

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 764 Session of
1989

INTRODUCED BY GREENLEAF, JUBELIRER, LEMMOND, FISHER, LEWIS,
SALVATORE, REIBMAN, SHUMAKER, AFFLERBACH, MADIGAN, PUNT AND
BELAN, MARCH 31, 1989

REFERRED TO JUDICIARY, MARCH 31, 1989

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to domestic
3 relations; making conforming amendments to Titles 18 and 42;
4 and repealing certain acts and parts of acts supplied by the
5 act or otherwise obsolete.

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16 § 6382. Guardian ad litem for child in court proceedings.
17 § 6383. Education and training.
18 § 6384. Legislative oversight.

19 Section 1. Part IX of Title 23 of the Pennsylvania
20 Consolidated Statutes is repealed.

21 Section 2. Title 23 is amended by adding parts and a
22 subchapter to read:

23 TITLE 23

24 DOMESTIC RELATIONS

25 Part

26 I. General Provisions

27 II. Marriage

28 III. Adoption

29 IV. Divorce

30 V. Support, Property and Contracts

1 VI. Children and Minors

2 VII. Abuse of Family

3 PART I

4 GENERAL PROVISIONS

5 Chapter

6 1. Preliminary Provisions

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Sec.

10 101. Short title of title.

11 102. Definitions.

12 § 101. Short title of title.

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

15 § 102. Definitions.

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

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

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

29 (b) Title 42 definitions.--Subject to additional definitions
30 contained in subsequent provisions of this title which are

1 applicable to specific provisions of this title, words and
2 phrases not defined in subsection (a) which are defined in 42
3 Pa.C.S. § 102 (relating to definitions) when used in this title
4 shall have the meanings given to them in Title 42 unless the
5 context clearly indicates otherwise.

6 PART II
7 MARRIAGE

8 Chapter

9 11. Preliminary Provisions

10 13. Marriage License

11 15. Marriage Ceremony

12 17. Miscellaneous Provisions Relating to Marriage

13 19. Abolition of Actions for Alienation of Affections and
14 Breach of Promise to Marry

15 CHAPTER 11

16 PRELIMINARY PROVISIONS

17 Sec.

18 1101. Short title of part.

19 1102. Definitions.

20 1103. Common-law marriage.

21 1104. Forms.

22 1105. Fees.

23 1106. Records and statistics.

24 § 1101. Short title of part.

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

27 § 1102. Definitions.

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

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

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

4 § 1103. Common-law marriage.

5 This part shall not be construed to change the existing law
6 with regard to common-law marriage.

7 § 1104. Forms.

8 Marriage license applications, consent certificates, marriage
9 licenses and other necessary forms shall be supplied at the
10 expense of the county and shall be uniform throughout this
11 Commonwealth as prescribed by the department. Statements of
12 physicians and laboratories relative to examinations for
13 syphilis shall be prepared and furnished by the department.

14 § 1105. Fees.

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

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

24 § 1106. Records and statistics.

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

30 (b) Forms.--The transcripts or records required to be

1 furnished shall be made on forms prepared and furnished by the
2 department and shall contain such information as the department
3 may require.

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

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

11 CHAPTER 13

12 MARRIAGE LICENSE

13 Sec.

14 1301. Marriage license required.

15 1302. Application for license.

16 1303. Waiting period after application.

17 1304. Restrictions on issuance of license.

18 1305. Examination and tests for syphilis.

19 1306. Oral examination.

20 1307. Issuance of license.

21 1308. Judicial review of refusal to issue license.

22 1309. Filing applications and consent certificates.

23 1310. Duration and form of license.

24 § 1301. Marriage license required.

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

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

30 (c) Identity of applicants.--Prior to issuance of the

1 license, the person issuing the license must be satisfied as to
2 the identity of both of the applicants.

3 § 1302. Application for license.

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

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

8 (1) The full name of the applicants.

9 (2) The race, occupation, birthplace, residence and age
10 of the applicants.

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

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

15 (5) The full name, residence, race, occupation and
16 birthplace of the parents of each applicant, including the
17 maiden name of the mother of each applicant.

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

20 § 1303. Waiting period after application.

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

23 (b) Exception.--In case of emergency or extraordinary
24 circumstances, the court may authorize a license to be issued at
25 any time after the making of the application.

26 § 1304. Restrictions on issuance of license.

27 (a) Examinations and tests for syphilis.--No marriage
28 license shall be issued until there has been compliance with
29 section 1305 (relating to examination and tests for syphilis).

30 (b) Minors.--

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

5 (2) No marriage license may be issued if either of the
6 applicants is under 18 years of age unless the consent of a
7 parent or guardian of the applicant is personally given
8 before the person issuing the license or is certified under
9 the hand of a parent or guardian attested by two adult
10 witnesses and, in the latter case, the signature of the
11 parent or guardian is acknowledged before an officer
12 authorized by law to take acknowledgments. When the minor has
13 no guardian and a judge of the court is absent or not
14 accessible for any reason, the office issuing the license may
15 appoint a guardian pro hac vice for the minor.

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

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

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

29 A man may not marry his mother.

30 A man may not marry the sister of his father.

1 A man may not marry the sister of his mother.
2 A man may not marry his sister.
3 A man may not marry his daughter.
4 A man may not marry the daughter of his son or daughter.
5 A woman may not marry her father.
6 A woman may not marry the brother of her father.
7 A woman may not marry the brother of her mother.
8 A woman may not marry her brother.
9 A woman may not marry her son.
10 A woman may not marry the son of her son or daughter.

11 § 1305. Examination and tests for syphilis.

12 (a) General rule.--No marriage license may be issued until
13 there has been filed a statement or statements, signed by a
14 licensed physician of this Commonwealth or of any other state or
15 territory, a commissioned medical officer in the armed forces of
16 the United States or a physician of the Public Health Service of
17 the Federal Government, that each applicant within 30 days of
18 the issuance of the marriage license has submitted to an
19 examination to determine the existence or nonexistence of
20 syphilis, which examination has included a standard serological
21 test or tests for syphilis, and that, in the opinion of the
22 examining physician, the applicant is not infected with syphilis
23 or, if so infected, is not in a stage of that disease which is
24 likely to become communicable. The statement of the physician
25 shall be accompanied by a statement from the person in charge of
26 the laboratory making the test or from some other person
27 authorized to make the statement setting forth the name of the
28 test, the date the test was made, the exact name and address of
29 the physician to whom a report was sent and the exact name and
30 address of the person whose blood was tested and any other facts

1 the department deems necessary to determine whether the
2 applicant is infected with syphilis in a stage of that disease
3 likely to become communicable. The statement from the laboratory
4 shall not set forth the result of the test.

5 (b) Authorization and payment.--For the purpose of this
6 section, a standard serological test for syphilis shall be a
7 test approved by the department and shall be made at a
8 laboratory approved by the department to make such tests.
9 Laboratory tests required to be made by this section shall, upon
10 request of the physician submitting the sample and certification
11 of the physician that the applicant is unable to pay, be made
12 without charge by the department.

13 (c) Administrative review of denial of statement.--Any
14 applicant for a marriage license having been denied a
15 physician's statement as required by this section shall have the
16 right of appeal to the department for a review of the case, and
17 the department shall, after appropriate investigation, issue or
18 refuse to issue a statement in lieu of the physician's statement
19 required by subsection (a).

20 (d) Forms and confidentiality.--The statements of the
21 physician who examined the applicant and the laboratory which
22 made the serological test shall be uniform throughout this
23 Commonwealth and shall be upon forms provided by the department.
24 These forms shall be filed separately from the applications for
25 marriage licenses and shall be regarded as absolutely
26 confidential by every person whose duty it may be to obtain,
27 make, transmit or receive the information or report.

28 § 1306. Oral examination.

29 Each of the applicants for a marriage license shall appear in
30 person and shall be examined under oath or affirmation as to:

- 1 (1) The legality of the contemplated marriage.
- 2 (2) Any prior marriage or marriages and its or their
- 3 dissolution.
- 4 (3) The restrictions set forth in section 1304 (relating
- 5 to restrictions on issuance of license).
- 6 (4) All the information required to be furnished on the
- 7 application for license as prepared and approved by the
- 8 department.

9 § 1307. Issuance of license.

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

17 § 1308. Judicial review of refusal to issue license.

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

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

25 § 1309. Filing applications and consent certificates.

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

29 § 1310. Duration and form of license.

30 The marriage license shall not be valid for a longer period

1 than 60 days from the date of issue and shall be in
2 substantially the following form:

3 Commonwealth of Pennsylvania

4 ss: No. _____

5 County of (name)

6 To any person authorized by law to solemnize marriage:

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

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

12 Signed _____

13 (Official Title)

14 CHAPTER 15

15 MARRIAGE CEREMONY

16 Sec.

17 1501. Form of marriage certificates.

18 1502. Forms where parties perform ceremony.

19 1503. Persons qualified to solemnize marriages.

20 1504. Returns of marriages.

21 § 1501. Form of marriage certificates.

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

26 I hereby certify that on (date), at (city, borough or
27 town), Pennsylvania, (name) and (name) were by me united in
28 marriage, in accordance with license issued by the Court of
29 Common Pleas of (name) numbered _____.

30 Signed _____

1 (Title of person solemnizing marriage)

2 Address _____

3 § 1502. Forms where parties perform ceremony.

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

9 Commonwealth of Pennsylvania

10 ss: No. _____

11 County of (name)

12 To (name) and (name)

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

17 Signed _____

18 (Official Title)

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

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

30 Signed _____

1 Signed _____

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

5 Signed _____

6 Signed _____

7 § 1503. Persons qualified to solemnize marriages.

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

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

13 (2) A former or retired justice, judge or district
14 justice of this Commonwealth who is serving as a senior judge
15 or senior district justice as provided or prescribed by law.

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

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

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

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

25 (b) Religious organizations.--Every religious society,
26 religious institution or religious organization in this
27 Commonwealth may join persons together in marriage when at least
28 one of the persons is a member of the society, institution or
29 organization, according to the rules and customs of the society,
30 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.

§ 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.

§ 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

1 necessary, upon petition of the applicant for a marriage
2 license, may make a finding and decree that the absentee is dead
3 and the date of death if notice to the absentee has been given
4 as provided in subsection (d) and either of the applicants is
5 and for one year or more prior to the application has been a
6 resident of this Commonwealth.

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

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

17 (d) Notice to absentee.--The court may require advertisement
18 in any newspapers as the court, according to the circumstances
19 of the case, deems advisable of the fact of the application for
20 the marriage license together with notice that at a specified
21 time and place the court will hear evidence concerning the
22 alleged absence, including the circumstances and duration
23 thereof.

24 (e) Remarriage after decree of presumed death.--Even though
25 the absentee spouse declared to be presumed dead is in fact
26 alive, the remarriage of the spouse who has obtained a license
27 to marry and a decree of presumed death of the former spouse
28 shall be valid for all purposes as though the former marriage
29 had been terminated by divorce, and all property of the presumed
30 decedent shall be administered and disposed of as provided by

1 Title 20 (relating to decedents, estates and fiduciaries).

2 § 1702. Marriage during existence of former marriage.

3 (a) General rule.--If a married person, during the lifetime
4 of the other person with whom the marriage is in force, enters
5 into a subsequent marriage pursuant to the requirements of this
6 part and the parties to the marriage live together thereafter as
7 husband and wife, and the subsequent marriage was entered into
8 by one or both of the parties in good faith in the full belief
9 that the former spouse was dead or that the former marriage has
10 been annulled or terminated by a divorce, or without knowledge
11 of the former marriage, they shall, after the impediment to
12 their marriage has been removed by the death of the other party
13 to the former marriage or by annulment or divorce, if they
14 continue to live together as husband and wife in good faith on
15 the part of one of them, be held to have been legally married
16 from and immediately after the date of death or the date of the
17 decree of annulment or divorce.

18 (b) False rumor of death of spouse.--Where a remarriage has
19 occurred upon false rumor of the death of a former spouse in
20 appearance well-founded but there has been no decree of presumed
21 death, the remarriage shall be void and subject to annulment by
22 either party to the remarriage as provided by section 3304
23 (relating to grounds for annulment of void marriages) and the
24 returning spouse shall have cause for divorce as provided in
25 section 3301 (relating to grounds for divorce).

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

29 § 1703. Marriage within degree of consanguinity.

30 All marriages within the prohibited degrees of consanguinity

1 as set forth in this part are voidable, but, when any of these
2 marriages have not been dissolved during the lifetime of the
3 parties, the unlawfulness of the marriage shall not be inquired
4 into after the death of either of the parties to the marriage.

5 CHAPTER 19

6 ABOLITION OF ACTIONS FOR ALIENATION OF AFFECTIONS

7 AND BREACH OF PROMISE TO MARRY

8 Sec.

9 1901. Actions for alienation of affections abolished.

10 1902. Actions for breach of promise to marry abolished.

11 1903. Purpose of chapter.

12 1904. Filing or threatening to file actions prohibited.

13 1905. Instruments executed in satisfaction of abolished
14 claims prohibited.

15 § 1901. Actions for alienation of affections abolished.

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

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

21 § 1902. Actions for breach of promise to marry abolished.

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

24 § 1903. Purpose of chapter.

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

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

1 the contract.

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

7 § 1904. Filing or threatening to file actions prohibited.

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

14 § 1905. Instruments executed in satisfaction of abolished
15 claims prohibited.

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

23 (b) Execution and use prohibited.--It is unlawful to cause,
24 induce or procure a person to execute a contract or instrument
25 proscribed by this chapter, or cause, induce or procure a person
26 to give, pay, transfer or deliver any money or thing of value in
27 payment, satisfaction, settlement or compromise of any such
28 claim or cause of action, or to receive, take or accept any such
29 money or thing of value in such payment, satisfaction,
30 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.

PART III

ADOPTION

Chapter

25. Proceedings Prior to Petition to Adopt

CHAPTER 25

PROCEEDINGS PRIOR TO PETITION TO ADOPT

* * *

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.

§ 2551. Definitions.

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

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

6 "PACE." The Pennsylvania Adoption Cooperative Exchange.
7 § 2552. Pennsylvania Adoption Cooperative.

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

11 § 2553. Registration of children.

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

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

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

1 § 2554. Responsibilities of PACE.

2 PACE shall be responsible for the following:

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

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

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

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

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

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

20 § 2555. Responsibilities of public and private agencies.

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

27 § 2556. Related activities of agencies unaffected.

28 This subchapter shall not be construed to limit or delay
29 actions by agencies or institutions to arrange for adoptions or
30 other related matters on their own initiative and shall not

1 alter or restrict the duties, authority and confidentiality of
2 the agencies and institutions in those matters.

3 § 2557. Regulations and staff.

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

7 § 2558. Retroactive application of subchapter.

8 This subchapter shall apply retroactively to all children for
9 whom:

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

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

17 PART IV

18 DIVORCE

19 Chapter

20 31. Preliminary Provisions

21 33. Dissolution of Marital Status

22 35. Property Rights

23 37. Alimony and Support

24 CHAPTER 31

25 PRELIMINARY PROVISIONS

26 Sec.

27 3101. Short title of part.

28 3102. Legislative findings and intent.

29 3103. Definitions.

30 3104. Bases of jurisdiction.

1 3105. Effect of agreement between parties.

2 § 3101. Short title of part.

3 This part shall be known and may be cited as the Divorce
4 Code.

5 § 3102. Legislative findings and intent.

6 (a) Policy.--The family is the basic unit in society and the
7 protection and preservation of the family is of paramount public
8 concern. Therefore, it is the policy of the Commonwealth to:

9 (1) Make the law for legal dissolution of marriage
10 effective for dealing with the realities of matrimonial
11 experience.

12 (2) Encourage and effect reconciliation and settlement
13 of differences between spouses, especially where children are
14 involved.

15 (3) Give primary consideration to the welfare of the
16 family rather than the vindication of private rights or the
17 punishment of matrimonial wrongs.

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

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

23 (6) Effectuate economic justice between parties who are
24 divorced or separated and grant or withhold alimony according
25 to the actual need and ability to pay of the parties and
26 insure a fair and just determination and settlement of their
27 property rights.

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

1 intent.

2 § 3103. Definitions.

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

6 "Alimony." An order for support granted by this Commonwealth
7 or any other state to a spouse or former spouse in conjunction
8 with a decree 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 "Divorce." Divorce from the bonds of matrimony.

13 "Grounds for divorce." The grounds enumerated in section
14 3301 (relating to grounds for divorce).

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

17 "Qualified professionals." Includes marriage counselors,
18 psychologists, psychiatrists, social workers, ministers,
19 priests, 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, whether living in the same residence or not.

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

25 § 3104. Bases of jurisdiction.

26 (a) Jurisdiction.--The courts shall have original
27 jurisdiction in cases of divorce and for the annulment of void
28 or voidable marriages and shall determine in conjunction with
29 any decree granting a divorce or annulment the following
30 matters, if raised in the pleadings, and issue appropriate

1 decrees or orders with reference thereto, and may retain
2 continuing jurisdiction thereof:

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

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

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

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

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

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

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

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

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

- 17 (1) where the defendant resides;
- 18 (2) if the defendant resides outside of this
19 Commonwealth, where the plaintiff resides;
- 20 (3) of matrimonial domicile, if the plaintiff has
21 continuously resided in the county;
- 22 (4) prior to six months after the date of final
23 separation and with agreement of the defendant, where the
24 plaintiff resides or, if neither party continues to reside in
25 the county of matrimonial domicile, where either party
26 resides; or
- 27 (5) after six months after the date of final separation,
28 where either party resides.

29 § 3105. Effect of agreement between parties.

30 (a) Enforcement.--A party to an agreement regarding matters

1 within the jurisdiction of the court under this part, whether or
2 not the agreement has been merged or incorporated into the
3 decree, may utilize a remedy or sanction set forth in this part
4 to enforce the agreement to the same extent as though the
5 agreement had been an order of the court except as provided to
6 the contrary in the agreement.

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

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

17 CHAPTER 33

18 DISSOLUTION OF MARITAL STATUS

19 Subchapter

20 A. General Provisions

21 B. Procedure

22 C. Attacks Upon Decrees

23 SUBCHAPTER A

24 GENERAL PROVISIONS

25 Sec.

26 3301. Grounds for divorce.

27 3302. Counseling.

28 3303. Annulment of void and voidable marriages.

29 3304. Grounds for annulment of void marriages.

30 3305. Grounds for annulment of voidable marriages.

1 3306. Proceedings to determine marital status.

2 3307. Defenses.

3 3308. Action where defendant suffering from mental disorder.

4 3309. General appearance and collusion.

5 § 3301. Grounds for divorce.

6 (a) Fault.--The court may grant a divorce to the innocent
7 and injured spouse whenever it is judged that the other spouse
8 has:

9 (1) Committed willful and malicious desertion, and
10 absence from the habitation of the injured and innocent
11 spouse, without a reasonable cause, for the period of one or
12 more years.

13 (2) Committed adultery.

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

16 (4) Knowingly entered into a bigamous marriage while a
17 former marriage is still subsisting.

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

20 (6) Offered such indignities to the innocent and injured
21 spouse as to render that spouse's condition intolerable and
22 life burdensome.

23 (b) Institutionalization.--The court may grant a divorce
24 from a spouse upon the ground that insanity or serious mental
25 disorder has resulted in confinement in a mental institution for
26 at least 18 months immediately before the commencement of an
27 action under this part and where there is no reasonable prospect
28 that the spouse will be discharged from inpatient care during
29 the 18 months subsequent to the commencement of the action. A
30 presumption that no prospect of discharge exists shall be

1 established by a certificate of the superintendent of the
2 institution to that effect and which includes a supporting
3 statement of a treating physician.

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

9 (d) Irretrievable breakdown.--

10 (1) The court may grant a divorce where a complaint has
11 been filed alleging that the marriage is irretrievably broken
12 and an affidavit has been filed alleging that the parties
13 have lived separate and apart for a period of at least two
14 years and that the marriage is irretrievably broken and the
15 defendant either:

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

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

23 (2) If a hearing has been held pursuant to paragraph
24 (1)(ii) and the court determines that there is a reasonable
25 prospect of reconciliation, then the court shall continue the
26 matter for a period not less than 90 days nor more than 120
27 days unless the parties agree to a period in excess of 120
28 days. During this period, the court shall require counseling
29 as provided in section 3302 (relating to counseling). If the
30 parties have not reconciled at the expiration of the time

1 period and one party states under oath that the marriage is
2 irretrievably broken, the court shall determine whether the
3 marriage is irretrievably broken. If the court determines
4 that the marriage is irretrievably broken, the court shall
5 grant the divorce. Otherwise, the court shall deny the
6 divorce.

7 (e) No hearing required in certain cases.--If grounds for
8 divorce alleged in the complaint or counterclaim are established
9 under subsection (c) or (d), the court shall grant a divorce
10 without requiring a hearing on any other grounds.

11 § 3302. Counseling.

12 (a) Indignities.--Whenever indignities under section
13 3301(a)(6) (relating to grounds for divorce) is the ground for
14 divorce, the court shall require up to a maximum of three
15 counseling sessions where either of the parties requests it.

16 (b) Mutual consent.--Whenever mutual consent under section
17 3301(c) is the ground for divorce, the court shall require up to
18 a maximum of three counseling sessions within the 90 days
19 following the commencement of the action where either of the
20 parties requests it.

21 (c) Irretrievable breakdown.--Whenever the court orders a
22 continuation period as provided for irretrievable breakdown in
23 section 3301(d)(2), the court shall require up to a maximum of
24 three counseling sessions within the time period where either of
25 the parties requests it or may require such counseling where the
26 parties have at least one child under 16 years of age.

27 (d) Notification of availability of counseling.--Whenever
28 section 3301(a)(6), (c) or (d) is the ground for divorce, the
29 court shall, upon the commencement of an action under this part,
30 notify both parties of the availability of counseling and, upon

1 request, provide both parties a list of qualified professionals
2 who provide such services.

3 (e) Choice of qualified professionals unrestricted.--The
4 choice of a qualified professional shall be at the option of the
5 parties and the professional need not be selected from the list
6 provided by the court.

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

10 § 3303. Annulment of void and voidable marriages.

