

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1087 Session of
1997

INTRODUCED BY PICCOLA, TOMLINSON, EARLL, GERLACH, HART, STOUT,
SALVATORE, COSTA, LEMMOND, PUNT, HOLL, AFFLERBACH, RHOADES,
KASUNIC, WHITE AND SLOCUM, SEPTEMBER 11, 1997

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 9, 1998

AN ACT

1 Amending ~~Titles~~ TITLE 23 (Domestic Relations) ~~and 42 (Judiciary~~ <—
2 ~~and Judicial Procedure)~~ of the Pennsylvania Consolidated
3 Statutes, further providing for ALIMONY, FOR ALIMONY PENDENTE <—
4 LITE, AND FOR contempt for violation of a protection order or
5 agreement. ~~and for the definition of "delinquent act."~~ <—

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

8 ~~Section 1. Section 6114 of Title 23 of the Pennsylvania~~ <—
9 ~~Consolidated Statutes is amended by adding a subsection to read:~~

10 SECTION 1. SECTIONS 3701(B)(14) AND 3702 OF TITLE 23 OF THE <—
11 PENNSYLVANIA CONSOLIDATED STATUTES, AMENDED DECEMBER 16, 1997
12 (P.L.549, NO.58), ARE AMENDED TO READ:

13 § 3701. ALIMONY.

14 * * *

15 (B) FACTORS RELEVANT.--IN DETERMINING WHETHER ALIMONY IS
16 NECESSARY AND IN DETERMINING THE NATURE, AMOUNT, DURATION AND
17 MANNER OF PAYMENT OF ALIMONY, THE COURT SHALL CONSIDER ALL
18 RELEVANT FACTORS, INCLUDING:

1 * * *

2 (14) THE MARITAL MISCONDUCT OF EITHER OF THE PARTIES
3 DURING THE MARRIAGE. THE MARITAL MISCONDUCT OF EITHER OF THE
4 PARTIES FROM THE DATE OF FINAL SEPARATION [MAY] SHALL NOT BE
5 CONSIDERED BY THE COURT IN ITS DETERMINATIONS RELATIVE TO
6 ALIMONY[. AS USED IN THIS PARAGRAPH, THE TERM "MARITAL
7 MISCONDUCT" SHALL INCLUDE, BUT IS NOT LIMITED TO,]; EXCEPT
8 THAT THE COURT SHALL CONSIDER THE ABUSE OF ONE PARTY BY THE
9 OTHER PARTY. AS USED IN THIS PARAGRAPH, "ABUSE" SHALL HAVE
10 THE MEANING GIVEN TO IT UNDER SECTION 6102 (RELATING TO
11 DEFINITIONS).

12 * * *

13 § 3702. ALIMONY PENDENTE LITE, COUNSEL FEES AND EXPENSES.

14 [(A) GENERAL RULE.--]IN PROPER CASES, UPON PETITION, THE
15 COURT MAY ALLOW A SPOUSE REASONABLE ALIMONY PENDENTE LITE,
16 SPOUSAL SUPPORT AND REASONABLE COUNSEL FEES AND EXPENSES.
17 REASONABLE COUNSEL FEES AND EXPENSES MAY BE ALLOWED PENDENTE
18 LITE, AND THE COURT SHALL ALSO HAVE AUTHORITY TO DIRECT THAT
19 ADEQUATE HEALTH AND HOSPITALIZATION INSURANCE COVERAGE BE
20 MAINTAINED FOR THE DEPENDENT SPOUSE PENDENTE LITE.

21 [(B) RELEVANT FACTORS.--IN DETERMINING WHETHER ALIMONY
22 PENDENTE LITE, SPOUSAL SUPPORT AND REASONABLE COUNSEL FEES AND
23 EXPENSES ARE NECESSARY AND IN DETERMINING THE AMOUNT OF PAYMENT,
24 THE COURT SHALL CONSIDER ALL RELEVANT FACTORS PURSUANT TO
25 SECTION 3701(B) (RELATING TO ALIMONY).]

26 SECTION 2. SECTION 6114 OF TITLE 23 IS AMENDED BY ADDING A
27 SUBSECTION TO READ:

28 § 6114. Contempt for violation of order or agreement.

