

No. 1990-206

## AN ACT

HB 1023

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, adding provisions relating to domestic relations; making conforming amendments to Titles 18 and 42; and repealing certain acts and parts of acts supplied by the act or otherwise obsolete.

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

Section 1. Part IX of Title 23 of the Pennsylvania Consolidated Statutes is repealed.

Section 2. Title 23 is amended by adding parts, chapters or subchapters to read:

## TITLE 23 DOMESTIC RELATIONS

### Part

- I. General Provisions
- II. Marriage
- III. Adoption
- IV. Divorce
- V. Support, Property and Contracts
- VI. Children and Minors
- VII. Abuse of Family

## PART I GENERAL PROVISIONS

### Chapter

- 1. Preliminary Provisions

## CHAPTER 1 PRELIMINARY PROVISIONS

### Sec.

- 101. Short title of title.
- 102. Definitions.

- § 101. Short title of title.

This title shall be known and may be cited as the Domestic Relations Code.

- § 102. Definitions.

(a) General rule.—Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Clerk of court” or “clerk.” The personnel of the office of the prothonotary or clerk of the division of the court having jurisdiction over the matter.

“Court.” The court or district justice having jurisdiction over the matter under Title 42 (relating to judiciary and judicial procedure) exercised as provided in Title 42 or as otherwise provided or prescribed by law.

(b) Title 42 definitions.—Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, words and phrases not defined in subsection (a) which are defined in 42 Pa.C.S. § 102 (relating to definitions) when used in this title shall have the meanings given to them in Title 42 unless the context clearly indicates otherwise.

## PART II MARRIAGE

### Chapter

11. Preliminary Provisions
13. Marriage License
15. Marriage Ceremony
17. Miscellaneous Provisions Relating to Marriage
19. Abolition of Actions for Alienation of Affections and Breach of Promise to Marry

### CHAPTER 11 PRELIMINARY PROVISIONS

#### Sec.

1101. Short title of part.
1102. Definitions.
1103. Common-law marriage.
1104. Forms.
1105. Fees.
1106. Records and statistics.

#### § 1101. Short title of part.

This part shall be known and may be cited as the Marriage Law.

#### § 1102. Definitions.

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

“Department.” The Department of Health of the Commonwealth.

“Marriage license” or “license.” A license to marry issued under this part.

#### § 1103. Common-law marriage.

This part shall not be construed to change the existing law with regard to common-law marriage.

#### § 1104. Forms.

Marriage license applications, consent certificates, marriage licenses and other necessary forms shall be supplied at the expense of the county and shall be uniform throughout this Commonwealth as prescribed by the department. Statements of physicians and laboratories relative to examinations for syphilis shall be prepared and furnished by the department.



**§ 1105. Fees.**

(a) General rule.—The fee to be charged for issuing a marriage license or declaration and for returns thereof to the department shall be \$3 of which \$2.50 shall be retained by the county wherein the license is issued and 50¢ shall be remitted to the Commonwealth.

(b) Transmitting Commonwealth moneys.—All moneys collected under this section for the Commonwealth shall be transmitted to the State Treasurer no later than the tenth day of the following month.

**§ 1106. Records and statistics.**

(a) Filing transcript or record.—The county shall furnish the department, not later than the 15th day of each month, with a transcript or record of each marriage license issued and each return of the celebration of a marriage received or filed during the preceding calendar month.

(b) Forms.—The transcripts or records required to be furnished shall be made on forms prepared and furnished by the department and shall contain such information as the department may require.

(c) Confidentiality.—The records furnished to the department under this section shall not be open to public inspection except as authorized by the regulations of the Advisory Health Board.

(d) Statistics.—The department shall from time to time compile and publish statistics derived from records furnished under this section.

## CHAPTER 13 MARRIAGE LICENSE

**Sec.**

1301. Marriage license required.

1302. Application for license.

1303. Waiting period after application.

1304. Restrictions on issuance of license.

1305. Examination and tests for syphilis.

1306. Oral examination.

1307. Issuance of license.

1308. Judicial review of refusal to issue license.

1309. Filing applications and consent certificates.

1310. Duration and form of license.

**§ 1301. Marriage license required.**

(a) General rule.—No person shall be joined in marriage in this Commonwealth until a marriage license has been obtained.

(b) Place of marriage ceremony.—A license issued under this part shall authorize a marriage ceremony to be performed in any county of this Commonwealth.

(c) Identity of applicants.—Prior to issuance of the license, the person issuing the license must be satisfied as to the identity of both of the applicants.

§ 1302. Application for license.

(a) General rule.—No marriage license shall be issued except upon written and verified application made by both of the parties intending to marry.

(b) Contents.—The application shall contain the following:

(1) The full name of the applicants.

(2) The race, occupation, birthplace, residence and age of the applicants.

(3) Whether the marriage contemplated is the first, second or other marriage of an applicant.

(4) A statement that neither of the applicants is afflicted with transmissible disease.

(5) The full name, residence, race, occupation and birthplace of the parents of each applicant, including the maiden name of the mother of each applicant.

(6) Any other facts necessary to determine whether a legal impediment to the proposed marriage exists.

§ 1303. Waiting period after application.

(a) General rule.—No marriage license shall be issued prior to the third day following the making of application therefor.

(b) Exception.—In case of emergency or extraordinary circumstances, the court may authorize a license to be issued at any time after the making of the application.

§ 1304. Restrictions on issuance of license.

(a) Examinations and tests for syphilis.—No marriage license shall be issued until there has been compliance with section 1305 (relating to examination and tests for syphilis).

(b) Minors.—

(1) No marriage license may be issued if either of the applicants for a license is under 16 years of age unless the court decides that it is to the best interest of the applicant and authorizes the issuance of the license.

(2) No marriage license may be issued if either of the applicants is under 18 years of age unless the consent of a parent or guardian of the applicant is personally given before the person issuing the license or is certified under the hand of a parent or guardian attested by two adult witnesses and, in the latter case, the signature of the parent or guardian is acknowledged before an officer authorized by law to take acknowledgments. When the minor has no guardian and a judge of the court is absent or not accessible for any reason, the office issuing the license may appoint a guardian pro hac vice for the minor.

(c) Incompetent persons.—No marriage license may be issued if either of the applicants for a license is weak minded, insane, of unsound mind or is under guardianship as a person of unsound mind unless the court decides that it is for the best interest of the applicant and the general public to issue the license and authorizes the issuance of the license.

(d) Persons under influence of alcohol or drugs.—No marriage license may be issued if, at the time of making application, either of the applicants is under the influence of alcohol or drugs.

(e) **Marriage to relatives.**—No marriage license may be issued to applicants within the prohibited degrees of consanguinity which are as follows:

A man may not marry his mother.

A man may not marry the sister of his father.

A man may not marry the sister of his mother.

A man may not marry his sister.

A man may not marry his daughter.

A man may not marry the daughter of his son or daughter.

A man may not marry his first cousin.

A woman may not marry her father.

A woman may not marry the brother of her father.

A woman may not marry the brother of her mother.

A woman may not marry her brother.

A woman may not marry her son.

A woman may not marry the son of her son or daughter.

A woman may not marry her first cousin.

§ 1305. **Examination and tests for syphilis.**

(a) **General rule.**—No marriage license may be issued until there has been filed a statement or statements, signed by a licensed physician of this Commonwealth or of any other state or territory, a commissioned medical officer in the armed forces of the United States or a physician of the Public Health Service of the Federal Government, that each applicant, within 30 days of the issuance of the marriage license, has submitted to an examination to determine the existence or nonexistence of syphilis, which examination has included a standard serological test or tests for syphilis, and that, in the opinion of the examining physician, the applicant is not infected with syphilis or, if so infected, is not in a stage of that disease which is likely to become communicable. The statement of the physician shall be accompanied by a statement from the person in charge of the laboratory making the test or from some other person authorized to make the statement setting forth the name of the test, the date the test was made, the exact name and address of the physician to whom a report was sent and the exact name and address of the person whose blood was tested and any other facts the department deems necessary to determine whether the applicant is infected with syphilis in a stage of that disease likely to become communicable. The statement from the laboratory shall not set forth the result of the test.

(b) **Authorization and payment.**—For the purpose of this section, a standard serological test for syphilis shall be a test approved by the department and shall be made at a laboratory approved by the department to make such tests. Laboratory tests required to be made by this section shall, upon request of the physician submitting the sample and certification of the physician that the applicant is unable to pay, be made without charge by the department.

(c) **Administrative review of denial of statement.**—Any applicant for a marriage license having been denied a physician's statement as required by this section shall have the right of appeal to the department for a review of the case, and the department shall, after appropriate investigation, issue or refuse to issue a statement in lieu of the physician's statement required by subsection (a).

