

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 78 Session of 2021

INTRODUCED BY BAKER, SANTARSIERO, VOGEL, KEARNEY, FONTANA, BARTOLOTTA, COLLETT, HUGHES, MARTIN, YUDICHAK, BLAKE, COSTA, SCHWANK, BROWNE, PHILLIPS-HILL, MENSCH, YAW, MUTH, KANE, COMMITTA AND STEFANO, JANUARY 22, 2021

AS AMENDED ON THIRD CONSIDERATION, JUNE 21, 2021

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in child custody, further providing for
4 definitions, for award of custody, for factors to consider
5 when awarding custody, for consideration of criminal
6 conviction, for guardian ad litem for child, for counsel for
7 child and for award of counsel fees, costs and expenses; and,
8 in Administrative Office of Pennsylvania Courts, providing
9 for child abuse and domestic abuse education and training
10 program for judges and court personnel.

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

13 Section 1. The General Assembly finds and declares as
14 follows:

15 (1) The Commonwealth has a duty to protect all children
16 in this Commonwealth and all three branches of the State
17 government play important roles in fulfilling that duty.

18 (2) Domestic abuse is a pattern of abuse within the
19 family or household and can include abuse of a partner,
20 spouse, child or pet.

21 (3) Although abusers often use physical violence as one

1 of the tactics to commit domestic abuse, these tactics are
2 not necessarily physical or illegal.

3 (4) These tactics can include verbal, emotional,
4 psychological and economic abuse, isolation, threats,
5 controlling behaviors, monitoring, litigation abuse and
6 threats to seek or demands for custody or joint custody to
7 pressure the partner to return or punish the partner for
8 leaving.

9 (5) The health and safety of all children in this
10 Commonwealth must be the first priority in all decisions
11 concerning child custody.

12 (6) It is the intent of the General Assembly to ensure
13 that in all cases and controversies before the courts
14 involving questions of child custody, the health, safety and
15 welfare of the child are protected and regarded as issues of
16 paramount importance.

17 Section 2. The definition of "abuse" in section 5322(a) of
18 Title 23 of the Pennsylvania Consolidated Statutes is amended
19 and the subsection is amended by adding definitions to read:
20 § 5322. Definitions.

21 (a) This chapter.--The following words and phrases when used
22 in this chapter shall have the meanings given to them in this
23 subsection unless the context clearly indicates otherwise:

24 "Abuse." As follows:

25 (1) As defined in section 6102 (relating to definitions)
26 [.] and the term includes the crime of stalking pursuant to
27 18 Pa.C.S. § 2709.1 (relating to stalking).

28 (2) The term does not include the justified use of force
29 in self-protection or for the protection of other persons in
30 accordance with 18 Pa.C.S. § 505 (relating to use of force in

1 self-protection) by a party in response to abuse or domestic
2 abuse by the other party.

3 * * *

4 "Health and safety of the child." The term includes, but is
5 not limited to, the physical, emotional and psychological well-
6 being of the child.

7 "HOUSEHOLD MEMBER." A SPOUSE OR AN INDIVIDUAL WHO HAS BEEN A <--
8 SPOUSE, AN INDIVIDUAL LIVING AS A SPOUSE OR WHO LIVED AS A
9 SPOUSE, A PARENT OR CHILD, ANOTHER INDIVIDUAL RELATED BY
10 CONSANGUINITY OR AFFINITY, A CURRENT OR FORMER SEXUAL OR
11 INTIMATE PARTNER OR AN INDIVIDUAL WHO SHARES BIOLOGICAL
12 PARENTHOOD, CURRENTLY SHARING A HOUSEHOLD WITH THE CHILD OR A
13 PARTY.

14 * * *

15 "Nonprofessional supervised physical custody." Custodial
16 time during which an agency or an adult, who is not a licensed <--
17 professional, designated by the court or agreed upon by the <--
18 parties, monitors the interaction between the child and the
19 individual with those rights.