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

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

22 § 3304. Grounds for annulment of void marriages.

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

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

1 (2) Where the parties to such marriage are related
2 within the degrees of consanguinity prohibited by section
3 1304(e) (relating to restrictions on issuance of license).

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

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

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

14 § 3305. Grounds for annulment of voidable marriages.

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

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

20 (2) Where either party was 16 or 17 years of age and
21 lacked the consent of parent or guardian or express
22 authorization of the court and has not subsequently ratified
23 the marriage upon reaching 18 years of age and an action for
24 annulment is commenced within 60 days after the marriage
25 ceremony.

26 (3) Where either party to the marriage was under the
27 influence of alcohol or drugs and an action for annulment is
28 commenced within 60 days after the marriage ceremony.

29 (4) Where either party to the marriage was at the time
30 of the marriage and still is naturally and incurably impotent

1 unless the condition was known to the other party prior to
2 the marriage.

3 (5) Where one party was induced to enter into the
4 marriage due to fraud, duress, coercion or force attributable
5 to the other party and there has been no subsequent voluntary
6 cohabitation after knowledge of the fraud or release from the
7 effects of fraud, duress, coercion or force.

8 (b) Status of voidable marriage.--In all cases of marriages
9 which are voidable, either party to the marriage may seek and
10 obtain an annulment of the marriage but, until a decree of
11 annulment is obtained from a court of competent jurisdiction,
12 the marriage shall be valid. The validity of a voidable marriage
13 shall not be subject to attack or question by any person if it
14 is subsequently confirmed by the parties to the marriage or if
15 either party has died.

16 § 3306. Proceedings to determine marital status.

17 When the validity of a marriage is denied or doubted, either
18 or both of the parties to the marriage may bring an action for a
19 declaratory judgment seeking a declaration of the validity or
20 invalidity of the marriage and, upon proof of the validity or
21 invalidity of the marriage, the marriage shall be declared valid
22 or invalid by decree of the court and, unless reversed upon
23 appeal, the declaration shall be conclusive upon all persons
24 concerned.

25 § 3307. Defenses.

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

1 (d).

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

6 (1) has been guilty of like conduct;

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

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

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

13 § 3308. Action where defendant suffering from mental disorder.

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

17 § 3309. General appearance and collusion.

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

26 SUBCHAPTER B

27 PROCEDURE

28 Sec.

29 3321. Hearing by master.

30 3322. Jury trial.

1 3323. Decree of court.

2 § 3321. Hearing by master.

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

11 § 3322. Jury trial.

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

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

28 § 3323. Decree of court.

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

1 annulment of the marriage.

2 (b) Contents of decree.--A decree granting a divorce or an
3 annulment shall include, after a full hearing, where these
4 matters are raised in any pleadings, an order determining and
5 disposing of existing property rights and interests between the
6 parties, custody, partial custody and visitation rights, child
7 support, alimony, reasonable attorney fees, costs and expenses
8 and any other related matters, including the enforcement of
9 agreements voluntarily entered into between the parties. In the
10 enforcement of the rights of any party to any of these matters,
11 the court shall have all necessary powers, including, but not
12 limited to, the power of contempt and the power to attach wages.

13 (c) Bifurcation.--In the event that the court is unable for
14 any reason to determine and dispose of the matters provided for
15 in subsection (b) within 30 days after the report of the master
16 has been filed, it may enter a decree of divorce or annulment.
17 Upon the request of either party and after a hearing, the court
18 may order alimony pendente lite, reasonable counsel fees, costs
19 and expenses and may make a temporary order necessary to protect
20 the interests of the parties pending final disposition of the
21 matters in subsection (b).

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

29 (e) Costs.--The court may award costs to the party in whose
30 favor the order or decree shall be entered, or may order that

1 each party shall pay their own costs, or may order that costs be
2 divided equitably as it shall appear just and reasonable.

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

12 SUBCHAPTER C

13 ATTACKS UPON DECREES

14 Sec.

15 3331. Limitations on attacks upon decrees.

16 3332. Opening or vacating decrees.

17 3333. Res judicata and estoppel.

18 § 3331. Limitations on attacks upon decrees.

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

30 § 3332. Opening or vacating decrees.

1 A motion to open a decree of divorce or annulment may be made
2 only within the period limited by 42 Pa.C.S. § 5505 (relating to
3 modification of orders) and not thereafter. The motion may lie
4 where it is alleged that the decree was procured by intrinsic
5 fraud or that there is new evidence relating to the cause of
6 action which will sustain the attack upon its validity. A motion
7 to vacate a decree or strike a judgment alleged to be void
8 because of extrinsic fraud, lack of jurisdiction over the
9 subject matter or a fatal defect apparent upon the face of the
10 record must be made within five years after entry of the final
11 decree. Intrinsic fraud relates to a matter adjudicated by the
12 judgment, including perjury and false testimony, whereas
13 extrinsic fraud relates to matters collateral to the judgment
14 which have the consequence of precluding a fair hearing or
15 presentation of one side of the case.
16 § 3333. Res judicata and estoppel.

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

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.

§ 3501. Definitions.

(a) General rule.--As used in this chapter, "marital property" means all property acquired by either party during the marriage, including the increase in value prior to the date of final separation of any nonmarital property acquired pursuant to paragraphs (1) and (3), except:

(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.

(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

1 seizure pursuant to the act of September 2, 1958 (Public Law
2 85-857, 72 Stat. 1229), as amended, except for those benefits
3 received by a veteran where the veteran has waived a portion
4 of his military retirement pay in order to receive veterans'
5 compensation.

6 (7) Property to the extent to which the property has
7 been mortgaged or otherwise encumbered in good faith for
8 value prior to the date of final separation.

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

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

20 § 3502. Equitable division of marital property.

21 (a) General rule.--In an action for divorce or annulment,
22 the court shall, upon request of either party, equitably divide,
23 distribute or assign, in kind or otherwise, the marital property
24 between the parties without regard to marital misconduct in such
25 proportions and in such manner as the court deems just after
26 considering all relevant factors including:

27 (1) The length of the marriage.

28 (2) Any prior marriage of either party.

29 (3) The age, health, station, amount and sources of
30 income, vocational skills, employability, estate, liabilities

1 and needs of each of the parties.

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

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

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

9 (7) The contribution or dissipation of each party in the
10 acquisition, preservation, depreciation or appreciation of
11 the marital property, including the contribution of a party
12 as homemaker.

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

14 (9) The standard of living of the parties established
15 during the marriage.

16 (10) The economic circumstances of each party, including
17 Federal, State and local tax ramifications, at the time the
18 division of property is to become effective.

19 (11) Whether the party will be serving as the custodian
20 of any dependent minor children.

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

24 (c) Family home.--The court may award during the pendency of
25 the action or otherwise to one or both of the parties the right
26 to reside in the marital residence.

27 (d) Life insurance.--The court may direct the continued
28 maintenance and beneficiary designations of existing policies
29 insuring the life or health of either party which were
30 originally purchased during the marriage and owned by or within

1 the effective control of either party. Where it is necessary to
2 protect the interests of a party, the court may also direct the
3 purchase of, and beneficiary designations on, a policy insuring
4 the life or health of either party.

5 (e) Powers of the court.--If, at any time, a party has
6 failed to comply with an order of equitable distribution, as
7 provided for in this chapter, or with the terms of an agreement
8 as entered into between the parties, after hearing, the court
9 may, in addition to any other remedy available under this part,
10 in order to effect compliance with its order:

11 (1) enter judgment;

12 (2) authorize the taking and seizure of the goods and
13 chattels and collection of the rents and profits of the real
14 and personal, tangible and intangible property of the party;

15 (3) award interest on unpaid installments;

16 (4) order and direct the transfer or sale of any
17 property required in order to comply with the court's order;

18 (5) require security to insure future payments in
19 compliance with the court's order;

20 (6) issue attachment proceedings, directed to the
21 sheriff or other proper officer of the county, directing that
22 the person named as having failed to comply with the court
23 order be brought before the court, at such time as the court
24 may direct. If the court finds, after hearing, that the
25 person willfully failed to comply with the court order, it
26 may deem the person in civil contempt of court and, in its
27 discretion, make an appropriate order, including, but not
28 limited to, commitment of the person to the county jail for a
29 period not to exceed six months;

30 (7) award counsel fees and costs;

1 (8) attach wages; or

2 (9) find the party in contempt.

3 § 3503. Effect of divorce on property rights generally.

4 Whenever a decree or judgment is granted which nullifies or
5 absolutely terminates the bonds of matrimony, all property
6 rights which are dependent upon the marital relation, except
7 those which are vested rights, are terminated unless the court
8 expressly provides otherwise in its decree. All duties, rights
9 and claims accruing to either of the parties at any time
10 theretofore in pursuance of the marriage shall cease, and the
11 parties shall severally be at liberty to marry again as if they
12 had never been married.

13 § 3504. Disposition of property after termination of marriage.

14 Unless provided otherwise by the court, whenever a decree of
15 divorce or annulment is entered by a court of competent
16 jurisdiction, both parties whose marriage is terminated or
17 affected shall have complete freedom of disposition as to their
18 separate real and personal property and may mortgage, sell,
19 grant, convey or otherwise encumber or dispose of their separate
20 property, whether the property was acquired before, during or
21 after coverture, and neither need join in, consent to or
22 acknowledge a deed, mortgage or instrument of the other.

23 § 3505. Disposition of property to defeat obligations.

24 (a) Preliminary relief.--Where it appears to the court that
25 a party is about to leave the jurisdiction of the court or is
26 about to remove property of that party from the jurisdiction of
27 the court or is about to dispose of, alienate or encumber
28 property in order to defeat equitable distribution, alimony
29 pendente lite, alimony, child and spousal support or a similar
30 award, an injunction may issue to prevent the removal or

1 disposition and the property may be attached as prescribed by
2 general rules. The court may also issue a writ of ne exeat to
3 preclude the removal.

4 (b) Inventory of property.--Both parties shall submit to the
5 court an inventory and appraisal, which shall contain all of
6 the following:

7 (1) A list of the property owned or possessed by either
8 or both of them as of:

9 (i) the date of separation; and

10 (ii) thirty days prior to the date of hearing on
11 equitable distribution.

12 (2) A list of the value of the property owned or
13 possessed by either or both of them as of:

14 (i) the date of acquisition;

15 (ii) the date of separation; and

16 (iii) thirty days prior to the date of hearing on
17 equitable distribution.

18 (3) A list of the liabilities of either or both of them
19 as of 30 days prior to the date of hearing on equitable
20 distribution, whether or not the liabilities are related to
21 the property set forth in the inventory and appraisal.

22 (c) Discovery.--Discovery under this part shall be as
23 provided for all other civil actions under the Pennsylvania
24 Rules of Civil Procedure.

25 (d) Constructive trust for undisclosed assets.--If a party
26 fails to disclose information required by subsection (b) and in
27 consequence thereof an asset or assets with a fair market value
28 of \$500 or more is omitted from the final distribution of
29 property, the party aggrieved by the nondisclosure may at any
30 time petition the court granting the award to declare the

1 creation of a constructive trust as to all undisclosed assets
2 for the benefit of the parties and their minor or dependent
3 children, if any. The party in whose name the assets are held
4 shall be declared the constructive trustee and the trust may
5 include any terms and conditions the court may determine. The
6 court shall grant the petition upon a finding of a failure to
7 disclose the assets as required under subsection (b).

8 (e) Encumbrance or disposition to third parties.--An
9 encumbrance or disposition of marital property to third persons
10 who paid wholly inadequate consideration for the property may be
11 deemed fraudulent and declared void.

12 § 3506. Statement of reasons for distribution.

13 In an order made under this chapter for the distribution of
14 property the court shall set forth the reason for the
15 distribution ordered.

16 § 3507. Division of entireties property between divorced
17 persons.

18 (a) General rule.--Whenever married persons holding property
19 as tenants by entireties are divorced, they shall, except as
20 otherwise provided by an order made under this chapter,
21 thereafter hold the property as tenants in common of equal one-
22 half shares in value and either of them may bring an action
23 against the other to have the property sold and the proceeds
24 divided between them.

25 (b) Division of proceeds.--Except as provided in subsection
26 (c), the proceeds of a sale under this section, after the
27 payment of the expenses of sale, shall be equally divided
28 between the parties.

29 (c) Liens.--The amount of any lien entered of record jointly
30 against both of the parties, together with any interest due on

1 the lien and docket costs, shall be deducted from the proceeds
2 of sale and the amount of the liens entered of record against
3 either of the parties, together with any interest due on the
4 liens and docket costs, shall be deducted from the share of the
5 party against whom the lien is filed and paid to the person or
6 persons to whom the amount of the lien is due and payable.

7 (d) Record of divorce decree.--No decree of divorce shall be
8 effective to change the existing law relating to liens upon
9 property held by tenants by the entirety except a decree of
10 divorce that is valid in this Commonwealth and not until the
11 decree of divorce or a certified copy of the decree is recorded
12 in the office of the recorder of deeds of the county where the
13 property is situate. The decree shall be indexed in the
14 grantor's index against each of the tenants by the entirety.

15 § 3508. Conveyance of entirety property to divorced spouse.

16 Whenever married persons have acquired real estate as tenants
17 by entirety and thereafter are divorced, either former spouse,
18 except as otherwise provided by an order made under this
19 chapter, may convey to the other without the joinder of the
20 other the grantor's interest in the real estate so that the
21 grantee holds the real estate in fee simple, freed from all
22 right, title and interest which the grantor had in the real
23 estate as a tenant by the entirety.

24 CHAPTER 37

25 ALIMONY AND SUPPORT

26 Sec.

27 3701. Alimony.

28 3702. Alimony pendente lite, counsel fees and expenses.

29 3703. Enforcement of arrearages.

30 3704. Payment of support, alimony and alimony pendente lite.

1 3705. Enforcement of foreign decrees.

2 3706. Bar to alimony.

3 3707. Effect of death of either party.

4 § 3701. Alimony.

5 (a) General rule.--Where a divorce decree has been entered,
6 the court may allow alimony, as it deems reasonable, to either
7 party only if it finds that alimony is necessary.

8 (b) Factors relevant.--In determining whether alimony is
9 necessary and in determining the nature, amount, duration and
10 manner of payment of alimony, the court shall consider all
11 relevant factors, including:

12 (1) The relative earnings and earning capacities of the
13 parties.

14 (2) The ages and the physical, mental and emotional
15 conditions of the parties.

16 (3) The sources of income of both parties, including,
17 but not limited to, medical, retirement, insurance or other
18 benefits.

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

20 (5) The duration of the marriage.

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

23 (7) The extent to which the earning power, expenses or
24 financial obligations of a party will be affected by reason
25 of serving as the custodian of a minor child.

26 (8) The standard of living of the parties established
27 during the marriage.

28 (9) The relative education of the parties and the time
29 necessary to acquire sufficient education or training to
30 enable the party seeking alimony to find appropriate

1 employment.

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

3 (11) The property brought to the marriage by either
4 party.

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

6 (13) The relative needs of the parties.

7 (14) The marital misconduct of either of the parties
8 during the marriage. The marital misconduct of either of the
9 parties from the date of final separation shall not be
10 considered by the court in its determinations relative to
11 alimony.

12 (15) The Federal, State and local tax ramifications of
13 the alimony award.

14 (16) Whether the party seeking alimony lacks sufficient
15 property, including, but not limited to, property distributed
16 under Chapter 35 (relating to property rights), to provide
17 for the party's reasonable needs.

18 (17) Whether the party seeking alimony is incapable of
19 self-support through appropriate employment.

20 (c) Duration.--The court in ordering alimony shall determine
21 the duration of the order, which may be for a definite or an
22 indefinite period of time which is reasonable under the
23 circumstances.

24 (d) Statement of reasons.--In an order made under this
25 section the court shall set forth the reason for its denial or
26 award of alimony and the amount thereof.

27 (e) Modification and termination.--An order entered pursuant
28 to this section is subject to further order of the court upon
29 changed circumstances of either party of a substantial and
30 continuing nature whereupon the order may be modified,

1 suspended, terminated or reinstituted or a new order made. Any
2 further order shall apply only to payments accruing subsequent
3 to the petition for the requested relief. Remarriage of the
4 party receiving alimony shall terminate the award of alimony.

5 (f) Status of agreement to pay alimony.--Whenever the court
6 approves an agreement for the payment of alimony voluntarily
7 entered into between the parties, the agreement shall constitute
8 the order of the court and may be enforced as provided in
9 section 3703 (relating to enforcement of arrearages).

10 § 3702. Alimony pendente lite, counsel fees and expenses.

11 In proper cases, upon petition, the court may allow a spouse
12 reasonable alimony pendente lite, spousal support and reasonable
13 counsel fees and expenses. Reasonable counsel fees and expenses
14 may be allowed pendente lite, and the court shall also have
15 authority to direct that adequate health and hospitalization
16 insurance coverage be maintained for the dependent spouse
17 pendente lite.

18 § 3703. Enforcement of arrearages.

19 If at any time a party is in arrears in the payment of
20 alimony or alimony pendente lite as provided for in sections
21 3701 (relating to alimony) and 3702 (relating to alimony
22 pendente lite, counsel fees and expenses), the court may, after
23 hearing, in order to effect payment of the arrearages:

24 (1) Enter judgment.

25 (2) Authorize the taking and seizure of the goods and
26 chattels and the collection of the rents and profits of the
27 real estate of the party.

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

29 (4) Award interest on unpaid installments.

30 (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.

§ 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

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

21 (b) Optional procedure.--The right of a judgment creditor to
22 proceed under 42 Pa.C.S. § 4306 (relating to enforcement of
23 foreign judgments) or otherwise instead of proceeding under this
24 section remains unimpaired.

25 § 3706. Bar to alimony.

26 No petitioner is entitled to receive an award of alimony
27 where the petitioner, subsequent to the divorce pursuant to
28 which alimony is being sought, has entered into cohabitation
29 with a person of the opposite sex who is not a member of the
30 family of the petitioner within the degrees of consanguinity.

1 § 3707. Effect of death of either party.

2 Upon the death of the payee party, the right to receive
3 alimony pursuant to this chapter shall cease. Upon the death of
4 the payor party, the obligation to pay alimony shall cease
5 unless otherwise indicated in an agreement between the parties
6 or an order of court.

7 PART V

8 SUPPORT, PROPERTY AND CONTRACTS

9 Chapter

10 41. General Provisions

11 CHAPTER 41

12 GENERAL PROVISIONS

13 Sec.

14 4101. Liability for debts contracted before marriage.

15 4102. Liability for purchases by married person.

16 4103. Liability on judgment against married person.

17 4104. Right of married person to separate earnings.

18 4105. Loans between married persons.

19 4106. Construction of chapter.

20 § 4101. Liability for debts contracted before marriage.

21 (a) General rule.--A spouse is not liable for the debts of
22 the other spouse contracted before marriage, unless voluntarily
23 assumed in writing.

24 (b) Liability of property unaffected.--This chapter does not
25 protect the property of a married person from liability for
26 debts contracted by or in the name of the married person by any
27 person authorized to so contract.

28 § 4102. Liability for purchases by married person.

29 (a) General rule.--Except as provided in subsection (b),
30 married persons are not liable jointly for purchases by one of

1 4363. Trustee to distribute proceeds of sale.

2 4364. Credit to plaintiff who purchases property.

3 4365. Rights of divorced person in entireties property sold
4 for support.

5 4366. Other enforcement remedies preserved.

6 § 4361. Execution of support order against entireties property.

7 (a) Entry of order.--Whenever married persons hold real
8 property by the entireties and one spouse secures an order of
9 court against the other spouse for the support of the plaintiff
10 spouse or of a child of both persons or the defendant or for the
11 support of both the plaintiff spouse and child and a copy of the
12 order has been certified to the court of common pleas of the
13 county in this Commonwealth in which the property is situated,
14 the order shall be entered in that court as a judgment with the
15 same effect as if it had been recovered as a judgment of that
16 court.

17 (b) Execution on judgment.--Execution may be issued on the
18 judgment against the real property held by the entireties and
19 the property may be sold in the manner provided by law for the
20 sale of real property on execution issued on a judgment. In any
21 writs of execution on the judgment, the defendant shall not be
22 entitled to the benefit of 42 Pa.C.S. Ch. 81 Subch. B (relating
23 to exemptions from execution) or any other exemption statute.

24 (c) Title of purchaser.--The sale of real property under
25 this section conveys to the purchaser or purchasers thereof a
26 good and valid title to the property and vests in the purchaser
27 or purchasers the entire title of both the married persons in
28 the same manner and with the same effect as if both married
29 persons had joined in the conveyance of the property.

30 (d) Proceedings by obligor spouse prohibited.--The obligor

1 spouse shall not have the right to initiate proceedings under
2 this section.

3 § 4362. Plaintiff's share of proceeds of sale.

4 (a) General rule.--The plaintiff spouse shall be entitled to
5 one-half of the proceeds of the sale of real property by the
6 entirety which represents plaintiff's prior undivided one-half
7 interest in the property.

8 (b) Petition to court.--The plaintiff spouse may petition
9 the court of common pleas of the county where the real property
10 is situated, either before or after the sale of the property by
11 execution, setting forth plaintiff's claim, and the court shall
12 fix a date for a hearing on the petition.

13 (c) Hearing and decree.--After notice and hearing, the court
14 shall make such decree as shall be proper. At the hearing, both
15 spouses shall be competent witnesses.

16 § 4363. Trustee to distribute proceeds of sale.

17 (a) Appointment of trustee.--The court shall, at the time of
18 the hearing or thereafter, appoint a trustee who shall receive
19 from the sheriff the proceeds of the sale of the property after
20 the costs have been paid.

21 (b) Disposition of proceeds.--The trustee shall, out of the
22 proceeds, pay to the plaintiff spouse the sum of money the court
23 decreed as plaintiff's share in the property sold and also the
24 sums of money, and interest thereon from the time the respective
25 items making them up became due and payable, which are due and
26 payable under the order of support. The trustee shall also pay
27 to the plaintiff spouse any additional sums the plaintiff may be
28 entitled to under any order of court for the support of
29 plaintiff or the children of defendant.

