
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 724 Session of
1999

INTRODUCED BY WILT AND LEH, MARCH 8, 1999

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 8, 1999

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, providing for a presumption of
3 paternity of children born during a marriage; and further
4 providing for blood tests to determine paternity.

5 The General Assembly finds and declares as follows:

6 That the overriding public policy of this Commonwealth is
7 that a child born during a marriage shall be presumed to be the
8 issue of the husband. Marriages which continue to function as
9 family units should not be destroyed by disputes over parentage
10 of children conceived during the marriage. Third parties should
11 not be allowed to attack the integrity of a functioning marital
12 unit, and that, generally, members of that unit should not be
13 allowed to deny their identities as parents.

14 However, the General Assembly finds that the common law rule
15 followed by the Pennsylvania courts relating to the presumption
16 of paternity for a child born during a marriage is an ancient
17 concept that fails to conform with modern-day realities and
18 current scientific methods of determining parentage.

1 The General Assembly also declares that the purpose of this
2 act is to displace the common law rule relating to the
3 presumption of paternity for a child born during a marriage and
4 give the courts of this Commonwealth statutory guidance to
5 resolve disputes over paternity for children born during a
6 marriage.

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

9 Section 1. Title 23 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section to read:

11 § 5102.1. Paternity of child born during marriage.

12 (a) Presumption of paternity.--A child born during a
13 marriage is presumed to be the child of the marriage and the
14 issue of the husband.

15 (b) Rebuttable presumption.--The husband or wife may rebut
16 the presumption of paternity by a showing of any of the
17 following:

18 (1) the husband did not have access to the wife at the
19 time of conception;

20 (2) the husband was physically incapable of procreation
21 at the time of conception;

22 (3) the wife was engaged in an extra-marital
23 relationship at the time of conception; or

24 (4) the husband voluntarily completed a blood test which
25 determines that the husband could not be the father of the
26 child.

27 (c) Applicability of presumption.--The presumption of
28 paternity in subsection (a) shall apply in instances where the
29 husband and wife cohabited at the time of the birth of the
30 child.

1 (d) Estoppel of paternity actions.--

2 (1) Notwithstanding subsection (b), an action for
3 paternity shall be estopped and the presumption of paternity
4 shall become irrebuttable if there is clear and convincing
5 evidence that the husband openly holds out the child to be
6 his and receives the child into his home unless the husband
7 disputes his paternity in a legal proceeding within 60 days
8 after the husband discovers or reasonably should have
9 discovered that he is not the father of the child and such
10 action is taken within five years after the birth of the
11 child.

12 (2) A husband who takes timely action to dispute his
13 paternity within the time frame prescribed in paragraph (1)
14 may continue to support the child and receive the child in
15 his home without incurring any legal support obligation or
16 being subject to estoppel unless the husband agrees in
17 writing to assume a support obligation for the child after
18 taking such action.

19 Section 2. Section 5104(g) of Title 23 is amended to read:

20 § 5104. Blood tests to determine paternity.

21 * * *

22 (g) Effect on presumption of [legitimacy.--The] paternity.--
23 As provided in section 5102.1 (relating to paternity of child
24 born during marriage) the presumption of [legitimacy] paternity
25 of a child born during [wedlock] a marriage is overcome if the
26 court finds that the conclusions of all the experts as disclosed
27 by the evidence based upon the tests show that the husband is
28 not the father of the child.

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