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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**  
**No. 1795** Session of  
1992

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INTRODUCED BY GREENWOOD, HOPPER, REIBMAN, O'PAKE, HELFRICK,  
CORMAN, BRIGHTBILL AND PETERSON, JUNE 5, 1992

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 17, 1992

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, further providing for medical support  
3 obligation, for attachment of income and for acknowledgment  
4 of paternity.

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

7 Section 1. Section 4324 of Title 23 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 4324. Inclusion of spousal medical support.

10 In addition to periodic support payments, the court may  
11 require that an obligor pay a designated percentage of a  
12 [child's or] spouse's reasonable and necessary health care  
13 expenses. If health care coverage is available through an  
14 obligor or obligee at no cost as a benefit of employment or at a  
15 reasonable cost, the court shall order an obligor or obligee to  
16 provide or extend health care coverage to a [child or] spouse.  
17 Upon failure of the obligor to make this payment or reimburse

1 the [custodial parent or] spouse and after compliance with  
2 procedural due process requirement, the court shall treat the  
3 amount as arrearages.

4 Section 2. Title 23 is amended by adding a section to read:

5 § 4326. Mandatory inclusion of child medical support.

6 (a) General rule.--In every proceeding to establish or  
7 modify an order which requires the payment of child support, the  
8 court shall ascertain the ability of each parent to provide  
9 health care coverage for the children of the parties.

10 (b) Noncustodial parent requirement.--If health care  
11 coverage is available at a reasonable cost to a noncustodial  
12 parent on an employment-related or other group basis, the court  
13 shall require that the noncustodial parent provide such coverage  
14 to the children of the parties. In cases where there are two  
15 noncustodial parents having such coverage available, the court  
16 shall require one or both parents to provide coverage.

17 (c) Custodial parent requirement.--If health care coverage  
18 is available at a reasonable cost to a custodial parent on an  
19 employment-related or other group basis, the court shall require  
20 that the custodial parent provide such coverage to the children  
21 of the parties, unless adequate health care coverage has already  
22 been provided through the noncustodial parent. In cases where  
23 the parents have shared custody of the child and coverage is  
24 available to both, the court shall require one or both parents  
25 to provide coverage, taking into account the financial ability  
26 of the parties and the extent of coverage available to each  
27 parent.

28 (d) Additional requirement.--If the court finds that health  
29 care coverage is not available to either parent at a reasonable  
30 cost on an employment-related or other group basis, the court

1 shall order either parent or both parents to obtain for the  
2 parties' children health insurance coverage which is available  
3 at reasonable cost.

4 (e) Uninsured expenses.--The court shall determine the  
5 amount of any deductible and copayments which each parent shall  
6 pay. In addition, the court may require that either parent or  
7 both parents pay a designated percentage of the reasonable and  
8 necessary uncovered health care expenses of the parties'  
9 children, including birth-related expenses incurred prior to the  
10 filing of the complaint.

11 (f) Proof of insurance.--Within 30 days after the entry of  
12 an order requiring a parent to provide health care coverage for  
13 a child, the obligated parent shall submit to the other parent,  
14 or person having custody of the child, written proof that health  
15 care coverage has been obtained or that application for coverage  
16 has been made. Proof of coverage shall consist of, at a minimum:

17 (1) The name of the health care coverage provider.

18 (2) Any applicable identification numbers.

19 (3) Any cards evidencing coverage.

20 (4) The address to which claims should be made.

21 (5) A description of any restrictions on usage, such as  
22 prior approval for hospital admissions, and the manner of  
23 obtaining approval.

24 (6) A copy of the benefit booklet or coverage contract.

25 (7) A description of all deductibles and copayments.

26 (8) Five copies of any claim forms.

