 considered in construing provisions of this act and shall be
14 regarded as expressing the legislative intent.

15 Section 103. Construction.

16 The provisions of this act, so far as they are the same as
17 those of existing laws, are intended as a continuation of such
18 laws and not as new enactments. The provisions of this act shall
19 apply to all cases, whether the cause for divorce or annulment
20 arose prior or subsequent to enactment of this act. The
21 provisions of this act shall not affect any suit or action
22 pending, but the same may be proceeded with and concluded either
23 under the laws in existence when such suit or action was
24 instituted, notwithstanding the repeal of such laws by this act,
25 or, upon application granted, under the provisions of this act.
26 The provisions of this act shall not apply to any case in which
27 a decree has been rendered prior to the effective date of the
28 act. This act shall not affect any marital agreement executed
29 prior to the effective date of this act or any amendment or
30 modification thereto.

1 Section 104. Definitions.

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

5 "Act." The Divorce Code.

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

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

12 "Court." The court of common pleas.

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

14 "Grounds for divorce." The grounds enumerated in section
15 201.

16 "Law." Includes both statutory and common law.

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

21 "Separate and apart." Complete cessation of any and all
22 cohabitation.

23 CHAPTER 2

24 DISSOLUTION OF MARITAL STATUS

25 Section 201. Grounds for divorce.

26 (a) It shall be lawful for the court to grant a divorce to
27 the innocent and injured spouse whenever it shall be judged that
28 the other spouse shall have:

29 (1) Committed willful and malicious desertion, and
30 absence from the habitation of the injured and innocent

1 spouse, without a reasonable cause, for the period of one or
2 more years.

3 (2) Committed adultery.

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

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

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

10 (6) Offered such indignities to the innocent and injured
11 spouse as to render his or her condition intolerable and life
12 burdensome.

13 (b) It shall be lawful for the court to grant a divorce upon
14 the ground that insanity or serious mental disorder has resulted
15 in confinement in a mental institution for at least three years
16 immediately before the filing of the complaint, and where there
17 is no reasonable prospect of the defendant spouse's being
18 discharged from inpatient care during the next three years
19 subsequent to the filing of the complaint. A presumption that no
20 such prospect of discharge exists shall be established by a
21 certificate of the superintendent of such institution to that
22 effect and which includes a supporting statement of a treating
23 physician.

24 (c) It shall also be lawful for the court to grant a divorce
25 where a complaint has been filed alleging that the marriage is
26 irretrievably broken and 90 days have elapsed from the date of
27 filing of the complaint and an affidavit has been filed by each
28 of the parties evidencing that each of the parties consents to
29 the divorce.

30 (D) THE COURT MAY ALSO GRANT A DIVORCE WHEN FOR A PERIOD OF

<—

1 AT LEAST THREE YEARS IMMEDIATELY PRECEDING THE GRANTING OF THE
2 DIVORCE THE PARTIES HAVE CONTINUOUSLY LIVED SEPARATE AND APART,
3 WITH COMPLETE CESSATION OF COHABITATION, WHICH MUST BE
4 ESTABLISHED BY AN AFFIDAVIT OF ONE OF THE PARTIES AND
5 CORROBORATED BY A WITNESS OTHER THAN THE PARTIES AND 90 DAYS
6 HAVE ELAPSED FROM THE DATE OF THE FILING OF THE COMPLAINT.

7 Section 202. Counseling.

8 (a) Whenever section 201(a)(6) is the ground for divorce,
9 the court shall require up to a maximum of three counseling
10 sessions where either of the parties requests it.

11 (b) Whenever section 201(c) OR (D) is the ground for <—
12 divorce, the court shall require up to a maximum of three
13 counseling sessions within the 90 days following the filing of
14 the complaint where either of the parties requests it.

15 (c) Whenever section 201(a)(6) ~~or (e)~~, (C) OR (D) is the <—
16 ground for divorce, the court shall upon filing of the
17 complaint, notify both parties of the availability of counseling
18 and upon request, provide both parties a list of qualified
19 professionals who provide such services.

20 (d) The choice of a qualified professional shall be at the
21 option of the parties and such professional need not be selected
22 from the list provided by the court.

23 (e) Where the court requires counseling, a report shall be
24 made by the qualified professional stating that the parties did
25 or did not attend.

