

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1129 Session of 2018

INTRODUCED BY DiSANTO, APRIL 16, 2018

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, JUNE 5, 2018

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in adoption, further providing for
3 definitions, for hearing, FOR ALTERNATIVE PROCEDURE FOR <--
4 RELINQUISHMENT, for grounds for involuntary termination and
5 for petition for involuntary termination, providing for
6 notice if identity or whereabouts of birth parent or putative
7 father unknown, further providing for consents necessary to
8 adoption and repealing provisions relating to consents not
9 naming adopting parents.

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

12 Section 1. Section 2102 of Title 23 of the Pennsylvania
13 Consolidated Statutes is amended by adding definitions to read:
14 § 2102. Definitions.

15 The following words and phrases when used in this part shall
16 have, unless the context clearly indicates otherwise, the
17 meanings given to them in this section:

18 \* \* \*

19 "Denial of paternity." The written statement of a putative
20 father declaring all of the following:

21 (1) The individual is not the father of the child.

22 (2) The individual does not acknowledge paternity of the

1 child.

2 (3) No court has determined that the individual is the  
3 father of the child.

4 (4) The individual has no interests in proceedings under  
5 this part concerning the child.

6 "Household." A group of people who reside together in the  
7 same housing unit.

8 \* \* \*

9 "Putative father." An alleged birth father of a child  
10 conceived or born outside of wedlock whose parental status has  
11 not been legally established.

12 Section 2. ~~Sections 2503(a), (b) (3) and (d), 2511(a) (9) and <--~~  
13 ~~2512(c) of Title 23 are amended to read:~~ SECTION 2503(A), (B) (3) <--  
14 AND (D) OF TITLE 23 ARE AMENDED AND THE SECTION IS AMENDED BY  
15 ADDING A SUBSECTION TO READ:

16 § 2503. Hearing.

17 (a) General rule.--Upon presentation of a petition prepared  
18 pursuant to section 2501 (relating to relinquishment to agency)  
19 or section 2502 (relating to relinquishment to adult intending  
20 to adopt child), the court shall fix a time for hearing which  
21 shall not be less than ten days, nor more than 30 days, after  
22 filing of the petition[.] unless the petitioner requests a later  
23 date, in which case the hearing shall be scheduled not later  
24 than 40 days after filing of the petition. The petitioner must  
25 appear at the hearing.

26 (b) Notice.--

27 \* \* \*

28 (3) The [copy of the notice which is given to the] birth  
29 father or a putative father shall [state that his rights may  
30 also be subject to termination pursuant to subsection (d) if

1 he fails to file either an acknowledgment of paternity or  
2 claim of paternity pursuant to section 5103 (relating to  
3 acknowledgment and claim of paternity) and fails to either  
4 appear at the hearing for the purpose of objecting to the  
5 termination of his rights or file a written objection to such  
6 termination with the court prior to the hearing.] be given  
7 notice in the form provided in section 2513(b) (relating to  
8 hearing). If the identity or whereabouts of the birth father  
9 or a putative father are unknown, notice shall be given under  
10 section 2514(b) (relating to notice if identity or  
11 whereabouts of birth parent or putative father unknown).  
12 Notice under this paragraph shall state that the birth father  
13 or a putative father's rights may also be terminated under  
14 subsection (d) if any of the following applies:

15 (i) He fails to file with the court prior to the  
16 hearing a written objection to the termination.

17 (ii) He fails to appear at the hearing for the  
18 purpose of objecting to the termination of his rights.

19 \* \* \*

20 (d) [Putative father] Termination of putative father's  
21 parental rights.--If a putative father [will not file a petition  
22 to voluntarily relinquish his parental rights pursuant to  
23 section 2501 (relating to relinquishment to agency) or 2502  
24 (relating to relinquishment to adult intending to adopt child),]  
25 has been given notice of the hearing being held pursuant to this  
26 section [and], the court may enter a decree terminating his  
27 parental rights, whether or not the putative father has filed a  
28 claim of paternity under section 5103(b) (relating to  
29 acknowledgment and claim of paternity), if the putative father  
30 fails to [either]:

1       (1) file a written objection to the termination with the  
2 court prior to the hearing; or

3       (2) appear at that hearing for the purpose of objecting  
4 to termination of his parental rights [or file a written  
5 objection to such termination with the court prior to the  
6 hearing and has not filed an acknowledgment of paternity or  
7 claim of paternity pursuant to section 5103, the court may  
8 enter a decree terminating the parental rights of the  
9 putative father pursuant to subsection (c)].

