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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 124**

Session of  
1981

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

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 21, 1981

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AN ACT

1 Providing for the sole or shared custody of children; providing  
2 access to records to both parents AND PROVIDING FOR THE RIGHT <—  
3 OF GRANDPARENTS TO VISIT GRANDCHILDREN IN CERTAIN CASES.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the "Custody AND <—  
8 GRANDPARENTS VISITATION Act."

9 Section 2. Policy and purpose.

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

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall

1 have, unless the context clearly indicates otherwise, the  
2 meanings given to them in this section:

3 "Child." Any unemancipated person who is under the age of  
4 18.

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

8 "Physical custody." The actual physical possession and  
9 control of a child.

10 "Shared custody." An order awarding shared legal or shared  
11 physical custody or both of a child in such a way as to assure  
12 the child or children of frequent and continuing contact,  
13 including physical access, to both parents.

14 Section 4. Award of sole custody.

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

22 Section 5. Award of shared custody.

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

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

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

28 (3) in the discretion of the court.

29 SECTION 6. COUNSELING.

30 (A) THE COURT MAY REQUIRE THE PARENTS TO ATTEND COUNSELING

1 SESSIONS AND MAY CONSIDER THE RECOMMENDATIONS OF THE COUNSELORS  
2 PRIOR TO AWARDING SOLE OR SHARED CUSTODY. THESE COUNSELING  
3 SESSIONS MAY INCLUDE BUT SHALL NOT BE LIMITED TO DISCUSSIONS OF  
4 THE RESPONSIBILITIES AND DECISION MAKING ARRANGEMENTS INVOLVED  
5 IN BOTH SOLE AND SHARED CUSTODY AND THE SUITABILITY OF EACH  
6 ARRANGEMENT TO EACH OR BOTH PARENT'S CAPABILITIES.

7 (B) THE COURT MAY TEMPORARILY AWARD CUSTODY TO EITHER PARENT  
8 OR BOTH PARENTS, PENDING RESOLUTION OF ANY COUNSELING.

9 (C) THE COURT MAY REQUIRE THE COUNSELOR TO SUBMIT A REPORT  
10 IF THE COURT DESIRES, IN SUCH REASONABLE TIME AS THE COURT MAY  
11 FIX.

12 Section 6 7. Submission of plan by parents. <—

13 The court, in its discretion, may require the parents to  
14 submit to the court a plan for the implementation of any custody  
15 order made pursuant to the provisions of this act. Upon the  
16 request of either parent or the court, the local Domestic  
17 Relations Office ~~shall assist in the formulation and~~ <—  
18 ~~implementation of such a plan.~~ OR OTHER PARTY OR AGENCY APPROVED <—  
19 BY THE COURT SHALL ASSIST IN THE FORMULATION AND IMPLEMENTATION  
20 OF THE PLAN.

21 Section 7 8. Court denial of award or plan. <—

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

26 Section 8 9. Removal from jurisdiction. <—

27 If either party intends to or does remove himself or herself  
28 or the child or children from the Commonwealth after a custody  
29 order has been made, then the court, on its own motion, or  
30 either party may request a review of the existing custody order.

1 Section 9 10. Access to records. <—

2 (a) ~~Notwithstanding any other provision of law,~~ EXCEPT AS <—  
3 PROVIDED IN SUBSECTION (B) AND (C), each parent shall be  
4 provided all access to the medical, dental, religious or school  
5 records of their child or children, the RESIDENCE address ~~and~~ <—  
6 ~~telephone number~~ of their child or children and of the other  
7 parent, and any other information that the court deems  
8 necessary.

9 (b) The court, in its discretion, may determine not to  
10 release any part or parts of the information in this section but  
11 in doing so must state its reason for denial on the record.

12 (C) THE COURT SHALL NOT ORDER THAT THE ADDRESS OF A SHELTER <—  
13 FOR BATTERED SPOUSES AND THEIR DEPENDENT CHILDREN OR OTHERWISE  
14 CONFIDENTIAL RECORDS OF A DOMESTIC VIOLENCE COUNSELOR BE  
15 DISCLOSED TO THE DEFENDANT OR HIS COUNSEL OR ANY PARTY TO THE  
16 PROCEEDINGS.