(d) Forms and confidentiality.—The statements of the physician who examined the applicant and the laboratory which made the serological test shall be uniform throughout this Commonwealth and shall be upon forms provided by the department. These forms shall be filed separately from the applications for marriage licenses and shall be regarded as absolutely confidential by every person whose duty it may be to obtain, make, transmit or receive the information or report.

§ 1306. Oral examination.

Each of the applicants for a marriage license shall appear in person and shall be examined under oath or affirmation as to:

- (1) The legality of the contemplated marriage.
- (2) Any prior marriage or marriages and its or their dissolution.
- (3) The restrictions set forth in section 1304 (relating to restrictions on issuance of license).
- (4) All the information required to be furnished on the application for license as prepared and approved by the department.

§ 1307. Issuance of license.

The marriage license shall be issued if it appears from properly completed applications on behalf of each of the parties to the proposed marriage that there is no legal objection to the marriage. Except as provided by section 1303(b) (relating to waiting period after application), the license shall not be issued prior to the third day following the date of the most recent of the two applications therefor.

§ 1308. Judicial review of refusal to issue license.

(a) Certifying proceedings to court.—If the issuance of a marriage license is refused, upon request of the applicants, the proceedings shall immediately be certified to the court without formality or expense to the applicants.

(b) Prompt hearing.—The application for a marriage license shall be heard by a judge of the court, without a jury, in court or in chambers at the earliest possible time.

§ 1309. Filing applications and consent certificates.

The applications for marriage licenses and consent certificates shall be immediately filed and docketed as public records.

§ 1310. Duration and form of license.

The marriage license shall not be valid for a longer period than 60 days from the date of issue and shall be in substantially the following form:

Commonwealth of Pennsylvania

ss:

No. ....

County of (name)

To any person authorized by law to solemnize marriage:

You are hereby authorized to join together in holy state of matrimony, according to the laws of the Commonwealth of Pennsylvania, (name) and (name).

Given under my hand and seal of the Court of Common Pleas of (name), at (city, borough or town), on (date).

Signed .....

(Official Title)

CHAPTER 15  
MARRIAGE CEREMONY

Sec.

- 1501. Form of marriage certificates.
- 1502. Forms where parties perform ceremony.
- 1503. Persons qualified to solemnize marriages.
- 1504. Returns of marriages.

§ 1501. Form of marriage certificates.

The marriage license shall have appended to it two certificates, numbered to correspond with the license (one marked original and one marked duplicate), which shall be in substantially the following form:

I hereby certify that on (date), at (city, borough or town), Pennsylvania, (name) and (name) were by me united in marriage, in accordance with license issued by the Court of Common Pleas of (name) numbered .....

Signed .....

(Title of person solemnizing marriage)

Address .....

§ 1502. Forms where parties perform ceremony.

(a) Declaration of authorization.—In all cases in which the parties intend to solemnize their marriage by religious ceremony without officiating clergy, the marriage shall not take place until their right so to do is certified in a declaration in substantially the following form:

Commonwealth of Pennsylvania

ss:

No. ....

County of (name)

To (name) and (name)

Legal evidence having been furnished to me, in accordance with law, this certifies that I am satisfied that there is no legal impediment to you joining yourselves together in marriage.

Signed .....

(Official Title)

(b) Marriage certificates.—In lieu of the certificate set forth in section 1501 (relating to form of marriage certificates), there shall be appended to the declaration two certificates, numbered to correspond to the declaration, in the following form:

We hereby certify that on (date), we united ourselves in marriage, at (city, borough or town), County of (name), Pennsylvania, having first obtained from the Court of Common Pleas of (name) a declaration numbered ..... that the court was satisfied that there was no existing legal impediment to our so doing.

Signed .....

Signed .....

We, the undersigned, were present at the solemnization of the marriage of (name) and (name), as set forth in the foregoing certificate.

Signed .....

Signed .....

§ 1503. Persons qualified to solemnize marriages.

(a) General rule.—The following are authorized to solemnize marriages between persons that produce a marriage license issued under this part:

- (1) A justice, judge or district justice of this Commonwealth.
- (2) A former or retired justice, judge or district justice of this Commonwealth who is serving as a senior judge or senior district justice as provided or prescribed by law.
- (3) An active or senior judge or full-time magistrate of the District Courts of the United States for the Eastern, Middle or Western District of Pennsylvania.
- (4) An active or senior judge of the United States Court of Appeals for the Third Circuit who is a resident of this Commonwealth.
- (5) A mayor of any city or borough of this Commonwealth.
- (6) A minister, priest or rabbi of any regularly established church or congregation.

(b) Religious organizations.—Every religious society, religious institution or religious organization in this Commonwealth may join persons together in marriage when at least one of the persons is a member of the society, institution or organization, according to the rules and customs of the society, institution or organization.

(c) Marriage license needed to officiate.—No person or religious organization qualified to perform marriages shall officiate at a marriage ceremony without the parties having obtained a marriage license issued under this part.

§ 1504. Returns of marriages.

(a) General rule.—The original marriage certificate shall be signed by the person solemnizing the marriage and given to the parties contracting the marriage. The duplicate certificate shall be signed by the person or by a member of the religious society, institution or organization solemnizing the marriage and returned for recording within ten days to the court which issued the license.

(b) Marriage performed by parties.—If the marriage was solemnized by the parties themselves, the original certificate shall be signed by the parties to the marriage, attested by two witnesses and retained by the parties contracting the marriage. The duplicate certificate shall be signed by the parties to the marriage, attested by the same two witnesses and returned for recording within ten days to the court issuing the license.

## CHAPTER 17

### MISCELLANEOUS PROVISIONS RELATING TO MARRIAGE

Sec.

1701. Decree that spouse of applicant is presumed decedent.
1702. Marriage during existence of former marriage.
1703. Marriage within degree of consanguinity.

§ 1701. Decree that spouse of applicant is presumed decedent.

(a) Finding of death.—When the spouse of an applicant for a marriage license has disappeared or is absent from the place of residence of the spouse

without being heard of after diligent inquiry, the court, aided by the report of a master if necessary, upon petition of the applicant for a marriage license, may make a finding and decree that the absentee is dead and the date of death if notice to the absentee has been given as provided in subsection (d) and either of the applicants is and for one year or more prior to the application has been a resident of this Commonwealth.

(b) **Presumption from absence.**—When the death of the spouse of an applicant for a marriage license is in issue, the unexplained absence from the last known place of residence and the fact that the absentee has been unheard of for seven years may be sufficient ground for finding that the absentee died seven years after the absentee was last heard from.

(c) **Exposure to specific peril.**—The fact that an absentee spouse was exposed to a specific peril of death may be a sufficient ground for finding that the absentee died less than seven years after the absentee was last heard from.

(d) **Notice to absentee.**—The court may require advertisement in any newspapers as the court, according to the circumstances of the case, deems advisable of the fact of the application for the marriage license, together with notice that, at a specified time and place, the court or a master appointed by the court will hear evidence concerning the alleged absence, including the circumstances and duration thereof.

(e) **Remarriage after decree of presumed death.**—Even though the absentee spouse declared to be presumed dead is in fact alive, the remarriage of the spouse who has obtained a license to marry and a decree of presumed death of the former spouse shall be valid for all purposes as though the former marriage had been terminated by divorce, and all property of the presumed decedent shall be administered and disposed of as provided by Title 20 (relating to decedents, estates and fiduciaries).

§ 1702. **Marriage during existence of former marriage.**

(a) **General rule.**—If a married person, during the lifetime of the other person with whom the marriage is in force, enters into a subsequent marriage pursuant to the requirements of this part and the parties to the marriage live together thereafter as husband and wife, and the subsequent marriage was entered into by one or both of the parties in good faith in the full belief that the former spouse was dead or that the former marriage has been annulled or terminated by a divorce, or without knowledge of the former marriage, they shall, after the impediment to their marriage has been removed by the death of the other party to the former marriage or by annulment or divorce, if they continue to live together as husband and wife in good faith on the part of one of them, be held to have been legally married from and immediately after the date of death or the date of the decree of annulment or divorce.

(b) **False rumor of death of spouse.**—Where a remarriage has occurred upon false rumor of the death of a former spouse in appearance well-founded but there has been no decree of presumed death, the remarriage shall be void and subject to annulment by either party to the remarriage as provided by section 3304 (relating to grounds for annulment of void marriages), and the returning spouse shall have cause for divorce as provided in section 3301 (relating to grounds for divorce).

(c) Criminal penalties.—Where the remarriage was entered into in good faith, neither party to the remarriage shall be subject to criminal prosecution for bigamy.

§ 1703. Marriage within degree of consanguinity.