30 (c) Compensation of trustee.--The trustee shall be

1 compensated as determined by the court from the proceeds of the
2 sale.

3 § 4364. Credit to plaintiff who purchases property.

4 (a) General rule.--If the plaintiff spouse becomes the
5 purchaser at the execution sale, the plaintiff shall be entitled
6 to a credit on the purchase price thereof for the sum of money
7 found by the court to represent the plaintiff's share in the
8 property and also for the sums of money due the plaintiff from
9 the defendant under the order of support upon which the
10 execution was issued at the time of the sale, together with
11 interest on the sums due the plaintiff for support from the time
12 the respective sums become due.

13 (b) Allowance or assignment of credit.--The credit shall be
14 allowed the plaintiff by the sheriff or the plaintiff may assign
15 the sums due the plaintiff to the purchaser of the property
16 whereupon credit shall be given to the purchaser by the sheriff
17 for the amount assigned.

18 § 4365. Rights of divorced person in entireties property sold
19 for support.

20 (a) General rule.--After the divorce of any spouse who is a
21 tenant by the entireties of real property with the former
22 spouse, the divorced spouse is entitled to all the rights and
23 remedies provided in this subchapter for the collection of any
24 sums of money ordered by a court to be paid to the divorced
25 spouse for the support of the children of the former spouse as
26 fully as if no divorce had occurred.

27 (b) Proceeds of sale.--Upon the sale of the real property
28 for the collection of any sums of money due the divorced spouse
29 under an order of court, the divorced spouse shall be entitled
30 to receive therefrom such sum of money as represents the share

1 of the divorced spouse in the property, as ordered by the court
2 under section 4362 (relating to plaintiff's share of proceeds of
3 sale), together with any sums which may be due to the divorced
4 spouse under an order of support against the former spouse.

5 § 4366. Other enforcement remedies preserved.

6 This subchapter and other provisions of this chapter do not
7 remove from the plaintiff the rights to any other existing
8 remedies to enforce a support order, including, but not limited
9 to, the right of the plaintiff to institute proceedings against
10 the real or personal property of the defendant.

11 PART VI

12 CHILDREN AND MINORS

13 Chapter

14 51. General Provisions

15 53. Custody

16 55. Liability for Tortious Acts of Children

17 CHAPTER 51

18 GENERAL PROVISIONS

19 Sec.

20 5101. Attainment of full age.

21 5102. Children declared to be legitimate.

22 5103. Acknowledgment and claim of paternity.

23 5104. Blood tests to determine paternity.

24 § 5101. Attainment of full age.

25 (a) Age for entering into contracts.--Any individual 18
26 years of age and older shall have the right to enter into
27 binding and legally enforceable contracts and the defense of
28 minority shall not be available to such individuals.

29 (b) Age for suing and being sued.--Except where otherwise
30 provided or prescribed by law, an individual 18 years of age and

1 older shall be deemed an adult and may sue and be sued as such.

2 § 5102. Children declared to be legitimate.

3 (a) General rule.--All children shall be legitimate
4 irrespective of the marital status of their parents, and, in
5 every case where children are born out of wedlock, they shall
6 enjoy all the rights and privileges as if they had been born
7 during the wedlock of their parents except as otherwise provided
8 in Title 20 (relating to decedents, estates and fiduciaries).

9 (b) Determination of paternity.--For purposes of prescribing
10 benefits to children born out of wedlock by, from and through
11 the father, paternity shall be determined by any one of the
12 following ways:

13 (1) If the parents of a child born out of wedlock have
14 married each other.

15 (2) If, during the lifetime of the child, it is
16 determined by clear and convincing evidence that the father
17 openly holds out the child to be his and either receives the
18 child into his home or provides support for the child.

19 (3) If there is clear and convincing evidence that the
20 man was the father of the child which may include a prior
21 court determination of paternity.

22 § 5103. Acknowledgment and claim of paternity.

23 (a) Acknowledgment of paternity.--The father of a child born
24 to an unmarried woman may file with the Department of Health on
25 forms prescribed by it an acknowledgment of paternity of the
26 child which shall include the consent of the mother of the child
27 supported by her affidavit. The department shall, upon receipt
28 of the acknowledgment, proceed as provided in section 603(a) of
29 the act of June 29, 1953 (P.L.304, No.66), known as the Vital
30 Statistics Law of 1953, and the father shall have all the rights

1 and duties as to the child which he would have had if he had
2 been married to the mother at the time of the birth of the
3 child, and the child shall have all the rights and duties as to
4 the father which the child would have had if the father had been
5 married to the mother at the time of birth. The acknowledgment
6 may also provide for the assumption by the child of the surname
7 of the father or other name desired by the parents.

8 (b) Claim of paternity.--If the mother of the child fails or
9 refuses to join in the acknowledgment of paternity provided for
10 in subsection (a), the Department of Health shall index it as a
11 claim of paternity. The filing and indexing of a claim of
12 paternity shall not confer upon the putative father any rights
13 as to the child except that the putative father shall be
14 entitled to notice of any proceeding brought to terminate any
15 parental rights as to the child.

16 § 5104. Blood tests to determine paternity.

17 (a) Short title of section.--This section shall be known and
18 may be cited as the Uniform Act on Blood Tests to Determine
19 Paternity.

20 (b) Scope of section.--

21 (1) Civil matters.--This section shall apply to all
22 civil matters.

23 (2) Criminal proceedings.--This section shall apply to
24 all criminal proceedings subject to the following limitations
25 and provisions:

26 (i) An order for the tests shall be made only upon
27 application of a party or on the initiative of the court.

28 (ii) The compensation of the experts shall be paid
29 by the party requesting the blood test or by the county,
30 as the court shall direct.

1 (iii) The court may direct a verdict of acquittal
2 upon the conclusions of all the experts under subsection
3 (f). Otherwise, the case shall be submitted for
4 determination upon all the evidence.

5 (iv) The refusal of a defendant to submit to the
6 tests may not be used in evidence against the defendant.

7 (c) Authority for test.--In any matter subject to this
8 section in which paternity, parentage or identity of a child is
9 a relevant fact, the court, upon its own initiative or upon
10 suggestion made by or on behalf of any person whose blood is
11 involved, may or, upon motion of any party to the action made at
12 a time so as not to delay the proceedings unduly, shall order
13 the mother, child and alleged father to submit to blood tests.
14 If any party refuses to submit to the tests, the court may
15 resolve the question of paternity, parentage or identity of a
16 child against the party or enforce its order if the rights of
17 others and the interests of justice so require.

18 (d) Selection of experts.--The tests shall be made by
19 experts qualified as examiners of blood types, who shall be
20 appointed by the court. The experts shall be called by the court
21 as witnesses to testify to their findings and shall be subject
22 to cross-examination by the parties. Any party or person at
23 whose suggestion the tests have been ordered may demand that
24 other experts qualified as examiners of blood types perform
25 independent tests under order of court, the results of which may
26 be offered in evidence. The number and qualifications of experts
27 shall be determined by the court.

28 (e) Compensation of experts.--The compensation of each
29 expert witness appointed by the court shall be fixed at a
30 reasonable amount. It shall be paid as the court shall order.

1 Subject to general rules, the court may order that it be paid by
2 the parties in such proportions and at such times as it shall
3 prescribe or that the proportion of any party be paid by the
4 county and that, after payment by the parties or the county, or
5 both, all or part or none of it be taxed as costs in the action.
6 Subject to general rules, the fee of an expert witness called by
7 a party but not appointed by the court shall be paid by the
8 party calling him, but shall not be taxed as costs in the
9 action.

10 (f) Effect of test results.--If the court finds that the
11 conclusions of all the experts as disclosed by the evidence
12 based upon the tests are that the alleged father is not the
13 father of the child, the question of paternity, parentage or
14 identity of a child shall be resolved accordingly. If the
15 experts disagree in their findings or conclusions, the question
16 shall be submitted upon all the evidence.

17 (g) Effect on presumption of legitimacy.--The presumption of
18 legitimacy of a child born during wedlock is overcome if the
19 court finds that the conclusions of all the experts as disclosed
20 by the evidence based upon the tests show that the husband is
21 not the father of the child.

22 CHAPTER 53

23 CUSTODY

24 Subchapter

25 B. Child Custody Jurisdiction

26 SUBCHAPTER B

27 CHILD CUSTODY JURISDICTION

28 Sec.

29 5341. Short title of subchapter.

30 5342. Purposes and construction of subchapter.

1 5343. Definitions.
2 5344. Jurisdiction.
3 5345. Notice and opportunity to be heard.
4 5346. Notice to persons outside this Commonwealth; submission
5 to jurisdiction.
6 5347. Simultaneous proceedings in other states.
7 5348. Inconvenient forum.
8 5349. Jurisdiction declined by reason of conduct.
9 5350. Information under oath to be submitted to the court.
10 5351. Additional parties.
11 5352. Appearance of parties and the child.
12 5353. Binding force and res judicata effect of custody decree.
13 5354. Recognition of out-of-state custody decrees.
14 5355. Modification of custody decree of another state.
15 5356. Filing and enforcement of custody decree of another
16 state.
17 5357. Registry of out-of-state custody decrees and proceedings.
18 5358. Certified copies of custody decree.
19 5359. Taking testimony in another state.
20 5360. Hearings and studies in another state; orders to appear.
21 5361. Assistance to courts of other states.
22 5362. Preservation of documents for use in other states.
23 5363. Request for court records of another state.
24 5364. Intrastate application.
25 5365. International application.
26 5366. Priority.

27 § 5341. Short title of subchapter.

28 This subchapter shall be known and may be cited as the
29 Uniform Child Custody Jurisdiction Act.

30 § 5342. Purposes and construction of subchapter.

1 (a) Purposes.--The general purposes of this subchapter are
2 to:

3 (1) Avoid jurisdictional competition and conflict with
4 courts of other states in matters of child custody which have
5 in the past resulted in the shifting of children from state
6 to state with harmful effects on their well-being.

7 (2) Promote cooperation with the courts of other states
8 to the end that a custody decree is rendered in that state
9 which can best decide the case in the interest of the child.

10 (3) Assure that litigation concerning the custody of a
11 child takes place ordinarily in the state with which the
12 child and his family have the closest connection and where
13 significant evidence concerning his care, protection,
14 training and personal relationships is most readily
15 available, and that courts of this Commonwealth decline the
16 exercise of jurisdiction when the child and his family have a
17 closer connection with another state.

18 (4) Discourage continuing controversies over child
19 custody in the interest of greater stability of home
20 environment and of secure family relationships for the child.

21 (5) Deter abductions and other unilateral removals of
22 children undertaken to obtain custody awards.

23 (6) Avoid relitigation of custody decisions of other
24 states in this Commonwealth insofar as feasible.

25 (7) Facilitate the enforcement of custody decrees of
26 other states.

27 (8) Promote and expand the exchange of information and
28 other forms of mutual assistance between the courts of this
29 Commonwealth and those of other states concerned with the
30 same child.

(b) Construction.--This subchapter shall be construed to promote the general purposes stated in this section.

§ 5343. 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:

"Contestant." An institution or an individual, including a parent, who claims a right to custody or visitation rights with respect to a child.

"Custody determination." A court decision and court orders and instructions providing for the custody of a child, including visitation rights. The term does not include a decision relating to child support or any other monetary obligation of any person.

"Custody proceeding." Includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings.

"Decree" or "custody decree." A custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.

"Home state." The state in which the child immediately preceding the time involved lived with his parents, a parent or a person acting as parent or in an institution, for at least six consecutive months, and, in the case of a child less than six months old, the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period.

"Initial decree." The first custody decree concerning a

1 particular child.

2 "Modification decree." A custody decree which modifies or
3 replaces a prior decree, whether made by the court which
4 rendered the prior decree or by another court.

5 "Person acting as parent." A person, including an
6 institution other than a parent, who has physical custody of a
7 child and who has either been awarded custody by a court or
8 claims a right to custody.

9 "Physical custody." Actual possession and control of a
10 child.

11 § 5344. Jurisdiction.

12 (a) General rule.--A court of this Commonwealth which is
13 competent to decide child custody matters has jurisdiction to
14 make a child custody determination by initial or modification
15 decree if:

16 (1) this Commonwealth:

17 (i) is the home state of the child at the time of
18 commencement of the proceeding; or

19 (ii) had been the home state of the child within six
20 months before commencement of the proceeding and the
21 child is absent from this Commonwealth because of his
22 removal or retention by a person claiming his custody or
23 for other reasons, and a parent or person acting as
24 parent continues to live in this Commonwealth;

25 (2) it is in the best interest of the child that a court
26 of this Commonwealth assume jurisdiction because:

27 (i) the child and his parents, or the child and at
28 least one contestant, have a significant connection with
29 this Commonwealth; and

30 (ii) there is available in this Commonwealth

1 substantial evidence concerning the present or future
2 care, protection, training and personal relationships of
3 the child;

4 (3) the child is physically present in this
5 Commonwealth, and:

6 (i) the child has been abandoned; or

7 (ii) it is necessary in an emergency to protect the
8 child because he has been subjected to or threatened with
9 mistreatment or abuse or is otherwise neglected or
10 dependent;

11 (4) (i) it appears that no other state would have
12 jurisdiction under prerequisites substantially in
13 accordance with paragraph (1), (2) or (3), or another
14 state has declined to exercise jurisdiction on the ground
15 that this Commonwealth is the more appropriate forum to
16 determine the custody of the child; and

17 (ii) it is in the best interest of the child that
18 the court assume jurisdiction; or

19 (5) the child welfare agencies of the counties wherein
20 the contestants for the child live, have made an
21 investigation of the home of the person to whom custody is
22 awarded and have found it to be satisfactory for the welfare
23 of the child.

24 (b) Physical presence insufficient.--Except under subsection
25 (a)(3) and (4), physical presence in this Commonwealth of the
26 child, or of the child and one of the contestants, is not alone
27 sufficient to confer jurisdiction on a court of this
28 Commonwealth to make a child custody determination.

29 (c) Physical presence unnecessary.--Physical presence of the
30 child, while desirable, is not a prerequisite for jurisdiction

1 to determine his custody.

2 § 5345. Notice and opportunity to be heard.

3 Before making a decree under this subchapter, reasonable
4 notice and opportunity to be heard shall be given to the
5 contestants, any parent whose parental rights have not been
6 previously terminated and any person who has physical custody of
7 the child. If any of these persons is outside this Commonwealth,
8 notice and opportunity to be heard shall be given pursuant to
9 section 5346 (relating to notice to persons outside this
10 Commonwealth; submission to jurisdiction).

11 § 5346. Notice to persons outside this Commonwealth; submission
12 to jurisdiction.

13 (a) General rule.--Notice required for the exercise of
14 jurisdiction over a person outside this Commonwealth shall be
15 given in a manner reasonably calculated to give actual notice,
16 and may be:

17 (1) by personal delivery outside this Commonwealth in
18 the manner prescribed for service of process within this
19 Commonwealth;

20 (2) in the manner prescribed by the law of the place in
21 which the service is made for service of process in that
22 place in an action in any of its courts of general
23 jurisdiction;

24 (3) by any form of mail addressed to the person to be
25 served and requesting a receipt; or

26 (4) as directed by the court, including publication, if
27 other means of notification are ineffective.

28 (b) Duration.--Notice under this section shall be served,
29 mailed or delivered or last published at least ten days before
30 any hearing in this Commonwealth.

1 (c) Proof of service.--Proof of service outside this
2 Commonwealth may be made by affidavit of the individual who made
3 the service, or in the manner prescribed by the law of this
4 Commonwealth, the order pursuant to which the service is made,
5 or the law of the place in which the service is made. If service
6 is made by mail, proof may be a receipt signed by the addressee
7 or other evidence of delivery to the addressee.

8 (d) Submission to jurisdiction.--Notice is not required if a
9 person submits to the jurisdiction of the court.

10 § 5347. Simultaneous proceedings in other states.

11 (a) General rule.--A court of this Commonwealth shall not
12 exercise its jurisdiction under this subchapter if, at the time
13 of filing the petition, a proceeding concerning the custody of
14 the child was pending in a court of another state exercising
15 jurisdiction substantially in conformity with this subchapter,
16 unless the proceeding is stayed by the court of the other state
17 because this Commonwealth is a more appropriate forum or for
18 other reasons.

19 (b) Procedure.--Before hearing the petition in a custody
20 proceeding, the court shall examine the pleadings and other
21 information supplied by the parties under section 5350 (relating
22 to information under oath to be submitted to the court) and
23 shall consult the child custody registry established under
24 section 5357 (relating to registry of out-of-state custody
25 decrees and proceedings) concerning the pendency of proceedings
26 with respect to the child in other states. If the court has
27 reason to believe that proceedings may be pending in another
28 state, it shall direct an inquiry to the state court
29 administrator or other appropriate official of the other state.

30 (c) Stay; communication with other court.--If the court is

1 informed during the course of the proceeding that a proceeding
2 concerning the custody of the child was pending in another state
3 before the court assumed jurisdiction, it shall stay the
4 proceeding and communicate with the court in which the other
5 proceeding is pending to the end that the issue may be litigated
6 in the more appropriate forum and that information be exchanged
7 in accordance with sections 5360 (relating to hearings and
8 studies in another state; orders to appear) through 5363
9 (relating to request for court records of another state). If a
10 court of this Commonwealth has made a custody decree before
11 being informed of a pending proceeding in a court of another
12 state, it shall immediately inform that court of the fact. If
13 the court is informed that a proceeding was commenced in another
14 state after it assumed jurisdiction, it shall likewise inform
15 the other court to the end that the issues may be litigated in
16 the more appropriate forum.

17 § 5348. Inconvenient forum.

18 (a) General rule.--A court which has jurisdiction under this
19 subchapter to make an initial or modification decree may decline
20 to exercise its jurisdiction any time before making a decree if
21 it finds that it is an inconvenient forum to make a custody
22 determination under the circumstances of the case and that a
23 court of another state is a more appropriate forum.

24 (b) Moving party.--A finding of inconvenient forum may be
25 made upon the court's own motion or upon motion of a party or a
26 guardian ad litem or other representative of the child.

27 (c) Factors to be considered.--In determining if it is an
28 inconvenient forum, the court shall consider if it is in the
29 interest of the child that another state assume jurisdiction.
30 For this purpose it may take into account the following factors,

1 among others:

2 (1) If another state is or recently was the home state
3 of the child.

4 (2) If another state has a closer connection with the
5 child and his family or with the child and one or more of the
6 contestants.

7 (3) If substantial evidence concerning the present or
8 future care, protection, training and personal relationships
9 of the child is more readily available in another state.

10 (4) If the parties have agreed on another forum which is
11 no less appropriate.

12 (5) If the exercise of jurisdiction by a court of this
13 Commonwealth would contravene any of the purposes stated in
14 section 5342 (relating to purposes and construction of
15 subchapter).

16 (d) Communication with other court.--Before determining
17 whether to decline or retain jurisdiction, the court may
18 communicate with a court of another state and exchange
19 information pertinent to the assumption of jurisdiction by
20 either court with a view to assuring that jurisdiction will be
21 exercised by the more appropriate court and that a forum will be
22 available to the parties.

23 (e) Disposition.--If the court finds that it is an
24 inconvenient forum and that a court of another state is a more
25 appropriate forum, it may dismiss the proceedings, or it may
26 stay the proceedings upon condition that a custody proceeding be
27 promptly commenced in another named state or upon any other
28 conditions which may be just and proper, including the condition
29 that a moving party stipulate his consent and submission to the
30 jurisdiction of the other forum.

1 (f) Effect on divorce or other proceeding.--The court may
2 decline to exercise its jurisdiction under this subchapter if a
3 custody determination is incidental to an action for divorce or
4 another proceeding while retaining jurisdiction over the divorce
5 or other proceeding.

6 (g) Costs and expenses.--Subject to general rules:

7 (1) If it appears to the court that it is clearly an
8 inappropriate forum, it may require the party who commenced
9 the proceedings to pay, in addition to the costs of the
10 proceedings in this Commonwealth, necessary travel and other
11 expenses, including attorney fees, incurred by other parties
12 or their witnesses.

13 (2) Payment is to be made to the office of the clerk of
14 the court of common pleas for remittance to the proper party.

15 (h) Notice of disposition.--Upon dismissal or stay of
16 proceedings under this section, the court shall inform the court
17 found to be the more appropriate forum of this fact or, if the
18 court which would have jurisdiction in the other state is not
19 certainly known, shall transmit the information to the court
20 administrator or other appropriate official of the other state
21 for forwarding to the appropriate court.

22 (i) Registry of out-of-state stay; notice of assumption of
23 jurisdiction.--Any communication received from another state
24 informing this Commonwealth of a finding of inconvenient forum
25 because a court of this Commonwealth is the more appropriate
26 forum shall be filed in the custody registry of the appropriate
27 court. Upon assuming jurisdiction, the court of this
28 Commonwealth shall inform the original court of this fact.

29 § 5349. Jurisdiction declined by reason of conduct.

30 (a) General rule.--If the petitioner for an initial decree

1 has wrongfully taken the child from another state or has engaged
2 in conduct intending to benefit his position in a custody
3 hearing, the court may decline to exercise jurisdiction if this
4 is just and proper under the circumstances.

5 (b) Restriction on modification of foreign decree.--Unless
6 required in the interest of the child, the court shall not
7 exercise its jurisdiction to modify a custody decree of another
8 state if the petitioner, without consent of the person entitled
9 to custody, has improperly removed the child from the physical
10 custody of the person entitled to custody or has improperly
11 retained the child after a visit or other temporary
12 relinquishment of physical custody. If the petitioner has
13 violated any other provision of a custody decree of another
14 state, the court may decline to exercise its jurisdiction unless
15 the petitioner can show that conditions in the custodial
16 household are physically or emotionally harmful to the child,
17 the burden of proof being on the petitioner requesting the court
18 to take jurisdiction.

19 (c) Costs and expenses.--Subject to general rules, in
20 appropriate cases a court dismissing a petition under this
21 section may charge the petitioner with necessary travel and
22 other expenses, including attorney fees, incurred by other
23 parties or their witnesses.

24 § 5350. Information under oath to be submitted to the court.