20 "Professional supervised physical custody." Custodial time
21 during which a licensed professional monitors, WITH EDUCATION <--
22 AND TRAINING ON THE DYNAMICS OF DOMESTIC VIOLENCE, SEXUAL
23 ASSAULT, CHILD ABUSE AND THE IMPACT OF DOMESTIC VIOLENCE ON
24 CHILDREN, OVERSEES the interaction between the child and the
25 individual with those custody rights and promotes the child's <--
26 health and safety OF THE CHILD during the interaction. <--

27 * * * <--

28 "TEMPORARY HOUSING INSTABILITY." A PERIOD NOT TO EXCEED SIX
29 MONTHS FROM THE DATE OF THE LAST INCIDENT OF ABUSE AS DETERMINED
30 BY A COURT.

1 Section 3. Section 5323(e) of Title 23 is amended and the
2 section is amended by adding subsections to read:

3 § 5323. Award of custody.

4 * * *

5 (e) Safety conditions.--After considering the factors under
6 [section 5328(a)(2)] sections 5328, 5329 (relating to
7 consideration of criminal conviction), 5329.1 (relating to
8 consideration of child abuse and involvement with protective
9 services) and 5330 (relating to consideration of criminal
10 charge), if the court finds [that there is an ongoing] a history
11 of abuse of the child or a household member by a party or A <--
12 PRESENT risk of harm to the child or an abused party and awards
13 any form of custody to a party who committed the abuse or who
14 has a household member who committed the abuse, the court shall
15 include in the custody order safety conditions [designed],
16 restrictions or safeguards as REASONABLY necessary to protect <--
17 the child or the abused party~~]., including: THE COURT SHALL~~ <--
18 INCLUDE IN THE CUSTODY ORDER THE REASON FOR IMPOSING THE SAFETY
19 CONDITIONS, RESTRICTIONS OR SAFEGUARDS AND AN EXPLANATION WHY
20 THE SAFETY CONDITIONS, RESTRICTIONS OR SAFEGUARDS ARE IN THE
21 BEST INTEREST OF THE CHILD OR THE ABUSED PARTY. IF SUPERVISED
22 CONTACT IS ORDERED, THERE SHALL BE A REVIEW OF THE RISK OF HARM
23 AND NEED FOR CONTINUED SUPERVISION ON AT LEAST AN ANNUAL BASIS.
24 THE SAFETY CONDITIONS, RESTRICTIONS OR SAFEGUARDS MAY INCLUDE
25 ANY OF THE FOLLOWING:
26 (1) Nonprofessional supervised physical custody.
27 (2) Professional supervised physical custody.
28 (3) Limitations on the time of day that physical custody
29 is permitted or on the number of hours of physical custody
30 and the maximum number of hours of physical custody permitted

1 per day or per week.

2 (4) ~~Appoint a qualified professional specializing in~~ <--
3 ~~treatment relating to the history of abuse or risk of harm to~~
4 ~~provide counseling. Counseling may include a program of~~
5 ~~treatment or individual therapy designed to rehabilitate the~~
6 ~~offending individual, which includes issues regarding~~
7 ~~physical or sexual abuse, domestic abuse, the psychology of~~
8 ~~the offender and the effects of abuse on the victim and the~~
9 ~~child. If counseling is ordered the court may require an~~
10 ~~evaluation by the appointed qualified professional to~~
11 ~~determine whether further counseling of the offender is~~
12 ~~necessary.~~ THE APPOINTMENT OF A QUALIFIED PROFESSIONAL <--
13 SPECIALIZING IN PROGRAMMING RELATING TO THE HISTORY OF ABUSE
14 OR RISK OF HARM TO PROVIDE BATTERER'S INTERVENTION OR HARM
15 PREVENTION PROGRAMMING. BATTERER'S INTERVENTION AND HARM
16 PREVENTION PROGRAMMING MAY INCLUDE PROGRAMMING DESIGNED TO
17 REHABILITATE THE OFFENDING INDIVIDUAL, INCLUDING PRIORITIZING
18 A BATTERER'S INTERVENTION OR HARM PREVENTION PROGRAM, IF
19 AVAILABLE, OR THE IMPACTS OF PHYSICAL, SEXUAL OR DOMESTIC
20 ABUSE ON THE VICTIM. THE COURT MAY ORDER AN EVALUATION BY THE
21 APPOINTED QUALIFIED PROFESSIONAL UNDER THIS PARAGRAPH TO
22 DETERMINE WHETHER ADDITIONAL PROGRAMMING IS NECESSARY.