All marriages within the prohibited degrees of consanguinity as set forth in this part are voidable, but, when any of these marriages have not been dissolved during the lifetime of the parties, the unlawfulness of the marriage shall not be inquired into after the death of either of the parties to the marriage.

## CHAPTER 19

### ABOLITION OF ACTIONS FOR ALIENATION OF AFFECTIONS AND BREACH OF PROMISE TO MARRY

Sec.

1901. Actions for alienation of affections abolished.

1902. Actions for breach of promise to marry abolished.

1903. Purpose of chapter.

1904. Filing or threatening to file actions prohibited.

1905. Instruments executed in satisfaction of abolished claims prohibited.

§ 1901. Actions for alienation of affections abolished.

(a) General rule.—All civil causes of action for alienation of affections of husband or wife are abolished.

(b) Exception.—Subsection (a) does not apply to cases where the defendant is a parent, brother or sister or a person formerly in loco parentis to the spouse of plaintiff.

§ 1902. Actions for breach of promise to marry abolished.

All causes of action for breach of contract to marry are abolished.

§ 1903. Purpose of chapter.

(a) General rule.—No act done within this Commonwealth shall give rise, either within or without this Commonwealth, to a cause of action abolished by this chapter.

(b) Contract to marry.—No contract to marry which is made within this Commonwealth shall give rise, either within or without this Commonwealth, to a cause of action for breach of the contract.

(c) Intention of section.—It is the intention of this section to fix the effect, status and character of such acts and contracts and to render them ineffective to support or give rise to any such causes of action, either within or without this Commonwealth.

§ 1904. Filing or threatening to file actions prohibited.

It is unlawful for a person, either as litigant or attorney, to file, cause to be filed, threaten to file or threaten to cause to be filed in a court in this Commonwealth any pleading or paper setting forth or seeking to recover upon any cause of action abolished or barred by this chapter whether the cause of action arose within or without this Commonwealth.



§ 1905. Instruments executed in satisfaction of abolished claims prohibited.

(a) Contracts and instruments void.—All contracts and instruments of every kind executed within this Commonwealth in payment, satisfaction, settlement or compromise of any claim or cause of action abolished or barred by this chapter, whether the claim or cause of action arose within or without this Commonwealth, are contrary to the public policy of this Commonwealth and void.

(b) Execution and use prohibited.—It is unlawful to cause, induce or procure a person to execute a contract or instrument proscribed by this chapter, or cause, induce or procure a person to give, pay, transfer or deliver any money or thing of value in payment, satisfaction, settlement or compromise of any such claim or cause of action, or to receive, take or accept any such money or thing of value in such payment, satisfaction, settlement or compromise.

(c) Actions to enforce prohibited.—It is unlawful to commence or cause to be commenced, either as litigant or attorney, in a court of this Commonwealth any proceeding or action seeking to enforce or recover upon a contract or instrument proscribed by this chapter, knowing it to be such, whether the contract or instrument was executed within or without this Commonwealth.

(d) Exceptions.—This section does not apply to the payment, satisfaction, settlement or compromise of any causes of action which are not abolished or barred by this chapter or to the bona fide holder in due course of a negotiable instrument.

### PART III ADOPTION

#### Chapter

#### 25. Proceedings Prior to Petition to Adopt

### CHAPTER 25 PROCEEDINGS PRIOR TO PETITION TO ADOPT

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### SUBCHAPTER E PENNSYLVANIA ADOPTION COOPERATIVE EXCHANGE

#### Sec.

- 2551. Definitions.
- 2552. Pennsylvania Adoption Cooperative Exchange.
- 2553. Registration of children.
- 2554. Responsibilities of PACE.
- 2555. Responsibilities of public and private agencies.
- 2556. Related activities of agencies unaffected.
- 2557. Regulations and staff.
- 2558. Retroactive application of subchapter.

**§ 2551. Definitions.**

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Department.” The Department of Public Welfare of the Commonwealth.

“PACE.” The Pennsylvania Adoption Cooperative Exchange.

**§ 2552. Pennsylvania Adoption Cooperative Exchange.**

There shall be a Pennsylvania Adoption Cooperative Exchange in the Office of Children, Youth and Families of the Department of Public Welfare.

**§ 2553. Registration of children.**

(a) **Mandatory registration.**—PACE shall register and be responsible for the review and referral of children for whom parental rights have been terminated for 90 days and for whom no report of intention to adopt has been filed in the court of common pleas.

(b) **Optional registration.**—PACE may also register children where restoration to the biological family is neither possible nor appropriate, a petition to terminate parental rights has been filed and adoption is planned pending identification of an adoptive parent or parents. However, information about these children shall not be publicized without prior approval by the department, which shall ensure the anonymity of these children until such time as parental rights are terminated.

(c) **Children excluded from registration.**—A child for whom termination of parental rights is being appealed in a court shall not be registered with PACE as available for adoption. Identifying information of such children shall be forwarded to PACE by the agency, with reference to the specific reason for which the child is not to be placed on the listing service.

**§ 2554. Responsibilities of PACE.**

PACE shall be responsible for the following:

(1) Registration of adoptive parent applicants who have been approved by agencies.

(2) Accumulation and dissemination of statistical information regarding all children registered with PACE.

(3) Creation and administration of a public information program designed to inform potential adoptive parents of the need for adoptive homes for children registered with PACE.

(4) Preparation and distribution of a photographic listing service on children registered with PACE.

(5) Preparation of annual reports concerning functions of PACE regarding the children and the prospective parents listed with PACE. The reports shall be submitted annually to the Health and Welfare and Judiciary Committees of the House of Representatives, to the Public Health and Welfare and Judiciary Committees of the Senate and to the Governor.

(6) Coordination of its functions with other state, regional and national adoption exchanges.

**§ 2555. Responsibilities of public and private agencies.**

All public and licensed private child service agencies shall register all children with PACE for whom parental rights have been terminated for 90 days and for whom no report of intention to adopt has been filed in the court of common pleas. A public or licensed private agency may register other children as set forth in section 2553(b) (relating to registration of children).

**§ 2556. Related activities of agencies unaffected.**

This subchapter shall not be construed to limit or delay actions by agencies or institutions to arrange for adoptions or other related matters on their own initiative and shall not alter or restrict the duties, authority and confidentiality of the agencies and institutions in those matters.

**§ 2557. Regulations and staff.**

The department shall promulgate necessary regulations and shall hire the staff which is necessary to implement this subchapter.

**§ 2558. Retroactive application of subchapter.**

This subchapter shall apply retroactively to all children for whom:

(1) Parental rights have been terminated and for whom no report of intention to adopt has been filed in the court of common pleas.

(2) Restoration to the biological family is neither possible nor appropriate, a petition to terminate parental rights has been filed and adoption is planned pending identification of an adoptive parent or parents.

**PART IV  
DIVORCE**

**Chapter**

- 31. Preliminary Provisions
- 33. Dissolution of Marital Status
- 35. Property Rights
- 37. Alimony and Support

**CHAPTER 31  
PRELIMINARY PROVISIONS**

**Sec.**

- 3101. Short title of part.
- 3102. Legislative findings and intent.
- 3103. Definitions.
- 3104. Bases of jurisdiction.
- 3105. Effect of agreement between parties.

**§ 3101. Short title of part.**

This part shall be known and may be cited as the Divorce Code.

**§ 3102. Legislative findings and intent.**

(a) Policy.—The family is the basic unit in society and the protection and preservation of the family is of paramount public concern. Therefore, it is the policy of the Commonwealth to:

- (1) Make the law for legal dissolution of marriage effective for dealing with the realities of matrimonial experience.

(2) Encourage and effect reconciliation and settlement of differences between spouses, especially where children are involved.

(3) Give primary consideration to the welfare of the family rather than the vindication of private rights or the punishment of matrimonial wrongs.

(4) Mitigate the harm to the spouses and their children caused by the legal dissolution of the marriage.

(5) Seek causes rather than symptoms of family disintegration and cooperate with and utilize the resources available to deal with family problems.

(6) Effectuate economic justice between parties who are divorced or separated and grant or withhold alimony according to the actual need and ability to pay of the parties and insure a fair and just determination and settlement of their property rights.

(b) Construction of part.—The objectives set forth in subsection (a) shall be considered in construing provisions of this part and shall be regarded as expressing the legislative intent.

#### § 3103. Definitions.

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

“Alimony.” An order for support granted by this Commonwealth or any other state to a spouse or former spouse in conjunction with a decree granting a divorce or annulment.

“Alimony pendente lite.” An order for temporary support granted to a spouse during the pendency of a divorce or annulment proceeding.

“Divorce.” Divorce from the bonds of matrimony.