25 (a) General rule.--Every party in a custody proceeding in
26 his first pleading or in an affidavit attached to that pleading
27 shall give information under oath as to the present address of
28 the child, the places where the child has lived within the last
29 five years, and the names and present addresses of the persons
30 with whom the child has lived during that period. In this

1 pleading or affidavit every party shall further declare under
2 oath whether:

3 (1) he has participated (as a party, witness, or in any
4 other capacity) in any other litigation concerning the
5 custody of the same child in this or any other state;

6 (2) he has information of any custody proceeding
7 concerning the child pending in a court of this or any other
8 state; and

9 (3) he knows of any person not a party to the
10 proceedings who has physical custody of the child or claims
11 to have custody or visitation rights with respect to the
12 child.

13 (b) Additional information.--If the declaration as to any of
14 the items set forth in subsection (a) is in the affirmative, the
15 declarant shall give additional information under oath as
16 required by the court. The court may examine the parties under
17 oath as to details of the information furnished and as to other
18 matters pertinent to the jurisdiction of the court and the
19 disposition of the case.

20 (c) Continuing duty.--Each party has a continuing duty to
21 inform the court of any custody proceeding concerning the child
22 in this Commonwealth or any other state of which he obtained
23 information during proceedings under this subchapter.

24 § 5351. Additional parties.

25 If the court learns from information furnished by the parties
26 pursuant to section 5350 (relating to information under oath to
27 be submitted to the court) or from other sources that a person
28 not a party to the custody proceeding has physical custody of
29 the child or claims to have custody or visitation rights with
30 respect to the child, it shall order that person to be joined as

1 a party and to be duly notified of the pendency of the
2 proceeding and of his joinder as a party. If the person joined
3 as a party is outside this Commonwealth, he shall be served with
4 process or otherwise notified in accordance with section 5346
5 (relating to notice to persons outside this Commonwealth;
6 submission to jurisdiction).

7 § 5352. Appearance of parties and the child.

8 (a) General rule.--The court may order any party to the
9 proceeding who is in this Commonwealth to appear personally
10 before the court. If that party has physical custody of the
11 child, the court may order that he appear personally with the
12 child.

13 (b) Out-of-state persons.--If a party to the proceeding
14 whose presence is desired by the court is outside this
15 Commonwealth with or without the child, the court may order that
16 the notice given under section 5346 (relating to notice to
17 persons outside this Commonwealth; submission to jurisdiction)
18 include a statement directing that party to appear personally
19 with or without the child and declaring that failure to appear
20 may result in a decision adverse to that party.

21 (c) Costs and expenses.--If a party to the proceeding who is
22 outside this Commonwealth is directed to appear under subsection
23 (b) or desires to appear personally before the court with or
24 without the child, the court may require another party to pay
25 travel and other necessary expenses of the party so appearing
26 and of the child if this is just and proper under the
27 circumstances.

28 § 5353. Binding force and res judicata effect of custody
29 decree.

30 A custody decree rendered by a court of this Commonwealth

1 which had jurisdiction under section 5344 (relating to
2 jurisdiction) binds all parties who have been served in this
3 Commonwealth or notified in accordance with section 5346
4 (relating to notice to persons outside this Commonwealth;
5 submission to jurisdiction) or who have submitted to the
6 jurisdiction of the court, and who have been given an
7 opportunity to be heard. As to these parties, the custody decree
8 is conclusive as to all issues of law and fact decided and as to
9 the custody determination made unless and until that
10 determination is modified pursuant to law, including the
11 provisions of this subchapter.

12 § 5354. Recognition of out-of-state custody decrees.

13 The courts of this Commonwealth shall recognize and enforce
14 an initial or modification decree of a court of another state
15 which had assumed jurisdiction under statutory provisions
16 substantially in accordance with this subchapter or which was
17 made under factual circumstances meeting the jurisdictional
18 standards of this subchapter, so long as the decree has not been
19 modified in accordance with jurisdictional standards
20 substantially similar to those of this subchapter.

21 § 5355. Modification of custody decree of another state.

22 (a) General rule.--If a court of another state has made a
23 custody decree, a court of this Commonwealth shall not modify
24 that decree unless:

25 (1) it appears to the court of this Commonwealth that
26 the court which rendered the decree does not now have
27 jurisdiction under jurisdictional prerequisites substantially
28 in accordance with this subchapter or has declined to assume
29 jurisdiction to modify the decree; and

30 (2) the court of this Commonwealth has jurisdiction.

1 (b) Consideration of out-of-state record.--If a court of
2 this Commonwealth is authorized under subsection (a) and section
3 5349 (relating to jurisdiction declined by reason of conduct) to
4 modify a custody decree of another state, it shall give due
5 consideration to the transcript of the record and other
6 documents of all previous proceedings submitted to it in
7 accordance with section 5363 (relating to request for court
8 records of another state).

9 § 5356. Filing and enforcement of custody decree of another
10 state.

11 (a) General rule.--A certified copy of a custody decree of
12 another state whose decrees are recognized under section 5354
13 (relating to recognition of out-of-state custody decrees) may be
14 filed in any office of the clerk of the court of common pleas of
15 this Commonwealth. The clerk shall treat the decree in the same
16 manner as a custody decree of a court of common pleas of this
17 Commonwealth. A custody decree so filed has the same effect and
18 shall be enforced in like manner as a custody decree rendered by
19 a court of this Commonwealth.

20 (b) Costs and expenses.--A person violating a custody decree
21 of another state which makes it necessary to enforce the decree
22 in this Commonwealth may be required to pay necessary travel and
23 other expenses, including attorney fees, incurred by the party
24 entitled to the custody or his witnesses.

25 § 5357. Registry of out-of-state custody decrees and
26 proceedings.

27 Each office of the clerk of the court of common pleas shall
28 maintain a registry in which it shall enter the following:

29 (1) Certified copies of custody decrees of other states
30 received for filing.

1 (2) Communications as to the pendency of custody
2 proceedings in other states.

3 (3) Communications concerning a finding of inconvenient
4 forum by a court of another state.

5 (4) Other communications or documents concerning custody
6 proceedings in another state which may affect the
7 jurisdiction of a court of this Commonwealth or the
8 disposition to be made by it in a custody proceeding.

9 § 5358. Certified copies of custody decree.

10 The office of the clerk of the court of common pleas, at the
11 request of the court of another state or at the request of any
12 person who is affected by or has a legitimate interest in a
13 custody decree, shall certify and forward a copy of the decree
14 to that court or person.

15 § 5359. Taking testimony in another state.

16 In addition to other procedural devices available to a party,
17 any party to the proceeding or a guardian ad litem or other
18 representative of the child may adduce testimony of witnesses,
19 including parties and the child, by deposition or otherwise, in
20 another state. The court on its own motion may direct that the
21 testimony of a person be taken in another state and may
22 prescribe the manner in which and the terms upon which the
23 testimony shall be taken.

24 § 5360. Hearings and studies in another state; orders to
25 appear.

26 (a) Hearings and studies.--A court of this Commonwealth may
27 request the appropriate court of another state to hold a hearing
28 to adduce evidence, to order a party to produce or give evidence
29 under other procedures of that state, or to have social studies
30 made with respect to the custody of a child involved in

1 proceedings pending in the court of this Commonwealth; and to
2 forward to the court of this Commonwealth certified copies of
3 the transcript of the record of the hearing, the evidence
4 otherwise adduced, or any social studies prepared in compliance
5 with the request. Subject to general rules, the cost of the
6 services may be assessed against the parties or, if necessary,
7 ordered paid by the county.

8 (b) Order to appear.--A court of this Commonwealth may
9 request the appropriate court of another state to order a party
10 to custody proceedings pending in the court of this Commonwealth
11 to appear in the proceedings, and, if that party has physical
12 custody of the child, to appear with the child. The request may
13 state that travel and other necessary expenses of the party and
14 of the child whose appearance is desired will be assessed
15 against another party or will otherwise be paid.

16 § 5361. Assistance to courts of other states.

17 (a) General rule.--Upon request of the court of another
18 state, the courts of this Commonwealth which are competent to
19 hear custody matters may order a person in this Commonwealth to
20 appear at a hearing to adduce evidence or to produce or give
21 evidence under other procedures available in this Commonwealth
22 or may order social studies to be made for use in a custody
23 proceeding in another state. A certified copy of the transcript
24 of the record of the hearing or the evidence otherwise adduced,
25 any psychological studies and any social studies prepared shall
26 be forwarded to the requesting court.

27 (b) Voluntary testimony.--A person within this Commonwealth
28 may voluntarily give his testimony or statement in this
29 Commonwealth for use in a custody proceeding outside this
30 Commonwealth.

1 (c) Appearance in other state.--Upon request of the court of
2 another state, a competent court of this Commonwealth may order
3 a person in this Commonwealth to appear alone or with the child
4 in a custody proceeding in another state. The court may
5 condition compliance with the request upon assurance by the
6 other state that travel and other necessary expenses will be
7 advanced or reimbursed.

8 § 5362. Preservation of documents for use in other states.

9 In any custody proceeding in this Commonwealth, the court
10 shall preserve the pleadings, orders and decrees, any record
11 that has been made of its hearings, social studies, and other
12 pertinent documents until the child reaches 18 years of age.

13 Upon appropriate request of the court of another state, the
14 court shall forward to the other court certified copies of any
15 or all of such documents.

16 § 5363. Request for court records of another state.

17 If a custody decree has been rendered in another state
18 concerning a child involved in a custody proceeding pending in a
19 court of this Commonwealth, the court of this Commonwealth upon
20 taking jurisdiction of the case shall request of the court of
21 the other state a certified copy of the transcript of any court
22 record and other documents mentioned in section 5362 (relating
23 to preservation of documents for use in other states).

24 § 5364. Intrastate application.

25 (a) General rule.--Except as otherwise provided in this
26 section, the provisions of this subchapter allocating
27 jurisdiction and functions between and among courts of different
28 states shall also allocate jurisdiction and functions between
29 and among the courts of common pleas of this Commonwealth.

30 (b) Home jurisdiction.--For the purposes of the definition

1 of "home state" in section 5343 (relating to definitions), a
2 period of temporary absence of the child from the physical
3 custody of the parent, person acting as parent or institution
4 shall not affect the six months or other period.

5 (c) Petitioner.--As used in this subchapter, insofar as
6 relates to the allocation of jurisdiction and functions between
7 and among the courts of common pleas of this Commonwealth, the
8 term "petitioner" means anyone seeking change in the status of
9 custody of a child either by an affirmative action brought in a
10 court or as a defense to a custody action brought by a person
11 acting as parent who had previously been awarded custody of the
12 child.

13 (d) Effect of agency investigation.--Section 5344(a)(5)
14 (relating to jurisdiction) shall not be applicable for the
15 purposes of this section.

16 (e) Period of notice.--Notice under section 5346 (relating
17 to notice to persons outside this Commonwealth; submission to
18 jurisdiction) shall be served, mailed, delivered or last
19 published at least 20 days before any hearing.

20 (f) Jurisdiction declined by reason of conduct.--

21 (1) If it is just and proper under the circumstances,
22 when the petitioner for an initial decree has wrongfully
23 taken the child from another jurisdiction or has engaged in
24 improper conduct intending to benefit his position in a
25 custody proceeding, upon presentation of the petition, the
26 court shall decline to exercise jurisdiction or shall
27 exercise jurisdiction only to issue an order, pending a full
28 hearing in the appropriate jurisdiction, returning the
29 parties to the custodial status quo existing prior to the
30 improper conduct or wrongful taking unless the petitioner can

1 show that conditions in the former custodial household are
2 physically or emotionally harmful to the child.

3 (2) Unless required in the interest of the child, the
4 court shall not exercise its jurisdiction to modify a custody
5 decree of another court if the petitioner, without consent of
6 the person entitled to custody has:

7 (i) improperly removed the child from the physical
8 custody of the person entitled to custody;

9 (ii) improperly retained the child after a visit or
10 other temporary relinquishment of physical custody; or

11 (iii) removed the child from the jurisdiction of the
12 court entering the decree without 20 days' written notice
13 to the court entering the decree and any party entitled
14 to custody or visitation rights under the terms of the
15 decree.

16 If the petitioner has violated any provision of a custody
17 decree of another court, the court shall decline to exercise
18 its jurisdiction unless the contestant can show that
19 conditions in the custodial household are physically or
20 emotionally harmful to the child. The burden of proof on this
21 issue is on the contestant requesting the court to take
22 jurisdiction.

23 (3) Subject to general rules, in appropriate cases a
24 court dismissing a petition under this subsection may charge
25 the petitioner with necessary travel and other expenses,
26 including attorney fees, incurred by other parties or their
27 witnesses.

28 (g) Statewide orders.--A court may under section 5352(a)
29 (relating to appearance of parties and the child) issue orders
30 to any party to the proceeding who is in any judicial district

1 of this Commonwealth.

2 (h) Modification of custody decrees.--

3 (1) If another court has made a custody decree, a court
4 before which a petition for modification is pending shall not
5 modify the decree of the other court unless it appears to the
6 court before which the petition is pending that the other
7 court which rendered the decree does not have jurisdiction
8 under jurisdictional prerequisites substantially in
9 accordance with this subchapter or has declined to assume
10 jurisdiction to modify its decree and the provisions of
11 subsection (f)(2) will not be violated by an exercise of
12 jurisdiction by the court before which the petition is
13 pending.

14 (2) If a court of this Commonwealth is authorized under
15 paragraph (1) to modify a custody decree of another court, it
16 shall give due consideration to the transcript of the record
17 and other documents of all previous proceedings submitted to
18 it in accordance with section 5363 (relating to request for
19 court records of another state).

20 § 5365. International application.

21 The general policies of this subchapter extend to the
22 international area. The provisions of this subchapter relating
23 to the recognition and enforcement of custody decrees of other
24 states apply to custody decrees and decrees involving legal
25 institutions similar in nature to custody institutions rendered
26 by appropriate authorities of other nations if reasonable notice
27 and opportunity to be heard were given to all affected persons.

28 § 5366. Priority.

29 Upon the request of a party to a custody proceeding which
30 raises a question of existence or exercise of jurisdiction under

1 this subchapter, the case shall be given calendar priority and
2 handled expeditiously.

3 CHAPTER 55

4 LIABILITY FOR TORTIOUS ACTS OF CHILDREN

5 Sec.

6 5501. Definitions.

7 5502. Liability of parents.

8 5503. Establishing liability in criminal or juvenile
9 proceedings.

10 5504. Establishing liability in civil proceedings.

11 5505. Monetary limits of liability.

12 5506. Double recovery for same injury prohibited.

13 5507. Indemnity or contribution from child prohibited.

14 5508. Liability of parent not having custody or control of
15 child.

16 5509. Other liability of parent or child unaffected.

17 § 5501. Definitions.

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

21 "Child." An individual under 18 years of age.

22 "Injury." Includes injury to the person and theft,
23 destruction or loss of property.

24 "Parent." Includes natural or adoptive parents.

25 "Person." Includes government units and Federal agencies.

26 "Tortious act." A willful tortious act resulting in injury.

27 § 5502. Liability of parents.

28 Any parent whose child is found liable or is adjudged guilty
29 by a court of competent jurisdiction of a tortious act shall be
30 liable to the person who suffers the injury to the extent set

1 forth in this chapter.

2 § 5503. Establishing liability in criminal or juvenile
3 proceedings.

4 (a) General rule.--In any criminal proceeding against a
5 child and in any proceeding against a child under 42 Pa.C.S. Ch.
6 63 (relating to juvenile matters), the court shall ascertain the
7 amount sufficient to fully reimburse any person who has suffered
8 injury because of the tortious act of the child and direct the
9 parents to make payment in the amount not to exceed the
10 limitations set forth in section 5505 (relating to monetary
11 limits of liability).

12 (b) Noncompliance with direction of court.--If the parents
13 fail to comply with the direction of the court, the amount may
14 be recovered in a civil action against the parents or either of
15 them.

16 § 5504. Establishing liability in civil proceedings.

17 (a) Petition.--If a judgment has been rendered against the
18 child in a civil action for injury because of the tortious act
19 of the child and the judgment has not been satisfied within a
20 period of 30 days, the injured person may petition the court for
21 a rule to show cause why judgment should not be entered against
22 the parent.

23 (b) Answer and trial.--The parent may file an answer to the
24 petition and, if there is any dispute as to unlitigated facts,
25 the case shall be set down for trial.

26 (c) Judgment.--If there is no dispute as to the unlitigated
27 facts, the court shall authorize the entry of a judgment against
28 the parent. In no case shall the judgment against the parent
29 exceed the limitations set forth in section 5505 (relating to
30 monetary limits of liability).

1 § 5505. Monetary limits of liability.

2 (a) General rule.--Liability of the parents under this
3 chapter shall be limited to:

4 (1) The sum of \$300 for injuries suffered by any one
5 person as a result of one tortious act or continuous series
6 of tortious acts.

7 (2) The sum of \$1,000 regardless of the number of
8 persons who suffer injury as a result of one tortious act or
9 continuous series of tortious acts.

10 (b) Proceedings where loss exceeds liability.--In the event
11 that actual loss as ascertained by the court or the judgment
12 against the child exceeds \$1,000, the parents shall be
13 discharged from further liability by the payment of \$1,000 into
14 court. The court shall cause all aggrieved parties to submit
15 itemized statements of loss in writing and shall make
16 distribution proportionately, whether the claims be for injuries
17 to the person or for theft, destruction or loss of property. The
18 court may take testimony to assist it in making proper
19 distribution and may appoint a master to accomplish this
20 purpose. All costs and fees incurred in these proceedings shall
21 be paid from the \$1,000 paid into court.

22 (c) Joint acts by children of same parent.--The limitations
23 on liability set forth in subsections (a) and (b) shall be
24 applicable when two or more children of the same parent engage
25 jointly in the commission of one tortious act or series of
26 tortious acts.

27 § 5506. Double recovery for same injury prohibited.

28 In no case shall there be a double recovery for one injury.
29 Any judgment against a child resulting from a tortious act for
30 which a parent makes payment under this chapter shall be reduced

1 by the amount paid by the parent.

2 § 5507. Indemnity or contribution from child prohibited.

3 The parent shall have no right of indemnity or contribution
4 against the child.

5 § 5508. Liability of parent not having custody or control of
6 child.

7 (a) General rule.--No liability may be imposed upon a parent
8 under this chapter if, at the time of commission of the tortious
9 act, the parent has neither custody of the child nor is entitled
10 to custody of the child or if the child is institutionalized or
11 emancipated.

12 (b) Exception.--No parent is absolved of liability due to
13 the desertion of the child by the parent.

14 § 5509. Other liability of parent or child unaffected.

15 The liability imposed upon parents by this chapter shall not
16 limit the common law liability of parents for damages caused by
17 a child and shall be separate and apart from any liability which
18 may be imposed upon the child.

19 PART VII

20 ABUSE OF FAMILY

21 Chapter

22 61. Protection From Abuse

23 63. Child Protective Services

24 CHAPTER 61

25 PROTECTION FROM ABUSE

26 Sec.

27 6101. Short title of chapter.

28 6102. Definitions.

29 6103. Effect of departure to avoid abuse.

30 6104. Registration of order.

1 6105. Responsibilities of local law enforcement agencies.
2 6106. Commencement of proceedings.
3 6107. Hearings.
4 6108. Relief.
5 6109. Service of orders.
6 6110. Emergency relief by minor judiciary.
7 6111. Domestic violence counselor/advocate.
8 6112. Disclosure of addresses.
9 6113. Arrest for violation of order.
10 6114. Contempt for violation of order or agreement.
11 6115. Reporting abuse and immunity.
12 6116. Confidentiality.
13 6117. Procedure and other remedies.
14 § 6101. Short title of chapter.

15 This chapter shall be known and may be cited as the
16 Protection From Abuse Act.

17 § 6102. Definitions.

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

21 "Abuse." The occurrence of one or more of the following acts
22 between family or household members, sexual or intimate partners
23 or persons who share biological parenthood:

24 (1) Attempting to cause or intentionally, knowingly or
25 recklessly causing bodily injury, serious bodily injury,
26 rape, spousal sexual assault or involuntary deviate sexual
27 intercourse with or without a deadly weapon.

28 (2) Placing by physical menace another in fear of
29 imminent serious bodily injury.

30 (3) The infliction of false imprisonment pursuant to 18

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

2 (4) Physically or sexually abusing minor children.

3 "Adult." An individual who is 18 years of age or older.

4 "Bail commissioners." Bail commissioners of the Philadelphia
5 Municipal Court.

6 "Confidential communications." Information, whether written
7 or spoken, transmitted between a victim and a domestic violence
8 counselor or advocate in the course of the relationship and in
9 confidence by a means which, insofar as the victim is aware,
10 discloses the information to no third person other than to those
11 who are present to further the interest of the victim in the
12 consultation or assistance, to those who are coparticipants in
13 the counseling service or to those to whom disclosure is
14 reasonably necessary for the transmission of the information or
15 an accomplishment of the purpose for which the domestic violence
16 counselor or advocate is consulted. The term includes
17 information received or given by the domestic violence counselor
18 or advocate in the course of the relationship, as well as
19 advice, reports or working papers given or made in the course of
20 the relationship.

21 "Domestic violence counselor/advocate." An individual who is
22 engaged in a domestic violence program, who provides services to
23 victims of domestic violence, who has undergone 40 hours of
24 training and who is under the control of a direct services
25 supervisor of a domestic violence program, the primary purpose
26 of which is the rendering of counseling or assistance to victims
27 of domestic violence.

28 "Domestic violence program." A nonprofit organization or
29 program whose primary purpose is to provide services to domestic
30 violence victims which include, but are not limited to, crisis

1 hotline; safe homes or shelters; community education; counseling
2 systems intervention and interface; transportation, information
3 and referral; and victim assistance.

4 "Family or household members." Spouses or persons who have
5 been spouses, persons living as spouses or who lived as spouses,
6 parents and children, other persons related by consanguinity or
7 affinity, current or former sexual or intimate partners or
8 persons who share biological parenthood.

9 "Minor." An individual who is not an adult.