27 (g) Obligations of insurance companies.--Every insurer doing  
28 business within this Commonwealth shall be obligated as follows:

29 ~~(1) to receive, process and pay claims submitted by~~

30 ~~custodial parents;~~

<—

1           (1) TO RECEIVE, PROCESS AND PAY CLAIMS TO A CUSTODIAL <—  
2           PARENT WHO HAS COMPLIED WITH SUBSECTION (I) IN THE SAME  
3           MANNER THAT THE INSURER IS RESPONSIBLE TO RECEIVE, PROCESS  
4           AND PAY CLAIMS TO OTHER INSURED UNDER THE POLICY;

5           (2) to provide copies of benefit booklets, insurance  
6           contracts and claims information to custodial parents;

7           (3) if coverage is made available for dependents of the  
8           insured, to make such coverage available to the insured's  
9           children without regard to the amount of support contributed  
10          by a parent, the amount of time the child spends in the home  
11          or the custodial arrangements for the child;

12          (4) to permit the enrollment of children under court  
13          order within 60 days of the issuance of the order; AND <—

14          ~~(5) to mail any checks which are not payable to the~~ <—  
15          ~~provider or reimbursable to the medical assistance program~~  
16          ~~under subarticle (f) of Article IV of the act of June 13,~~  
17          ~~1967 (P.L.31, No.21), known as the Public Welfare Code, to~~  
18          ~~the parent who filed the claim; and~~

19          ~~(6) to notify the custodial parent whenever there is a~~  
20          ~~termination or modification of any health care coverage due~~  
21          ~~to nonpayment of premiums or other reason. The notice shall~~  
22          ~~include an explanation of any conversion privileges available~~  
23          ~~from the insurer.~~

24          (5) TO PROVIDE THE CUSTODIAL PARENT WHO HAS COMPLIED <—  
25          WITH SUBSECTION (I) WITH THE SAME NOTIFICATION OF TERMINATION  
26          OR MODIFICATION OF ANY HEALTH CARE COVERAGE DUE TO NONPAYMENT  
27          OF PREMIUMS OR OTHER REASON AS IS PROVIDED TO OTHER INSURED  
28          UNDER THE POLICY.

29          (h) Obligations of noninsurers.--To the maximum extent  
30          permitted by Federal law, the obligations of subsection (g)

1 shall apply to noninsurers providing health care coverage within  
2 this Commonwealth, including self-insured employee health  
3 benefit plans, and to insurers providing benefits, directly or  
4 indirectly, through stop-loss coverage to self-insured plans.

5 (i) Obligations of custodial parent.--The custodial parent  
6 shall comply with the insurer's existing claim procedures and  
7 present to the insurer one of the following documents:

8 (1) a copy of a court order providing for payment of  
9 medical expenses and/or maintenance of medical insurance  
10 coverage on behalf of the child by the custodial parent; or

11 (2) a release signed by the insured permitting the  
12 insurer to communicate directly with the custodial parent.

13 (j) Enforcement of order.--If an obligated parent fails to  
14 comply with the order to provide health care coverage for a  
15 child or pay medical expenses for a child, the court shall:

16 (1) If, after a hearing, the failure or refusal is  
17 determined to have been willful, impose the penalties of  
18 section 4345(a) (relating to contempt for noncompliance with  
19 support order).

20 (2) Enter an order for a sum certain against the  
21 obligated parent for the cost of medical care for the child  
22 and for any premiums paid or provided for the child during  
23 any period in which the obligated parent failed or refused to  
24 provide coverage. FAILURE TO COMPLY WITH AN ORDER UNDER THIS <—  
25 PARAGRAPH SHALL BE SUBJECT TO SECTION 4348 (RELATING TO  
26 ATTACHMENT OF INCOME).

27 (3) Upon failure of the obligated parent to make this  
28 payment or reimburse the custodial parent and, after  
29 compliance with due process requirements, treat the amount as  
30 arrearages.

1     (k) Enforcement against insurers.--Any insurer or other  
2     entity which violates the obligations imposed upon it under  
3     subsection (g) or (h) shall be civilly liable for damages and  
4     may be adjudicated in contempt and fined by the court.

5     (l) Definitions.--As used in this section, the following  
6     words and phrases shall have the meanings given to them in this  
7     subsection:

8         "Child." A child to whom a duty of child support is owed.