“Grounds for divorce.” The grounds enumerated in section 3301 (relating to grounds for divorce).

“Irretrievable breakdown.” Estrangement due to marital difficulties with no reasonable prospect of reconciliation.

“Qualified professionals.” Includes marriage counselors, psychologists, psychiatrists, social workers, ministers, priests, rabbis or other persons who, by virtue of their training and experience, are able to provide counseling.

“Separate and apart.” Complete cessation of any and all cohabitation, whether living in the same residence or not.

“Spousal support.” Care, maintenance and financial assistance.

#### § 3104. Bases of jurisdiction.

(a) Jurisdiction.—The courts shall have original jurisdiction in cases of divorce and for the annulment of void or voidable marriages and shall determine, in conjunction with any decree granting a divorce or annulment, the following matters, if raised in the pleadings, and issue appropriate decrees or orders with reference thereto, and may retain continuing jurisdiction thereof:

(1) The determination and disposition of property rights and interests between spouses, including any rights created by any antenuptial, post-nuptial or separation agreement and including the partition of property held as tenants by the entireties or otherwise and any accounting between

them, and the order of any spousal support, alimony, alimony pendente lite, counsel fees or costs authorized by law.

(2) The future care, custody and visitation rights as to children of the marriage or purported marriage.

(3) Any support or assistance which shall be paid for the benefit of any children of the marriage or purported marriage.

(4) Any property settlement involving any of the matters set forth in paragraphs (1), (2) and (3) as submitted by the parties.

(5) Any other matters pertaining to the marriage and divorce or annulment authorized by law and which fairly and expeditiously may be determined and disposed of in such action.

(b) Residence and domicile of parties.—No spouse is entitled to commence an action for divorce or annulment under this part unless at least one of the parties has been a bona fide resident in this Commonwealth for at least six months immediately previous to the commencement of the action. Both parties shall be competent witnesses to prove their respective residence, and proof of actual residence within this Commonwealth for six months shall create a presumption of domicile within this Commonwealth.

(c) Powers of court.—The court has authority to entertain an action under this part notwithstanding the fact that the marriage of the parties and the cause for divorce occurred outside of this Commonwealth and that both parties were at the time of the occurrence domiciled outside this Commonwealth. The court also has the power to annul void or voidable marriages celebrated outside this Commonwealth at a time when neither party was domiciled within this Commonwealth.

(d) Foreign forum.—After the dissolution or annulment of a marriage in a foreign forum where a matter under subsection (a) has not been decided, a court of this Commonwealth shall have jurisdiction to determine a matter under subsection (a) to the fullest extent allowed under the Constitution of the United States.

(e) Venue.—A proceeding for divorce or annulment may be brought in the county:

(1) where the defendant resides;

(2) if the defendant resides outside of this Commonwealth, where the plaintiff resides;

(3) of matrimonial domicile, if the plaintiff has continuously resided in the county;

(4) prior to six months after the date of final separation and with agreement of the defendant, where the plaintiff resides or, if neither party continues to reside in the county of matrimonial domicile, where either party resides; or

(5) after six months after the date of final separation, where either party resides.

§ 3105. Effect of agreement between parties.

(a) Enforcement.—A party to an agreement regarding matters within the jurisdiction of the court under this part, whether or not the agreement has been merged or incorporated into the decree, may utilize a remedy or sanc-

tion set forth in this part to enforce the agreement to the same extent as though the agreement had been an order of the court except as provided to the contrary in the agreement.

(b) Certain provisions subject to modification.—A provision of an agreement regarding child support, visitation or custody shall be subject to modification by the court upon a showing of changed circumstances.

(c) Certain provisions not subject to modification.—In the absence of a specific provision to the contrary appearing in the agreement, a provision regarding the disposition of existing property rights and interests between the parties, alimony, alimony pendente lite, counsel fees or expenses shall not be subject to modification by the court.

## CHAPTER 33 DISSOLUTION OF MARITAL STATUS

### Subchapter

- A. General Provisions
- B. Procedure
- C. Attacks Upon Decrees

### SUBCHAPTER A GENERAL PROVISIONS

#### Sec.

- 3301. Grounds for divorce.
- 3302. Counseling.
- 3303. Annulment of void and voidable marriages.
- 3304. Grounds for annulment of void marriages.
- 3305. Grounds for annulment of voidable marriages.
- 3306. Proceedings to determine marital status.
- 3307. Defenses.
- 3308. Action where defendant suffering from mental disorder.
- 3309. General appearance and collusion.

#### § 3301. Grounds for divorce.

(a) Fault.—The court may grant a divorce to the innocent and injured spouse whenever it is judged that the other spouse has:

(1) Committed willful and malicious desertion, and absence from the habitation of the injured and innocent spouse, without a reasonable cause, for the period of one or more years.

(2) Committed adultery.

(3) By cruel and barbarous treatment, endangered the life or health of the injured and innocent spouse.

(4) Knowingly entered into a bigamous marriage while a former marriage is still subsisting.

(5) Been sentenced to imprisonment for a term of two or more years upon conviction of having committed a crime.

(6) Offered such indignities to the innocent and injured spouse as to render that spouse's condition intolerable and life burdensome.

(b) **Institutionalization.**—The court may grant a divorce from a spouse upon the ground that insanity or serious mental disorder has resulted in confinement in a mental institution for at least 18 months immediately before the commencement of an action under this part and where there is no reasonable prospect that the spouse will be discharged from inpatient care during the 18 months subsequent to the commencement of the action. A presumption that no prospect of discharge exists shall be established by a certificate of the superintendent of the institution to that effect and which includes a supporting statement of a treating physician.

(c) **Mutual consent.**—The court may grant a divorce where it is alleged that the marriage is irretrievably broken and 90 days have elapsed from the date of commencement of an action under this part and an affidavit has been filed by each of the parties evidencing that each of the parties consents to the divorce.

(d) **Irretrievable breakdown.**—

(1) The court may grant a divorce where a complaint has been filed alleging that the marriage is irretrievably broken and an affidavit has been filed alleging that the parties have lived separate and apart for a period of at least two years and that the marriage is irretrievably broken and the defendant either:

(i) Does not deny the allegations set forth in the affidavit.

(ii) Denies one or more of the allegations set forth in the affidavit but, after notice and hearing, the court determines that the parties have lived separate and apart for a period of at least two years and that the marriage is irretrievably broken.

(2) If a hearing has been held pursuant to paragraph (1)(ii) and the court determines that there is a reasonable prospect of reconciliation, then the court shall continue the matter for a period not less than 90 days nor more than 120 days unless the parties agree to a period in excess of 120 days. During this period, the court shall require counseling as provided in section 3302 (relating to counseling). If the parties have not reconciled at the expiration of the time period and one party states under oath that the marriage is irretrievably broken, the court shall determine whether the marriage is irretrievably broken. If the court determines that the marriage is irretrievably broken, the court shall grant the divorce. Otherwise, the court shall deny the divorce.

(e) **No hearing required in certain cases.**—If grounds for divorce alleged in the complaint or counterclaim are established under subsection (c) or (d), the court shall grant a divorce without requiring a hearing on any other grounds.

§ 3302. **Counseling.**

(a) **Indignities.**—Whenever indignities under section 3301(a)(6) (relating to grounds for divorce) is the ground for divorce, the court shall require up to a maximum of three counseling sessions where either of the parties requests it.

(b) **Mutual consent.**—Whenever mutual consent under section 3301(c) is the ground for divorce, the court shall require up to a maximum of three

counseling sessions within the 90 days following the commencement of the action where either of the parties requests it.

(c) Irretrievable breakdown.—Whenever the court orders a continuation period as provided for irretrievable breakdown in section 3301(d)(2), the court shall require up to a maximum of three counseling sessions within the time period where either of the parties requests it or may require such counseling where the parties have at least one child under 16 years of age.

(d) Notification of availability of counseling.—Whenever section 3301(a)(6), (c) or (d) is the ground for divorce, the court shall, upon the commencement of an action under this part, notify both parties of the availability of counseling and, upon request, provide both parties a list of qualified professionals who provide such services.

(e) Choice of qualified professionals unrestricted.—The choice of a qualified professional shall be at the option of the parties, and the professional need not be selected from the list provided by the court.

(f) Report.—Where the court requires counseling, a report shall be made by the qualified professional stating that the parties did or did not attend.

§ 3303. Annulment of void and voidable marriages.

(a) General rule.—In all cases where a supposed or alleged marriage has been contracted which is void or voidable under this title or under applicable law, either party to the supposed or alleged marriage may bring an action in annulment to have it declared void in accordance with the procedures provided by this part and prescribed by general rules.

