

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 414 Session of 2013

INTRODUCED BY O'NEILL, CALTAGIRONE, BAKER, V. BROWN, CARROLL, CLYMER, COHEN, D. COSTA, DeLUCA, FLECK, GINGRICH, GRELL, HARHART, C. HARRIS, KORTZ, MAHONEY, MAJOR, MILLARD, MILLER, PICKETT, ROCK, ROZZI, STEPHENS, TALLMAN, TOEPEL, YOUNGBLOOD, HESS, STERN, MURT, FRANKEL, HACKETT AND TOOHL, JANUARY 29, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 6, 2013

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in child custody, further providing for factors to
4 consider when awarding custody; providing for consideration
5 of child abuse and involvement with child protective
6 services; in child protective services, further providing for
7 release of information in confidential reports; and in
8 juvenile matters, further providing for inspection of court
9 files and records.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 5328(a) of Title 23 of the Pennsylvania
13 Consolidated Statutes is amended by adding a paragraph to read:
14 § 5328. Factors to consider when awarding custody.

15 (a) Factors.--In ordering any form of custody, the court
16 shall determine the best interest of the child by considering
17 all relevant factors, giving weighted consideration to those
18 factors which affect the safety of the child, including the
19 following:

1 * * *

2 (2.1) The information set forth in section 5329.1(a)(1)
3 and (2) (relating to consideration of child abuse and
4 involvement with child protective services).

5 * * *

6 Section 2. Title 23 is amended by adding a section to read:
7 § 5329.1. Consideration of child abuse and involvement with
8 child protective services.

9 (a) Information sharing.--In accordance with section 6340(a)
10 (5.1) (relating to release of information in confidential
11 reports), where a party seeks any form of custody, the court
12 shall determine:

13 (1) With respect to child abuse under Chapter 63
14 (relating to child protective services) or a child who is a
15 victim of a crime under 18 Pa.C.S. (relating to crimes and
16 offenses) which would constitute abuse under Chapter 63:

17 (i) Whether the child is the subject of an indicated
18 or founded report of child abuse.

19 (ii) Whether a party or a member of the party's
20 household has been identified as the perpetrator in an
21 indicated or founded report of child abuse.

22 (iii) The date and circumstances of the child abuse.

23 (iv) The jurisdiction where the child abuse
24 investigation took place.

25 (2) With respect to general protective services under
26 Chapter 63:

27 (i) Whether a party or a member of a party's
28 household has been provided general protective services.

29 (ii) The type of services provided.

30 (iii) The circumstances surrounding the provision of

1 services.

2 (iv) Whether the services were effective.

3 (v) The date the services were provided.

4 (vi) The jurisdiction where the services were
5 provided.

6 (b) Cooperation.--The following apply:

7 (1) The Department of Public Welfare AND THE COUNTY <--
8 CHILDREN AND YOUTH SOCIAL SERVICE AGENCY shall fully
9 cooperate with the court and assist the court in fulfilling
10 its duties under this section.

11 (2) The Department of Public Welfare AND THE COUNTY <--
12 CHILDREN AND YOUTH SOCIAL SERVICE AGENCY shall fully
13 cooperate with the governing authority in order to implement
14 the provisions of this section.

15 (3) The governing authority shall develop procedures to
16 implement the provisions of this section.

17 (4) As used in this subsection, the term "governing
18 authority" shall have the meaning given to it in 42 Pa.C.S. §
19 102 (relating to definitions).

20 Section 3. Section 6340(a)(5.1) of Title 23 is amended to
21 read:

22 § 6340. Release of information in confidential reports.

23 (a) General rule.--Reports specified in section 6339
24 (relating to confidentiality of reports) shall only be made
25 available to:

26 * * *

27 (5.1) A court of common pleas in connection with any
28 matter involving custody of a child[. The department shall
29 provide to the court any reports and files which the court
30 considers relevant.] as set forth in sections 5328 (relating

1 to factors to consider when awarding custody) and 5329.1
2 (relating to consideration of child abuse and involvement
3 with child protective services).

4 * * *

5 Section 4. Section 6307(a) of Title 42 is amended by adding
6 a paragraph to read:

7 § 6307. Inspection of court files and records.

8 (a) General rule.--All files and records of the court in a
9 proceeding under this chapter are open to inspection only by:

10 * * *

11 (4.1) A court in determining custody, as provided in 23
12 Pa.C.S. §§ 5328 (relating to factors to consider when
13 awarding custody) and 5329.1 (relating to consideration of
14 child abuse and involvement with child protective services).

15 * * *

16 SECTION 5. THE AMENDMENT OR ADDITION OF 23 PA.C.S. §§ <--
17 5328(A) (2.1), 5329.1 AND 6340(A) (5.1) AND 42 PA.C.S. §
18 6307(A) (4.1) SHALL APPLY TO:

19 (1) ANY ACTION REGARDING CUSTODY OF A CHILD UNDER 23
20 PA.C.S. CH. 53 THAT IS FILED ON OR AFTER THE EFFECTIVE DATE
21 OF THIS ACT.

22 (2) ANY PETITION TO MODIFY A CUSTODY ORDER UNDER 23
23 PA.C.S. CH. 53 THAT IS FILED ON OR AFTER THE EFFECTIVE DATE
24 OF THIS ACT.

25 Section ~~5~~ 6. This act shall take effect in 60 days. <--