23 (5) Limitations on legal custody.

24 (6) Any other safety condition, restriction or safeguard
25 as necessary to ensure the health and safety of the child OR <--
26 TO PROTECT A HOUSEHOLD MEMBER.

27 (e.1) Supervision.--If a court finds by a preponderance of
28 the evidence that a party has ~~subjected~~ ABUSED the child or any <--
29 household member to abuse, the court shall be presumed to, THERE <--
30 SHALL BE A REBUTTABLE PRESUMPTION THAT THE COURT SHALL only

1 allow nonprofessional supervised physical custody or
2 professional supervised physical custody between the child and
3 the party who committed the abuse unless the court makes a <--
4 finding on the record that it finds by a preponderance of the
5 evidence that the party no longer poses a risk of abuse to the
6 child or any other household member and that another custody
7 arrangement is in the best interest of the child and will not
8 cause physical, emotional or psychological harm to the child.. A <--
9 COURT MAY FIND THAT AN INDICATED REPORT FOR PHYSICAL OR SEXUAL
10 ABUSE UNDER CHAPTER 63 (RELATING TO CHILD PROTECTIVE SERVICES)
11 IS A BASIS FOR A FINDING OF ABUSE UNDER THIS SUBSECTION ONLY
12 AFTER A DE NOVO REVIEW OF THE CIRCUMSTANCES LEADING TO THE
13 INDICATED REPORT. NOTWITHSTANDING THE PROVISIONS OF THIS
14 SUBSECTION, THE COURT MAY AWARD AN ALTERNATIVE FORM OF CUSTODY
15 IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT:
16 (1) THE PARTY NO LONGER POSES A RISK OF ABUSE TO THE
17 CHILD OR ANY OTHER HOUSEHOLD MEMBER; AND
18 (2) ANOTHER CUSTODY ARRANGEMENT IS IN THE BEST INTEREST
19 OF THE CHILD AND WILL NOT JEOPARDIZE THE HEALTH AND SAFETY OF
20 THE CHILD.
21 (e.2) Professional supervision.--If a court finds by a
22 preponderance of the evidence that there is an ongoing risk of
23 abuse of the child, the court shall be presumed to THERE SHALL <--
24 BE A REBUTTABLE PRESUMPTION THAT THE COURT SHALL only allow
25 professional supervised physical custody between the child and
26 the party who committed the abuse unless the court makes a <--
27 finding on the record that it finds by a preponderance of the
28 evidence that the party no longer poses a risk of abuse to the
29 child or any other household member and that another custody
30 arrangement is in the best interest of the child and will not

1 ~~cause physical, emotional or psychological harm to the child.~~

2 POSES THE RISK OF ABUSE. A COURT MAY FIND THAT AN INDICATED <--
3 REPORT FOR PHYSICAL OR SEXUAL ABUSE UNDER CHAPTER 63 IS A BASIS
4 FOR A FINDING OF ABUSE UNDER THIS SUBSECTION ONLY AFTER A DE
5 NOVO REVIEW OF THE CIRCUMSTANCES LEADING TO THE INDICATED
6 REPORT. NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, THE
7 COURT MAY AWARD AN ALTERNATIVE FORM OF CUSTODY IF THE COURT
8 FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT:

9 (1) THE PARTY NO LONGER POSES A RISK OF ABUSE TO THE
10 CHILD OR ANY OTHER HOUSEHOLD MEMBER; AND

11 (2) ANOTHER CUSTODY ARRANGEMENT IS IN THE BEST INTEREST
12 OF THE CHILD AND WILL NOT JEOPARDIZE THE HEALTH AND SAFETY OF
13 THE CHILD.

14 * * *

15 Section 4. Section 5328(a) of Title 23 is amended and the
16 section is amended by adding a subsection to read:

17 § 5328. Factors to consider when awarding custody.

18 (a) Factors.--In ordering any form of custody, the court
19 shall determine the best interest of the child by considering
20 all relevant factors, giving weighted consideration to those
21 factors which affect the health and safety of the child,
22 including the following:

23 ~~(1) Which party is more likely to ensure the health and~~ <--
24 ~~safety of the child.~~

25 [(1) Which party is more likely to encourage and permit <--
26 frequent and continuing contact between the child and another
27 party.]