9         "Health care coverage." Coverage for medical, dental,  
10     orthodontic, optical, psychological, psychiatric or other health  
11     care services for a child. For the purposes of this section,  
12     medical assistance under subarticle (f) of Article IV of the act  
13     of June 13, 1967 (P.L.31, No.21), known as the Public Welfare  
14     Code, shall not be considered health care coverage.

15         "Insurer." A corporation or person incorporated or doing  
16     business in this Commonwealth by virtue of the act of May 17,  
17     1921 (P.L.682, No.284), known as The Insurance Company Law of  
18     1921; a hospital plan corporation as defined in 40 Pa.C.S. Ch.  
19     61 (relating to hospital plan corporations); a professional  
20     health service plan corporation as defined in 40 Pa.C.S. Ch. 63  
21     (relating to professional health services plan corporations); a  
22     beneficial society subject to 40 Pa.C.S. Ch. 65 (relating to  
23     fraternal benefit societies); a health maintenance organization;  
24     or any other person, association, partnership, common-law trust,  
25     joint stock company, nonprofit corporation, profit corporation  
26     or other entity conducting an insurance business.

27     ~~Section 3. Section 5103 of Title 23 is amended by adding a~~     <—  
28     ~~subsection to read:~~

29         SECTION 3. SECTIONS 4348 AND 5103 OF TITLE 23 ARE AMENDED BY     <—  
30     ADDING SUBSECTIONS TO READ:

1 § 4348. ATTACHMENT OF INCOME.

2 \* \* \*

3 (D.1) INSURANCE.--IF AN OBLIGOR OR OBLIGEE IS IN VIOLATION  
4 OF AN ORDER UNDER SECTION 4326(J)(3) (RELATING TO MANDATORY  
5 INCLUSION OF CHILD MEDICAL SUPPORT), THE ATTACHMENT SHALL BE IN  
6 FAVOR OF THE APPROPRIATE PROVIDER OF HEALTH CARE COVERAGE.

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8 § 5103. Acknowledgment and claim of paternity.

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10 (c) Acknowledgment upon birth.--Upon the birth of a child to  
11 an unmarried woman, the attending physician or midwife, an agent  
12 of either or an agent of the hospital where the birth occurred  
13 shall:

14 (1) Provide the newborn's mother and natural father with  
15 an opportunity to complete an affidavit acknowledging  
16 paternity. The completed, signed affidavit shall be filed in  
17 triplicate with the local registrar of vital statistics. The  
18 registrar shall send one copy to the Bureau of Vital  
19 Statistics and one copy to the Department of Public Welfare  
20 and shall retain one copy. A fourth and fifth copy shall be  
21 given to the mother and natural father separately. This  
22 affidavit shall contain:

23 (i) A sworn, signed statement by the mother  
24 consenting to the assertion of paternity and stating that  
25 this is the only possible father.

26 (ii) A signed statement by the father that he is the  
27 child's natural father.

28 (iii) A written explanation of the implications of  
29 and the parental duties and parental rights which arise  
30 from signing such a statement.

1           (iv) The Social Security numbers, driver's license  
2           numbers and addresses of both parents.

3           (2) Provide written information, furnished by the  
4           Department of Public Welfare to the mother, which explains  
5           the benefits of having her child's paternity established, the  
6           availability of paternity establishment services and the  
7           availability of child support enforcement agencies.

8           ~~Section 4. The amendment or addition of 23 Pa.C.S. §§ 4324~~ <—

9           SECTION 4. THIS ACT SHALL APPLY AS FOLLOWS: <—

10           (1) SUBJECT TO PARAGRAPH (2), THE AMENDMENT OR ADDITION  
11           OF 23 PA.C.S. §§ 4324 and 4326 shall apply to all support  
12           orders entered, reviewed or modified on or after the  
13           effective date of this act.

14           (2) THE ADDITION OF 23 PA.C.S. §§ 4326(J) AND 4348(D.1) <—  
15           SHALL APPLY TO SUPPORT ORDERS ENTERED PRIOR TO THE EFFECTIVE  
16           DATE OF THIS ACT.

17           Section 5. This act shall take effect in 90 days.