(b) Common-law marriage.—In the case of a purported common-law marriage where a party was under 18 years of age, a parent or guardian of the minor may bring a declaratory judgment proceeding during the party's minority to have the marriage declared void.

§ 3304. Grounds for annulment of void marriages.

(a) General rule.—Where there has been no confirmation by cohabitation following the removal of an impediment, the supposed or alleged marriage of a person shall be deemed void in the following cases:

(1) Where either party at the time of such marriage had an existing spouse and the former marriage had not been annulled nor had there been a divorce except where that party had obtained a decree of presumed death of the former spouse.

(2) Where the parties to such marriage are related within the degrees of consanguinity prohibited by section 1304(e) (relating to restrictions on issuance of license).

(3) Where either party to such marriage was incapable of consenting by reason of insanity or serious mental disorder or otherwise lacked capacity to consent or did not intend to consent to the marriage.

(4) Where either party to a purported common-law marriage was under 18 years of age.

(b) Procedures.—In all cases of marriages which are void, the marriage may be annulled as set forth in section 3303 (relating to annulment of void and voidable marriages) or its invalidity may be declared in any collateral proceeding.



**§ 3305. Grounds for annulment of voidable marriages.**

(a) **General rule.**—The marriage of a person shall be deemed voidable and subject to annulment in the following cases:

(1) Where either party to the marriage was under 16 years of age unless the marriage was expressly authorized by the court.

(2) Where either party was 16 or 17 years of age and lacked the consent of parent or guardian or express authorization of the court and has not subsequently ratified the marriage upon reaching 18 years of age and an action for annulment is commenced within 60 days after the marriage ceremony.

(3) Where either party to the marriage was under the influence of alcohol or drugs and an action for annulment is commenced within 60 days after the marriage ceremony.

(4) Where either party to the marriage was at the time of the marriage and still is naturally and incurably impotent unless the condition was known to the other party prior to the marriage.

(5) Where one party was induced to enter into the marriage due to fraud, duress, coercion or force attributable to the other party and there has been no subsequent voluntary cohabitation after knowledge of the fraud or release from the effects of fraud, duress, coercion or force.

(b) **Status of voidable marriage.**—In all cases of marriages which are voidable, either party to the marriage may seek and obtain an annulment of the marriage but, until a decree of annulment is obtained from a court of competent jurisdiction, the marriage shall be valid. The validity of a voidable marriage shall not be subject to attack or question by any person if it is subsequently confirmed by the parties to the marriage or if either party has died.

**§ 3306. Proceedings to determine marital status.**

When the validity of a marriage is denied or doubted, either or both of the parties to the marriage may bring an action for a declaratory judgment seeking a declaration of the validity or invalidity of the marriage and, upon proof of the validity or invalidity of the marriage, the marriage shall be declared valid or invalid by decree of the court and, unless reversed upon appeal, the declaration shall be conclusive upon all persons concerned.

**§ 3307. Defenses.**

(a) **General rule.**—Existing common-law defenses are retained as to the grounds enumerated in section 3301(a) and (b) (relating to grounds for divorce). The defenses of condonation, connivance, collusion, recrimination and provocation are abolished as to the grounds enumerated in section 3301(c) and (d).

(b) **Adultery.**—In an action for divorce on the ground of adultery, it is a good defense and a perpetual bar against the action if the defendant alleges and proves, or if it appears in the evidence, that the plaintiff:

(1) has been guilty of like conduct;

(2) has admitted the defendant into conjugal society or embraces after the plaintiff knew of the fact;

(3) allowed the defendant's prostitution or received hire from it; or

(4) exposed the defendant to lewd company whereby the defendant became involved in the adultery.

§ 3308. Action where defendant suffering from mental disorder.

If a spouse is insane or suffering from serious mental disorder, an action may be commenced under this part against that spouse upon any ground for divorce or annulment.

§ 3309. General appearance and collusion.

The entry of a general appearance by, or in behalf of, a defendant does not constitute collusion. Collusion shall be found to exist only where the parties conspired to fabricate grounds for divorce or annulment, agreed to and did commit perjury or perpetrated fraud on the court. Negotiation and discussion of terms of property settlement and other matters arising by reason of contemplated divorce or annulment do not constitute collusion.

## SUBCHAPTER B PROCEDURE

Sec.

3321. Hearing by master.

3322. Jury trial.

3323. Decree of court.

§ 3321. Hearing by master.

The court may appoint a master to hear testimony on all or some issues, except issues of custody and paternity, and return the record and a transcript of the testimony together with a report and recommendation as prescribed by general rules, or a judge of the court in chambers may appoint a master to hold a nonrecord hearing and to make recommendations and return the same to the court, in which case either party may demand a hearing de novo before the court.

§ 3322. Jury trial.

(a) Application for jury trial.—After service of the complaint in divorce or annulment on the defendant in the manner prescribed by general rules or entry of a general appearance for the defendant, if either of the parties desires any matter of fact that is affirmed by one and denied by the other to be tried by a jury, that party may take a rule upon the opposite party, to be allowed by a judge of the court, to show cause why the issues of fact set forth in the rule should not be tried by a jury, which rule shall be served upon the opposite party or counsel for the opposite party.

(b) Disposition of application.—Upon the return of the rule, after hearing, the court may discharge it, make it absolute or frame issues itself. Only the issues ordered by the court shall be tried. The rule shall not be made absolute when, in the opinion of the court, a trial by jury cannot be had without prejudice to the public morals.

§ 3323. Decree of court.

(a) General rule.—In all matrimonial causes, the court may either dismiss the complaint or enter a decree of divorce or annulment of the marriage.

(b) Contents of decree.—A decree granting a divorce or an annulment shall include, after a full hearing, where these matters are raised in any pleadings, an order determining and disposing of existing property rights and interests between the parties, custody, partial custody and visitation rights, child support, alimony, reasonable attorney fees, costs and expenses and any other related matters, including the enforcement of agreements voluntarily entered into between the parties. In the enforcement of the rights of any party to any of these matters, the court shall have all necessary powers, including, but not limited to, the power of contempt and the power to attach wages.

(c) Bifurcation.—In the event that the court is unable for any reason to determine and dispose of the matters provided for in subsection (b) within 30 days after the report of the master has been filed, it may enter a decree of divorce or annulment. Upon the request of either party and after a hearing, the court may order alimony pendente lite, reasonable counsel fees, costs and expenses and may make a temporary order necessary to protect the interests of the parties pending final disposition of the matters in subsection (b).

(d) Substitution for deceased party.—If one of the parties dies after the decree of divorce has been entered, but prior to the final determination in such proceeding of the property rights and interests of the parties under this part, the personal representative of the deceased party shall be substituted as a party as provided by law and the action shall proceed.

(e) Costs.—The court may award costs to the party in whose favor the order or decree shall be entered or may order that each party shall pay their own costs or may order that costs be divided equitably as it shall appear just and reasonable.

(f) Equity power and jurisdiction of the court.—In all matrimonial causes, the court shall have full equity power and jurisdiction and may issue injunctions or other orders which are necessary to protect the interests of the parties or to effectuate the purposes of this part and may grant such other relief or remedy as equity and justice require against either party or against any third person over whom the court has jurisdiction and who is involved in or concerned with the disposition of the cause.

### SUBCHAPTER C ATTACKS UPON DECREES

Sec.

3331. Limitations on attacks upon decrees.

3332. Opening or vacating decrees.

3333. Res judicata and estoppel.

§ 3331. Limitations on attacks upon decrees.

The validity of a decree of divorce or annulment issued by a court shall not be questioned, except by appeal, in any court or place in this Commonwealth after the death of either party to the proceeding. If it is shown that a party who subsequently attempts to question the validity of the decree had full knowledge of the facts and circumstances later complained of at the time of

issuance of the decree or failed to take any action despite this knowledge within two years after the date of the decree, the party shall be barred from questioning the decree, and it shall be valid in all courts and places within this Commonwealth.

§ 3332. Opening or vacating decrees.

A motion to open a decree of divorce or annulment may be made only within the period limited by 42 Pa.C.S. § 5505 (relating to modification of orders) and not thereafter. The motion may lie where it is alleged that the decree was procured by intrinsic fraud or that there is new evidence relating to the cause of action which will sustain the attack upon its validity. A motion to vacate a decree or strike a judgment alleged to be void because of extrinsic fraud, lack of jurisdiction over the subject matter or a fatal defect apparent upon the face of the record must be made within five years after entry of the final decree. Intrinsic fraud relates to a matter adjudicated by the judgment, including perjury and false testimony, whereas extrinsic fraud relates to matters collateral to the judgment which have the consequence of precluding a fair hearing or presentation of one side of the case.

§ 3333. Res judicata and estoppel.