26 Section 203. Annulment of void and voidable marriages.

27 In all cases where a supposed or alleged marriage shall have
28 been contracted which is void or voidable under this act or
29 under applicable law, either party to such supposed or alleged
30 marriage may bring an action in annulment to have it declared

1 null and void in accordance with the procedures provided for
2 under this act and the Rules of Civil Procedure.

3 Section 204. Annulment or invalidity of void marriages.

4 (a) Where there has been no confirmation by cohabitation
5 following the removal of an impediment, the supposed or alleged
6 marriage of any person shall be deemed void in the following
7 cases:

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

13 (2) Where the parties to such marriage are related
14 within the prohibited degrees of consanguinity, which degrees
15 are as follows:

16 A man may not marry his mother.

17 A man may not marry his father's sister.

18 A man may not marry his mother's sister.

19 A man may not marry his sister.

20 A man may not marry his daughter.

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

23 A woman may not marry her father.

24 A woman may not marry her father's brother.

25 A woman may not marry her mother's brother.

26 A woman may not marry her brother.

27 A woman may not marry her son.

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

29 (3) Where either party to such marriage was incapable of
30 consenting by reason of insanity or serious mental disorder,

1 or otherwise lacked capacity to consent or did not intend to
2 assent to such marriage.

3 (b) In all such cases of marriages which are void, the
4 marriage may be annulled as set forth in section 203, or its
5 invalidity may be declared in any collateral proceeding.
6 Section 205. Grounds for annulment of voidable marriages.

7 (a) The marriage of any person shall be deemed voidable and
8 subject to annulment in the following cases:

9 (1) Where either party to such marriage was under 16
10 years of age, unless such marriage was expressly authorized
11 by a judge of the court.

12 (2) Where either party was 16 or 17 years of age and
13 lacked the consent of parent or guardian or express
14 authorization of the court and has not subsequently ratified
15 such marriage upon reaching the age of 18 and such proceeding
16 for annulment is commenced within 60 days after the marriage
17 ceremony.

18 (3) Where either party to such marriage was under the
19 influence of intoxicating liquor or drugs and a proceeding
20 for annulment has been filed within 60 days after the
21 marriage ceremony.

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

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

1 or forces.

2 (b) In all such cases of marriages which are voidable,
3 either party thereto may seek and obtain an annulment of such
4 marriage, but unless and until such decree is obtained from a
5 court of competent jurisdiction, such marriage shall be valid
6 and subsisting. The validity of such a voidable marriage shall
7 not be subject to attack or question by any person if it is
8 subsequently confirmed by the parties thereto or if either party
9 has died.

10 Section 206. Proceedings to determine marital status.

11 When the validity of any marriage shall be denied or doubted,
12 either or both of the parties to the marriage may bring an
13 action for a declaratory judgment seeking a declaration of the
14 validity or invalidity of the marriage, and, upon due proof of
15 the validity or invalidity thereof, it shall be declared valid
16 or invalid by decree of such court, and, unless reversed upon
17 appeal, such declaration shall be conclusive upon all persons
18 concerned.

19 Section 207. Defenses.

20 (a) Existing common law defenses are retained as to the
21 grounds enumerated in section 201(a) and (b). The defenses of
22 condonation, connivance, collusion; recrimination and
23 provocation are abolished as to the grounds enumerated in
24 section 201(c).

25 (b) In any action or suit for divorce for the cause of
26 adultery, if the defendant shall allege and prove, or it shall
27 appear in the evidence, that the plaintiff has been guilty of
28 the like offense, or has admitted the defendant into conjugal
29 society or embraces after he or she knew of the fact, or that
30 the said plaintiff allowed the defendant's prostitution, or

1 received hire from it, or exposed the defendant to lewd company
2 whereby he or she became ensnared to the offense after said, it
3 shall be a good defense and a perpetual bar against the same.

4 Section 208. Jurisdiction where defendant is insane or suffering
5 from serious mental disorder.

6 In cases where a spouse is insane or suffering from serious
7 mental disorder the court shall have jurisdiction to receive a
8 complaint for divorce in which such person is made the defendant
9 upon any ground set forth in section 201, and for annulment.

