

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 663 Session of 2015

INTRODUCED BY VULAKOVICH, SCARNATI, ALLOWAY, AUMENT, BOSCOLA, BROOKS, COSTA, FOLMER, FONTANA, HAYWOOD, MCGARRIGLE, McILHINNEY, MENSCH, RAFFERTY, STEFANO, TARTAGLIONE, VOGEL AND WARD, MARCH 31, 2015

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MAY 5, 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);

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

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

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

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

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

12 * * *

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

15 § 5329. Consideration of criminal conviction.

16 * * *

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

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

26 18 Pa.C.S. § 3121.

27 18 Pa.C.S. § 3122.1.

28 18 Pa.C.S. § 3124.1, where the offense involved sexual
29 intercourse.

30 18 Pa.C.S. § 3124.2 (relating to institutional sexual

1 assault), where the offense involved sexual intercourse.

2 18 Pa.C.S. § 4302.

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

7 (i) the child is of suitable age and consents to the
8 custody order; and

9 (ii) the court determines the award is in the best
10 interest of the child.

11 (3) Paternity of the child shall be established by <--
12 blood, genetic or other paternity testing acceptable to the
13 court IN ACCORDANCE WITH THE LAWS OF THIS COMMONWEALTH. The <--
14 cost of the testing shall be borne by the parent who was
15 convicted of the offense.

16 * * *

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

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