The validity of a divorce or annulment decree granted by a court having jurisdiction over the subject matter may not be questioned by a party who was subject to the personal jurisdiction of the court except by direct appeal provided or prescribed by law. A party who sought and obtained a decree, financed or agreed to its procurement, or accepted a property settlement, alimony pendente lite or alimony pursuant to the terms of the decree, or who remarries after the decree, or is guilty of laches, is barred from making a collateral attack upon the validity of the decree unless, by clear and convincing evidence, it is established that fraud by the other party prevented the making of a timely appeal from the divorce or annulment decree.

## CHAPTER 35 PROPERTY RIGHTS

### Sec.

3501. Definitions.

3502. Equitable division of marital property.

3503. Effect of divorce on property rights generally.

3504. Disposition of property after termination of marriage.

3505. Disposition of property to defeat obligations.

3506. Statement of reasons for distribution.

3507. Division of entireties property between divorced persons.

3508. Conveyance of entireties property to divorced spouse.

§ 3501. Definitions.

(a) General rule.—As used in this chapter, “marital property” means all property acquired by either party during the marriage, including the increase in value, prior to the date of final separation, of any nonmarital property acquired pursuant to paragraphs (1) and (3), except:

(1) Property acquired prior to marriage or property acquired in exchange for property acquired prior to the marriage.

(2) Property excluded by valid agreement of the parties entered into before, during or after the marriage.

(3) Property acquired by gift, except between spouses, bequest, devise or descent.

(4) Property acquired after final separation until the date of divorce, except for property acquired in exchange for marital assets.

(5) Property which a party has sold, granted, conveyed or otherwise disposed of in good faith and for value prior to the date of final separation.

(6) Veterans' benefits exempt from attachment, levy or seizure pursuant to the act of September 2, 1958 (Public Law 85-857, 72 Stat. 1229), as amended, except for those benefits received by a veteran where the veteran has waived a portion of his military retirement pay in order to receive veterans' compensation.

(7) Property to the extent to which the property has been mortgaged or otherwise encumbered in good faith for value prior to the date of final separation.

(8) Any payment received as a result of an award or settlement for any cause of action or claim which accrued prior to the marriage or after the date of final separation regardless of when the payment was received.

(b) Presumption.—All real or personal property acquired by either party during the marriage is presumed to be marital property regardless of whether title is held individually or by the parties in some form of co-ownership such as joint tenancy, tenancy in common or tenancy by the entirety. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (a).

§ 3502. Equitable division of marital property.

(a) General rule.—In an action for divorce or annulment, the court shall, upon request of either party, equitably divide, distribute or assign, in kind or otherwise, the marital property between the parties without regard to marital misconduct in such proportions and in such manner as the court deems just after considering all relevant factors, including:

(1) The length of the marriage.

(2) Any prior marriage of either party.

(3) The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties.

(4) The contribution by one party to the education, training or increased earning power of the other party.

(5) The opportunity of each party for future acquisitions of capital assets and income.

(6) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.

(7) The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker.

(8) The value of the property set apart to each party.

(9) The standard of living of the parties established during the marriage.

(10) The economic circumstances of each party, including Federal, State and local tax ramifications, at the time the division of property is to become effective.

(11) Whether the party will be serving as the custodian of any dependent minor children.

(b) Lien.—The court may impose a lien or charge upon property of a party as security for the payment of alimony or any other award for the other party.

(c) Family home.—The court may award, during the pendency of the action or otherwise, to one or both of the parties the right to reside in the marital residence.

(d) Life insurance.—The court may direct the continued maintenance and beneficiary designations of existing policies insuring the life or health of either party which were originally purchased during the marriage and owned by or within the effective control of either party. Where it is necessary to protect the interests of a party, the court may also direct the purchase of, and beneficiary designations on, a policy insuring the life or health of either party.

(e) Powers of the court.—If, at any time, a party has failed to comply with an order of equitable distribution, as provided for in this chapter or with the terms of an agreement as entered into between the parties, after hearing, the court may, in addition to any other remedy available under this part, in order to effect compliance with its order:

(1) enter judgment;

(2) authorize the taking and seizure of the goods and chattels and collection of the rents and profits of the real and personal, tangible and intangible property of the party;

(3) award interest on unpaid installments;

(4) order and direct the transfer or sale of any property required in order to comply with the court's order;

(5) require security to insure future payments in compliance with the court's order;

(6) issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order be brought before the court, at such time as the court may direct. If the court finds, after hearing, that the person willfully failed to comply with the court order, it may deem the person in civil contempt of court and, in its discretion, make an appropriate order, including, but not limited to, commitment of the person to the county jail for a period not to exceed six months;

(7) award counsel fees and costs;

(8) attach wages; or

(9) find the party in contempt.

**§ 3503. Effect of divorce on property rights generally.**

Whenever a decree or judgment is granted which nullifies or absolutely terminates the bonds of matrimony, all property rights which are dependent upon the marital relation, except those which are vested rights, are terminated unless the court expressly provides otherwise in its decree. All duties, rights and claims accruing to either of the parties at any time theretofore in pursuance of the marriage shall cease, and the parties shall severally be at liberty to marry again as if they had never been married.

**§ 3504. Disposition of property after termination of marriage.**

Unless provided otherwise by the court, whenever a decree of divorce or annulment is entered by a court of competent jurisdiction, both parties whose marriage is terminated or affected shall have complete freedom of disposition as to their separate real and personal property and may mortgage, sell, grant, convey or otherwise encumber or dispose of their separate property, whether the property was acquired before, during or after coverture, and neither need join in, consent to or acknowledge a deed, mortgage or instrument of the other.

**§ 3505. Disposition of property to defeat obligations.**

(a) **Preliminary relief.**—Where it appears to the court that a party is about to leave the jurisdiction of the court or is about to remove property of that party from the jurisdiction of the court or is about to dispose of, alienate or encumber property in order to defeat equitable distribution, alimony pendente lite, alimony, child and spousal support or a similar award, an injunction may issue to prevent the removal or disposition and the property may be attached as prescribed by general rules. The court may also issue a writ of ne exeat to preclude the removal.

(b) **Inventory of property.**—Both parties shall submit to the court an inventory and appraisal, which shall contain all of the following:

(1) A list of the property owned or possessed by either or both of them as of:

(i) the date of separation; and

(ii) thirty days prior to the date of hearing on equitable distribution.

(2) A list of the value of the property owned or possessed by either or both of them as of:

(i) the date of acquisition;

(ii) the date of separation; and

(iii) thirty days prior to the date of hearing on equitable distribution.

(3) A list of the liabilities of either or both of them as of 30 days prior to the date of hearing on equitable distribution, whether or not the liabilities are related to the property set forth in the inventory and appraisal.

(c) **Discovery.**—Discovery under this part shall be as provided for all other civil actions under the Pennsylvania Rules of Civil Procedure.

(d) **Constructive trust for undisclosed assets.**—If a party fails to disclose information required by subsection (b) and in consequence thereof an asset or assets with a fair market value of \$500 or more is omitted from the final

distribution of property, the party aggrieved by the nondisclosure may at any time petition the court granting the award to declare the creation of a constructive trust as to all undisclosed assets for the benefit of the parties and their minor or dependent children, if any. The party in whose name the assets are held shall be declared the constructive trustee, and the trust may include any terms and conditions the court may determine. The court shall grant the petition upon a finding of a failure to disclose the assets as required under subsection (b).

(e) Encumbrance or disposition to third parties.—An encumbrance or disposition of marital property to third persons who paid wholly inadequate consideration for the property may be deemed fraudulent and declared void.

§ 3506. Statement of reasons for distribution.

In an order made under this chapter for the distribution of property, the court shall set forth the reason for the distribution ordered.

§ 3507. Division of entireties property between divorced persons.

(a) General rule.—Whenever married persons holding property as tenants by entireties are divorced, they shall, except as otherwise provided by an order made under this chapter, thereafter hold the property as tenants in common of equal one-half shares in value, and either of them may bring an action against the other to have the property sold and the proceeds divided between them.

(b) Division of proceeds.—Except as provided in subsection (c), the proceeds of a sale under this section, after the payment of the expenses of sale, shall be equally divided between the parties.

(c) Liens.—The amount of any lien entered of record jointly against both of the parties, together with any interest due on the lien and docket costs, shall be deducted from the proceeds of sale and the amount of the liens entered of record against either of the parties, together with any interest due on the liens and docket costs, shall be deducted from the share of the party against whom the lien is filed and paid to the person or persons to whom the amount of the lien is due and payable.

(d) Record of divorce decree.—No decree of divorce shall be effective to change the existing law relating to liens upon property held by tenants by the entireties except a decree of divorce that is valid in this Commonwealth and not until the decree of divorce or a certified copy of the decree is recorded in the office of the recorder of deeds of the county where the property is situate. The decree shall be indexed in the grantor's index against each of the tenants by the entireties.

