

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 410 Session of 2015

INTRODUCED BY TOOHIL, C. PARKER, SCHLOSSBERG, SCHWEYER, MASSER, PICKETT, SCHREIBER, KINSEY, YOUNGBLOOD, STEPHENS, THOMAS, O'BRIEN, DUSH, LONGIETTI, COHEN, TALLMAN, BARRAR, JAMES, MILLARD, CALTAGIRONE, CARROLL, WATSON, BOBACK, CONKLIN, KORTZ, KAUFFMAN, A. HARRIS, PETRI, D. COSTA, VEREB, MARSICO, ROZZI, LAWRENCE, BROWNLEE, CUTLER, DONATUCCI, McCARTER, DELOZIER, BRIGGS, SACCONI, BIZZARRO, DIAMOND, MARSHALL, GRELL, SANTORA, MOUL, HENNESSEY, DAVIS, MULLERY, SIMS, PHILLIPS-HILL, FARRY, MURT AND BARBIN, FEBRUARY 9, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, 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 victim
15 and a child has been conceived as a result of the offense:

- 1 (i) 18 Pa.C.S. § 3121 (relating to rape);
2 (ii) 18 Pa.C.S. § 3122.1 (relating to statutory
3 sexual assault);
4 (iii) 18 Pa.C.S. § 3124.1 (relating to sexual
5 assault) where the offense involved sexual intercourse;
6 (iv) 18 Pa.C.S. § 3124.2 (relating to institutional
7 sexual assault) where the offense involved sexual
8 intercourse; or
9 (v) 18 Pa.C.S. § 4302 (relating to incest) where the
10 offense involved sexual intercourse.

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

15 * * *

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

18 § 5329. Consideration of criminal conviction.

19 * * *

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

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

29 18 Pa.C.S. § 3121.

30 18 Pa.C.S. § 3122.1.

1 18 Pa.C.S. § 3124.1, where the offense involved sexual
2 intercourse.

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

5 18 Pa.C.S. § 4302.

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

10 (I) THE PARENT WHO IS A VICTIM HAD AN OPPORTUNITY TO <--
11 ADDRESS THE COURT;

12 ~~(i)~~ (II) the child is of suitable age and consents <--
13 to the custody order; and

14 ~~(ii)~~ (III) the court determines the award is in the <--
15 best interest of the child.

16 (3) Paternity of the child shall be established by
17 blood, genetic or other paternity testing acceptable to the
18 court. The cost of the testing shall be borne by the parent
19 who was convicted of the offense.

20 * * *

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

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