10 \* \* \*

11 (F) REDACTION REQUEST FORM.--

<--

12       (1) AT THE TIME THE DECREE OF TERMINATION IS TRANSMITTED  
13 TO THE PARENT WHOSE RIGHTS ARE TERMINATED, THE COURT SHALL  
14 NOTIFY THE PARENT, IN WRITING, OF ALL OF THE FOLLOWING:

15           (I) THE RIGHT TO REDACT THE PARENT'S NAME FROM A  
16 NONCERTIFIED COPY OF THE ORIGINAL BIRTH RECORD ISSUED TO  
17 AN ADOPTEE UNDER SECTION 2937(A) (RELATING TO ORIGINAL  
18 BIRTH RECORD).

19           (II) HOW TO FILE A REDACTION REQUEST FORM UNDER  
20 SECTION 2937(C).

21           (III) THE PARENT'S RIGHT TO REQUEST, AT ANY TIME,  
22 THAT THE DEPARTMENT OF HEALTH REMOVE THE NAME REDACTION  
23 REQUEST FORM FROM THE ADOPTION FILE OF THE ADOPTEE UNDER  
24 SECTION 2937(C).

25       (2) THE COURT SHALL, AT THE SAME TIME THAT NOTICE IS  
26 PROVIDED UNDER PARAGRAPH (1), PROVIDE COPIES OF THE  
27 DEPARTMENT OF HEALTH'S NAME REDACTION REQUEST FORM TO THE  
28 PARENT.

29       SECTION 3. SECTION 2504 OF TITLE 23 IS AMENDED BY ADDING A  
30 SUBSECTION TO READ:

1 § 2504. ALTERNATIVE PROCEDURE FOR RELINQUISHMENT.

2 \* \* \*

3 (E) REDACTION REQUEST FORM.--

4 (1) AT THE TIME THE DECREE OF TERMINATION IS TRANSMITTED  
5 TO THE PARENT WHOSE RIGHTS ARE TERMINATED, THE COURT SHALL  
6 NOTIFY THE PARENT, IN WRITING, OF ALL OF THE FOLLOWING:

7 (I) THE RIGHT TO REDACT THE PARENT'S NAME FROM A  
8 NONCERTIFIED COPY OF THE ORIGINAL BIRTH RECORD ISSUED TO  
9 AN ADOPTEE UNDER SECTION 2937(A) (RELATING TO ORIGINAL  
10 BIRTH RECORD).

11 (II) HOW TO FILE A REDACTION REQUEST FORM UNDER  
12 SECTION 2937(C).

13 (III) THE PARENT'S RIGHT TO REQUEST, AT ANY TIME,  
14 THAT THE DEPARTMENT OF HEALTH REMOVE THE NAME REDACTION  
15 REQUEST FORM FROM THE ADOPTION FILE OF THE ADOPTEE UNDER  
16 SECTION 2937(C).

17 (2) THE COURT SHALL, AT THE SAME TIME THAT NOTICE IS  
18 PROVIDED UNDER PARAGRAPH (1), PROVIDE COPIES OF THE  
19 DEPARTMENT OF HEALTH'S NAME REDACTION REQUEST FORM TO THE  
20 PARENT.

21 SECTION 4. SECTION 2511(A)(9) OF TITLE 23 IS AMENDED AND THE  
22 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

23 § 2511. Grounds for involuntary termination.

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

27 \* \* \*

28 (9) The parent has been convicted of one of the  
29 following in which the victim was a child of the parent:

30 (i) an offense under 18 Pa.C.S. Ch. 25 (relating to

1 criminal homicide);

2 (ii) a felony under 18 Pa.C.S. § 2702 (relating to  
3 aggravated assault) [;], 3121 (relating to rape), 3122.1  
4 (relating to statutory sexual assault), 3123 (relating to  
5 involuntary deviate sexual intercourse), 3124.1 (relating  
6 to sexual assault) or 3125 (relating to aggravated  
7 indecent assault);

8 (iii) a felony or misdemeanor under 18 Pa.C.S. §  
9 3126 (relating to indecent assault);

10 [(iii)] (iv) an offense in another jurisdiction  
11 equivalent to an offense in subparagraph (i) [or], (ii)  
12 or (iii); or

13 [(iv)] (v) an attempt, solicitation or conspiracy to  
14 commit an offense in subparagraph (i), (ii) [or], (iii)  
15 or (iv).

