

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 120 Session of 2019

INTRODUCED BY DiSANTO, COSTA, FOLMER, MARTIN, K. WARD AND WHITE,  
JANUARY 28, 2019

REFERRED TO JUDICIARY, JANUARY 28, 2019

AN ACT

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

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

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

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

17 \* \* \*

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

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

21 (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 interest 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) (1) and (3) and (d), 2511(a)  
13 (9) and 2512(c) of Title 23 are amended to read:

14 § 2503. Hearing.

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

24 (b) Notice.--

25 (1) At least ten days' notice of the hearing shall be  
26 given to the petitioner, and a copy of the notice shall be  
27 given to the [other] birth parent, to the putative father  
28 whose parental rights could be terminated pursuant to  
29 subsection (d) and to the [parents] parent or guardian of a  
30 petitioner who has not reached 18 years of age.

1 \* \* \*

2 (3) The [copy of the notice which is given to the  
3 putative father] birth parent, putative father and parent or  
4 guardian of a petitioner who has not reached 18 years of age  
5 shall [state that his rights may also be subject to  
6 termination pursuant to subsection (d) if he fails to file  
7 either an acknowledgment of paternity or claim of paternity  
8 pursuant to section 5103 (relating to acknowledgment and  
9 claim of paternity) and fails to either appear at the hearing  
10 for the purpose of objecting to the termination of his rights  
11 or file a written objection to such termination with the  
12 court prior to the hearing.] be given notice in the form  
13 provided in section 2513(b) (relating to hearing). If the  
14 identity or whereabouts of the birth parent or a putative  
15 father are unknown, notice shall be given under section  
16 2514(b) (relating to notice if identity or whereabouts of  
17 birth parent or putative father unknown). Notice under this  
18 paragraph shall state that the birth parent or a putative  
19 father's rights may also be terminated under subsection (d)  
20 if any of the following applies:

21 (i) The birth parent or putative father fails to  
22 file with the court prior to the hearing a written  
23 objection to the termination.

24 (ii) The birth parent or putative father fails to  
25 appear at the hearing for the purpose of objecting to the  
26 termination.

27 \* \* \*

28 (d) [Putative father] Termination of putative father's  
29 parental rights.--If a putative father [will not file a petition  
30 to voluntarily relinquish his parental rights pursuant to

1 section 2501 (relating to relinquishment to agency) or 2502  
2 (relating to relinquishment to adult intending to adopt child),]  
3 has been given notice of the hearing being held pursuant to this  
4 section [and], the court may enter a decree terminating his  
5 parental rights, whether or not the putative father has filed a  
6 claim of paternity under section 5103(b) (relating to  
7 acknowledgment and claim of paternity), if the putative father  
8 fails to [either]:

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

11 (2) appear at that hearing for the purpose of objecting  
12 to termination of his parental rights [or file a written  
13 objection to such termination with the court prior to the  
14 hearing and has not filed an acknowledgment of paternity or  
15 claim of paternity pursuant to section 5103, the court may  
16 enter a decree terminating the parental rights of the  
17 putative father pursuant to subsection (c)].

18 \* \* \*

19 § 2511. Grounds for involuntary termination.

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

23 \* \* \*

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

26 (i) an offense under 18 Pa.C.S. Ch. 25 (relating to  
27 criminal homicide);

28 (ii) a felony under 18 Pa.C.S. § 2702 (relating to  
29 aggravated assault) [;], 3121 (relating to rape), 3122.1  
30 (relating to statutory sexual assault), 3123 (relating to

1 involuntary deviate sexual intercourse), 3124.1 (relating  
2 to sexual assault) or 3125 (relating to aggravated  
3 indecent assault);

4 (iii) a felony or misdemeanor under 18 Pa.C.S. §  
5 3126 (relating to indecent assault);

6 ~~[(iii)]~~ (iv) an offense in another jurisdiction  
7 equivalent to an offense in subparagraph (i) [or], (ii)  
8 or (iii); or

9 ~~[(iv)]~~ (v) an attempt, solicitation or conspiracy to  
10 commit an offense in subparagraph (i), (ii) [or], (iii)  
11 or (iv).