10 CHAPTER 3

11 PROCEDURE

12 Section 301. Jurisdiction.

13 (a) The courts of this Commonwealth as defined in section
14 104 shall have original jurisdiction in cases of divorce and for
15 the annulment of void or voidable marriages and, where they have
16 jurisdiction, shall determine in conjunction with any decree
17 granting a divorce or annulment in the following matters, where
18 raised in the complaint or the answer and issue appropriate
19 decrees or orders with reference thereto and may retain
20 continuing jurisdiction thereof:

21 (1) The determination and disposition of property rights
22 and interests between spouses, including any rights created
23 by any antenuptial, postnuptial, or separation agreement and
24 including the partition of property held as tenants by the
25 entireties or otherwise and any accounting between them, and
26 the order of any alimony, alimony pendente lite, counsel
27 fees, or costs authorized by law.

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

30 (3) Any support or assistance which shall be paid for

1 the benefit of any children of such marriage or purported
2 marriage.

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

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

10 (b) The said courts having power to grant divorces shall
11 have authority to do so notwithstanding the fact that the
12 marriage of the parties and the cause for divorce occurred
13 outside of this Commonwealth and that both parties were at the
14 time of such occurrence, domiciled without this Commonwealth.
15 Said courts shall also have power to annul void or voidable
16 marriages notwithstanding the fact such were celebrated without
17 this Commonwealth at a time when neither party was domiciled
18 within this Commonwealth.

19 Section 302. Residence and domicile of parties.

20 No spouse shall be entitled to commence proceeding for
21 divorce or annulment by virtue of this act, unless at least one
22 of the parties has been a bona fide resident in this
23 Commonwealth for at least six months immediately previous to the
24 filing of the complaint. Both parties shall be competent
25 witnesses to prove his or her residence and proof of actual
26 residence within the Commonwealth for six months shall create a
27 presumption of domicile within the Commonwealth.

28 Section 303. General appearance and collusion.

29 The entry of a general appearance by, or in behalf of, a
30 defendant shall not be deemed collusion. Collusion shall be

1 found to exist only where the parties conspired to fabricate
2 grounds for divorce or annulment, agreed to and did commit
3 perjury, or perpetrated fraud on the court. Negotiation and
4 discussion of terms of property settlement and other matters
5 arising by reason of contemplated divorce or annulment shall not
6 be deemed to constitute collusion.

7 Section 304. Hearing by master.

8 A master may be appointed by the court to hear testimony on
9 all or some issues, except issues of custody, paternity,
10 property distribution and alimony, and return the record and a
11 transcript of the testimony together with his report and
12 recommendation as provided by the Rules of Civil Procedure, or a
13 judge of the court in chambers may appoint a master to take
14 testimony and return the same to the court.

15 Section 305. Jury trial.

16 (a) After service of the complaint in divorce or annulment
17 on the defendant in the manner provided by the Rules of Civil
18 Procedure, or entry of a general appearance for the defendant,
19 if either of the parties shall desire any matter of fact that is
20 affirmed by one and denied by the other to be tried by a jury,
21 he or she may take a rule upon the opposite party, to be allowed
22 by a judge of the court, to show cause why the issues of fact
23 set forth in such rule shall not be tried by a jury, which rule
24 shall be served upon the opposite party or his or her counsel.

25 (b) Upon the return of such rule, after hearing, the court
26 may discharge it, or make it absolute, or frame issues itself,
27 and only the issues so ordered by the court shall be tried
28 accordingly, but such rule shall not be made absolute when, in
29 the opinion of the court, a trial by jury cannot be had without
30 prejudice to the public morals.

1 CHAPTER 4

2 DECREE OF COURT; PROPERTY RIGHTS AND COSTS

3 Section 401. Decree of court.

4 (a) In all matrimonial causes, the court having jurisdiction
5 may either dismiss the complaint or enter a decree of divorce or
6 annulment of the marriage.

7 (b) Any decree granting a divorce or an annulment, shall
8 include after a full hearing, where these matters are raised in
9 the complaint, the answer or other petition, an order or orders
10 determining and disposing of existing property rights and
11 interests between the parties, custody and visitation rights,
12 child support, alimony and any other related matters including
13 the enforcement of separation agreements voluntarily entered
14 into between the parties. In the enforcement of the rights of
15 any party to any such matters, the court shall have all
16 necessary powers, including but not limited to, the power of
17 contempt and the power to attach wages. In the event that the
18 court is unable for any reason to determine and dispose of the
19 matters provided for in this subsection within 30 days after the
20 master's report has been filed, it may enter a decree of divorce
21 or annulment. The court may order alimony, reasonable counsel
22 fees and expenses pending final disposition of the matters
23 provided for in this subsection and upon final disposition, the
24 court may award costs to the party in whose favor the order or
25 decree shall be entered, or may order that each party shall pay
26 his or her own costs, as it shall appear just and reasonable.

