

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, WARD AND SCHWANK, MARCH 31, 2015

AS AMENDED ON SECOND CONSIDERATION, JUNE 16, 2015

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in proceedings prior to petition to
3 adopt, further providing for grounds for involuntary
4 termination and for hearing; in support matters generally,
5 further providing for liability for support; and, in child
6 custody, further providing for consideration of criminal
7 conviction.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 2511(a) (7) and 2513(d) of Title 23 of
11 the Pennsylvania Consolidated Statutes are amended to read:

12 § 2511. Grounds for involuntary termination.

13 (a) General rule.--The rights of a parent in regard to a
14 child may be terminated after a petition filed on any of the
15 following grounds:

16 * * *

17 (7) The parent is the [father] parent of a child
18 conceived as a result of [a rape or incest.] any of the
19 following offenses, WHICH THE PARENT HAS BEEN CONVICTED OF, <--

1 PLED GUILTY OR NO CONTEST TO, OR BEEN ADJUDICATED DELINQUENT

2 FOR:

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

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

6 (iii) 18 Pa.C.S. § 3124.1 (relating to sexual
7 assault);

8 (iv) 18 Pa.C.S. § 3124.2 (relating to institutional
9 sexual assault); or

10 (v) 18 Pa.C.S. § 4302 (relating to incest).

11 (VI) AN EQUIVALENT OFFENSE UNDER THE LAWS OF ANOTHER <--

12 STATE OF THE UNITED STATES TO ANY OFFENSE UNDER

13 SUBPARAGRAPHS (I), (II), (III), (IV) AND (V).

14 * * *

15 § 2513. Hearing.

16 * * *

17 (d) Decree.--After hearing, which may be private, the court
18 shall make a finding relative to the pertinent provisions of
19 section 2511 (relating to grounds for involuntary termination)
20 and upon such finding may enter a decree of termination of
21 parental rights. A decree entered terminating parental rights <--

22 under this section shall not affect any support obligation <--

23 imposed under THE SUPPORT OBLIGATION PROVIDED FOR BY section <--

24 4321 (relating to liability for support) on the parent whose

25 rights have been terminated OR THE INHERITANCE RIGHTS PROVIDED <--

26 FOR OR THROUGH THE CHILD SUBJECT TO THE DECREE BY THE LAWS OF

27 THIS COMMONWEALTH OR ANY OTHER STATE.

28 Section 2. Section 4321 of Title 23 is amended by adding a
29 paragraph to read:

30 § 4321. Liability for support.

1 Subject to the provisions of this chapter:

2 * * *

3 (4) For purposes of paragraphs (2) and (3), the term
4 "parents" includes an individual whose parental rights have
5 been terminated due to a conviction for, PLEA OF GUILTY OR NO <--
6 CONTEST TO, OR ADJUDICATION OF DELINQUENCY FOR any of the
7 following offenses where the child was conceived as a result
8 of the offense:

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

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

12 (iii) 18 Pa.C.S. § 3124.1 (relating to sexual
13 assault);

14 (iv) 18 Pa.C.S. § 3124.2 (relating to institutional
15 sexual assault); ~~or~~ <--

16 (v) 18 Pa.C.S. § 4302 (relating to incest)-; OR <--

17 (VI) AN EQUIVALENT OFFENSE UNDER THE LAWS OF ANOTHER <--
18 STATE OF THE UNITED STATES TO ANY OFFENSE UNDER
19 SUBPARAGRAPHS (I), (II), (III), (IV) AND (V).

20 Paternity of the child under this paragraph shall be
21 established in accordance with the laws of this Commonwealth.
22 The cost of the testing shall be borne by the parent who was
23 convicted of the offense.

24 * * *

25 Section 3. Section 5329 of Title 23 is amended by adding a
26 subsection to read:

27 § 5329. Consideration of criminal conviction.

28 * * *

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

30 (1) Except as provided in paragraph (2), no court shall

1 award any type of custody set forth in section 5323 (relating
2 to award of custody) to the parent of a child conceived as a
3 result of any of the following offenses for which the parent
4 has been convicted:

5 18 Pa.C.S. § 3121.

6 18 Pa.C.S. § 3122.1.

7 18 Pa.C.S. § 3124.1.

8 18 Pa.C.S. § 3124.2 (relating to institutional sexual
9 assault).

10 18 Pa.C.S. § 4302.

11 (2) A court may award any type of custody set forth in
12 section 5323 to a parent who has been convicted of an offense
13 under paragraph (1) if:

14 (i) the parent who was the victim of the offense, OR <--
15 THE LEGAL GUARDIAN IF THE PARENT IS A MINOR OR IS
16 OTHERWISE INCAPABLE OF PERSONALLY OBJECTING, does not
17 object to the custody award; or

18 (ii) despite the objection to the custody award by <--
19 the parent who was the victim of the offense UNDER THIS <--
20 PARAGRAPH, the child is of suitable age and consents to
21 the custody order and the court determines the award is
22 in the best interest of the child.

23 (3) Paternity of the child shall be established in
24 accordance with the laws of this Commonwealth. The cost of
25 the testing shall be borne by the parent who was convicted of
26 the offense.

27 * * *

28 Section 4. The amendment or addition of 23 Pa.C.S. §§
29 2511(a)(7), 2513(d), 4321(4) and 5329 (b.1) shall apply to any
30 action regarding custody of a child under 23 Pa.C.S. Ch. 43 or

1 53 that is filed on or after the effective date of this section.

2 Section 5. This act shall take effect in 60 days.