10 "Victim." A person who is physically or sexually abused by a
11 family or household member.

12 § 6103. Effect of departure to avoid abuse.

13 The right of plaintiff to relief under this chapter shall not
14 be affected by plaintiff leaving the residence or household to
15 avoid further abuse.

16 § 6104. Registration of order.

17 (a) Registry.--The prothonotary shall maintain a registry in
18 which it shall enter certified copies of orders entered by
19 courts from other jurisdictions in this Commonwealth pursuant to
20 this chapter.

21 (b) Registration of order in any county.--A plaintiff who
22 obtains a valid order under this chapter may register that order
23 in any county within this Commonwealth where the plaintiff
24 believes enforcement may be necessary. A court shall recognize
25 and enforce a valid order under this chapter which has been
26 issued by another court but properly registered with a county
27 within the judicial district of the court where enforcement is
28 sought.

29 (c) Certified copy.--A valid order under this chapter may be
30 registered by the plaintiff in a county other than the issuing

1 county by obtaining a certified copy of the order of the issuing
2 court endorsed by the prothonotary of that court and presenting
3 that certified order to the prothonotary where the order is to
4 be registered.

5 (d) Proof of registration.--Upon receipt of a certified
6 order for registration, the prothonotary shall provide the
7 plaintiff with a copy bearing the proof of registration to be
8 filed with the appropriate law enforcement agency.

9 § 6105. Responsibilities of local law enforcement agencies.

10 The police department of each municipal corporation shall
11 insure that all its officers and employees are familiar with the
12 provisions of this chapter. Instruction concerning protection
13 from abuse shall be made a part of the training curriculum for
14 all trainee officers.

15 § 6106. Commencement of proceedings.

16 (a) General rule.--An adult or an emancipated minor may seek
17 relief under this chapter for that person or any parent, adult
18 household member or guardian ad litem may seek relief under this
19 chapter on behalf of minor children, or a guardian of the person
20 of an adult who has been declared incompetent under 20 Pa.C.S.
21 Ch. 51 Subch. B (relating to appointment of guardian) may seek
22 relief on behalf of the incompetent adult, by filing a petition
23 with the court alleging abuse by the defendant.

24 (b) Affidavit of insufficient funds for fees.--If the
25 plaintiff files an affidavit stating that plaintiff does not
26 have funds available to pay the fees for filing and service, the
27 petition shall be filed and service shall be made without
28 payment of fees, and leave of court to proceed in forma pauperis
29 shall not be required.

30 (c) Determination of indigency.--When the petition is filed

1 without payment of fees, the court shall determine at the
2 hearing on the petition whether the plaintiff is able to pay the
3 costs of filing and service. If the plaintiff is unable to pay
4 the costs of filing and service, the court may waive the payment
5 of costs or, if the plaintiff prevails in the action, assign
6 them to the defendant. This subsection and subsection (b) apply
7 to courts of common pleas, the Philadelphia Municipal Court,
8 bail commissioners and district justices.

9 (d) Court to adopt means of service.--The court shall adopt
10 a means of prompt and effective service in those instances where
11 the plaintiff avers that service cannot be safely effected by an
12 adult individual other than a law enforcement officer or where
13 the court so orders.

14 (e) Service by sheriff.--If the plaintiff files an affidavit
15 stating that the plaintiff does not have funds available to pay
16 the costs of filing and service or if the court so orders, the
17 sheriff or other designated agency or individual shall serve the
18 petition and order without prepayment of costs.

19 (f) Service of petition and orders.--The petition and orders
20 shall be served upon the defendant, and orders shall be served
21 upon the police departments with appropriate jurisdiction to
22 enforce the orders. Orders shall be promptly served on the
23 police. Failure to serve shall not stay the effect of a valid
24 order.

25 (g) Assistance and advice to plaintiff.--The courts,
26 district justices, the Philadelphia Municipal Court and bail
27 commissioners shall:

28 (1) Provide simplified forms and clerical assistance in
29 English and Spanish to help with the writing and filing of
30 the petition for a protection order for an individual not

1 represented by counsel.

2 (2) Advise a plaintiff not represented by counsel of the
3 right to file an affidavit stating that the plaintiff does
4 not have funds available to pay the costs of filing and
5 service and assist with the writing and filing of the
6 affidavit.

7 § 6107. Hearings.

8 (a) General rule.--Within ten days of the filing of a
9 petition under this chapter, a hearing shall be held before the
10 court, at which the plaintiff must prove the allegation of abuse
11 by a preponderance of the evidence. The court shall advise the
12 defendant of the right to be represented by counsel.

13 (b) Temporary orders.--If a plaintiff petitions for
14 temporary order for protection from abuse and alleges immediate
15 and present danger of abuse to the plaintiff or minor children,
16 the court shall conduct an ex-parte proceeding. The court may
17 enter such a temporary order as it deems necessary to protect
18 the plaintiff or minor children when it finds they are in
19 immediate and present danger of abuse.

20 (c) Continued hearings.--If a hearing under subsection (a)
21 is continued, the court may make or extend such temporary orders
22 under subsection (b) as it deems necessary.

23 (d) Costs.--If the plaintiff prevails, the court shall
24 assign costs to the defendant unless the parties agree
25 otherwise. If the defendant is indigent, costs shall be waived.

26 § 6108. Relief.

27 (a) General rule.--The court may grant any protection order
28 or approve any consent agreement to bring about a cessation of
29 abuse of the plaintiff or minor children. The order or agreement
30 may include:

1 (1) Directing the defendant to refrain from abusing the
2 plaintiff or minor children.

3 (2) Granting possession to the plaintiff of the
4 residence or household to the exclusion of the defendant by
5 evicting the defendant or restoring possession to the
6 plaintiff when the residence or household is jointly owned or
7 leased by the parties, is owned or leased by the entireties
8 or is owned or leased solely by the plaintiff.

9 (3) When the defendant has a duty to support the
10 plaintiff or minor children living in the residence or
11 household and the defendant is the sole owner or lessee,
12 granting possession to the plaintiff of the residence or
13 household to the exclusion of the defendant by evicting the
14 defendant or restoring possession to the plaintiff or, by
15 consent agreement, allowing the defendant to provide suitable
16 alternate housing.

17 (4) Awarding temporary custody of or establishing
18 temporary visitation rights with regard to minor children. A
19 defendant shall not be granted custody or partial custody
20 where it is alleged in the petition, and the court finds
21 after a hearing under this chapter, that the defendant abused
22 the minor children of the parties or where the defendant has
23 been convicted of violating 18 Pa.C.S. § 2904 (relating to
24 interference with custody of children) within two calendar
25 years prior to the filing of the petition for protection
26 order. If a plaintiff petitions for a temporary order under
27 section 6107(b) (relating to hearings) and the defendant has
28 partial, shared or full custody of the minor children of the
29 parties by order of court or written agreement of the
30 parties, the custody shall not be disturbed or changed unless

1 the court finds that the defendant is likely to inflict abuse
2 upon the children or to remove the children from the
3 jurisdiction of the court prior to the hearing under section
4 6107(a). Nothing in this paragraph shall bar either party
5 from filing a petition for custody under 23 Pa.C.S. Ch. 53
6 (relating to custody) or under the Pennsylvania Rules of
7 Civil Procedure. The court shall consider, and may impose on
8 a custody award, conditions necessary to assure the safety of
9 the plaintiff and minor children from abuse.

10 (5) After a hearing in accordance with section 6107(a),
11 directing the defendant to pay financial support to those
12 persons the defendant has a duty to support. The support
13 order shall be temporary and any beneficiary of the order
14 must file a complaint for support under the provisions of
15 Chapters 43 (relating to support matters generally) and 45
16 (relating to reciprocal enforcement of support orders) within
17 two weeks of the date of the issuance of the protection
18 order. If a complaint for support is not filed, that portion
19 of the protection order requiring the defendant to pay
20 support is void. When there is a subsequent ruling on a
21 complaint for support, the portion of the protection order
22 requiring the defendant to pay support expires.

23 (6) Prohibiting the defendant from having any contact
24 with the plaintiff, including, but not limited to,
25 restraining the defendant from entering the place of
26 employment or business or school of the plaintiff and from
27 harassing the plaintiff or plaintiff's relatives or minor
28 children.

29 (7) Ordering the defendant to temporarily relinquish to
30 the sheriff the defendant's weapons which have been used or

1 been threatened to be used in an incident of abuse against
2 the plaintiff or the minor children. The court's order shall
3 provide for the return of the weapons to the defendant
4 subject to any restrictions and conditions as the court shall
5 deem appropriate to protect the plaintiff or minor children
6 from further abuse through the use of weapons.

7 (8) Directing the defendant to pay the plaintiff for
8 reasonable losses suffered as a result of the abuse,
9 including medical, dental, relocation and moving expenses;
10 counseling; loss of earnings or support; and other out-of-
11 pocket losses for injuries sustained. In addition to out-of-
12 pocket losses, the court may direct the defendant to pay
13 reasonable attorney fees.

14 (b) Duration and amendment of order or agreement.--A
15 protection order or approved consent agreement shall be for a
16 fixed period of time not to exceed one year. The court may amend
17 its order or agreement at any time upon subsequent petition
18 filed by either party.

19 (c) Title to real property unaffected.--No order or
20 agreement under this chapter shall in any manner affect title to
21 any real property.

22 § 6109. Service of orders.

23 (a) Issuance.--A copy of an order under this chapter shall
24 be issued to the plaintiff, the defendant and the police
25 department with appropriate jurisdiction to enforce the order or
26 agreement in accordance with the provisions of this chapter or
27 as ordered by the court, district justice, the Philadelphia
28 Municipal Court or bail commissioners.

29 (b) Placement in county registry.--Upon receipt of an order,
30 the police department shall immediately place the order in a

1 county registry of protection orders. The police department
2 shall assure that the registry is current at all times and that
3 orders are removed upon expiration thereof.

4 § 6110. Emergency relief by minor judiciary.

5 (a) General rule.--When, in counties with less than four
6 judges, the court is unavailable during the business day by
7 reason of duties outside the county, illness or vacation, and
8 when, in counties with at least four judges, the court deems
9 itself unavailable from the close of business at the end of each
10 day to the resumption of business the next morning or from the
11 end of the business week to the beginning of the business week,
12 a petition may be filed before a district justice, bail
13 commissioner or judge of the Philadelphia Municipal Court who
14 may grant relief in accordance with section 6108(a)(1) and (2)
15 or (1) and (3) (relating to relief) if the district justice,
16 bail commissioner or judge deems it necessary to protect the
17 plaintiff or minor children from abuse upon good cause shown in
18 an ex parte proceeding. Immediate and present danger of abuse to
19 the plaintiff or minor children shall constitute good cause for
20 the purposes of this subsection.

21 (b) Expiration of order.--An order issued under subsection
22 (a) shall expire as of the resumption of business of the court
23 at the beginning of the next business day, at which time the
24 court shall schedule hearings on protection orders entered by
25 district justices, bail commissioners or Philadelphia Municipal
26 Court Judges under subsection (a) and shall review and continue
27 in effect protection orders that are necessary to protect the
28 plaintiff or minor children from abuse until the hearing, at
29 which time the plaintiff may seek a temporary order from the
30 court.

1 (c) Certification of order to court.--An emergency order
2 issued under this section and any documentation in support
3 thereof shall be immediately certified to the court. The
4 certification to the court shall have the effect of commencing
5 proceedings under section 6106 (relating to commencement of
6 proceedings) and invoking the other provisions of this chapter.
7 If it is not already alleged in a petition for an emergency
8 order, the plaintiff shall file a verified statement setting
9 forth the abuse of defendant at least five days prior to the
10 hearing. Service of the verified statement shall be made subject
11 to section 6106.

12 (d) Instructions regarding the commencement of
13 proceedings.--Upon issuance of an emergency order, the district
14 justice, bail commissioner or Philadelphia Municipal Court Judge
15 shall provide the plaintiff instructions regarding the
16 commencement of proceedings in the court of common pleas at the
17 beginning of the next business day and regarding the procedures
18 for initiating a contempt charge should the defendant violate
19 the emergency order. The district justice, a bail commissioner
20 or Philadelphia Municipal Court Judge shall also advise the
21 plaintiff of the existence of programs for victims of domestic
22 violence in the county or in nearby counties and inform the
23 plaintiff of the availability of legal assistance without cost
24 if the plaintiff is unable to pay for them.

25 § 6111. Domestic violence counselor/advocate.

26 A domestic violence counselor/advocate may accompany a party
27 to a hearing under this chapter.

28 § 6112. Disclosure of addresses.

29 During the course of a proceeding under this chapter, the
30 court, district justice, Philadelphia Municipal Court Judge or

1 bail commissioner may consider whether the plaintiff or
2 plaintiff's family is endangered by disclosure of the permanent
3 or temporary address of the plaintiff or minor children. Neither
4 in the pleadings nor during proceedings or hearings under this
5 chapter shall the court, district justice, Philadelphia
6 Municipal Court Judge or bail commissioner require disclosure of
7 the address of a domestic violence program.

8 § 6113. Arrest for violation of order.

9 (a) General rule.--An arrest for violation of an order
10 issued pursuant to this chapter may be without warrant upon
11 probable cause whether or not the violation is committed in the
12 presence of the police officer. The police officer may verify,
13 if necessary, the existence of a protection order by telephone
14 or radio communication with the appropriate police department,
15 county registry or issuing authority.

16 (b) Seizure of weapons.--Subsequent to an arrest, the police
17 officer shall seize all weapons used or threatened to be used
18 during the violation of the protection order or during prior
19 incidents of abuse. As soon as it is reasonably possible, the
20 arresting officer shall deliver the confiscated weapons to the
21 office of the sheriff. The sheriff shall maintain possession of
22 the weapons until the court issues an order specifying the
23 weapons to be relinquished and the persons to whom the weapons
24 shall be relinquished.

25 (c) Procedure following arrest.--Subsequent to an arrest,
26 the defendant shall be taken by the police officer without
27 unnecessary delay before the court in the judicial district
28 where the contempt is alleged to have occurred. When that court
29 is unavailable, the police officer shall convey the defendant to
30 a district justice designated as appropriate by local rules of

1 court, the Philadelphia Municipal Court or designated bail
2 commissioner.

3 (d) Preliminary arraignment.--The defendant shall be
4 afforded a preliminary arraignment without unnecessary delay.

5 (e) Other emergency powers unaffected.--This section shall
6 not be construed to in any way limit any of the other powers for
7 emergency relief provided in this chapter.

8 (f) Hearing.--A hearing on a charge or allegation of
9 indirect criminal contempt shall not preclude a hearing on other
10 criminal charges underlying the contempt, nor shall a hearing on
11 other criminal charges preclude a hearing on a charge of
12 indirect criminal contempt.

13 (g) Notice.--Notice shall be given to the defendant, in
14 orders issued pursuant to section 6108 (relating to relief), of
15 the possible ramifications of resumption of residence in the
16 family domicile contrary to court order. Resumption of co-
17 residence on the part of the plaintiff and defendant shall not
18 nullify the provisions of the court order directing the
19 defendant to refrain from abusing the plaintiff or minor
20 children.

21 § 6114. Contempt for violation of order or agreement.

22 (a) General rule.--Upon violation of a protection order
23 issued under this chapter or a court-approved consent agreement,
24 the court may hold the defendant in indirect criminal contempt
25 and punish the defendant in accordance with law.

26 (b) Trial and punishment.--A sentence for contempt under
27 this chapter may include imprisonment up to six months or a fine
28 not to exceed \$1,000, or both and may include other relief set
29 forth in this chapter. The defendant shall not have a right to a
30 jury trial on such a charge; however, the defendant shall be

1 entitled to counsel.

2 § 6115. Reporting abuse and immunity.

3 (a) Reporting.--A person having reasonable cause to believe
4 that a person is being abused may report the information to the
5 local police department.

6 (b) Contents of report.--The report should contain the name
7 and address of the abused person, information regarding the
8 nature and extent of the abuse and information which the
9 reporter believes may be helpful to prevent further abuse.

10 (c) Immunity.--A person who makes a report shall be immune
11 from a civil or criminal liability on account of the report
12 unless the person acted in bad faith or with malicious purpose.

13 § 6116. Confidentiality.

14 Unless a victim waives the privilege in a signed writing
15 prior to testimony or disclosure, a domestic violence
16 counselor/advocate shall not be competent nor permitted to
17 testify or to otherwise disclose confidential communications
18 made to or by the counselor/advocate by or to a victim. The
19 privilege shall terminate upon the death of the victim. Neither
20 the domestic violence counselor/advocate nor the victim shall
21 waive the privilege of confidential communications by reporting
22 facts of physical or sexual assault under Chapter 63 (relating
23 to child protective services), a Federal or State mandatory
24 reporting statute; or a local mandatory reporting ordinance.

25 § 6117. Procedure and other remedies.

26 Unless otherwise indicated in this chapter, a proceeding
27 under this chapter shall be in accordance with applicable
28 general rules and shall be in addition to any other available
29 civil or criminal remedies.

30

CHAPTER 63

CHILD PROTECTIVE SERVICES

Subchapter

A. Preliminary Provisions

B. Reporting Suspected Child Abuse

C. Powers and Duties of Department

D. Organization and Responsibilities of Child Protective
Service

E. Miscellaneous Provisions

SUBCHAPTER A

PRELIMINARY PROVISIONS

Sec.

6301. Short title of chapter.

6302. Finding and purpose of chapter.

6303. Definitions.

§ 6301. Short title of chapter.

This chapter shall be known and may be cited as the Child
Protective Services Law.

§ 6302. Finding and purpose of chapter.

(a) Finding.--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 and to
establish in each county a child protective service capable of
investigating such 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 well-being of the child and to preserve and
stabilize family life wherever appropriate.

(c) Effect on rights of parents.--This chapter does not

1 restrict the generally recognized existing rights of parents to
2 use reasonable supervision and control when raising their
3 children.

4 § 6303. Definitions.

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

8 "Child abuse." Serious physical or mental injury which is
9 not explained by the available medical history as being
10 accidental, sexual abuse, sexual exploitation or serious
11 physical neglect of a child under 18 years of age if the injury,
12 abuse or neglect has been caused by the acts or omissions of the
13 child's parents or by a person responsible for the child's
14 welfare, or any individual residing in the same home as the
15 child, or a paramour of the child's parent. No child shall be
16 deemed to be physically or mentally abused for the sole reason
17 the child is in good faith being furnished treatment by
18 spiritual means through prayer alone in accordance with the
19 tenants and practices of a recognized church or religious
20 denomination by an accredited practitioner thereof or is not
21 provided specified medical treatment in the practice of
22 religious beliefs, or solely on the grounds of environmental
23 factors which are beyond the control of the person responsible
24 for the welfare of the child such as inadequate housing,
25 furnishings, income, clothing and medical care.

26 "Child-care services." Child day-care centers, group and
27 family day-care homes, foster homes, adoptive parents, boarding
28 homes for children, juvenile detention center services or
29 programs for delinquent or dependent children; mental health,
30 mental retardation and drug and alcohol services for children;

1 and any other child-care services which are provided by or
2 subject to approval, licensure, registration or certification by
3 the department or a county social services agency or which are
4 provided pursuant to a contract with these departments or a
5 county social services agency. The term does not include such
6 services or programs which may be offered by public and private
7 schools, intermediate units or area vocational-technical
8 schools.

9 "Child protective service." That section of each county
10 children and youth social service agency required to be
11 established by section 6361 (relating to organization of child
12 protective service).

13 "Cooperation with an investigation." Includes, but is not
14 limited to, a school or school district which permits authorized
15 personnel from the department or child protection services to
16 interview a student while the student is in attendance at
17 school.

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

20 "Expunge." To strike out or obliterate entirely so that the
21 expunged information may not be stored, identified or later
22 recovered by any mechanical or electronic means or otherwise.

23 "Family members." Spouses, parents and children or other
24 persons related by consanguinity or affinity.

25 "Founded report." A report made pursuant to this chapter if
26 there has been any judicial adjudication based on a finding that
27 a child who is a subject of the report has been abused.

28 "Indicated report." A report made pursuant to this chapter
29 if an investigation by the child protective service determines
30 that substantial evidence of the alleged abuse exists based on

1 any of the following:

2 (1) Available medical evidence.

3 (2) The child protective service investigation.

4 (3) An admission of the acts of abuse by the parent of
5 the child or person responsible for the welfare of the child.

6 "Secretary." The Secretary of Public Welfare of the
7 Commonwealth.

8 "Sexual abuse." The obscene or pornographic photographing,
9 filming or depiction of children for commercial purposes or the
10 rape, molestation, incest, prostitution or other forms of sexual
11 exploitation of children under circumstances which indicate that
12 the child's health or welfare is harmed or threatened thereby,
13 as determined in accordance with regulations of the department.

14 "Subject of the report." Any child reported to the central
15 register of child abuse and a parent, guardian or other
16 responsible person also named in the report.

17 "Under investigation." A report pursuant to this chapter
18 which is being investigated to determine whether it is
19 "founded," "indicated" or "unfounded."

20 "Unfounded report." Any report made pursuant to this chapter
21 unless the report is a "founded report" or unless an
22 investigation by the appropriate child protective service
23 determines that the report is an "indicated report."

24 SUBCHAPTER B

25 REPORTING SUSPECTED CHILD ABUSE

26 Sec.

27 6311. Persons required to report suspected child abuse.

28 6312. Persons permitted to report suspected child abuse.

29 6313. Reporting procedure.

30 6314. Photographs and X-rays of child subject to report.

1 6315. Taking child into protective custody.

2 6316. Admission to private and public hospitals.

3 6317. Reporting and postmortem investigation of deaths.

4 6318. Immunity from liability.

5 6319. Penalties for failure to report.

6 § 6311. Persons required to report suspected child abuse.

7 (a) General rule.--Persons who, in the course of their
8 employment, occupation or practice of their profession, come
9 into contact with children shall report or cause a report to be
10 made in accordance with section 6313 (relating to reporting
11 procedure) when they have reason to believe, on the basis of
12 their medical, professional or other training and experience,
13 that a child coming before them in their professional or
14 official capacity is an abused child. The privileged
15 communication between any professional person required to report
16 and the patient or client of that person shall not apply to
17 situations involving child abuse and shall not constitute
18 grounds for failure to report as required by this chapter.

