

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 410 Session of 2015

INTRODUCED BY HACKETT, C. PARKER, SCHLOSSBERG, SCHWEYER, MASSER, PICKETT, SCHREIBER, KINSEY, YOUNGBLOOD, STEPHENS, THOMAS, O'BRIEN, DUSH, LONGIETTI, COHEN, TALLMAN, BARRAR, JAMES, MILLARD, CALTAGIRONE, CARROLL, WATSON, BOBACK, CONKLIN, KORTZ, KAUFFMAN, A. HARRIS, PETRI, D. COSTA, VEREB, MARSICO, ROZZI, LAWRENCE, BROWNLEE, CUTLER, DONATUCCI, McCARTER, DELOZIER, BRIGGS AND SACCONI, FEBRUARY 9, 2015

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 9, 2015

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 4321 of Title 23 of the Pennsylvania  
 8 Consolidated Statutes is amended by adding a paragraph to read:

9 § 4321. Liability for support.

10 Subject to the provisions of this chapter:

11 \* \* \*

12 (2.1) Paragraph (2) applies whether or not parental  
 13 rights of the parent have been terminated due to a conviction  
 14 for any of the following where the other parent is the  
 15 victim:

16 (i) 18 Pa.C.S. § 3121 (relating to rape);

1           (ii) 18 Pa.C.S. § 3122.1 (relating to statutory  
2           sexual assault);

3           (iii) 18 Pa.C.S. § 3124.1 (relating to sexual  
4           assault) where the offense involved sexual intercourse;

5           (iv) 18 Pa.C.S. § 3124.2 (relating to institutional  
6           sexual assault) where the offense involved sexual  
7           intercourse; or

8           (v) 18 Pa.C.S. § 4302 (relating to incest) where the  
9           offense involved sexual intercourse.

10          Paternity of the child under this paragraph shall be  
11          established through blood, genetic or other type of paternity  
12          test acceptable to the court. The cost of the testing shall  
13          be borne by the parent who was convicted of the offense.

14           \* \* \*

15          Section 2. Section 5329 of Title 23 is amended by adding a  
16 subsection to read:

17 § 5329. Consideration of criminal conviction.

18           \* \* \*

19          (b.1) Parent convicted of certain sexual offenses.--

20           (1) Notwithstanding any provision of this chapter to the  
21          contrary and subject to paragraph (2), if a parent who is a  
22          victim of any of the offenses set forth in this paragraph  
23          objects, no court shall award any type of custody set forth  
24          in section 5323 (relating to award of custody) to the other  
25          parent of a child conceived as a result of any of the  
26          following offenses for which the other parent has been  
27          convicted:

28           18 Pa.C.S. § 3121.

29           18 Pa.C.S. § 3122.1.

30           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.

4 18 Pa.C.S. § 4302.

5 (2) A court may award any type of custody set forth in  
6 section 5323 to a parent who has been convicted of an offense  
7 under paragraph (1), notwithstanding the objection of the  
8 parent who is a victim, if:

9 (i) the child is of suitable age and consents to the  
10 custody order; and

11 (ii) the court determines the award is in the best  
12 interest of the child.

13 (3) Paternity of the child shall be established by  
14 blood, genetic or other paternity testing acceptable to the  
15 court. The cost of the testing shall be borne by the parent  
16 who was convicted of the offense.

17 \* \* \*

18 Section 3. The addition of 23 Pa.C.S. §§ 4321(2.1) and 5329  
19 (b.1) shall apply to any action regarding custody of a child  
20 under 23 Pa.C.S. Ch. 43 or 53 that is filed on or after the  
21 effective date of this section.

22 Section 4. This act shall take effect in 60 days.