29 * * *

30 (a.2) Minor defendant.--Any defendant who is a minor and who

is charged with indirect criminal contempt for allegedly
violating a protection from abuse order shall be considered to
have committed an alleged delinquent act as that term is defined
in 42 Pa.C.S. § 6302 (relating to definitions) and shall be
treated as provided in 42 Pa.C.S. Ch. 63 (relating to juvenile
matters).

* * *

~~Section 2. The definition of "delinquent act" in section~~
~~6302 of Title 42 is amended to read:~~

~~§ 6302. Definitions.~~

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

~~* * *~~

~~"Delinquent act."~~

~~(1) The term means an act designated a crime under the~~
~~law of this Commonwealth, or of another state if the act~~
~~occurred in that state, or under Federal law, or under local~~
~~ordinances or an act that constitutes indirect criminal~~
~~contempt under 23 Pa.C.S. Ch. 61 (relating to protection from~~
~~abuse).~~

~~(2) The term shall not include:~~

~~(i) The crime of murder.~~

~~(ii) Any of the following prohibited conduct where~~
~~the child was 15 years of age or older at the time of the~~
~~alleged conduct and a deadly weapon as defined in 18~~
~~Pa.C.S. § 2301 (relating to definitions) was used during~~
~~the commission of the offense which, if committed by an~~
~~adult, would be classified as:~~

~~(A) Rape as defined in 18 Pa.C.S. § 3121~~

1 ~~(relating to rape).~~

2 ~~(B) Involuntary deviate sexual intercourse as~~
3 ~~defined in 18 Pa.C.S. § 3123 (relating to involuntary~~
4 ~~deviate sexual intercourse).~~

5 ~~(C) Aggravated assault as defined in 18 Pa.C.S.~~
6 ~~§ 2702(a)(1) or (2) (relating to aggravated assault).~~

7 ~~(D) Robbery as defined in 18 Pa.C.S. §~~
8 ~~3701(a)(1)(i), (ii) or (iii) (relating to robbery).~~

9 ~~(E) Robbery of motor vehicle as defined in 18~~
10 ~~Pa.C.S. § 3702 (relating to robbery of motor~~
11 ~~vehicle).~~

12 ~~(F) Aggravated indecent assault as defined in 18~~
13 ~~Pa.C.S. § 3125 (relating to aggravated indecent~~
14 ~~assault).~~

15 ~~(G) Kidnapping as defined in 18 Pa.C.S. § 2901~~
16 ~~(relating to kidnapping).~~

17 ~~(H) Voluntary manslaughter.~~

18 ~~(I) An attempt, conspiracy or solicitation to~~
19 ~~commit murder or any of these crimes as provided in~~
20 ~~18 Pa.C.S. §§ 901 (relating to criminal attempt), 902~~
21 ~~(relating to criminal solicitation) and 903 (relating~~
22 ~~to criminal conspiracy).~~

23 ~~(iii) Any of the following prohibited conduct where~~
24 ~~the child was 15 years of age or older at the time of the~~
25 ~~alleged conduct and has been previously adjudicated~~
26 ~~delinquent of any of the following prohibited conduct~~
27 ~~which, if committed by an adult, would be classified as:~~

28 ~~(A) Rape as defined in 18 Pa.C.S. § 3121.~~

29 ~~(B) Involuntary deviate sexual intercourse as~~
30 ~~defined in 18 Pa.C.S. § 3123.~~

~~(C) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).~~

~~(D) Robbery of motor vehicle as defined in 18 Pa.C.S. § 3702.~~

~~(E) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125.~~

~~(F) Kidnapping as defined in 18 Pa.C.S. § 2901.~~

~~(G) Voluntary manslaughter.~~

~~(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§ 901, 902 and 903.~~

~~(iv) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.~~

~~(v) A crime committed by a child who has been found guilty in a criminal proceeding for other than a summary offense.~~

~~* * *~~

Section 3. This act shall take effect ~~in 60 days~~. AS

<—

FOLLOWS:

(1) THE ADDITION OF 23 PA.C.S. § 6114(A.2) SHALL TAKE EFFECT IN 60 DAYS.

(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.