27 (c) In all matrimonial causes, the court shall have full
28 equity power and jurisdiction and may issue injunctions or other
29 orders which are necessary to protect the interests of the
30 parties or to effectuate the purposes of this act, and may grant

1 such other relief or remedy as equity and justice require
2 against either party or against any third person over whom the
3 court has jurisdiction and who is involved in or concerned with
4 the disposition of the cause.

5 (d) In a proceeding for divorce or annulment, the court
6 shall, upon request of either party, equitably divide,
7 distribute or assign the marital property between the parties
8 without regard to marital misconduct in such proportions as the
9 court deems just after considering all relevant factors
10 including:

11 (1) The length of the marriage.

12 (2) Any prior marriage of either party.

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

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

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

20 (6) The sources of income of both parties, including but
21 not limited to medical, retirement, insurance or other
22 benefits.

23 (7) The contribution or dissipation of each party in the
24 acquisition, preservation, depreciation or appreciation of
25 the marital property, including the contribution of a party
26 as homemaker.

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

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

30 (10) The economic circumstances of each party at the

1 time the division of property is to become effective.

2 (e) For purposes of this chapter only, "marital property"
3 means all property acquired by either party during the marriage
4 except:

5 (1) Property acquired in exchange for property acquired
6 prior to the marriage except for the increase in value during
7 the marriage.

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

10 (3) Property acquired by gift, bequest, devise or
11 descent except for the increase in value during the marriage.

12 (4) Property acquired after separation until the date of
13 divorce, provided however, if the parties separate and
14 reconcile, all property acquired subsequent to the final
15 separation until their divorce.

16 (5) Property which the party has mortgaged, sold,
17 granted, conveyed or otherwise encumbered or disposed of in
18 good faith and for a fair consideration prior to the time
19 proceedings for the divorce are commenced.

20 (6) Property acquired with, or received in exchange for
21 property acquired with, funds derived from compensation,
22 pensions, income, or other payments received as payment for
23 the loss or impairment of parts or functions of the body of
24 the party who received the payment. This exclusion includes
25 income from and increases in value of the property. The
26 burden of proof shall be on the party claiming the exclusion
27 provided by this paragraph. The property FUNDS, INCOME FROM <—
28 AND INCREASES IN VALUE OF SUCH PROPERTY excluded by this
29 paragraph or any increase in the standard of living ~~provided~~ <—
30 ~~by~~ RESULTING FROM such property FUNDS, INCOME FROM AND <—

1 INCREASES IN VALUE OF SUCH PROPERTY shall not be considered
2 in the distribution of the other property or the award of
3 alimony.

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

11 (g) The court may also impose a lien or charge upon the
12 marital property assigned to a party as security for the payment
13 of alimony or other award for the other party.

14 (h) The court may award to one, each, or both of the parties
15 the right to live in the family home for reasonable periods of
16 time.

17 (i) The court may also direct the continued maintenance and
18 beneficiary designations of existing policies insuring the life
19 of either party. The court's power under this subsection shall
20 extend only to policies originally purchased during the marriage
21 and owned by or within the effective control of either party.

22 (j) Whenever a decree or judgment is granted which nullifies
23 or absolutely terminates the bonds of matrimony, any and all
24 property rights which are dependent upon such marital relation,
25 save those which are vested rights, are terminated unless the
26 court otherwise expressly provides in its decree in accordance
27 with subsection (b). All duties, rights, and claims accruing to
28 either of said parties at any time heretofore in pursuance of
29 the said marriage, shall cease and the parties shall, severally,
30 be at liberty to marry again in like manner as if they had never

1 been married, except where otherwise provided by law.