16 \* \* \*

17 (D) REDACTION REQUEST FORM.--

<--

18 (1) AT THE TIME THE DECREE OF TERMINATION IS TRANSMITTED  
19 TO THE PARENT WHOSE RIGHTS ARE TERMINATED, THE COURT SHALL  
20 NOTIFY THE PARENT, IN WRITING, OF ALL OF THE FOLLOWING:

21 (I) THE RIGHT TO REDACT THE PARENT'S NAME FROM A  
22 NONCERTIFIED COPY OF THE ORIGINAL BIRTH RECORD ISSUED TO  
23 AN ADOPTEE UNDER SECTION 2937(A) (RELATING TO ORIGINAL  
24 BIRTH RECORD).

25 (II) HOW TO FILE A REDACTION REQUEST FORM UNDER  
26 SECTION 2937(C).

27 (III) THE PARENT'S RIGHT TO REQUEST, AT ANY TIME,  
28 THAT THE DEPARTMENT OF HEALTH REMOVE THE NAME REDACTION  
29 REQUEST FORM FROM THE ADOPTION FILE OF THE ADOPTEE UNDER  
30 SECTION 2937(C).

1           (2) THE COURT SHALL, AT THE SAME TIME THAT NOTICE IS  
2           PROVIDED UNDER PARAGRAPH (1), PROVIDE COPIES OF THE  
3           DEPARTMENT OF HEALTH'S NAME REDACTION REQUEST FORM TO THE  
4           PARENT.

5           SECTION 5. SECTION 2512(C) OF TITLE 23 IS AMENDED TO READ:  
6 § 2512. Petition for involuntary termination.

7           \* \* \*

8           [(c) Father not identified.--If the petition does not  
9 identify the father of the child, it shall state whether a claim  
10 of paternity has been filed under section 8303 (relating to  
11 claim of paternity).]

12          Section 3 6. Title 23 is amended by adding a section to           <--  
13 read:

14 § 2514. Notice if identity or whereabouts of birth parent or  
15           putative father unknown.

16          (a) Diligent search.--A petitioner under sections 2501  
17 (relating to relinquishment to agency), 2502 (relating to  
18 relinquishment to adult intending to adopt child), 2504  
19 (relating to alternative procedure for relinquishment) and 2512  
20 (relating to petition for involuntary termination) must  
21 establish that a diligent search has been made to identify and  
22 locate a birth parent or putative father for the purpose of  
23 providing notice in a proceeding under this part.

24          (b) Notice by publication.--

25           (1) If the petitioner can establish that an unsuccessful  
26 diligent search has been made to identify or locate a birth  
27 parent or putative father, notice of the proceeding may be  
28 given to the birth parent or putative father by publication  
29 one time in both a newspaper of general circulation and in  
30 the county legal journal at least 10 days before the date of

1 the hearing.

2 (2) Proof of publication of the notice provided under  
3 this subsection must be submitted to the court.

4 (c) Waiver of diligent search and publication of notice.--

5 (1) If the birth father or a putative father knows or  
6 has reason to know of the child's birth, and the birth father  
7 or a putative father has failed to make reasonable efforts to  
8 maintain substantial and continuing contact with the child  
9 and provide substantial financial support for the child, the  
10 court may waive the requirement for a diligent search and the  
11 publication of notice.

12 (2) Notice to the birth father or a putative father  
13 shall be considered given under this section if the court  
14 waives the requirement for a diligent search and the  
15 publication of notice and makes a specific determination that  
16 additional efforts to locate or identify the birth father or  
17 a putative father and provide notice do not serve the best  
18 interests of the child.

19 (d) Definitions.--As used in this section, the following  
20 words and phrases shall have the meanings given to them in this  
21 subsection unless the context clearly indicates otherwise:

22 "Diligent search." A search made to identify and locate a  
23 birth parent or putative father for the purpose of providing  
24 notice in an adoption proceeding. A diligent search shall  
25 include, but not be limited to, all of the following:

26 (1) An inquiry to the United States Postal Service to  
27 determine the last known address of the individual.

28 (2) An inquiry to or search of the records of the  
29 Department of Human Services, or its equivalent in the state  
30 in which the individual may reside, including public



1 assistance or benefits, child support payments and any other  
2 records maintained by the Department of Human Services that  
3 may contain a last known address for the subject of the  
4 inquiry.

5 (3) An inquiry to or search of the records of the  
6 Department of Transportation, or its equivalent in the state  
7 in which the individual may reside, relating to personal  
8 identification, driver's licensing, vehicle registration,  
9 traffic violations and other driving or vehicle related  
10 records that may contain a last known address for the subject  
11 of the inquiry.

12 (4) An inquiry to or search of the records of the  
13 Department of Corrections, the Department of State and the  
14 Department of Revenue, or their equivalents in the state in  
15 which the individual may reside, that may contain a last  
16 known address for the subject of the inquiry.

