

No. 1978-303

AN ACT

HB 2007

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, further providing for persons born out of wedlock and for rules of interpretation.

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

Section 1. Section 2107 and paragraph (8) of section 2514, of Title 20, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, are amended to read:

§ 2107. Persons born out of wedlock.

(a) Child of mother.—For purposes of descent by, from and through a person born out of wedlock, he shall be considered the child of his mother. **[but not of his father.]**

(b) Marriage of parents.—When the parents of a person born out of wedlock shall have married each other, he shall be legitimated for purposes of descent by, from and through him as if he had been born during the wedlock of his parents.]

(c) *Child of father.*—*For purposes of descent by, from and through a person born out of wedlock, he shall be considered the child of his father when the identity of the father has been determined in any one of the following ways:*

(1) If the parents of a child born out of wedlock shall have married each other.

(2) If during the lifetime of the child, the father openly holds out the child to be his and receives the child into his home, or openly holds the child out to be his and provides support for the child which shall be determined by clear and convincing evidence.

(3) If there is clear and convincing evidence that the man was the father of the child, which may include a prior court determination of paternity.

§ 2514. Rules of interpretation.

In the absence of a contrary intent appearing therein, wills shall be construed as to real and personal estate in accordance with the following rules:

* * *

(8) Persons born out of wedlock.—In construing paragraphs (9), (10) and (11) **[of this section]**, relating to lapsed and void devises and legacies, and in construing a will making a devise or bequest to a person or persons described by relationship to the testator or to another, a person born out of wedlock shall be considered the child of **[his mother and not of his father: Provided, That when the parents of a person born**

out of wedlock shall have married each other, he shall thereafter be considered as having been born within the period of time during which the parents were married.] *the natural mother and also of the natural father if paternity of the natural father has been determined pursuant to the provisions of section 2107 (relating to persons born out of wedlock).*

* * *

Section 2. Title 20 is amended by adding a section to read:

§ 3538. *Distributions involving persons born out of wedlock.*

A personal representative may administer an estate on the assumption that no person born out of wedlock is entitled to share as a distributee unless the personal representative has knowledge or has received notice that such a person with possible distributee's rights exists. If a personal representative has distributed an estate, or part thereof, in good faith without knowledge of a person born out of wedlock who has rights as a distributee, said distribution actually made shall not impose liability on the personal representative. Except as herein otherwise provided, a person born out of wedlock shall have the same rights in an estate and shall be subject to such time limitations and to such procedures as are applied to any other heir or claimant against an estate.

Section 3. Section 6114(5) of Title 20 is amended to read:

§ 6114. Rules of interpretation.

In the absence of a contrary intent appearing therein, conveyances shall be construed, as to real and personal estate, in accordance with the following rules:

* * *

(5) Persons born out of wedlock.—In construing a conveyance to a person or persons described by relationship to the conveyor or to another, a person born out of wedlock shall be considered the child of [his mother and not of his father: Provided, That when the parents of a person born out of wedlock shall have married each other, he shall thereafter be considered legitimate.] *the natural mother and also of the natural father if the paternity of the natural father has been determined according to the provisions of section 2107 (relating to persons born out of wedlock).*

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Section 4. Section 7183 of Title 20 is amended by adding a paragraph to read:

§ 7183. Notice, audits, reviews, and distribution.

The provisions concerning accounts, audits, reviews, distributions and rights of distributees in trust estates shall be the same as those set forth in this title for the administration of a decedent's estate, with regard to the following:

* * *

(14) *Distributions involving persons born out of wedlock, as in section 3538 (relating to distributions involving persons born out of wedlock).*

Section 5. This act shall be effective immediately, but its provisions shall not apply to wills or conveyances executed prior to its effective date or to rights from and through a child's father if the father had died prior to the effective date of this act.

APPROVED—The 26th day of November, A. D. 1978.

MILTON J. SHAPP