

# THE GENERAL ASSEMBLY OF PENNSYLVANIA

# SENATE BILL

No. 124

Session of  
1981

INTRODUCED BY JUBELIRER, O'PAKE, GREENLEAF, STOUT, FISHER,  
LOEPER, CORMAN AND PRICE, JANUARY 26, 1981

SENATOR GEKAS, JUDICIARY, AS AMENDED, MARCH 31, 1981

## AN ACT

1 Providing for the sole or shared custody of ~~minor~~ children;  
2 providing access to records to both parents.

3       The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6       This act shall be known and may be cited as the "Custody  
7 Act."

8 Section 2. Policy and purpose.

9       The General Assembly declares that it is the public policy of  
10 this Commonwealth, when in the best interest of the child or  
11 children, to assure a reasonable and continuing contact of such  
12 child or children with both parents after a separation or  
13 dissolution of marriage, and the sharing of the rights and  
14 responsibilities of child rearing by both parents.

15 Section 3. Definitions.

16       The following words and phrases when used in this act shall  
17   have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 "CHILD." ANY UNEMANCIPATED PERSON WHO IS UNDER THE AGE OF <—  
3 18.

4 "Legal custody." The legal right to make major decisions  
5 affecting the best interests of a minor child, including but not  
6 limited to, medical, religious and educational decisions.

7 "Physical custody." The actual physical possession and  
8 control of a ~~minor~~ child. <—

9 "Shared custody." An order awarding shared legal or shared  
10 physical custody or both of a ~~minor~~ child IN SUCH A WAY AS TO <—  
11 ASSURE THE CHILD OR CHILDREN OF FREQUENT AND CONTINUING CONTACT,  
12 INCLUDING PHYSICAL ACCESS, TO BOTH PARENTS.

13 Section 4. Award of sole custody.

14 In making an order for custody to either parent,  
15 individually, the court shall consider, among other factors,  
16 which parent is more likely to encourage, permit and allow  
17 frequent and continuing contact INCLUDING PHYSICAL ACCESS <—  
18 between the noncustodial parent and the child or children. The  
19 court shall issue sole custody when it is in the best interests  
20 of the ~~minor~~ child or children. <—

21 Section 5. Award of shared custody.

22 An order for shared custody may be awarded by the court when  
23 it is in the best interests of the ~~minor~~ child or children and: <—

24 (1) upon application of one or both parents;

25 (2) when the parties have agreed to an award of shared  
26 custody; or

27 (3) in the discretion of the court.

28 Section 6. Submission of plan by parents.

29 The court, in its discretion, may require the parents to  
30 submit to the court a plan for the implementation of any custody

1 order made pursuant to the provisions of this act. Upon the  
2 request of either parent or the court, the local Domestic  
3 Relations Office shall assist in the formulation and  
4 implementation of such a plan.

5 Section 7. Court denial of award or plan.

6 When the court declines to enter an order awarding custody  
7 either as agreed to by the parents or under the plan developed  
8 by the parents, pursuant to this act, the court shall state its  
9 reasons for denial on the record.

10 SECTION 8. REMOVAL FROM JURISDICTION. <—

11 IF EITHER PARTY INTENDS TO OR DOES REMOVE HIMSELF OR HERSELF  
12 OR THE CHILD OR CHILDREN FROM THE COMMONWEALTH AFTER A CUSTODY  
13 ORDER HAS BEEN MADE, THEN THE COURT, ON ITS OWN MOTION, OR  
14 EITHER PARTY MAY REQUEST A REVIEW OF THE EXISTING CUSTODY ORDER.

15 Section & 9. Access to records. <—

16 ~~Notwithstanding any other provision of law, access to records~~ <—  
17 ~~and information pertaining to a minor child, including but not~~  
18 ~~limited to medical, dental and school records, shall not be~~  
19 ~~denied to a parent because such parent does not have physical or~~  
20 ~~legal custody of the child.~~

21 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH PARENT <—  
22 SHALL BE PROVIDED ALL ACCESS TO THE MEDICAL, DENTAL, RELIGIOUS  
23 OR SCHOOL RECORDS OF THEIR CHILD OR CHILDREN, THE ADDRESS AND  
24 TELEPHONE NUMBER OF THEIR CHILD OR CHILDREN AND OF THE OTHER  
25 PARENT, AND ANY OTHER INFORMATION THAT THE COURT DEEMS  
26 NECESSARY.

27 (B) THE COURT, IN ITS DISCRETION, MAY DETERMINE NOT TO  
28 RELEASE ANY PART OR PARTS OF THE INFORMATION IN THIS SECTION BUT  
29 IN DOING SO MUST STATE ITS REASON FOR DENIAL ON THE RECORD.

30 SECTION 10. MODIFICATION OF EXISTING CUSTODY ORDERS.

1 ANY ORDER FOR THE CUSTODY OF THE CHILD OR CHILDREN OF A  
2 MARRIAGE ENTERED BY A COURT IN THIS COMMONWEALTH OR ANY STATE  
3 MAY, SUBJECT TO THE JURISDICTIONAL REQUIREMENTS SET FORTH IN 42  
4 PA.C.S. §§ 5342 (RELATING TO PURPOSES AND CONSTRUCTION OF  
5 SUBCHAPTER) AND 5344 (RELATING TO JURISDICTION) BE MODIFIED AT  
6 ANY TIME TO AN ORDER OF SHARED CUSTODY IN ACCORDANCE WITH THE  
7 PROVISIONS OF THIS SECTION.

8 Section 9 11. Effective date.

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9 This act shall take effect in 60 days.