2 Section 402. Disposition of realty and personalty after
3 termination of marriage.

4 Unless otherwise provided by the court, whenever a decree of
5 annulment or divorce is decreed by a court of competent
6 jurisdiction, both parties whose marriage is so terminated or
7 affected, shall have complete freedom of disposition as to their
8 separate property and may mortgage, sell, grant, convey, or
9 otherwise encumber or dispose of such realty or personalty,
10 whether such separate property was acquired before, during, or
11 after coverture, and neither need join in, consent to, or
12 acknowledge any deed, mortgage, or instrument of the other.

13 Section 403. Injunction against disposition of property
14 pending suit and decree rendering fraudulent
15 transfers null and void.

16 (a) Where it appears to the court that a party is about to
17 remove himself or his property from the jurisdiction of the
18 court or is about to dispose of, alienate, or encumber property
19 in order to defeat alimony pendente lite, alimony, child and
20 spousal support, or similar award, an injunction may issue to
21 prevent such removal or disposition and such property may be
22 attached as provided by the Rules of Civil Procedure. The court
23 may also issue a writ of ne exeat to preclude such removal.

24 (b) Both parties shall submit to the court an inventory and
25 appraisal of all property owned or possessed at the time
26 action was commenced.

27 (c) If any party deliberately or negligently fails to
28 disclose information required by subsection (b) and in
29 consequence thereof any asset or assets with a fair market value
30 of \$500 or more is omitted from the final distribution of

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

11 (d) Any encumbrance or disposition of property to third
12 persons who had notice of the pendency of the matrimonial action
13 or who paid wholly inadequate consideration for such property
14 may be deemed fraudulent and declared null and void.

15 Section 404. Statement of reasons for distribution.

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

19 CHAPTER 5

20 ALIMONY AND SUPPORT

21 Section 501. Alimony.

22 (a) The court may allow alimony, as it deems reasonable, to
23 either party, only if it finds that the party seeking alimony:

24 (1) lacks sufficient property, including but not limited
25 to any property distributed pursuant to Chapter 4, to provide
26 for his or her reasonable needs; and

27 (2) is unable to support himself or herself through
28 appropriate employment.

29 (b) In determining whether alimony is necessary, and in
30 determining the nature, amount, duration, and manner of payment

1 of alimony, the court shall consider all relevant factors
2 including:

3 (1) The relative earnings and earning capacities of the
4 parties.

5 (2) The ages, and the physical, mental and emotional
6 conditions of the parties.

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

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

11 (5) The duration of the marriage.

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

14 (7) The extent to which it would be inappropriate for a
15 party, because said party will be custodian of a minor child,
16 to seek employment outside the home.

17 (8) The standard of living of the parties established
18 during the marriage.

19 (9) The relative education of the parties and the time
20 necessary to acquire sufficient education or training to
21 enable the party seeking alimony to find appropriate
22 employment.

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

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

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

27 (13) The relative needs of the parties.

28 (14) The marital misconduct of either of the parties
29 during the marriage; however, the marital misconduct of
30 either of the parties during separation subsequent to the

1 filing of a divorce complaint shall not be considered by the
2 court in its determinations relative to alimony.

3 (c) Duration.--Unless the ability of the party seeking the
4 alimony to provide for his or her reasonable needs through
5 employment is substantially diminished by reason of age,
6 physical, mental or emotional condition, custody of minor
7 children, or other compelling impediment to gainful employment,
8 the court in ordering alimony shall limit the duration of the
9 order to a period of time which is reasonable for the purpose of
10 allowing the party seeking alimony to meet his or her reasonable
11 needs by:

12 (1) obtaining appropriate employment; or

13 (2) developing an appropriate employable skill.

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

17 (e) Any order entered pursuant to this section is subject to
18 further order of the court upon changed circumstances of either
19 party of a substantial and continuing nature whereupon such
20 order may be modified, suspended, terminated, reinstituted, or a
21 new order made. Any such further order shall apply only to
22 payment accruing subsequent to the petition for the requested
23 relief. Remarriage of the party receiving alimony shall
24 terminate the award of alimony.

25 Section 502. Alimony pendente lite, counsel fees and expenses.

26 The court may, upon petition, in proper cases, allow a spouse
27 reasonable alimony pendente lite and reasonable counsel fees and
28 expenses.

29 Section 503. Enforcement of arrearages.

30 If at any time a party is in arrears in the payment of

1 alimony or alimony pendente lite as provided for in sections 501
2 and 502, after hearing, the court may, in order to effect
3 payment of the arrearages:

4 (1) Enter judgment.