28 (1) WHICH PARTY IS MORE LIKELY TO ENSURE THE HEALTH AND <--
29 SAFETY OF THE CHILD.

30 (2) The present and past abuse committed by a party or

1 member of the party's household. [, whether there is a
2 continued risk of harm to the child or an abused party and
3 which party can better provide adequate physical safeguards
4 and supervision of the child.]

5 (2.1) The information set forth in section 5329.1(a)
6 (relating to consideration of child abuse and involvement
7 with protective services).

8 (2.2) Violent or assaultive behavior committed by a
9 party, including past or current protection from abuse and
10 sexual violence abuse protection orders WHERE THERE HAS BEEN <--
11 A FINDING OF ABUSE.

12 (2.3) Which party is more likely to encourage and permit
13 frequent and continuing contact between the child and another
14 party if contact is consistent with the health and safety
15 needs of the child.

16 (2.4) THE EXISTENCE OF A PROTECTION FROM ABUSE ORDER <--
17 ENTERED ON CONSENT OF THE PARTIES, WITH NO ADMISSION OR
18 FINDING OF ABUSE, IF, UPON REVIEW OF THE FACTS PRESENTED AT
19 THE CUSTODY HEARING, THE COURT FINDS THAT ABUSE OCCURRED.

20 (3) The ~~present and past~~ parental {duties} ~~and caretaker <--~~
21 ~~duties~~ performed by each party on behalf of the child.

22 (4) The need for stability and continuity in the child's
23 education, family life and community life except if changes
24 are necessary to protect the health and safety of the child
25 OR A PARTY. <--

26 (5) The availability of extended family.

27 (6) The child's sibling relationships.

28 (7) The well-reasoned preference of the child, based on
29 the child's developmental stage, maturity and judgment. In
30 assessing the factor under this paragraph, IF THE COURT FINDS <--

1 THAT the child's fear of a party IS based on the party's <--
2 ACTUAL AND specific conduct that is contrary to the child's <--
3 best interest, THE FINDING shall be considered well-reasoned. <--

4 (8) The attempts of a [parent] party to turn the child
5 against the other [parent] party, except in cases of ~~abuse~~ <--
6 ABUSE [domestic violence] where reasonable safety measures <--
7 are necessary to protect the health and safety of the child
8 from harm. A PARTY'S REASONABLE CONCERNS FOR A CHILD'S HEALTH <--
9 AND WELFARE AND THE PARTY'S REASONABLE EFFORTS TO PROTECT THE
10 CHILD SHALL NOT BE CONSIDERED ATTEMPTS TO TURN THE CHILD
11 AGAINST THE OTHER PARTY. A CHILD'S DEFICIENT OR NEGATIVE
12 RELATIONSHIP WITH A PARTY SHALL NOT BE PRESUMED TO BE CAUSED
13 BY THE OTHER PARTY.

14 ~~A party's reasonable concerns for a child's health~~ <--
15 ~~and welfare and the party's reasonable efforts to protect~~
16 ~~the child shall not be considered attempts to turn the~~
17 ~~child against the other party. A child's deficient or~~
18 ~~negative relationship with a party shall not be presumed~~
19 ~~to be caused by the other party.~~

20 (9) Which party is more likely to maintain a loving,
21 stable, consistent and nurturing relationship with the child
22 adequate for the child's emotional needs.

23 (10) Which party is more likely to attend to the daily
24 physical, emotional, developmental, educational and special
25 needs of the child.

26 (11) The proximity of the residences of the parties.

27 (12) Each party's availability to care for the child or
28 ability to make appropriate child-care arrangements.

29 (13) The level of conflict between the parties and the
30 willingness and ability of the parties to cooperate with one

1 another. A party's effort to protect a child or self from
2 abuse by another party is not evidence of unwillingness or
3 inability to cooperate with that party.

4 (14) The history of drug or alcohol abuse of a party or
5 member of a party's household.

6 (15) The mental and physical condition of a party or
7 member of a party's household.