17 (5) A search of marriage and divorce records, wills and  
18 estates, deeds and land records and any other public records  
19 filed with the jurisdiction in which the individual may  
20 reside.

21 (6) Inquiries to local law enforcement agencies and  
22 databases in the jurisdiction in which the individual may  
23 reside.

24 (7) An inquiry to the Pennsylvania State Police or other  
25 statewide law enforcement entities in the state where the  
26 person may reside.

27 (8) An inquiry to or search of the records of the armed  
28 forces of the United States as to whether there is any  
29 information as to the person.

30 (9) An Internet search, including online search engines,

1 social media, genealogy websites and any other online source  
2 that may provide the current residence or whereabouts of the  
3 subject of the inquiry.

4 (10) An inquiry to the United States Department of  
5 Homeland Security.

6 (11) An inquiry to the United States Department of  
7 State.

8 (12) Any other source the court determines to be  
9 necessary to identify and locate a parent or putative father  
10 for the purpose of providing notice in an adoption  
11 proceeding.

12 Section 4 7. Section 2711(c) of Title 23 is amended and the <--  
13 section is amended by adding subsections to read:

14 § 2711. Consents necessary to adoption.

15 \* \* \*

16 (c) Validity of consent.--

17 (1) No consent shall be valid if it was executed prior  
18 to or within 72 hours after the birth of the child[. A],  
19 except that the birth father or a putative father may execute  
20 a consent or a denial of paternity at any time after  
21 receiving notice of the expected or actual birth of the  
22 child.

23 (2) If consent is executed by the birth father or a  
24 putative father prior to the birth of the child, the child  
25 shall be named "Baby (Mother's Last Name)" for the purpose of  
26 the consent. Further notice as required by section 2721  
27 (relating to notice of hearing) to the birth father or a  
28 putative father is not necessary if consent is executed prior  
29 to the birth of the child. Further notice as required by  
30 section 2721 is not required to the birth mother or her

1 husband if consent is valid.

2 (3) Any consent given outside this Commonwealth shall be  
3 valid for purposes of this section if it was given in  
4 accordance with the laws of the jurisdiction where it was  
5 executed.

6 (4) A consent to an adoption may only be revoked as set  
7 forth in this subsection. The revocation of a consent shall  
8 be in writing and shall be served upon the agency or adult to  
9 whom the child was relinquished. [The following apply:]

10 (c.1) Nature of consent.--

11 (1) Except as otherwise provided in paragraph (3):

12 (i) For a consent to an adoption executed by a birth  
13 father or a putative father, the consent is irrevocable  
14 more than 30 days after the birth of the child or the  
15 execution of the consent, whichever occurs later.

16 (ii) For a consent to an adoption executed by a  
17 birth mother, the consent is irrevocable more than 30  
18 days after the execution of the consent.

19 (2) An individual may not waive the revocation period  
20 under paragraph (1).

21 (3) Notwithstanding paragraph (1), the following apply:

22 (i) An individual who executed a consent to an  
23 adoption may challenge the validity of the consent only  
24 by filing a petition alleging fraud or duress within the  
25 earlier of the following time frames:

26 (A) Sixty days after the birth of the child or  
27 the execution of the consent, whichever occurs later.

28 (B) Thirty days after the entry of the adoption  
29 decree.

30 (ii) A consent to an adoption may be invalidated

1           only if the alleged fraud or duress under subparagraph  
2           (i) is proven by:

3                   (A) a preponderance of the evidence in the case  
4                   of consent by a person 21 years of age or younger; or

5                   (B) clear and convincing evidence in all other  
6                   cases.

7           \* \* \*

8           (e) Waiver of notice requirements.--

9                   (1) A birth parent or putative father who has consented  
10                   to an adoption may execute a waiver of notice of all legal  
11                   proceedings concerning the child.

12                   (2) A person who has executed a waiver of further notice  
13                   under this subsection shall be provided with the advisement  
14                   required by section 2504(d) (relating to alternative  
15                   procedure for relinquishment) of the continuing right to file  
16                   personal and medical history pursuant to Subchapter B of  
17                   Chapter 29 (relating to records and access to information).

18           Section ~~5~~ 8. Section 2712 of Title 23 is repealed:                   <--

19           [§ 2712. Consents not naming adopting parents.

20           A consent to a proposed adoption meeting all the requirements  
21 of this part but which does not name or otherwise identify the  
22 adopting parent or parents shall be valid if it contains a  
23 statement that it is voluntarily executed without disclosure of  
24 the name or other identification of the adopting parent or  
25 parents.]

26           Section ~~6~~ 9. This act shall take effect in 60 days.                   <--