5 (2) Authorize the taking and seizure of the goods and
6 chattels and collection of the rents and profits of the real
7 estate of the party.

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

9 (4) Award interest on unpaid installments.

10 (5) Require security to insure future payments.

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

21 Section 504. Payment of support, alimony and alimony pendente
22 lite.

23 When so ordered by the court, all payments of child and
24 spousal support, alimony or alimony pendente lite, shall be made
25 to the domestic relations section of the court which issued the
26 order or such section of the court at the residence of the party
27 entitled to receive such an award. The domestic relations
28 section shall keep an accurate record of all such payments and
29 shall notify the court immediately whenever any person subject
30 to a payment order is 30 days in arrears in such payment so that

1 appropriate action may be taken to enforce the order of the
2 court. It shall be the duty of the domestic relations section to
3 distribute such payments to the person entitled thereto as soon
4 as possible after receipt.

5 Section 505. Alimony where a foreign ex parte divorce or
6 annulment.

7 Whenever a person who was a resident of this Commonwealth at
8 the time such person was a defendant or respondent in a foreign
9 ex parte action for annulment or divorce petitions a court of
10 this Commonwealth for alimony and establishes the need therefor,
11 such court, if it has jurisdiction over the person or property
12 of the other party, may order that such alimony be paid in the
13 same manner and under the same conditions and limitations which
14 pertain when alimony is sought as provided in this chapter. In
15 the event that the other party from whom such alimony is sought
16 cannot be located within this Commonwealth, the court may attach
17 such of the tangible or intangible property of said party as is
18 within the jurisdiction of the court in the manner provided by
19 the Rules of Civil Procedure, except that no exemption shall
20 apply. Such property shall thereupon be subject to the payment
21 of alimony in the same manner as provided by law in actions for
22 nonsupport.

23 Section 506. Enforcement of foreign decrees.

24 Whenever a person subject to a valid decree of a sister state
25 or territory for the payment of alimony, temporary alimony, or
26 alimony pendente lite, or his or her property is found within
27 this Commonwealth, the obligee of such a decree may petition the
28 court, where the obligor or his or her property is found, to
29 register, adopt as its own, and to enforce the said decree as a
30 duly issued and authenticated decree of a sister state or

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

19 Section 507. Bar to any alimony.

20 No petitioner shall be entitled to receive any award of
21 alimony where such petitioner has entered into cohabitation with
22 a person of the opposite sex who is not a member of the
23 petitioner's immediate family within the degrees of
24 consanguinity subsequent to the divorce pursuant to which
25 alimony is being sought.

26 CHAPTER 6

27 APPEALS AND ATTACKS UPON DECREES

28 Section 601. Limitations on attacks upon decrees.

29 The validity of any decree of divorce or annulment issued by
30 a court shall not be questioned, except by appeal, in any court

1 or place in this Commonwealth after the death of either party to
2 such proceeding and if it is shown that a party who subsequently
3 attempts to question the validity of such a decree had full
4 knowledge of the facts and circumstances later complained of, at
5 the time of issuance of said decree, or failed to take any
6 action, despite such knowledge, within two years after the date
7 of such decree, said party shall be barred from questioning such
8 decree and it shall be deemed valid in all courts and places
9 within this Commonwealth.

10 Section 602. Opening or vacating divorce decrees.

11 A motion to open a decree of divorce or annulment may be made
12 only within 30 days after entry of the decree and not
13 thereafter. Such motion may lie where it is alleged that the
14 decree was procured by intrinsic fraud or that there is new
15 evidence relating to the cause of action which will sustain the
16 attack upon its validity. A motion to vacate a decree or strike
17 a judgment alleged to be void because of extrinsic fraud, lack
18 of jurisdiction over the subject matter or because of a fatal
19 defect apparent upon the face of the record, must be made within
20 five years after entry of the final decree. Intrinsic fraud is
21 such as relates to a matter adjudicated by the judgment,
22 including perjury and false testimony, whereas extrinsic fraud
23 relates to matters collateral to the judgment which have the
24 consequence of precluding a fair hearing or presentation of one
25 side of the case.

26 Section 603. Plaintiff a competent witness.

27 In all proceedings for divorce, the plaintiff shall be fully
28 competent to prove all the facts, as long as the defendant has
29 been served as provided by the Rules of Civil Procedure.