8 (16) Any other relevant factor.

9 (a.1) Exception.--None of the factors in A FACTOR UNDER <--
10 subsection (a) shall NOT be adversely weighed against a party if <--
11 that party or the child was subjected to abuse by the other <--
12 party. THE CIRCUMSTANCES RELATED TO THE FACTOR WERE IN RESPONSE <--
13 TO ABUSE OR NECESSARY TO PROTECT THE CHILD OR THE ABUSED PARTY
14 FROM HARM AND THE PARTY ALLEGING ABUSE DOES NOT POSE A RISK TO
15 THE HEALTH AND SAFETY OF THE CHILD AT THE TIME OF THE CUSTODY
16 HEARING. TEMPORARY HOUSING INSTABILITY AS A RESULT OF ABUSE
17 SHALL NOT BE CONSIDERED AGAINST THE PARTY ALLEGING ABUSE.

18 (A.2) DETERMINATION.--NO SINGLE FACTOR UNDER SUBSECTION
19 (A) SHALL BY ITSELF BE DETERMINATIVE IN THE AWARDING OF CUSTODY.
20 THE COURT SHALL EXAMINE THE TOTALITY OF THE CIRCUMSTANCES,
21 GIVING WEIGHTED CONSIDERATION TO THE FACTORS THAT AFFECT THE
22 HEALTH AND SAFETY OF THE CHILD, WHEN ISSUING A CUSTODY ORDER
23 THAT IS IN THE BEST INTEREST OF THE CHILD.

24 * * *

25 Section 5. Section 5329(a) of Title 23, amended June 5, 2020
26 (P.L.246, No.32), is amended AND THE SECTION IS AMENDED BY <--
27 ADDING A SUBSECTION to read:

28 § 5329. Consideration of criminal conviction.

29 (a) Offenses.--Where a party seeks any form of custody, the
30 court shall consider whether that party or member of that

1 party's household has been convicted of or has pleaded guilty or
2 no contest to any of the offenses in this section or an offense
3 in another jurisdiction substantially equivalent to any of the
4 offenses in this section. The court shall consider such conduct
5 and determine that the party does not pose a threat of harm to
6 the child before making any order of custody to that party when
7 considering the following offenses:

8 18 Pa.C.S. Ch. 25 (relating to criminal homicide).

9 18 Pa.C.S. § 2701 (relating to simple assault).

10 18 Pa.C.S. § 2702 (relating to aggravated assault).

11 18 Pa.C.S. § 2705 (relating to recklessly endangering another
12 person).

13 18 Pa.C.S. § 2706 (relating to terroristic threats).

14 18 Pa.C.S. § 2709.1 (relating to stalking).

15 18 Pa.C.S. § 2718 (relating to strangulation).

16 18 Pa.C.S. § 2901 (relating to kidnapping).

17 18 Pa.C.S. § 2902 (relating to unlawful restraint).

18 18 Pa.C.S. § 2903 (relating to false imprisonment).

19 18 Pa.C.S. § 2910 (relating to luring a child into a motor
20 vehicle or structure).

21 18 Pa.C.S. § 3011 (relating to trafficking in individuals).

22 18 Pa.C.S. § 3012 (relating to involuntary servitude).

23 18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual
24 servitude).

25 18 Pa.C.S. § 3121 (relating to rape).

26 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

27 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
28 intercourse).

29 18 Pa.C.S. § 3124.1 (relating to sexual assault).