§ 3508. Conveyance of entireties property to divorced spouse.

Whenever married persons have acquired real estate as tenants by entireties and thereafter are divorced, either former spouse, except as otherwise provided by an order made under this chapter, may convey to the other, without the joinder of the other, the grantor's interest in the real estate so that the grantee holds the real estate in fee simple, freed from all right, title and interest which the grantor had in the real estate as a tenant by the entireties.



CHAPTER 37  
ALIMONY AND SUPPORT

Sec.

3701. Alimony.

3702. Alimony pendente lite, counsel fees and expenses.

3703. Enforcement of arrearages.

3704. Payment of support, alimony and alimony pendente lite.

3705. Enforcement of foreign decrees.

3706. Bar to alimony.

3707. Effect of death of either party.

§ 3701. Alimony.

(a) **General rule.**—Where a divorce decree has been entered, the court may allow alimony, as it deems reasonable, to either party only if it finds that alimony is necessary.

(b) **Factors relevant.**—In determining whether alimony is necessary and in determining the nature, amount, duration and manner of payment of alimony, the court shall consider all relevant factors, including:

- (1) The relative earnings and earning capacities of the parties.
- (2) The ages and the physical, mental and emotional conditions of the parties.
- (3) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- (4) The expectancies and inheritances of the parties.
- (5) The duration of the marriage.
- (6) The contribution by one party to the education, training or increased earning power of the other party.
- (7) The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child.
- (8) The standard of living of the parties established during the marriage.
- (9) The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment.
- (10) The relative assets and liabilities of the parties.
- (11) The property brought to the marriage by either party.
- (12) The contribution of a spouse as homemaker.
- (13) The relative needs of the parties.
- (14) The marital misconduct of either of the parties during the marriage. The marital misconduct of either of the parties from the date of final separation shall not be considered by the court in its determinations relative to alimony.
- (15) The Federal, State and local tax ramifications of the alimony award.
- (16) Whether the party seeking alimony lacks sufficient property, including, but not limited to, property distributed under Chapter 35 (relating to property rights), to provide for the party's reasonable needs.

(17) Whether the party seeking alimony is incapable of self-support through appropriate employment.

(c) Duration.—The court in ordering alimony shall determine the duration of the order, which may be for a definite or an indefinite period of time which is reasonable under the circumstances.

(d) Statement of reasons.—In an order made under this section, the court shall set forth the reason for its denial or award of alimony and the amount thereof.

(e) Modification and termination.—An order entered pursuant to this section is subject to further order of the court upon changed circumstances of either party of a substantial and continuing nature whereupon the order may be modified, suspended, terminated or reinstated or a new order made. Any further order shall apply only to payments accruing subsequent to the petition for the requested relief. Remarriage of the party receiving alimony shall terminate the award of alimony.

(f) Status of agreement to pay alimony.—Whenever the court approves an agreement for the payment of alimony voluntarily entered into between the parties, the agreement shall constitute the order of the court and may be enforced as provided in section 3703 (relating to enforcement of arrearages).

§ 3702. Alimony pendente lite, counsel fees and expenses.

In proper cases, upon petition, the court may allow a spouse reasonable alimony pendente lite, spousal support and reasonable counsel fees and expenses. Reasonable counsel fees and expenses may be allowed pendente lite, and the court shall also have authority to direct that adequate health and hospitalization insurance coverage be maintained for the dependent spouse pendente lite.

§ 3703. Enforcement of arrearages.

If at any time a party is in arrears in the payment of alimony or alimony pendente lite as provided for in sections 3701 (relating to alimony) and 3702 (relating to alimony pendente lite, counsel fees and expenses), the court may, after hearing, in order to effect payment of the arrearages:

- (1) Enter judgment.
- (2) Authorize the taking and seizure of the goods and chattels and the collection of the rents and profits of the real estate of the party.
- (3) Attach no more than 50% of the wages of the party.
- (4) Award interest on unpaid installments.
- (5) Require security to insure future payments.
- (6) Issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order be brought before the court at such time as the court may direct. If the court finds, after hearing, that the named person willfully failed to comply with the court order, it may declare the person in civil contempt of court and in its discretion make an appropriate order, including, but not limited to, commitment of the person to prison for a period not to exceed six months.
- (7) Award counsel fees and costs.

**§ 3704. Payment of support, alimony and alimony pendente lite.**

When so ordered by the court, all payments of child and spousal support, alimony or alimony pendente lite shall be made to the domestic relations section of the court which issued the order or the domestic relations section of the court at the residence of the party entitled to receive the award. The domestic relations section shall keep an accurate record of all payments and shall notify the court immediately whenever a person subject to a payment order is 30 days in arrears of payment so that appropriate action may be taken to enforce the order of the court. The domestic relations section shall distribute the payments to the person entitled to them as soon as possible after receipt.

**§ 3705. Enforcement of foreign decrees.**

(a) **General rule.**—Whenever a person subject to a valid decree of a sister state or territory for the distribution of marital property or for the payment of alimony, temporary alimony or alimony pendente lite, or the property of that person is found within this Commonwealth, the obligee of the decree may petition the court where the obligor or the property of the obligor is found to register, adopt as its own and enforce the decree as a properly issued and authenticated decree of a sister state or territory. Upon registration and adoption, such relief and process for enforcement as is provided or prescribed by law in similar cases originally commenced in this Commonwealth shall be available. A copy of the decree and order shall be forwarded to the court of the state or territory which issued the original decree. The obligor shall have whatever defenses and relief are available to the obligor in the state or territory which issued the original decree and may question the jurisdiction of that court if not otherwise barred. Interest may be awarded on unpaid installments and security may be required to insure future payments as in cases originally commenced in this Commonwealth. Where property of the obligor, but not the person of the obligor, is found within this Commonwealth, there shall be jurisdiction quasi in rem, and, upon registration and adoption of the decree of the sister state or territory, relief and enforcement of the decree shall be available as in other proceedings which are quasi in rem.

(b) **Optional procedure.**—The right of a judgment creditor to proceed under 42 Pa.C.S. § 4306 (relating to enforcement of foreign judgments) or otherwise instead of proceeding under this section remains unimpaired.

**§ 3706. Bar to alimony.**

No petitioner is entitled to receive an award of alimony where the petitioner, subsequent to the divorce pursuant to which alimony is being sought, has entered into cohabitation with a person of the opposite sex who is not a member of the family of the petitioner within the degrees of consanguinity.

**§ 3707. Effect of death of either party.**

Upon the death of the payee party, the right to receive alimony pursuant to this chapter shall cease. Upon the death of the payor party, the obligation to pay alimony shall cease unless otherwise indicated in an agreement between the parties or an order of court.

PART V  
SUPPORT, PROPERTY AND CONTRACTS

## Chapter

- 41. General Provisions
- 43. Support Matters Generally

CHAPTER 41  
GENERAL PROVISIONS

## Sec.

- 4101. Liability for debts contracted before marriage.
- 4102. Proceedings in case of debts contracted for necessities.
- 4103. (Reserved).
- 4104. Right of married person to separate earnings.
- 4105. Loans between married persons.
- 4106. Construction of chapter.

## § 4101. Liability for debts contracted before marriage.

(a) General rule.—A spouse is not liable for the debts of the other spouse contracted before marriage.

(b) Liability of property unaffected.—This chapter does not protect the property of a married person from liability for debts contracted by or in the name of the married person by any person authorized to so contract.

## § 4102. Proceedings in case of debts contracted for necessities.

In all cases where debts are contracted for necessities by either spouse for the support and maintenance of the family, it shall be lawful for the creditor in this case to institute suit against the husband and wife for the price of such necessities and, after obtaining a judgment, have an execution against the spouse contracting the debt alone; and, if no property of that spouse is found, execution may be levied upon and satisfied out of the separate property of the other spouse.

## § 4103. (Reserved).

## § 4104. Right of married person to separate earnings.

Except as otherwise provided in this title, the separate earnings of any married person of this Commonwealth, whether these earnings are wages for labor, salary, property, business or otherwise, shall accrue to and enure to the separate benefit and use of that married person independently of the other spouse, and so as not to be subject to any legal claim of the other spouse. However, in any action in which the ownership of such property is in dispute, the person claiming such property shall be compelled, in the first instance, to show title and ownership in the property.

## § 4105. Loans between married persons.

A married person may loan the other spouse money from the separate estate of the married person and take in security therefor a judgment or mortgage against the property of the other spouse which shall be valid as otherwise provided by law.

§ 4106. Construction of chapter.