30 Section 604. Rules of court.

1 The court is hereby authorized to make and adopt such rules
2 and practices as may be necessary to carry this act into effect
3 which are consistent with the Rules of Civil Procedure, and to
4 regulate proceedings before masters, and to fix their fees.

5 Section 605. Res judicata and estoppel.

6 The validity of any divorce or annulment decree granted by a
7 court having jurisdiction over the subject matter may not be
8 questioned by any party who was subject to the personal
9 jurisdiction of such court except by such direct appeal as is
10 provided by law. A party who sought and obtained such decree,
11 financed or agreed to its procurement, or accepted a property
12 settlement, alimony pendente lite or alimony pursuant to the
13 terms of such decree, or who remarries after such decree, or is
14 guilty of laches, is barred from making a collateral attack upon
15 the validity of such decree unless by clear and convincing
16 evidence it is established that fraud by the other party
17 prevented him from making a timely appeal from such divorce or
18 annulment decree.

19 CHAPTER 7

20 MISCELLANEOUS PROVISIONS

21 Section 701. Marriage upon false rumor of spouse's death.

22 (a) The remarriage of a spouse who has obtained a license to
23 marry and a decree of presumed death of the former spouse shall
24 be valid for all intents and purposes as though the former
25 marriage had been terminated by divorce, and any and all
26 property of the presumed decedent shall be administered and
27 disposed of as provided by Title 20 of the Pennsylvania
28 Consolidated Statutes (relating to decedents, estates and
29 fiduciaries).

30 (b) Where a remarriage has occurred upon false rumor of the

1 death of a former spouse, in appearance well founded, but there
2 has been no decree of presumed death, the remarriage shall be
3 deemed void and subject to annulment by either party to such
4 remarriage as provided by section 204 and the returning spouse
5 shall have cause for divorce as provided in section 201.

6 (c) Where the remarriage was entered into in good faith,
7 neither party to such remarriage shall be subject to criminal
8 prosecution therefore.

9 (d) If the former spouse dies or procures a divorce the
10 parties to the remarriage shall be deemed to be lawfully married
11 from the date of such death or decree.

12 Section 702. Resumption of prior name.

13 It shall be lawful for any person who has heretofore been or
14 shall hereafter be divorced, or whose marriage is annulled, to
15 retake and thereafter use his or her prior name. Every such
16 person who elects to resume his or her prior name shall file a
17 written notice avowing such intention in the office of the
18 prothonotary of the court in which such decree of divorce or
19 annulment was entered, showing the caption and number and term
20 of the proceeding in divorce or annulment, and duly acknowledged
21 before a notary public. Where a person has a decree of divorce
22 or annulment granted to him or her, or his or her spouse, in a
23 foreign jurisdiction, a certified copy of such foreign divorce
24 or annulment decree shall be filed with the prothonotary where
25 the affiant resides, and thereafter such person desiring to
26 resume his or her prior name may file a written notice to do so
27 by making full reference therein to the filing of the foreign
28 divorce or annulment decree with the prothonotary of the county
29 where the affiant resides. A copy of the written notice in
30 either case, so filed, duly certified by the prothonotary, shall

1 be competent evidence for all purposes of right and duty of such
2 person to use such prior name thereafter.

3 Section 703. Privileged communications.

4 Communications of a confidential character made by a spouse
5 to an attorney, or a qualified professional, shall be privileged
6 and inadmissible in evidence in any matrimonial cause unless the
7 party concerned waives such immunity.

8 CHAPTER 8

9 REPEALS AND EFFECTIVE DATE

10 Section 801. Repeals.

11 (a) The following acts and parts of acts and all amendments
12 thereto are repealed to the extent specified:

13 Sections V, VI and IX, act of March 13, 1815 (P.L.150,
14 Ch. CIX), entitled "An act concerning divorces," insofar as
15 supplied by this act.

16 The act of May 2, 1929 (P.L.1237, No.320), known as "The
17 Divorce Law," absolutely.

18 Clause (h) of section 5, act of August 22, 1953
19 (P.L.1344, No.383), known as "The Marriage Law."

20 (b) All other acts and parts of acts, general, local and
21 special, are repealed insofar as they are inconsistent herewith.

22 Section 802. Effective date.

23 This act shall take effect in 90 days.