30 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

1 18 Pa.C.S. § 3126 (relating to indecent assault).
2 18 Pa.C.S. § 3127 (relating to indecent exposure).
3 18 Pa.C.S. § 3129 (relating to sexual intercourse with
4 animal).
5 18 Pa.C.S. § 3130 (relating to conduct relating to sex
6 offenders).
7 18 Pa.C.S. § 3301 (relating to arson and related offenses).
8 18 Pa.C.S. § 4302 (relating to incest).
9 18 Pa.C.S. § 4303 (relating to concealing death of child).
10 18 Pa.C.S. § 4304 (relating to endangering welfare of
11 children).
12 18 Pa.C.S. § 5533 (relating to cruelty to animal).
13 18 Pa.C.S. § 5534 (relating to aggravated cruelty to animal).
14 18 Pa.C.S. § 5543 (relating to animal ~~infighting~~ FIGHTING). <--
15 18 Pa.C.S. § 5544 (relating to possession of animal fighting
16 paraphernalia).
17 18 Pa.C.S. § 4305 (relating to dealing in infant children).
18 18 Pa.C.S. § 5902(b) (relating to prostitution and related
19 offenses).
20 18 Pa.C.S. § 5903(c) or (d) (relating to obscene and other
21 sexual materials and performances).
22 18 Pa.C.S. § 6301 (relating to corruption of minors).
23 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
24 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
25 18 Pa.C.S. § 6320 (relating to sexual exploitation of
26 children).
27 Section 6114 (relating to contempt for violation of order or
28 agreement).
29 The former 75 Pa.C.S. § 3731 (relating to driving under
30 influence of alcohol or controlled substance).

1 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol
2 or utilizing drugs).

3 Section 13(a)(1) of the act of April 14, 1972 (P.L.233,
4 No.64), known as The Controlled Substance, Drug, Device and
5 Cosmetic Act, to the extent that it prohibits the manufacture,
6 sale or delivery, holding, offering for sale or possession of
7 any controlled substance or other drug or device.

8 (A.1) DETERMINATION.--A CRIMINAL CONVICTION SPECIFIED UNDER <--
9 SUBSECTION (A) SHALL NOT BY ITSELF BE DETERMINATIVE IN THE
10 AWARDING OF CUSTODY. THE COURT SHALL EXAMINE THE TOTALITY OF THE
11 CIRCUMSTANCES WHEN ISSUING A CUSTODY ORDER THAT IS IN THE BEST
12 INTEREST OF THE CHILD.

13 * * *

14 ~~Section 6. Sections 5334(c), 5335(b) and 5339 of Title 23~~ <--
15 ~~are amended to read:~~

16 SECTION 6. SECTION 5334(C) OF TITLE 23 IS AMENDED AND THE <--
17 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

18 § 5334. Guardian ad litem for child.

19 * * *

20 (c) Abuse.--If substantial allegations of abuse [of the
21 child] are made, the court [shall] may appoint a guardian ad
22 litem for the child if:

23 (1) counsel for the child is not appointed under section
24 5335 (relating to counsel for child); [or] AND <--

25 (2) the court is satisfied that the relevant information
26 will be presented to the court only with such appointment[.] <--
27 ~~or~~

28 ~~(3) a guardian ad litem appointed under this section~~
29 ~~shall establish that the guardian ad litem received education~~
30 ~~and training under the program specified under 42 Pa.C.S. §~~

1 ~~1908 (relating to child abuse and domestic abuse education~~
2 ~~and training program for judges and court personnel) or~~
3 ~~substantially similar training prior to appointment.~~

4 * * *

5 (F) EDUCATION AND TRAINING.--A COURT APPOINTING A GUARDIAN <--
6 AD LITEM UNDER THIS SECTION SHALL MAKE REASONABLE EFFORTS TO
7 APPOINT A GUARDIAN AD LITEM WHO RECEIVED EVIDENCE-BASED
8 EDUCATION AND TRAINING RELATING TO CHILD ABUSE, INCLUDING CHILD
9 SEXUAL ABUSE, DOMESTIC ABUSE EDUCATION AND THE EFFECT OF CHILD
10 SEXUAL ABUSE AND DOMESTIC ABUSE ON CHILDREN.

11 SECTION 7. SECTIONS 5335(B) AND 5339 OF TITLE 23 ARE AMENDED
12 TO READ:

13 § 5335. Counsel for child.

14 * * *

15 (b) Abuse.--Substantial allegations of abuse [of the child]
16 constitute a reasonable basis for appointing counsel for the
17 child.

18 * * *

19 § 5339. Award of counsel fees, costs and expenses.

20 ~~(a) Award.~~ Under this chapter, a court may award reasonable <--
21 interim or final counsel fees, costs and expenses to a party if
22 the court finds that the conduct of another party was obdurate,
23 vexatious[,], OR repetitive [or in bad faith]. This section may <--
24 not apply if that party engaged the judicial process in good
25 faith to protect the child from harm.