12 \* \* \*

13 § 2512. Petition for involuntary termination.

14 \* \* \*

15 ~~[(c) Father not identified.--If the petition does not~~  
16 ~~identify the father of the child, it shall state whether a claim~~  
17 ~~of paternity has been filed under section 8303 (relating to~~  
18 ~~claim of paternity).]~~

19 Section 3. Title 23 is amended by adding a section to read:

20 § 2514. Notice if identity or whereabouts of birth parent or  
21 putative father unknown.

22 (a) Diligent search.--

23 (1) The court shall determine under sections 2501  
24 (relating to relinquishment to agency), 2502 (relating to  
25 relinquishment to adult intending to adopt child), 2504  
26 (relating to alternative procedure for relinquishment) and  
27 2512 (relating to petition for involuntary termination)  
28 whether a diligent search has been made to identify and  
29 locate a birth parent or putative father for the purpose of  
30 providing notice in a proceeding under this part.

1           (2) A diligent search for a birth parent or putative  
2 father under paragraph (1) shall include, but not be limited  
3 to, the following:

4           (i) An inquiry to the United States Postal Service  
5 to determine a forwarding address for the individual, if  
6 the petitioner has a last known address.

7           (ii) A search of the records that are available to  
8 the general public of the Department of Transportation,  
9 or its equivalent in the state in which the petitioner  
10 has a reasonable basis to believe the individual may  
11 reside.

12           (iii) A search of at least one publicly available  
13 database to locate Federal and state inmates.

14           (iv) An inquiry or search of publicly available  
15 records of prothonotary, dockets of the clerk of courts  
16 and tax records in the jurisdiction in which the  
17 petitioner has a reasonable basis to believe the  
18 individual may reside.

19           (v) A reasonable search of Internet sources, which  
20 may include a general query, social media or other  
21 resources designed to assist in locating an individual.

22           (vi) Any other source the court determines to be  
23 necessary to identify and locate a birth parent or  
24 putative father for the purpose of providing notice in an  
25 adoption proceeding.

26           (3) Any inquiries made under paragraph (2) that are not  
27 answered within 45 days shall be considered answered as  
28 having no record and complete, unless the court makes a  
29 negative determination under paragraph (4).

30           (4) The court shall review the efforts made by the

1 petitioner or petitioner's representative to locate the birth  
2 parent or putative father and determine if those efforts were  
3 reasonable and carried out in good faith.

4 (b) Notice by publication.--If the court determines that an  
5 unsuccessful diligent search has been made to identify or locate  
6 a birth parent or putative father, notice of the proceeding may  
7 be provided in a manner prescribed by the court that is  
8 consistent with Pa.O.C. Rule No. 15.6 (relating to notice to  
9 persons; method; notice of Orphans' Court proceedings filed on  
10 dependency docket), or any successor rule.

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

13 § 2711. Consents necessary to adoption.

14 \* \* \*

15 (c) Validity of consent.--

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

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

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

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

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

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

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

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

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

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

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

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

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

29           (ii) A consent to an adoption may be invalidated  
30 only if the alleged fraud or duress under subparagraph

1 (i) is proven by:

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

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

6 \* \* \*

7 (e) Waiver of notice requirements.--

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

11 (2) A person who has executed a waiver of further notice  
12 under this subsection shall be provided with the advisement  
13 required by section 2504(d) (relating to alternative  
14 procedure for relinquishment) of the continuing right to file  
15 personal and medical history pursuant to Subchapter B of  
16 Chapter 29 (relating to records and access to information).  
17 Section 5. Section 2712 of Title 23 is repealed:

18 [§ 2712. Consents not naming adopting parents.

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

25 Section 6. This act shall take effect in 60 days.