

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 945 Session of 2013

INTRODUCED BY CRUZ, YOUNGBLOOD, TOEPEL, LONGIETTI, B. BOYLE, BARRAR, MILLARD, CARROLL, COHEN, CLAY, FLECK, MCGEEHAN, V. BROWN, PASHINSKI, KORTZ, BIZZARRO, FLYNN, TOOHIL, C. HARRIS, SWANGER, SCHLOSSBERG, MURT, HACKETT, CALTAGIRONE, BROWNLEE AND BENNINGHOFF, MARCH 12, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 11, 2014

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, IN SUPPORT MATTERS GENERALLY, FURTHER <--
3 PROVIDING FOR LIABILITY FOR SUPPORT; AND, in child custody,
4 further providing for consideration of criminal conviction.

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

7 Section 1. Section 5329 of Title 23 of the Pennsylvania <--
8 Consolidated Statutes is amended by adding a subsection to read:
9 § 5329. Consideration of criminal conviction.

10 * * *

11 (b.1) Parent convicted of certain sexual offenses.

12 Notwithstanding the provisions of subsection (a), no court shall
13 award custody, partial custody or supervised physical custody to
14 a parent of a child conceived as the result of any of the
15 following offenses for which the parent has been convicted:

16 18 Pa.C.S. § 3121;

17 18 Pa.C.S. § 3124.1 where the offense involved sexual

1 intercourse;
2 18 Pa.C.S. § 3124.2 (relating to institutional sexual
3 assault) where the offense involved sexual intercourse; or
4 18 Pa.C.S. § 4302,
5 unless the child is of suitable age and consents to the order.
6 Paternity of the child shall be established by blood, genetic or
7 other paternity testing acceptable to the court.

8 * * *

9 Section 2. ~~The addition of 23 Pa.C.S. § 5329(b.1) shall~~
10 ~~apply to any action regarding custody of a child under 23~~
11 ~~Pa.C.S. Ch. 53 that is filed on or after the effective date of~~
12 ~~this section.~~

13 SECTION 1. SECTION 4321 OF TITLE 23 OF THE PENNSYLVANIA <--
14 CONSOLIDATED STATUTES IS AMENDED BY ADDING A PARAGRAPH TO READ:
15 § 4321. LIABILITY FOR SUPPORT.

16 SUBJECT TO THE PROVISIONS OF THIS CHAPTER:

17 * * *

18 (2.1) THE FOLLOWING APPLY:

19 (I) PARAGRAPH (2) APPLIES WHETHER OR NOT PARENTAL
20 RIGHTS OF THE PARENT HAVE BEEN TERMINATED DUE TO A
21 CONVICTION FOR ANY OF THE FOLLOWING WHERE THE OTHER
22 PARENT IS THE VICTIM:

23 (A) 18 PA.C.S. § 3121 (RELATING TO RAPE);

24 (B) 18 PA.C.S. § 3122.1 (RELATING TO STATUTORY
25 SEXUAL ASSAULT);

26 (C) 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL
27 ASSAULT) WHERE THE OFFENSE INVOLVED SEXUAL
28 INTERCOURSE;

29 (D) 18 PA.C.S. § 3124.2 (RELATING TO
30 INSTITUTIONAL SEXUAL ASSAULT) WHERE THE OFFENSE

1 INVOLVED SEXUAL INTERCOURSE; OR

2 (E) 18 PA.C.S. § 4302 (RELATING TO INCEST) WHERE
3 THE OFFENSE INVOLVED SEXUAL INTERCOURSE.

4 (II) PATERNITY OF THE CHILD UNDER THIS PARAGRAPH
5 SHALL BE ESTABLISHED THROUGH BLOOD, GENETIC OR OTHER TYPE
6 OF PATERNITY TEST ACCEPTABLE TO THE COURT.

7 SECTION 2. SECTION 5329 OF TITLE 23 IS AMENDED BY ADDING A
8 SUBSECTION TO READ:

9 § 5329. CONSIDERATION OF CRIMINAL CONVICTION.

10 * * *

11 (B.1) PARENT CONVICTED OF CERTAIN SEXUAL OFFENSES.--THE
12 FOLLOWING APPLY:

13 (1) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE
14 CONTRARY AND SUBJECT TO PARAGRAPH (2), IF A PARENT WHO IS A
15 VICTIM OF ANY OF THE OFFENSES SET FORTH IN THIS PARAGRAPH
16 OBJECTS, NO COURT SHALL AWARD ANY TYPE OF CUSTODY SET FORTH
17 IN SECTION 5323 (RELATING TO AWARD OF CUSTODY) TO THE OTHER
18 PARENT OF A CHILD CONCEIVED AS A RESULT OF ANY OF THE
19 FOLLOWING OFFENSES FOR WHICH THE OTHER PARENT HAS BEEN
20 CONVICTED:

21 18 PA.C.S. § 3121.

22 18 PA.C.S. § 3122.1.

23 18 PA.C.S. § 3124.1, WHERE THE OFFENSE INVOLVED SEXUAL
24 INTERCOURSE.

25 18 PA.C.S. § 3124.2 (RELATING TO INSTITUTIONAL SEXUAL
26 ASSAULT), WHERE THE OFFENSE INVOLVED SEXUAL INTERCOURSE.

27 18 PA.C.S. § 4302.

28 (2) A COURT MAY AWARD ANY TYPE OF CUSTODY SET FORTH IN
29 SECTION 5323 TO A PARENT WHO HAS BEEN CONVICTED OF AN OFFENSE
30 UNDER PARAGRAPH (1), NOTWITHSTANDING THE OBJECTION OF THE

1 PARENT WHO IS A VICTIM, IF:

2 (I) THE CHILD IS OF SUITABLE AGE AND CONSENTS TO THE
3 CUSTODY ORDER; AND

4 (II) THE COURT DETERMINES THE AWARD IS IN THE BEST
5 INTEREST OF THE CHILD.

6 (3) PATERNITY OF THE CHILD SHALL BE ESTABLISHED BY
7 BLOOD, GENETIC OR OTHER PATERNITY TESTING ACCEPTABLE TO THE
8 COURT. THE COST OF THE TESTING SHALL BE BORNE BY THE PARENT
9 WHO WAS CONVICTED OF THE OFFENSE.

10 * * *

11 SECTION 3. THE ADDITION OF 23 PA.C.S. §§ 4321(2.1) AND 5329
12 (B.1) SHALL APPLY TO ANY ACTION REGARDING CUSTODY OF A CHILD
13 UNDER 23 PA.C.S. CH. 43 OR 53 THAT IS FILED ON OR AFTER THE
14 EFFECTIVE DATE OF THIS SECTION.

15 Section ~~3~~ 4. This act shall take effect in 60 days.

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