26 ~~(b) Other costs.~~ The court may direct that a party who has <--
27 been found to have perpetrated abuse to pay all or a portion of
28 the fees, costs and expenses incurred by the other party,
29 including attorney fees, costs relating to any counsel for the
30 child and treatment expenses incurred relating to the abuse,

1 ~~including fees associated with any form of supervised physical~~
2 ~~custody.~~

3 Section 7 8. Title 42 is amended by adding a section to <--
4 read:

5 § 1908. Child abuse and domestic abuse education and training
6 program for judges and court personnel.

7 ~~The Administrative Office of Pennsylvania Courts may develop <--~~
8 ~~and implement an ongoing education and training program for~~
9 ~~judges, magisterial district judges and relevant court~~
10 ~~personnel, including guardians ad litem, counsel for children,~~
11 ~~masters and mediators, regarding child abuse, which includes all~~
12 ~~aspects of maltreatment, including sexual abuse, physical abuse,~~
13 ~~emotional abuse, implicit and explicit bias, trauma and neglect~~
14 ~~and the impact of child abuse and domestic violence on children.~~
15 ~~The education and training program shall include the latest best~~
16 ~~practices from evidence based and peer reviewed research by~~
17 ~~recognized experts in the types of abuse designated under this~~
18 ~~section. The education and training program shall be designed to~~
19 ~~improve the ability of courts to recognize and respond to the~~
20 ~~impact of child abuse, domestic abuse and trauma on all victims,~~
21 ~~specifically children, and make appropriate custody decisions~~
22 ~~that are in the best interest of the child.~~

23 (A) PROGRAM.--THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA <--
24 COURTS MAY DEVELOP AND IMPLEMENT AN ONGOING EDUCATION AND
25 TRAINING PROGRAM FOR JUDGES, MAGISTERIAL DISTRICT JUDGES AND
26 RELEVANT COURT PERSONNEL, INCLUDING GUARDIANS AD LITEM, COUNSEL
27 FOR CHILDREN, MASTERS AND MEDIATORS REGARDING CHILD ABUSE. THE
28 EDUCATION AND TRAINING PROGRAM SHALL INCLUDE ALL ASPECTS OF THE
29 MALTREATMENT OF CHILDREN, INCLUDING ALL OF THE FOLLOWING:

30 (1) SEXUAL ABUSE.

- 1 (2) PHYSICAL ABUSE.
2 (3) IMPLICIT AND EXPLICIT BIAS.
3 (4) TRAUMA AND NEGLECT.
4 (5) THE IMPACT OF CHILD ABUSE AND DOMESTIC VIOLENCE ON
5 CHILDREN.

6 (B) BEST PRACTICES.--THE EDUCATION AND TRAINING PROGRAM
7 UNDER SUBSECTION (A) SHALL INCLUDE THE LATEST BEST PRACTICES
8 FROM EVIDENCE-BASED, PEER-REVIEWED RESEARCH BY RECOGNIZED
9 EXPERTS IN THE TYPES OF CHILD ABUSE SPECIFIED UNDER SUBSECTION
10 (A). THE ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS SHALL
11 DESIGN THE EDUCATION AND TRAINING PROGRAM UNDER SUBSECTION (A)
12 TO EDUCATE AND TRAIN RELEVANT COURT PERSONNEL ON ALL OF THE
13 FACTORS LISTED UNDER 23 PA.C.S. § 5328(A) (RELATING TO FACTORS
14 TO CONSIDER WHEN AWARDING CUSTODY) AND IMPROVE THE ABILITY OF
15 COURTS TO MAKE APPROPRIATE CUSTODY DECISIONS THAT ARE IN THE
16 BEST INTEREST OF THE CHILD, INCLUDING EDUCATION AND TRAINING
17 REGARDING THE IMPACT OF CHILD ABUSE, DOMESTIC ABUSE AND TRAUMA
18 ON A VICTIM, SPECIFICALLY A CHILD, AND SITUATIONS WHEN ONE PARTY
19 ATTEMPTS TO TURN A CHILD AGAINST ANOTHER PARTY.

20 Section § 9. This act shall take effect in ~~60~~ 120 days.

<--