19 (b) Enumeration of persons required to report.--Persons
20 required to report under subsection (a) include, but are not
21 limited to, any licensed physician, osteopath, medical examiner,
22 coroner, funeral director, dentist, optometrist, chiropractor,
23 podiatrist, intern, registered nurse, licensed practical nurse,
24 hospital personnel engaged in the admission, examination, care
25 or treatment of persons, a Christian Science practitioner,
26 school administrator, school teacher, school nurse, social
27 services worker, day-care center worker or any other child-care
28 or foster care worker, mental health professional, peace officer
29 or law enforcement official.

30 (c) Staff members of institutions, etc.--Whenever a person

1 is required to report under subsection (b) in the capacity as a
2 member of the staff of a medical or other public or private
3 institution, school, facility or agency, that person shall
4 immediately notify the person in charge of the institution,
5 school, facility or agency or the designated agent of the person
6 in charge. Upon notification, the person in charge or the
7 designated agent, if any, shall assume the responsibility and
8 have the legal obligation to report or cause a report to be made
9 in accordance with section 6313. This chapter does not require
10 more than one report from any such institution, school, facility
11 or agency.

12 (d) Civil action for discrimination against person filing
13 report.--Any person who, under this section, is required to
14 report or cause a report of suspected child abuse to be made and
15 who, in good faith, makes or causes the report to be made and,
16 as a result thereof, is discharged from his employment or in any
17 other manner is discriminated against with respect to
18 compensation, hire, tenure, terms, conditions or privileges of
19 employment, may commence an action in the court of common pleas
20 of the county in which the alleged unlawful discharge or
21 discrimination occurred for appropriate relief. If the court
22 finds that the person is an individual who, under this section,
23 is required to report or cause a report of suspected child abuse
24 to be made and who, in good faith, made or caused to be made a
25 report of suspected child abuse and, as a result thereof, was
26 discharged or discriminated against with respect to
27 compensation, hire, tenure, terms, conditions or privileges of
28 employment, it may issue an order granting appropriate relief,
29 including but not limited to reinstatement with back pay. The
30 department may intervene in any action commenced under this

1 subsection.

2 § 6312. Persons permitted to report suspected child abuse.

3 In addition to those persons and officials required to report
4 suspected child abuse, any person may make such a report if that
5 person has reasonable cause to suspect that a child is an abused
6 child.

7 § 6313. Reporting procedure.

8 (a) General rule.--Reports from persons required to report
9 under section 6311 (relating to persons required to report
10 suspected child abuse) shall be made immediately by telephone
11 and in writing within 48 hours after the oral report.

12 (b) Oral reports.--Oral reports shall be made to the
13 department pursuant to Subchapter C (relating to powers and
14 duties of department) and may be made to the appropriate child
15 protective service. When oral reports of suspected child abuse
16 are initially received at the child protective service, the
17 child protective service shall, after seeing to the immediate
18 safety of the child and other children in the home, immediately
19 notify the department of the receipt of the report, which is to
20 be held in the pending complaint file as provided in Subchapter
21 C. The initial child abuse report summary shall be supplemented
22 with a written report when a determination is made as to whether
23 a report of suspected child abuse is a founded report, an
24 unfounded report or an indicated report.

25 (c) Written reports.--Written reports from persons required
26 to report under section 6311 shall be made to the appropriate
27 child protective service in a manner and on forms the department
28 prescribes by regulation. The written reports shall include the
29 following information if available:

30 (1) The names and addresses of the child and the parents

1 or other person responsible for the care of the child if
2 known.

3 (2) Where the suspected abuse occurred.

4 (3) The age and sex of the child.

5 (4) The nature and extent of the suspected child abuse
6 including any evidence of prior abuse to the child or
7 siblings of the child.

8 (5) The name of the person or persons responsible for
9 causing the suspected abuse if known.

10 (6) Family composition.

11 (7) The relationship of the suspected perpetrator to the
12 child.

13 (8) The source of the report.

14 (9) The person making the report and where that person
15 can be reached.

16 (10) The actions taken by the reporting source including
17 the taking of photographs and X-rays, removal or keeping of
18 the child or notifying the medical examiner or coroner.

19 (11) Any other information which the department may
20 require by regulation.

21 (d) Failure to confirm oral report.--The failure of a person
22 reporting cases of suspected child abuse to confirm an oral
23 report in writing within 48 hours shall not relieve the child
24 protective service from any duties prescribed by this chapter.
25 In such event, the child protective service shall proceed as if
26 a written report were actually made.

27 § 6314. Photographs and X-rays of child subject to report.

28 A person or official required to report cases of suspected
29 child abuse may take or cause to be taken photographs of the
30 areas of trauma visible on a child who is subject to a report

1 and, if medically indicated, cause to be performed a
2 radiological examination on the child. Medical summaries or
3 reports of the photographs or X-rays taken shall be sent to the
4 child protective service at the time the written report is sent
5 or as soon thereafter as possible. Child protective services
6 shall have access to the actual photographs and X-rays and may
7 obtain them or duplicates of them upon request.

8 § 6315. Taking child into protective custody.

9 (a) General rule.--A child may be taken into protective
10 custody:

11 (1) As provided by 42 Pa.C.S. § 6324 (relating to taking
12 into custody).

13 (2) By a physician examining or treating the child or by
14 the director, or a person specifically designated in writing
15 by the director, of any hospital or other medical institution
16 where the child is being treated if protective custody is
17 immediately necessary to protect the child from further
18 serious physical injury, sexual abuse or serious physical
19 neglect.

20 (b) Duration of custody.--No child may be held in protective
21 custody for more than 24 hours unless the appropriate child
22 protective service is immediately notified that the child has
23 been taken into custody and the child protective service obtains
24 an order from a court of competent jurisdiction permitting the
25 child to be held in custody for a longer period. Each court
26 shall insure that a judge is available 24 hours a day, 365 days
27 a year to accept and decide the actions brought by a child
28 protective service under this subsection within the 24-hour
29 period.

30 (c) Notice of custody.--An individual taking a child into

1 protective custody under this chapter shall immediately, and
2 within 24 hours in writing, notify the parent, guardian or other
3 custodian of the child of the whereabouts of the child and the
4 reasons for the need to take the child into protective custody
5 and shall immediately notify the appropriate child protective
6 service in order that proceedings under 42 Pa.C.S. Ch. 63
7 (relating to juvenile matters) may be initiated, if appropriate.

8 (d) Detention hearing.--In no case shall protective custody
9 under this chapter be maintained longer than 72 hours without a
10 detention hearing. If at the detention hearing it is determined
11 that protective custody shall be continued, the child protective
12 service shall within 48 hours file a petition with the court
13 under 42 Pa.C.S. Ch. 63.

14 (e) Place of detention.--No child taken into protective
15 custody under this chapter may be detained during the protective
16 custody except in an appropriate medical facility, foster home
17 or other appropriate facility approved by the department for
18 this purpose.

19 (f) Conference with parent or other custodian.--A conference
20 between the parent, guardian or other custodian of the child
21 taken into temporary protective custody pursuant to this section
22 and the case worker designated by the child protection service
23 to be responsible for the child shall be held within 48 hours of
24 the time that the child is taken into custody for the purpose
25 of:

26 (1) Explaining to the parent, guardian or other
27 custodian the reasons for the temporary detention of the
28 child and the whereabouts of the child.

29 (2) Expediting, wherever possible, the return of the
30 child to the custody of the parent, guardian or other

1 custodian where custody is no longer necessary.

2 § 6316. Admission to private and public hospitals.

3 (a) General rule.--Children appearing to suffer any physical
4 or mental trauma which may constitute child abuse shall be
5 admitted to and treated in appropriate facilities of private and
6 public hospitals on the basis of medical need and shall not be
7 refused or deprived in any way of proper medical treatment and
8 care.

9 (b) Failure of hospital to admit child.--The failure of a
10 hospital to admit and properly treat and care for a child
11 pursuant to subsection (a) shall be cause for the department to
12 order immediate admittance, treatment and care by the hospital
13 which shall be enforceable, if necessary, by the prompt
14 institution of a civil action by the department. The child,
15 through an attorney, shall also have the additional and
16 independent right to seek immediate injunctive relief and
17 institute an appropriate civil action for damages against the
18 hospital.

19 § 6317. Reporting and postmortem investigation of deaths.

20 A person or official required to report cases of suspected
21 child abuse, including employees of a county children and youth
22 social service agency and its child protective service, who has
23 reasonable cause to suspect that a child died as a result of
24 child abuse shall report that fact to the coroner. The coroner
25 shall accept the report for investigation and shall report his
26 finding to the police, the district attorney, the appropriate
27 child protective service and, if the report is made by a
28 hospital, the hospital.

29 § 6318. Immunity from liability.

30 (a) General rule.--A person, hospital, institution, school,

1 facility or agency participating in good faith in the making of
2 a report, cooperating with an investigation or testifying in a
3 proceeding arising out of an instance of suspected child abuse,
4 the taking of photographs or the removal or keeping of a child
5 pursuant to section 6315 (relating to taking child into
6 protective custody) shall have immunity from any civil or
7 criminal liability that might otherwise result by reason of
8 those actions.

9 (b) Presumption of good faith.--For the purpose of any civil
10 or criminal proceeding, the good faith of a person required to
11 report pursuant to section 6311 (relating to persons required to
12 report suspected child abuse) shall be presumed.

13 § 6319. Penalties for failure to report.

14 A person or official required by this chapter to report a
15 case of suspected child abuse who willfully fails to do so
16 commits a summary offense for the first violation and a
17 misdemeanor of the third degree for a second or subsequent
18 violation.

19 SUBCHAPTER C

20 POWERS AND DUTIES OF DEPARTMENT

21 Sec.

22 6331. Establishment of pending complaint file and Statewide
23 central register.

24 6332. Establishment of Statewide toll-free telephone number.

25 6333. Continuous availability of department.

26 6334. Disposition of complaints received.

27 6335. Information in pending complaint file.

28 6336. Information in Statewide central register.

29 6337. Disposition of unfounded reports.

30 6338. Disposition of founded and indicated reports.

1 6339. Confidentiality of reports.
2 6340. Release of information in confidential reports.
3 6341. Amendment, sealing or expungement of information.
4 6342. Studies of data in records.
5 6343. Investigating performance of child protective service.
6 6344. Information relating to prospective child care
7 personnel.
8 6345. Audits by Attorney General.
9 6346. Cooperation of other agencies.
10 6347. Annual reports to Governor and General Assembly.
11 6348. Regulations.
12 6349. Penalties.

13 § 6331. Establishment of pending complaint file and Statewide
14 central register.

15 There shall be established in the department:

16 (1) A pending complaint file of child abuse reports
17 under investigation.

18 (2) A Statewide central register of child abuse which
19 shall consist of founded and indicated reports of child
20 abuse.

21 § 6332. Establishment of Statewide toll-free telephone number.

22 (a) General rule.--The department shall establish a single
23 Statewide toll-free telephone number that all persons, whether
24 mandated by law or not, may use to report cases of suspected
25 child abuse. A child protective service may use the Statewide
26 toll-free telephone number for determining the existence of
27 prior founded or indicated reports of child abuse in the
28 Statewide central register or reports under investigation in the
29 pending complaint file.

30 (b) Limitation on use.--A child protective service may only

1 request and receive information pursuant to this subsection
2 either on its own behalf because it has received a report of
3 suspected child abuse or on behalf of a physician examining or
4 treating a child or on behalf of the director or a person
5 specifically designated in writing by the director of any
6 hospital or other medical institution where a child is being
7 treated, where the physician or the director or a person
8 specifically designated in writing by the director suspects the
9 child of being an abused child.

10 § 6333. Continuous availability of department.

11 The department shall be capable of receiving oral reports of
12 child abuse made pursuant to this chapter and report summaries
13 of child abuse from child protective services and shall be
14 capable of immediately identifying prior reports of child abuse
15 in the Statewide central register and reports under
16 investigation in the pending complaint file and of monitoring
17 the provision of child protective services 24 hours a day, seven
18 days a week.

19 § 6334. Disposition of complaints received.

20 (a) Notice to child protective service.--Upon receipt of a
21 complaint of suspected child abuse, the department shall
22 immediately transmit orally to the appropriate child protective
23 service notice that the complaint of suspected child abuse has
24 been received and the substance of the complaint. If the
25 Statewide central register or the pending complaint file
26 contains information indicating a prior report or a current
27 investigation concerning a subject of the report, the department
28 shall immediately notify the appropriate child protective
29 service of this fact.

30 (b) Referral for services or investigation.--If the

1 complaint received does not suggest suspected child abuse but
2 does suggest a need for social services or other services or
3 investigation, the department shall transmit the information to
4 the county children and youth social service agency or other
5 public agency for appropriate action. The information shall not
6 be considered a child abuse report unless the agency to which
7 the information was referred has reason to believe after
8 investigation that abuse occurred. If the agency has reason to
9 believe that abuse occurred, the agency shall notify the
10 department and the initial complaint shall be considered to have
11 been a child abuse report.

12 (c) Recording in pending complaint file.--Upon receipt of a
13 complaint of suspected child abuse, the department shall
14 maintain a record of the complaint of suspected child abuse in
15 the pending complaint file.

16 § 6335. Information in pending complaint file.

17 (a) Information authorized.--No information other than that
18 permitted to be retained in the Statewide central register in
19 section 6336 (relating to information in Statewide central
20 register) shall be retained in the pending complaint file or
21 otherwise by the department.

22 (b) Access to information.--Except as provided in sections
23 6332 (relating to establishment of Statewide toll-free telephone
24 number), 6334 (relating to disposition of complaints received),
25 6340 (relating to release of information in confidential
26 reports) and 6342 (relating to studies of data in records), no
27 person, other than an employee of the department in the course
28 of official duties in connection with the responsibilities of
29 the department under this chapter, shall at any time have access
30 to any information in the pending complaint file or Statewide

1 central register.

2 § 6336. Information in Statewide central register.

3 (a) Information authorized.--The Statewide central register
4 shall include and shall be limited to the following information:

5 (1) The names, Social Security numbers, age and sex of
6 the subjects of the reports.

7 (2) The date or dates and the nature and extent of the
8 alleged instances of suspected child abuse.

9 (3) The home addresses of the subjects of the report.

10 (4) The county in which the suspected abuse occurred.

11 (5) Family composition.

12 (6) The name and relationship to the abused child of the
13 person or persons responsible for causing the abuse.

14 (7) The source of the report.

15 (8) Services planned or provided.

16 (9) Whether the report is a founded report or an
17 indicated report.

18 (10) The progress of any legal proceedings brought on
19 the basis of the report of suspected child abuse.

20 No information other than that permitted in this subsection
21 shall be retained in the Statewide central register, the pending
22 complaint file or otherwise by the department.

23 (b) Type of information released.--Except as provided in
24 sections 6334 (relating to disposition of complaints received),
25 6335 (relating to information in pending complaint file), 6340
26 (relating to release of information in confidential reports) and
27 6342 (relating to studies of data in records), persons receiving
28 information from the Statewide central register or pending
29 complaint file may be informed only as to:

30 (1) Whether the report is a founded or indicated abuse

1 or is under investigation.

2 (2) The number of founded and indicated reports.

3 (3) The nature and extent of the alleged or actual
4 instances of suspected child abuse.

5 (4) The county in which the reports are investigated.

6 (c) Limitation on release of information.--Except as
7 provided in sections 6334, 6335, 6340 and 6342, no information
8 shall be released from the Statewide central register or pending
9 complaint file unless pursuant to section 6332 (relating to
10 establishment of Statewide toll-free telephone number) and
11 unless the department has positively identified the
12 representative of the child protective service requesting the
13 information and the department has inquired into and is
14 satisfied that the representative has a legitimate need, within
15 the scope of official duties and the provisions of section 6332,
16 to obtain the information. Information in the Statewide central
17 register or pending complaint file shall not be released for any
18 purpose or to any individual not specified in section 6340.

19 § 6337. Disposition of unfounded reports.

20 (a) General rule.--When a report of suspected child abuse is
21 determined by the appropriate child protective service to be an
22 unfounded report, the information concerning that report of
23 suspected child abuse shall be expunged from the pending
24 complaint file within 12 months of the date the report was
25 received by the department and no information other than that
26 authorized by subsection (b), which shall not include any
27 identifying information on any subject of the report, shall be
28 retained by the department.

29 (b) Absence of other determination.--If an investigation of
30 a report of suspected child abuse conducted by the appropriate

1 child protective service pursuant to this chapter does not
2 determine within 60 days of the date of the initial report of
3 the instance of suspected child abuse that the report is an
4 indicated report or an unfounded report, or unless within that
5 same 60-day period court action has been initiated and is
6 responsible for the delay, the report shall be considered to be
7 an unfounded report and all information identifying the subjects
8 of the report shall be expunged within 12 months. The agency
9 shall advise the department that court action has been initiated
10 so that the pending complaint file is kept current regarding the
11 status of all legal proceedings and expungement delayed. Nothing
12 in this subsection shall in any way limit the powers and duties
13 of the department as provided in section 6343 (relating to
14 investigating performance of child protective service).

15 (c) Expungement of information.--All information identifying
16 the subjects of any report of suspected child abuse determined
17 to be an unfounded report shall be expunged from the pending
18 complaint file within 12 months of the date the report was
19 received by the department. The expungement shall be mandated
20 and guaranteed by the department.

21 § 6338. Disposition of founded and indicated reports.

22 (a) General rule.--When a report of suspected child abuse is
23 determined by the appropriate child protective service to be a
24 founded report or an indicated report, the information
25 concerning that report of suspected child abuse shall be
26 expunged immediately from the pending complaint file, and an
27 appropriate entry shall be made in the Statewide central
28 register. Notice of the determination must be given to the
29 subjects of the report, other than the abused child, along with
30 an explanation of the implications of the determination. Notice

1 given to subjects of the report shall include notice that their
2 ability to obtain employment in a child-care facility or program
3 may be adversely affected by entry of the report in the
4 Statewide central register. The notice shall also inform the
5 subject of the report of his right, at any time, to request the
6 secretary to amend, seal or expunge information contained in the
7 Statewide central register and his right to a hearing if the
8 request is denied.

9 (b) Expungement of information when child attains 18 years
10 of age.--All information identifying the subjects of all
11 indicated reports and all information identifying the subject
12 child of all founded reports shall be expunged when the subject
13 child reaches the age of 18 years, unless another report is
14 received involving the same child, his sibling or offspring, or
15 another child in the care of the persons responsible for the
16 subject child's welfare. The identifying information may then be
17 maintained in the register for five years after the subsequent
18 case or report is closed. The expungement shall be mandated and
19 guaranteed by the department.

20 § 6339. Confidentiality of reports.

21 Except as otherwise provided in this subchapter, reports made
22 pursuant to this chapter including, but not limited to, report
23 summaries of child abuse and written reports made pursuant to
24 section 6313(b) and (c) (relating to reporting procedure) as
25 well as any other information obtained, reports written or
26 photographs or X-rays taken concerning alleged instances of
27 child abuse in the possession of the department, a county
28 children and youth social service agency or a child protective
29 service shall be confidential.

30 § 6340. Release of information in confidential reports.

1 (a) General rule.--Reports specified in section 6339
2 (relating to confidentiality of reports) shall only be made
3 available to:

4 (1) An authorized official of a child protective service
5 in the course of official duties, multidisciplinary team
6 members assigned to the case and duly authorized persons
7 providing services pursuant to section 6370(a) (relating to
8 services for protection of child at home or in custody).

9 (2) A physician examining or treating a child or the
10 director or a person specifically designated in writing by
11 the director of any hospital or other medical institution
12 where a child is being treated when the physician or the
13 director or the designee of the director suspect the child of
14 being an abused child.

15 (3) A guardian ad litem for the child.

16 (4) An authorized official or agent of the department in
17 accordance with department regulations or in accordance with
18 the conduct of a performance audit as authorized by section
19 6343 (relating to investigating performance of child
20 protective service).

21 (5) A court of competent jurisdiction pursuant to a
22 court order.

23 (6) A standing committee of the General Assembly, as
24 specified in section 6384 (relating to legislative
25 oversight).

26 (7) The Attorney General.

27 (8) Federal auditors if required for Federal financial
28 participation in funding of agencies except that Federal
29 auditors may not have access to identifiable reports.

30 (9) Law enforcement officials in the course of

1 investigating cases of:

2 (i) Homicide, sexual abuse, sexual exploitation or
3 serious bodily injury perpetrated by persons whether or
4 not related to the victim.

5 (ii) Child abuse perpetrated by persons who are not
6 family members.

7 (iii) Repeated physical injury to a child under
8 circumstances which indicate that the child's health or
9 welfare is harmed or threatened.

10 (10) Law enforcement officials who shall receive reports
11 of abuse in which the initial review gives evidence that the
12 abuse is homicide, sexual abuse, sexual exploitation or
13 serious bodily injury perpetrated by persons whether or not
14 related to the victim, or child abuse perpetrated by persons
15 who are not family members. Reports referred to law
16 enforcement officials shall be on forms provided by and
17 according to regulations promulgated by the department.

18 (11) County commissioners, to whom the department shall
19 forward specific files upon request, for review when
20 investigating the competence of county children and youth
21 employees.

22 (12) A mandated reporter of child abuse as defined in
23 section 6311 (relating to persons required to report
24 suspected child abuse) who made a report of abuse involving
25 the subject child, but the information permitted to be
26 released to the mandated reporter shall be limited to the
27 following:

28 (i) The final status of the report following the
29 investigation, whether it be indicated, founded or
30 unfounded.

1 (ii) Any services provided, arranged for or to be
2 provided by the child protective service to protect the
3 child from further abuse.

4 (b) Release of information to subject child.--At any time
5 and upon written request, a subject of a report may receive a
6 copy of all information, except that prohibited from being
7 disclosed by subsection (c), contained in the Statewide central
8 register or in any report filed pursuant to section 6313
9 (relating to reporting procedure).