17 Section 10 11. Modification of existing custody orders. <—

18 Any order for the custody of the child or children of a  
19 marriage entered by a court in this Commonwealth or any state  
20 may, subject to the jurisdictional requirements set forth in 42  
21 Pa.C.S. §§ 5342 (relating to purposes and construction of  
22 subchapter) and 5344 (relating to jurisdiction) be modified at  
23 any time to an order of shared custody in accordance with the  
24 provisions of this section.

25 SECTION 12. WHEN PARENT IS DECEASED. <—

26 IF A PARENT OF AN UNMARRIED CHILD IS DECEASED, THE PARENTS OR  
27 GRANDPARENTS OF THE DECEASED PARENT MAY BE GRANTED REASONABLE  
28 VISITATION RIGHTS TO THE UNMARRIED CHILD BY THE COURT UPON A  
29 FINDING THAT VISITATION RIGHTS WOULD BE IN THE BEST INTERESTS OF  
30 THE CHILD AND WOULD NOT INTERFERE WITH THE PARENT-CHILD

1 RELATIONSHIP. THE COURT SHALL CONSIDER THE AMOUNT OF PERSONAL  
2 CONTACT BETWEEN THE PARENTS OR GRANDPARENTS OF THE DECEASED  
3 PARENT AND THE CHILD PRIOR TO THE APPLICATION.

4 SECTION 13. WHEN PARENTS' MARRIAGE IS DISSOLVED.

5 IN ALL PROCEEDINGS FOR DISSOLUTION, SUBSEQUENT TO THE  
6 COMMENCEMENT OF THE PROCEEDING AND CONTINUING THEREAFTER, THE  
7 COURT MAY, UPON THE REQUEST OF THE PARENT OR GRANDPARENT OF A  
8 PARTY, GRANT REASONABLE VISITATION RIGHTS TO THE UNMARRIED  
9 CHILD, AFTER DISSOLUTION OF MARRIAGE, IF IT FINDS THAT  
10 VISITATION RIGHTS WOULD BE IN THE BEST INTEREST OF THE CHILD AND  
11 WOULD NOT INTERFERE WITH THE PARENT-CHILD RELATIONSHIP. THE  
12 COURT SHALL CONSIDER THE AMOUNT OF PERSONAL CONTACT BETWEEN THE  
13 PARENTS OR GRANDPARENTS OF THE PARTY AND THE CHILD PRIOR TO THE  
14 APPLICATION.

15 SECTION 14. WHEN THE CHILD HAS RESIDED WITH GRANDPARENTS.

16 IF AN UNMARRIED CHILD HAS RESIDED WITH HIS GRANDPARENTS OR  
17 GREAT-GRANDPARENTS FOR A PERIOD OF 12 MONTHS OR MORE, AND IS  
18 SUBSEQUENTLY REMOVED FROM THE HOME BY HIS PARENTS, THE  
19 GRANDPARENTS OR GREAT-GRANDPARENTS MAY PETITION THE COURT FOR AN  
20 ORDER GRANTING THEM REASONABLE VISITATION RIGHTS TO THE CHILD.  
21 THE COURT SHALL GRANT THE PETITION IF IT FINDS THAT VISITATION  
22 RIGHTS WOULD BE IN THE BEST INTEREST OF THE CHILD AND WOULD NOT  
23 INTERFERE WITH THE PARENT-CHILD RELATIONSHIP.

24 SECTION 15. EXCEPTION FOR ADOPTED CHILDREN.

25 SECTIONS 11, 12, 13 AND 14 OF THIS ACT SHALL NOT APPLY IF THE  
26 CHILD HAS BEEN ADOPTED BY A PERSON OTHER THAN A STEPPARENT OR  
27 GRANDPARENT. ANY VISITATION RIGHTS GRANTED PURSUANT TO THIS  
28 SECTION PRIOR TO THE ADOPTION OF THE CHILD SHALL BE  
29 AUTOMATICALLY TERMINATED UPON SUCH ADOPTION.

30 Section ~~11~~ 16. Effective date.

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1       This act shall take effect in 60 days.