10 (c) Protecting identity of person making report.--The
11 release of data that would identify the person who made a report
12 of suspected child abuse or the person who cooperated in a
13 subsequent investigation is prohibited unless the secretary
14 finds that the release will not be detrimental to the safety of
15 that person.

16 (d) Definition.--As used in this section, "serious bodily
17 injury" means bodily injury which creates a substantial risk of
18 death or which causes serious permanent disfigurement or
19 protracted loss or impairment of the function of any bodily
20 member or organ.

21 § 6341. Amendment, sealing or expungement of information.

22 (a) General rule.--At any time:

23 (1) The secretary may amend, seal or expunge any record
24 upon good cause shown and notice to the appropriate subjects
25 of the report.

26 (2) A subject of a report may request the secretary to
27 amend, seal or expunge information contained in the Statewide
28 central register on the grounds that it is inaccurate or it
29 is being maintained in a manner inconsistent with this
30 chapter.

1 (b) Review of grant of request.--If the secretary grants the
2 request under subsection (a)(2), the Statewide central register,
3 appropriate child protective service agency and all subjects
4 shall be so advised within seven days from the date of the
5 decision. The child protective service agency and any subject
6 have 45 days in which to file an appeal with the secretary. If
7 an appeal is received, the secretary or his designated agent
8 shall schedule a hearing pursuant to Article IV of the act of
9 June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code,
10 and attending departmental regulations. If no appeal is received
11 within the designated time period, the Statewide central
12 register shall comply with the decision of the secretary and
13 advise the child protective service agency to amend, seal or
14 expunge the information in their records so that the records are
15 consistent at both the State and local levels.

16 (c) Review of refusal of request.--If the secretary refuses
17 the request under subsection (a)(2) or does not act within a
18 reasonable time, but in no event later than 30 days after
19 receipt of the request, the subject shall have the right to a
20 hearing before the secretary or a designated agent of the
21 secretary to determine whether the summary in the Statewide
22 central register or the contents of any report filed pursuant to
23 section 6313 should be amended, sealed or expunged on the
24 grounds that it is inaccurate or that it is being maintained in
25 a manner inconsistent with this chapter. The appropriate child
26 protective service shall be given notice of the hearing. The
27 burden of proof in the hearing shall be on the appropriate child
28 protective service. The department shall assist the child
29 protective service as necessary. In the hearings, the fact that
30 there was a court finding of child abuse shall be presumptive

1 evidence that the report was substantiated.

2 (d) Order.--The secretary or designated agent may make any
3 appropriate order respecting the amendment or expungement of
4 such records to make them accurate or consistent with the
5 requirements of this chapter.

6 (e) Notice of expungement.--Written notice of an expungement
7 of any record, made pursuant to the provisions of this chapter,
8 shall be served upon the subject of the record who was
9 responsible for the abuse and the appropriate child protective
10 service. The latter, upon receipt of the notice, shall take
11 appropriate, similar action in regard to the local child abuse
12 records and inform, for the same purpose, the appropriate
13 coroner if that officer has received reports pursuant to section
14 6367 (relating to reports to department and coroner). Whenever
15 the investigation reveals that the report is unfounded but that
16 the subjects need services and voluntarily accept services, the
17 county children and youth social service agency may retain those
18 portions of its records which do not specifically identify the
19 source of the investigation or report as suspected child abuse.

20 (f) Access to sealed record.--Once sealed, a record shall
21 not be otherwise available except as provided in section 6342
22 (relating to studies of data in records) or except if the
23 secretary, upon notice to the subjects of the report, gives
24 personal approval for an appropriate reason.

25 § 6342. Studies of data in records.

26 The department may conduct or authorize the conducting of
27 studies of the data contained in the pending complaint file and
28 the Statewide central register and county agencies and
29 distribute the results of the studies. No study may contain the
30 name or other information by which a subject of a report could

1 be identified. The department may allow Federal auditors access
2 to nonidentifiable duplicates of reports in the pending
3 complaint file and the Statewide central register if required
4 for Federal financial participation in funding of agencies.

5 § 6343. Investigating performance of child protective service.

6 (a) General rule.--If within 30 days from the date of an
7 initial report of suspected child abuse the appropriate child
8 protective service has not properly investigated the report and
9 informed the department that the report is an indicated report
10 or an unfounded report, or unless within that same 30-day period
11 the report is determined to be a founded report, the department
12 shall immediately begin an inquiry into the performance of the
13 child protective service which inquiry may include a performance
14 audit of the child protective service as provided in subsection
15 (b). On the basis of that inquiry, the department shall take
16 appropriate action to require that the provisions of this
17 chapter be strictly followed, which action may include, without
18 limitation, the institution of appropriate legal action and the
19 withholding of reimbursement for all or part of the activities
20 of the county children and youth social service agency.

21 (b) Performance audit.--Notwithstanding any other provision
22 of this chapter, the secretary or a designee of the secretary
23 may direct, at their discretion, a performance audit of any
24 activity engaged in pursuant to this chapter.

25 § 6344. Information relating to prospective child care
26 personnel.

27 (a) Applicability.--This section applies to all prospective
28 employees of child-care services, prospective foster parents,
29 prospective adoptive parents, prospective self-employed family
30 day-care providers and other persons seeking to provide child-

1 care services under contract with a child-care facility or
2 program. This section does not apply to administrative or other
3 support personnel unless their duties will involve direct
4 contact with children.

5 (b) Information submitted by prospective employees.--
6 Administrators of child care services shall require applicants
7 to submit with their applications the following information
8 obtained within the preceding one-year period:

9 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
10 history record information), a report of criminal history
11 record information from the Pennsylvania State Police or a
12 statement from the Pennsylvania State Police that the State
13 Police central repository contains no such information
14 relating to that person. The criminal history record
15 information shall be limited to that which is disseminated
16 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general
17 regulations).

18 (2) A certification from the department as to whether
19 the applicant is named in the central register as the
20 perpetrator of a founded or indicated report of child abuse.
21 An indicated report shall not be included until the
22 department adopts regulations specifying the manner in which
23 the investigation required by sections 6366 (relating to
24 continuous availability to receive reports) through 6372
25 (relating to protecting well-being of children detained
26 outside home) is to be conducted.

27 (3) Where the applicant is not a resident of this
28 Commonwealth, administrators shall require the applicant to
29 submit with the application for employment a report of
30 Federal criminal history record information pursuant to the

1 Federal Bureau of Investigation appropriation of the
2 Department of Justice Appropriation Act of 1973 (Public Law
3 92-544, 86 Stat. 1116), and the department shall be the
4 intermediary for the purposes of this section.

5 For the purposes of this subsection, an applicant may submit a
6 copy of the required information with an application for
7 employment. Administrators shall maintain a copy of the required
8 information and shall require applicants to produce the original
9 document prior to employment.

10 (c) Grounds for denying employment.--In no case shall an
11 administrator hire an applicant where the department has
12 verified that the applicant is named in the central register as
13 the perpetrator of a founded report of child abuse committed
14 within the five-year period immediately preceding verification
15 pursuant to this section. In no case shall an administrator hire
16 an applicant if the applicant's criminal history record
17 information indicates the applicant has been convicted, within
18 five years immediately preceding the date of the report, of one
19 or more of the following offenses under Title 18 (relating to
20 crimes and offenses):

21 Chapter 25 (relating to criminal homicide).

22 Section 2702 (relating to aggravated assault).

23 Section 2901 (relating to kidnapping).

24 Section 2902 (relating to unlawful restraint).

25 Section 3121 (relating to rape).

26 Section 3122 (relating to statutory rape).

27 Section 3123 (relating to involuntary deviate sexual
28 intercourse).

29 Section 3126 (relating to indecent assault).

30 Section 3127 (relating to indecent exposure).

1 Section 4303 (relating to concealing death of child born
2 out of wedlock).

3 Section 4304 (relating to endangering welfare of
4 children).

5 Section 4305 (relating to dealing in infant children).

6 A felony offense under section 5902(b) (relating to
7 prostitution and related offenses).

8 Section 5903(c) or (d) (relating to obscene and other
9 sexual materials).

10 Section 6301 (relating to corruption of minors).

11 Section 6312 (relating to sexual abuse of children).

12 (d) Prospective adoptive or foster parents.--With regard to
13 prospective adoptive or prospective foster parents, the
14 following shall apply:

15 (1) In the course of causing an investigation to be made
16 pursuant to section 2535(a) (relating to investigation), an
17 agency or person designated by the court to conduct the
18 investigation shall require prospective adoptive parents to
19 submit the information set forth in subsection (b)(1) and (2)
20 for review in accordance with this section.

21 (2) In the course of approving a prospective foster
22 parent, a foster family care agency shall require prospective
23 foster parents to submit the information set forth in
24 subsection (b)(1) and (2) for review by the foster family
25 care agency in accordance with this section.

26 (e) Self-employed family day care providers.--Self-employed
27 family day care providers who apply for a certificate of
28 registration with the department shall submit with their
29 registration application a report of criminal history record
30 information and shall also obtain certification from the

1 department as to whether the applicant is named in the central
2 register as the perpetrator of a founded report of child abuse.

3 (f) Submissions by operators of child care services.--The
4 department shall require persons seeking to operate child care
5 services to submit the information set forth in subsection
6 (b)(1) and (2) for review in accordance with this section.

7 (g) Regulations.--The department shall promulgate the
8 regulations necessary to carry out this section. These
9 regulations shall:

10 (1) Set forth criteria for unsuitability for employment
11 in a child-care service in relation to criminal history
12 record information which may include criminal history record
13 information in addition to that set forth above. The criteria
14 shall be reasonably related to the prevention of child abuse.

15 (2) Set forth sanctions for administrators who willfully
16 hire applicants in violation of this section or in violation
17 of the regulations promulgated under this section.

18 (3) Provide for the confidentiality of information
19 obtained pursuant to subsection (b).

20 (h) Fees.--The department may charge a fee not to exceed \$10
21 in order to conduct the certification as required in subsection
22 (b)(2).

23 (i) Time limit for certification.--The department shall
24 comply with certification requests no later than 14 days from
25 the receipt of the request.

26 (j) Voluntary certification of child caretakers.--The
27 department shall develop a procedure for the voluntary
28 certification of child caretakers to allow persons to apply to
29 the department for a certificate indicating the person has met
30 the requirements of subsection (b). The department shall also

1 provide for the biennial recertification of child caretakers.

2 (k) Existing or transferred employees.--A person employed in
3 child-care services on January 1, 1986, shall not be required to
4 obtain the information required in subsection (b)(1) and (2) as
5 a condition of continued employment. A person who has once
6 obtained the information required under subsection (b)(1) and
7 (2) may transfer to another child-care service established and
8 supervised by the same organization and shall not be required to
9 obtain additional reports before making the transfer.

10 (l) Temporary employees under special programs.--The
11 requirements of this section do not apply to employees of child-
12 care services who meet all the following requirements:

13 (1) They are under 21 years of age.

14 (2) They are employed for periods of 90 days or less.

15 (3) They are a part of a job development or job training
16 program funded, in whole or in part, by public or private
17 sources.

18 Once employment of a person who meets these conditions extends
19 beyond 90 days, all requirements of this section shall take
20 effect.

21 (m) Provisional employees for limited periods.--

22 Notwithstanding subsection (b), administrators may employ
23 applicants on a provisional basis for a single period not to
24 exceed 30 days or, for out-of-State applicants, a period of 90
25 days, if all of the following conditions are met:

26 (1) The applicant has applied for the information
27 required under subsection (b) and the applicant provides a
28 copy of the appropriate completed request forms to the
29 administrator.

30 (2) The administrator has no knowledge of information

1 pertaining to the applicant which would disqualify him from
2 employment pursuant to subsection (c).

3 (3) The applicant swears or affirms in writing that he
4 is not disqualified from employment pursuant to subsection
5 (c).

6 (4) If the information obtained pursuant to subsection
7 (b) reveals that the applicant is disqualified from
8 employment pursuant to subsection (c), the applicant shall be
9 immediately dismissed by the administrator.

10 (5) The administrator requires that the applicant not be
11 permitted to work alone with children and that the applicant
12 work in the immediate vicinity of a permanent employee.

13 § 6345. Audits by Attorney General.

14 The Attorney General shall conduct a mandated audit done
15 randomly but at least once during each year on an unannounced
16 basis to ensure that the expungement requirements of this
17 chapter are being fully and properly conducted.

18 § 6346. Cooperation of other agencies.

19 The secretary may request and shall receive from Commonwealth
20 agencies, political subdivisions, an authorized agency or any
21 other agency providing services under the local child protective
22 services plan any assistance and data that will enable the
23 department and the child protective services to fulfill their
24 responsibilities properly, including law enforcement personnel
25 when assistance is needed in conducting an investigation of
26 alleged child abuse. School districts shall cooperate with the
27 department and the agency by providing them upon request with
28 such information as is consistent with law.

29 § 6347. Annual reports to Governor and General Assembly.

30 No later than April 15 of every year, the secretary shall

1 prepare and transmit to the Governor and the General Assembly a
2 report on the operations of the central register of child abuse
3 and the various child protective services. The report shall
4 include a full statistical analysis of the reports of suspected
5 child abuse made to the department together with a report on the
6 implementation of this chapter and its total cost to the
7 Commonwealth, the evaluation of the secretary of services
8 offered under this chapter and recommendations for repeal or for
9 additional legislation to fulfill the purposes of this chapter.
10 All such recommendations should contain an estimate of increased
11 or decreased costs resulting therefrom. The report shall also
12 include an explanation of services provided to children who were
13 the subjects of founded or indicated reports of child abuse
14 while receiving child-care services. The department shall also
15 describe its actions in respect to the perpetrators of the
16 abuse.

17 § 6348. Regulations.

18 The department shall adopt regulations necessary to implement
19 this chapter.

20 § 6349. Penalties.

21 (a) Failure to amend or expunge information.--

22 (1) A person or official authorized to keep the records
23 mentioned in section 6337 (relating to disposition of
24 unfounded reports) or 6338 (relating to disposition of
25 founded and indicated reports) who willfully fails to expunge
26 the information when required commits a summary offense for
27 the first violation and a misdemeanor of the third degree for
28 a second or subsequent violation.

29 (2) A person who willfully fails to obey a final order
30 of the secretary or designated agent of the secretary to

1 amend or expunge the summary of the report in the Statewide
2 central register or the contents of any report filed pursuant
3 to section 6313 (relating to reporting procedure) commits a
4 summary offense.

5 (b) Unauthorized release of information.--A person who
6 willfully releases or permits the release of any data and
7 information contained in the pending complaint file, the
8 Statewide central register or the child welfare records required
9 by this chapter, including records maintained by any county
10 children and youth social service agency and any child
11 protective service, to persons or agencies not permitted by this
12 chapter commits a misdemeanor of the third degree.

13 (c) Noncompliance with child care personnel regulations.--An
14 administrator, or other person responsible for employment
15 decisions in a child care facility or program, who willfully
16 fails to comply with the provisions of section 6344 (relating to
17 information relating to prospective child care personnel)
18 commits a violation of this chapter and shall be subject to a
19 civil penalty as provided in this subsection. The department
20 shall have jurisdiction to determine violations of section 6344
21 and may, following a hearing, assess a civil penalty not to
22 exceed \$2,500. The civil penalty shall be payable to the
23 Commonwealth.

24 SUBCHAPTER D

25 ORGANIZATION AND RESPONSIBILITIES OF

26 CHILD PROTECTIVE SERVICE

27 Sec.

28 6361. Organization of child protective service.

29 6362. Responsibilities of child protective service.

30 6363. Local plan for child protective services.

1 6364. Purchasing services of other agencies.
2 6365. Services for prevention and treatment of child abuse.
3 6366. Continuous availability to receive reports.
4 6367. Reports to department and coroner.
5 6368. Investigation of reports.
6 6369. Taking child into protective custody.
7 6370. Services for protection of child at home or in custody.
8 6371. Rehabilitative services for child and family.
9 6372. Protecting well-being of children detained outside home.
10 § 6361. Organization of child protective service.

11 (a) Establishment.--Unless the department finds it is
12 unfeasible, every county children and youth social service
13 agency shall establish a "Child Protective Service" within the
14 agency. The department may waive the requirement that a county
15 establish a separate child protective service upon a showing by
16 the county that:

17 (1) A separate child protective service:

18 (i) would not be conducive to the best interests of
19 all children within the county who need public child
20 welfare services; and

21 (ii) would not be feasible or economical.

22 (2) The goals and objectives of this chapter will
23 continue to be met if a waiver is granted.

24 If the department grants a waiver under this subsection, the
25 county shall be bound by all other provisions of this chapter,
26 including requirements concerning the maintenance and disclosure
27 of confidential information and records.

28 (b) Staff and organization.--The child protective service
29 shall have a sufficient staff of sufficient qualifications to
30 fulfill the purposes of this chapter and be organized in such a

1 way as to maximize the continuity of responsibility, care and
2 services of individual workers toward individual children and
3 families.

4 (c) Functions authorized.--The child protective service
5 shall perform those functions assigned by this chapter to it and
6 only such others that would further the purposes of this
7 chapter.

8 § 6362. Responsibilities of child protective service.

9 (a) General rule.--The child protective service shall be the
10 sole civil agency responsible for receiving and investigating
11 all reports of child abuse made pursuant to this chapter
12 specifically including, but not limited to, reports of child
13 abuse in facilities operated by the department and other public
14 agencies, for the purpose of providing protective services to
15 prevent further abuses to children and to provide or arrange for
16 and monitor the provision of those services necessary to
17 safeguard and ensure the well-being and development of the child
18 and to preserve and stabilize family life wherever appropriate.

19 (b) Assumption of responsibility by department.--When the
20 suspected abuse has been committed by the county children and
21 youth social service agency or any of its agents or employees,
22 the department shall assume the role of the agency with regard
23 to the investigation and directly refer the child for services.

24 (c) Action by agencies for abuse by agents or employees.--
25 Where suspected child abuse has occurred and an employee or
26 agent of the department or the county children and youth social
27 service agency or a private or public institution is a subject
28 of the report, the department, agency or institution shall be
29 informed of the investigation so that it may take appropriate
30 action.

1 § 6363. Local plan for child protective services.

2 (a) General rule.--No later than once each year as required
3 by the department each county agency child protective service
4 shall prepare and submit a local plan for the provision of child
5 protective services. The local plan may be a component of a
6 county human service plan or a children and youth plan which may
7 be required by the act of June 13, 1967 (P.L.31, No.21), known
8 as the Public Welfare Code.

9 (b) Certification by department.--The department shall
10 certify whether or not the local plan fulfills the purposes of
11 and meets the requirements set forth in this chapter. If the
12 department certifies that the local plan does not do so, the
13 department shall state the reasons therefor and may withhold
14 reimbursement for all or part of the activities of the agency.
15 If the department finds that a proposed local plan does not meet
16 the requirements set forth in this chapter, the child protective
17 service shall revise the local plan in accordance with the
18 reasons of the department for disapproval.

19 § 6364. Purchasing services of other agencies.

20 Any other provision of law notwithstanding but consistent
21 with sections 6361 (relating to organization of child protective
22 service) and 6362 (relating to responsibilities of child
23 protective service), the county children and youth social
24 service agency, based upon the local plan of services as
25 provided in section 6363 (relating to local plan for child
26 protective services), may purchase and utilize the services of
27 any appropriate public or private agency.

28 § 6365. Services for prevention and treatment of child abuse.

29 Each child protective service shall make available among its
30 services for the prevention and treatment of child abuse

1 multidisciplinary teams, instruction and education for
2 parenthood, protective and preventive social counseling,
3 emergency caretaker services, emergency shelter care, emergency
4 medical services and the establishment of groups organized by
5 former abusing parents to encourage self-reporting and self-
6 treatment of present abusers.

7 § 6366. Continuous availability to receive reports.

8 Each child protective service shall receive 24 hours a day,
9 seven days a week, all reports, both oral and written, of
10 suspected child abuse in accordance with this chapter, the local
11 plan for the provision of child protective services and the
12 regulations of the department.

13 § 6367. Reports to department and coroner.

14 (a) Reports to department.--Upon the receipt of each report
15 of suspected child abuse made pursuant to this chapter, the
16 child protective service shall immediately transmit a child
17 abuse report summary as provided in section 6313 (relating to
18 reporting procedure) to the department. Supplemental reports
19 shall be made at regular intervals thereafter in a manner and
20 form the department prescribes by regulation to the end that the
21 department is kept fully informed and up-to-date concerning the
22 status of reports of child abuse.

23 (b) Reports to coroner.--The child protective service shall
24 give telephone notice and forward immediately a copy of reports
25 made pursuant to this chapter which involve the death of a child
26 to the appropriate coroner pursuant to section 6317 (relating to
27 reporting and postmortem investigation of deaths).

28 § 6368. Investigation of reports.

29 (a) General rule.--Upon receipt of each report of suspected
30 child abuse, the child protective service shall commence within

1 24 hours an appropriate investigation which shall include a
2 determination of the risk to the child or children if they
3 continue to remain in the existing home environment as well as a
4 determination of the nature, extent and cause of any condition
5 enumerated in the report and, after seeing to the safety of the
6 child or children, immediately notify the subjects of the report
7 in writing of the existence of the report and their rights
8 pursuant to this chapter in regard to amendment or expungement.

9 (b) Conditions outside home environment.--The investigation
10 shall determine whether the child is being harmed by factors
11 beyond the control of the parent or other person responsible for
12 the welfare of the child, and, if so determined, the child
13 protective service shall promptly take all available steps to
14 remedy and correct these conditions including but not limited to
15 the coordination of social services for the child and the
16 family.

17 (c) Limitation of actions.--The investigation shall be
18 completed within 30 days. The child protective service shall
19 determine, within 30 days, whether the report is "founded,"
20 "indicated" or "unfounded."

21 § 6369. Taking child into protective custody.

22 Pursuant to the provisions of section 6315 (relating to
23 taking child into protective custody) and after court order, the
24 child protective service shall take a child into protective
25 custody for protection from further abuse. No child protective
26 service worker may enter the home of any individual for this
27 purpose without judicial authorization.

28 § 6370. Services for protection of child at home or in custody.

29 (a) General rule.--Based on the investigation and evaluation
30 conducted pursuant to this chapter, the child protective service

1 shall provide or contract with private or public agencies for
2 the protection of the child at home whenever possible and those
3 services necessary for adequate care of the child when placed in
4 protective custody. Prior to offering these services to a
5 family, the agency shall explain that it has no legal authority
6 to compel the family to receive the services but may inform the
7 family of the obligations and authority of the child protective
8 service to initiate appropriate court proceedings.

9 (b) Initiation of court proceedings.--In those cases in
10 which an appropriate offer of service is refused and the child
11 protective service determines, or if the service for any other
12 appropriate reason determines, that the best interests of the
13 child require court action, the child protective service shall
14 initiate the appropriate court proceeding. The child protective
15 service shall assist the court during all stages of the court
16 proceeding in accordance with the purposes of this chapter.

17 § 6371. Rehabilitative services for child and family.

18 The child protective service shall provide or arrange for and
19 monitor rehabilitative services for children and their families
20 on a voluntary basis or under a final or intermediate order of
21 the court.

22 § 6372. Protecting well-being of children detained outside
23 home.

24 The child protective service shall be as equally vigilant of
25 the status, well-being and conditions under which a child is
26 living and being maintained in a facility other than that of a
27 parent, custodian or guardian from which the child has been
28 removed as the service is of the conditions in the dwelling of
29 the parent, custodian or guardian. Where the child protective
30 service finds that the placement for any temporary or permanent

1 custody, care or treatment is for any reason inappropriate or
2 harmful to the physical or mental well-being of the child, it
3 shall take immediate steps to remedy these conditions including
4 petitioning the court.

5 SUBCHAPTER E

6 MISCELLANEOUS PROVISIONS

7 Sec.

8 6381. Evidence in court proceedings.

9 6382. Guardian ad litem for child in court proceedings.

10 6383. Education and training.

11 6384. Legislative oversight.

12 § 6381. Evidence in court proceedings.

13 (a) General rule.--In addition to the rules of evidence
14 provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters),
15 the rules of evidence in this section shall govern in child
16 abuse proceedings in court.

17 (b) Reports of unavailable persons.--Whenever a person
18 required to report under this chapter is unavailable due to
19 death or removal from the jurisdiction of the court, the written
20 report of that person shall be admissible in evidence in any
21 proceedings arising out of child abuse other than proceedings
22 under Title 18 (relating to crimes and offenses). Any hearsay
23 contained in the reports shall be given such weight, if any, as
24 the court determines to be appropriate under all of the
25 circumstances. However, any hearsay contained in a written
26 report shall not of itself be sufficient to support an
27 adjudication based on abuse.

28 (c) Privileged communications.--Except for privileged
29 communications between a lawyer and a client and between a
30 minister and a penitent, a privilege of confidential

1 communication between husband and wife or between any
2 professional person, including, but not limited to, physicians,
3 psychologists, counselors, employees of hospitals, clinics, day-
4 care centers and schools and their patients or clients, shall
5 not constitute grounds for excluding evidence at any proceeding
6 regarding child abuse or the cause of child abuse.

7 (d) Prima facie evidence of abuse.--Evidence that a child
8 has suffered serious physical injury, sexual abuse or serious
9 physical neglect of such a nature as would ordinarily not be
10 sustained or exist except by reason of the acts or omissions of
11 the parent or other person responsible for the welfare of the
12 child shall be prima facie evidence of child abuse by the parent
13 or other person responsible for the welfare of the child.

14 § 6382. Guardian ad litem for child in court proceedings.

15 (a) Appointment.--When a proceeding has been initiated
16 alleging child abuse, the court shall appoint a guardian ad
17 litem for the child. The guardian ad litem shall be an attorney
18 at law.

19 (b) Powers and duties.--The guardian ad litem shall be given
20 access to all reports relevant to the case and to any reports of
21 examination of the parents or other custodian of the child
22 pursuant to this chapter. The guardian ad litem shall be charged
23 with the representation of the best interests of the child at
24 every stage of the proceeding and shall make such further
25 investigation necessary to ascertain the facts, interview
26 witnesses, examine and cross-examine witnesses, make
27 recommendations to the court and participate further in the
28 proceedings to the degree appropriate for adequately
29 representing the child.

30 (c) Duty of court.--The court shall, upon consideration of

1 the petition of any attorney for the child, order a local child
2 protective service or other agency to establish and implement,
3 fully and promptly, appropriate services, treatment and plans
4 for a child found in need of them. The court shall also, upon
5 consideration of the petition of an attorney for the child,
6 terminate or alter the conditions of any temporary or permanent
7 placement of a child.

8 § 6383. Education and training.

9 The department and each child protective service, both
10 jointly and individually, shall conduct a continuing publicity
11 and education program for the citizens of this Commonwealth
12 aimed at the prevention of child abuse, the identification of
13 abused children and the provision of necessary ameliorative
14 services to abused children and their families. In addition, the
15 department and each child protective service shall conduct an
16 ongoing training and education program for local staff, persons
17 required to make reports and other appropriate persons in order
18 to familiarize those persons with the reporting and
19 investigative procedures for cases of suspected child abuse and
20 the rehabilitative services that are available to children and
21 families.

22 § 6384. Legislative oversight.

23 A committee of the Senate designated by the President pro
24 tempore of the Senate and a committee of the House of
25 Representatives designated by the Speaker of the House of
26 Representatives, either jointly or separately, shall review the
27 manner in which this chapter has been administered at the State
28 and local level for the following purposes:

29 (1) Providing information that will aid the General
30 Assembly in its oversight responsibilities.

1 (2) Enabling the General Assembly to determine whether
2 the programs and services mandated by this chapter are
3 effectively meeting the goals of this chapter.

4 (3) Assisting the General Assembly in measuring the
5 costs and benefits of this program and the effects and side-
6 effects of mandated program services.

7 (4) Permitting the General Assembly to determine whether
8 the confidentiality of records mandated by this chapter is
9 being maintained at the State and local level.

10 (5) Providing information that will permit State and
11 local program administrators to be held accountable for the
12 administration of the programs mandated by this chapter.

13 Section 3. Section 2711(d) of Title 18 is amended read:

14 § 2711. Probable cause arrests in domestic violence cases.

15 * * *

16 (d) Notice of rights.--

17 Upon responding to a domestic violence case, the police
18 officer shall, orally or in writing, notify the victim of the
19 availability of a shelter, including its telephone number, or
20 other services in the community. Said notice shall include
21 the following statement: "If you are the victim of domestic
22 violence, you have the right to go to court and file a
23 petition requesting an order for protection from domestic
24 abuse pursuant to [the act of October 7, 1976 (P.L.1090,
25 No.218), known as the Protection From Abuse Act,] 23 Pa.C.S.
26 Ch. 61 (relating to protection from abuse) which could
27 include the following:

28 (1) An order restraining the abuser from further
29 acts of abuse.

30 (2) An order directing the abuser to leave your

1 household.

2 (3) An order preventing the abuser from entering
3 your residence, school, business or place of employment.

4 (4) An order awarding you or the other parent
5 temporary custody of or temporary visitation with your
6 child or children.

7 (5) An order directing the abuser to pay support to
8 you and the minor children if the abuser has a legal
9 obligation to do so."

10 Section 4. Amendments to Title 42.--Sections 1725.1(c),
11 4136, 5924, 5945, 5948, 7541(c) and 8127 of Title 42 are amended
12 or added to read:

13 § 1725.1. Costs.

14 * * *

15 (c) Unclassified costs or charges.--The costs to be charged
16 by the minor judiciary in the following instances not readily
17 classifiable shall be as follows:

18 (1) Entering transcript of judgment from another member
19 of the minor judiciary..... \$ 3.00

20 (2) Marrying each couple, making record thereof, and
21 certificate to the parties..... \$10.00

22 (3) Granting emergency relief pursuant to [the act of
23 October 7, 1976 (P.L.1090, No.218), known as the
24 "Protection From Abuse Act"] 23 Pa.C.S. Ch. 61 (relating to
25 protection from abuse)..... \$10.00

26 (4) Issuing a search warrant (except as provided in
27 subsection (d))..... \$10.00

28 (5) Any other issuance not otherwise provided for in
29 this subsection..... \$10.00

30 * * *

1 § 4136. Rights of persons charged with certain indirect
2 criminal contempts.

3 (a) General rule.--A person charged with indirect criminal
4 contempt for violation of a restraining order or injunction
5 issued by a court shall enjoy:

6 (1) The rights to bail that are accorded to persons
7 accused of crime.

8 (2) The right to be notified of the accusation and a
9 reasonable time to make a defense, if the alleged contempt is
10 not committed in the immediate view or presence of the court.

11 (3) (i) Upon demand, the right to a speedy and public
12 trial by an impartial jury of the judicial district
13 wherein the contempt is alleged to have been committed.

14 (ii) The requirement of subparagraph (i) shall not
15 be construed to apply to contempts:

16 (A) [~~committed~~] Committed in the presence of the
17 court or so near thereto as to interfere directly
18 with the administration of justice, or to apply to
19 the misbehavior, misconduct, or disobedience of any
20 officer of the court in respect to the writs, orders,
21 or process of the court[; or].

22 (B) Subject to 23 Pa.C.S. § 6110 (relating to
23 contempt for violation of order or agreement).

24 [(B) subject] (C) Subject to 75 Pa.C.S. §
25 4108(c) (relating to nonjury criminal contempt
26 proceedings).

27 (4) The right to file with the court a demand for the
28 withdrawal of the judge sitting in the proceeding, if the
29 alleged contempt arises from an attack upon the character or
30 conduct of such judge, and if the attack occurred otherwise

1 than in open court. Upon the filing of any such demand, the
2 judge shall thereupon proceed no further but another judge
3 shall be designated by the court. The demand shall be filed
4 prior to the hearing in the contempt proceeding.

5 (b) Punishment.--Except as otherwise provided in this title
6 or by statute hereafter enacted, punishment for a contempt
7 specified in subsection (a) may be by fine not exceeding \$100 or
8 by imprisonment not exceeding 15 days in the jail of the county
9 where the court is sitting, or both, in the discretion of the
10 court. Where a person is committed to jail for the nonpayment of
11 such a fine, he shall be discharged at the expiration of 15
12 days, but where he is also committed for a definite time, the 15
13 days shall be computed from the expiration of the definite time.

14 § 5924. Spouses as witnesses against each other.

15 (a) General rule.--In a civil matter neither husband nor
16 wife shall be competent or permitted to testify against each
17 other.

18 (b) Exception.--Subsection (a) shall not apply in an action
19 or proceeding:

20 (1) For divorce, including ancillary proceedings for the
21 partition or division of property.

22 (2) For support or relating to the protection or
23 recovery of marital or separate property.

24 (3) For custody or care of children, including actions
25 or proceedings relating to visitation rights and similar
26 matters.

27 (4) Arising under [the act of October 7, 1976 (P.L.1090,
28 No.218), known as the "Protection From Abuse Act."] 23
29 Pa.C.S. Ch. 61 (relating to protection from abuse).

30 (5) When a statute heretofore or hereafter enacted

1 applicable to the action or proceeding provides either
2 expressly or by necessary implication that spouses may
3 testify therein against each other.

4 § 5945. Confidential communications to school personnel.

5 (a) General rule.--No guidance counselor, school nurse,
6 school psychologist, or home and school visitor in the public
7 schools or in private or parochial schools or other educational
8 institutions providing elementary or secondary education,
9 including any clerical worker of such schools and institutions,
10 who, while in the course of his professional or clerical duties
11 for a guidance counselor, home and school visitor, school nurse
12 or school psychologist, has acquired information from a student
13 in confidence shall be compelled or allowed:

14 (1) without the consent of the student, if the student
15 is 18 years of age or over; or

16 (2) without the consent of his parent or guardian, if
17 the student is under the age of 18 years;

18 to disclose such information in any legal proceeding, trial, or
19 investigation before any government unit.

20 (b) Exemption.--Notwithstanding subsection (a), no such
21 person shall be excused or prevented from complying with [the
22 act of November 26, 1975 (P.L.438, No.124), known as the "Child
23 Protective Services Law."] 23 Pa.C.S. Ch. 63 (relating to child
24 protective services).

25 § 5948. Confidential communications to qualified professionals.

26 Communications of a confidential character made by a spouse
27 to a qualified professional as defined in 23 Pa.C.S. § 3103
28 (relating to definitions) shall be privileged and inadmissible
29 in evidence in any matter under 23 Pa.C.S. Pt. IV (relating to
30 divorce) or VI (relating to children and minors) unless the

1 party concerned waives this privilege.

2 § 7541. Construction of subchapter.

3 * * *

4 (c) Exceptions.--Relief shall not be available under this
5 subchapter with respect to any:

6 (1) Action wherein a divorce or annulment of marriage is
7 sought except as provided by 23 Pa.C.S. § 3306 (relating to
8 proceedings to determine marital status).

9 (2) Proceeding within the exclusive jurisdiction of a
10 tribunal other than a court.

11 (3) Proceeding involving an appeal from an order of a
12 tribunal.

13 § 8127. Personal earnings exempt from process.

14 The wages, salaries and commissions of individuals shall
15 while in the hands of the employer be exempt from any
16 attachment, execution or other process except upon an action or
17 proceeding:

18 (1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

19 [(1)] (2) For support.

20 [(2)] (3) For board for four weeks or less.

21 [(3)] (4) Under the act of August 7, 1963 (P.L.549,
22 No.290), referred to as the Pennsylvania Higher Education
23 Assistance Agency Act.

24 Section 5. Construction of Divorce Code.--The provisions of
25 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all
26 cases, whether the cause for divorce or annulment arose prior or
27 subsequent to the enactment of this act. The provisions of 23
28 Pa.C.S. Pt. IV shall not affect any suit or action pending on
29 the effective date of the Divorce Code of 1980, but the suit or
30 action may be proceeded with and concluded either under the laws

1 in existence when the suit or action was instituted,
2 notwithstanding the repeal of such laws, or, upon application
3 granted, under the provisions of 23 Pa.C.S. Pt. IV. The
4 provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in
5 which a decree has been rendered prior to the effective date of
6 the Divorce Code of 1980. The provisions of 23 Pa.C.S. Pt. IV
7 shall not affect any marital agreement executed prior to the
8 effective date of the Divorce Code of 1980 or any amendment or
9 modification thereto.

10 Section 6. Repeals.--(a) The following acts and parts of
11 acts are repealed:

12 Act of March 13, 1815 (P.L.150, No.109), entitled "An act
13 concerning divorces."

14 Act of April 11, 1848 (P.L.536, No.372), entitled "A
15 supplement to an act, entitled 'An Act relative to the Le
16 Raysville Phalanx,' passed March, Anno Domini one thousand eight
17 hundred and forty-seven, and relative to obligors and obligees,
18 to secure the right of married women, in relation to
19 defalcation, and to extend the boundaries of the borough of
20 Ligonier."

21 Act of April 15, 1851 (P.L.669, No.358), entitled "An act to
22 incorporate a company to erect a bridge over the river
23 Schuylkill at Spring Mill, in Montgomery county, relative to the
24 nineteenth section of 'An act regulating certain election
25 districts, &c,' approved March twenty-ninth, eighteen hundred
26 and fifty-one, to school directors in Philadelphia county, to
27 actions for damages sustained by injuries done to the person by
28 negligence or default, relative to the accounts of John Humes,
29 deceased, to authorize the trustees of the Seventh Presbyterian
30 church of Philadelphia to convey certain real estate, to

1 security for moneys loaned by wives to husbands, to unpaid
2 school taxes in Bradford county, and relative to service or
3 process on agents of joint stock companies."

4 Act of May 14, 1857 (P.L.507, No.567), entitled "An act to
5 Legitimate Children Born out of Lawful Wedlock."

6 Act of April 21, 1858 (P.L.413, No.444), entitled "An act
7 relating to Illegitimate Children."

8 Act of March 22, 1865 (P.L.30, No.14), entitled, as amended,
9 "An act to authorize minor husbands and wives, seventeen years
10 of age and older, to join in conveyances of their adult spouses'
11 real estate, and to validate such conveyances heretofore made."

12 Act of April 6, 1868 (P.L.67, No.31), entitled "An act to
13 validate certain marriages and legitimatize the issue thereof."

14 Act of June 2, 1871 (P.L.283, No.263), entitled "An act to
15 authorize married women owning capital stock of any railroad
16 company to sell and transfer the same."

17 Act of April 3, 1872 (P.L.35, No.24), entitled "An act
18 securing to married women their separate earnings."

19 Act of April 1, 1874 (P.L.49, No.9), entitled "An act to
20 authorize married women owning loans of this commonwealth, or of
21 the city of Philadelphia, or capital stock of any corporation of
22 this commonwealth, to sell and transfer the same."

23 Act of May 15, 1874 (P.L.179, No.110), entitled "An act to
24 prevent traffic in children."

25 Act of June 26, 1895 (P.L.316, No.232), entitled "An act
26 relating to husband and wife who are the parents of minor
27 children, enlarging and extending the power, control and
28 authority of the mother over their minor children, under certain
29 circumstances."

30 Act of June 11, 1913 (P.L.468, No.313), entitled "An act to

1 provide for the execution of orders of the court of quarter
2 sessions, or other court of competent jurisdiction, for support
3 and maintenance of a wife or children, or both, and for the
4 execution of judgment entered upon contracts for such support
5 and maintenance, by subjecting estates owned by the husband and
6 wife by entireties, and the rents, issues and profits thereof,
7 to such executions; defining the title of the purchaser at the
8 sheriff's sale on such executions; and providing for the
9 application of the proceeds of such sales."

10 Act of April 18, 1919 (P.L.67, No.52), entitled "An act to
11 give to women, married and single, the same right as men to be
12 corporators, and, in furtherance of their interests as
13 stockholders, to serve as directors and officers of corporations
14 for profit."

15 Act of May 24, 1923 (P.L.446, No.238), entitled "An act
16 authorizing the sale of real estate held by entireties by
17 husband and wife when an order of support has been secured
18 against the husband who has neglected to comply with the same,
19 or whose whereabouts is unknown, or who has absented himself
20 from this Commonwealth; prescribing the procedure to be
21 followed; permitting husband and wife to testify; providing for
22 the disposition of the proceeds of such sale; and granting a
23 divorced woman the same rights under this act as a wife.

24 Act of April 11, 1927 (P.L.181, No.151), entitled "An act
25 authorizing a married woman, granted a divorce from bed and
26 board, to convey and encumber her real estate, without the
27 joinder of her husband."

28 Act of May 10, 1927 (P.L.884, No.451), entitled, as amended,
29 "An act modifying the common-law rule relating to property
30 hereafter acquired by husband and wife as tenants by entireties,

1 where such husband and wife are subsequently divorced; creating
2 a tenancy in common in such cases; providing for the sale of
3 property held by husband and wife as tenants by entireties where
4 they have been divorced; and directing the distribution of the
5 proceeds of such sale."

6 Act of June 22, 1935 (P.L.450, No.189), entitled "An act to
7 promote public morals; abolishing civil causes of action for
8 alienation of affections, except in certain cases, and breach of
9 promise to marry; making it unlawful to file, cause to be filed,
10 threaten to file, or threaten to cause to be filed any such
11 action; fixing a time for the commencement of such causes of
12 action heretofore accrued; declaring void all future contracts
13 in settlement of such actions; making it unlawful to induce the
14 execution of such a contract or payment thereunder or
15 institution of suit thereon; and providing penalties."

16 Act of May 13, 1949 (P.L.1319, No.390), entitled "An act
17 authorizing the conveyance of the interest of either former
18 spouse after a divorce to the other without the joinder of the
19 other, of such former spouse's interest in real estate which is
20 held by them as tenants by the entireties, and validating such
21 conveyances formerly made."

22 Act of August 22, 1953 (P.L.1344, No.383), known as The
23 Marriage Law.

24 Act of December 17, 1959 (P.L.1916, No.695), entitled "An act
25 relating to the legitimacy of children born of void or voidable
26 marriages."

27 Act of August 7, 1961 (P.L.961, No.426), entitled "An act
28 authorizing minor spouses to join their adult spouse in the
29 conveyance or mortgaging of their real estate and to execute
30 bonds or other obligations in connection therewith and

1 validating such action taken."

2 Act of July 27, 1967 (P.L.186, No.58), entitled "An act
3 imposing liability upon parents for personal injury, or theft,
4 destruction, or loss of property caused by the wilful, tortious
5 acts of children under eighteen years of age, setting forth
6 limitations, and providing procedure for recovery."

7 Act of June 16, 1972 (P.L.472, No.151), entitled "An act
8 authorizing persons eighteen years of age and older to enter
9 into contracts."

10 Act of December 6, 1972 (P.L.1404, No.300), entitled "An act
11 making a person eighteen and older an adult for the purpose of
12 suing and being sued."

13 Act of November 26, 1975 (P.L.438, No.124), known as the
14 Child Protective Services Law.

15 Act of October 7, 1976 (P.L.1090, No.218), known as the
16 Protection From Abuse Act.

17 Act of April 2, 1980 (P.L.63, No.26), known as the Divorce
18 Code.

19 Act of May 24, 1984 (P.L.326, No.64), known as the
20 Pennsylvania Adoption Cooperative Exchange Act.

21 42 Pa.C.S. Ch. 53, Subch. C (relating to child custody
22 jurisdiction).

23 42 Pa.C.S. Ch. 61, Subch. C (relating to blood tests to
24 determine paternity).

25 (b) Nothing in this act shall repeal, modify or supplant
26 section 7 of the act of February 12, 1988 (P.L.66, No.13),
27 entitled "An act amending the act of April 2, 1980 (P.L.63,
28 No.26), entitled 'An act consolidating, revising and amending
29 the divorce and annulment laws of the Commonwealth and making
30 certain repeals,' further providing for grounds for divorce,

1 enforcement of foreign decrees, procedure, jurisdiction, marital
2 property, relief and alimony; providing for agreements between
3 parties; making editorial changes; and making a repeal."

4 (c) All other acts and parts of acts are repealed insofar as
5 they are inconsistent with this act.

6 Section 7. Effective date.--This act shall take effect in 90
7 days.