This chapter shall not be construed to affect Part IV (relating to divorce).

CHAPTER 43  
SUPPORT MATTERS GENERALLY

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SUBCHAPTER D  
PROCEEDINGS AGAINST ENTIRETIES PROPERTY

Sec.

4361. Execution of support order against entireties property.

4362. Plaintiff's share of proceeds of sale.

4363. Trustee to distribute proceeds of sale.

4364. Credit to plaintiff who purchases property.

4365. Rights of divorced person in entireties property sold for support.

4366. Other enforcement remedies preserved.

§ 4361. Execution of support order against entireties property.

(a) Entry of order.—Whenever married persons hold real property by the entireties and one spouse secures an order of court against the other spouse for the support of the plaintiff spouse or of a child of both persons or the defendant or for the support of both the plaintiff spouse and child and a copy of the order has been certified to the court of common pleas of the county in this Commonwealth in which the property is situated, the order shall be entered in that court as a judgment with the same effect as if it had been recovered as a judgment of that court.

(b) Execution on judgment.—Execution may be issued on the judgment against the real property held by the entireties, and the property may be sold in the manner provided by law for the sale of real property on execution issued on a judgment. In any writs of execution on the judgment, the defendant shall not be entitled to the benefit of 42 Pa.C.S. Ch. 81 Subch. B (relating to exemptions from execution) or any other exemption statute.

(c) Title of purchaser.—The sale of real property under this section conveys to the purchaser or purchasers thereof a good and valid title to the property and vests in the purchaser or purchasers the entire title of both the married persons in the same manner and with the same effect as if both married persons had joined in the conveyance of the property.

§ 4362. Plaintiff's share of proceeds of sale.

(a) General rule.—The plaintiff spouse shall be entitled, out of the proceeds of this sale, to such sums of money as represents the share in the property, based on the proportionate part of the original purchase money furnished by the plaintiff spouse for the purchase of the property.

(b) Petition to court.—The plaintiff spouse may petition the court of common pleas of the county where the real property is situated, either before or after the sale of the property by execution, setting forth plaintiff's claim, and the court shall fix a date for a hearing on the petition.

(c) **Hearing and decree.**—After notice and hearing, the court shall make such decree as shall be proper. At the hearing, both spouses shall be competent witnesses.

§ 4363. **Trustee to distribute proceeds of sale.**

(a) **Appointment of trustee.**—The court shall, at the time of the hearing or thereafter, appoint a trustee who shall receive from the sheriff the proceeds of the sale of the property after the costs have been paid.

(b) **Disposition of proceeds.**—The trustee shall, out of the proceeds, pay to the plaintiff spouse the sum of money the court decreed as plaintiff's share in the property sold and also the sums of money, and interest thereon from the time the respective items making them up became due and payable, which are due and payable under the order of support. The trustee shall also pay to the plaintiff spouse any additional sums the plaintiff may be entitled to under any order of court for the support of plaintiff or the children of defendant.

§ 4364. **Credit to plaintiff who purchases property.**

(a) **General rule.**—If the plaintiff spouse becomes the purchaser at the execution sale, the plaintiff shall be entitled to a credit on the purchase price thereof for the sum of money found by the court to represent the plaintiff's share in the property and also for the sums of money due the plaintiff from the defendant under the order of support upon which the execution was issued at the time of the sale, together with interest on the sums due the plaintiff for support from the time the respective sums become due.

(b) **Allowance or assignment of credit.**—The credit shall be allowed the plaintiff by the sheriff or the plaintiff may assign the sums due the plaintiff to the purchaser of the property whereupon credit shall be given to the purchaser by the sheriff for the amount assigned.

§ 4365. **Rights of divorced person in entireties property sold for support.**

(a) **General rule.**—After the divorce of any spouse who is a tenant by the entireties of real property with the former spouse, the divorced spouse is entitled to all the rights and remedies provided in this subchapter for the collection of any sums of money ordered by a court to be paid to the divorced spouse for the support of the children of the former spouse as fully as if no divorce had occurred.

(b) **Proceeds of sale.**—Upon the sale of the real property for the collection of any sums of money due the divorced spouse under an order of court, the divorced spouse shall be entitled to receive therefrom such sum of money as represents the share of the divorced spouse in the property, as ordered by the court under section 4362 (relating to plaintiff's share of proceeds of sale), together with any sums which may be due to the divorced spouse under an order of support against the former spouse.

§ 4366. **Other enforcement remedies preserved.**

This subchapter and other provisions of this chapter do not remove from the plaintiff the rights to any other existing remedies to enforce a support order, including, but not limited to, the right of the plaintiff to institute proceedings against the real or personal property of the defendant.

PART VI  
CHILDREN AND MINORS

Chapter

- 51. General Provisions
- 53. Custody
- 55. Liability for Tortious Acts of Children

CHAPTER 51  
GENERAL PROVISIONS

Sec.

- 5101. Attainment of full age.
- 5102. Children declared to be legitimate.
- 5103. Acknowledgment and claim of paternity.
- 5104. Blood tests to determine paternity.

§ 5101. Attainment of full age.

(a) *Age for entering into contracts.*—Any individual 18 years of age and older shall have the right to enter into binding and legally enforceable contracts and the defense of minority shall not be available to such individuals.

(b) *Age for suing and being sued.*—Except where otherwise provided or prescribed by law, an individual 18 years of age and older shall be deemed an adult and may sue and be sued as such.

§ 5102. Children declared to be legitimate.

(a) *General rule.*—All children shall be legitimate irrespective of the marital status of their parents, and, in every case where children are born out of wedlock, they shall enjoy all the rights and privileges as if they had been born during the wedlock of their parents except as otherwise provided in Title 20 (relating to decedents, estates and fiduciaries).

(b) *Determination of paternity.*—For purposes of prescribing benefits to children born out of wedlock by, from and through the father, paternity shall be determined by any one of the following ways:

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

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

(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.

§ 5103. Acknowledgment and claim of paternity.

(a) *Acknowledgment of paternity.*—The father of a child born to an unmarried woman may file with the Department of Health, on forms prescribed by it, an acknowledgment of paternity of the child which shall include the consent of the mother of the child, supported by her affidavit. The department shall, upon receipt of the acknowledgment, proceed as provided in section 603(a) of the act of June 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law of 1953, and the father shall have all the rights and

duties as to the child which he would have had if he had been married to the mother at the time of the birth of the child, and the child shall have all the rights and duties as to the father which the child would have had if the father had been married to the mother at the time of birth. The acknowledgment may also provide for the assumption by the child of the surname of the father or other name desired by the parents.

(b) *Claim of paternity.*—If the mother of the child fails or refuses to join in the acknowledgment of paternity provided for in subsection (a), the Department of Health shall index it as a claim of paternity. The filing and indexing of a claim of paternity shall not confer upon the putative father any rights as to the child except that the putative father shall be entitled to notice of any proceeding brought to terminate any parental rights as to the child.

§ 5104. *Blood tests to determine paternity.*

(a) *Short title of section.*—This section shall be known and may be cited as the Uniform Act on Blood Tests to Determine Paternity.

(b) *Scope of section.*—

(1) *Civil matters.*—This section shall apply to all civil matters.

(2) *Criminal proceedings.*—This section shall apply to all criminal proceedings subject to the following limitations and provisions:

(i) An order for the tests shall be made only upon application of a party or on the initiative of the court.

(ii) The compensation of the experts shall be paid by the party requesting the blood test or by the county, as the court shall direct.

(iii) The court may direct a verdict of acquittal upon the conclusions of all the experts under subsection (f). Otherwise, the case shall be submitted for determination upon all the evidence.

(iv) The refusal of a defendant to submit to the tests may not be used in evidence against the defendant.

(c) *Authority for test.*—In any matter subject to this section in which paternity, parentage or identity of a child is a relevant fact, the court, upon its own initiative or upon suggestion made by or on behalf of any person whose blood is involved, may or, upon motion of any party to the action made at a time so as not to delay the proceedings unduly, shall order the mother, child and alleged father to submit to blood tests. If any party refuses to submit to the tests, the court may resolve the question of paternity, parentage or identity of a child against the party or enforce its order if the rights of others and the interests of justice so require.

(d) *Selection of experts.*—The tests shall be made by experts qualified as examiners of blood types, who shall be appointed by the court. The experts shall be called by the court as witnesses to testify to their findings and shall be subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts qualified as examiners of blood types perform independent tests under order of court, the results of which may be offered in evidence. The number and qualifications of experts shall be determined by the court.

(e) *Compensation of experts.*—The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid



as the court shall order. Subject to general rules, the court may order that it be paid by the parties in such proportions and at such times as it shall prescribe or that the proportion of any party be paid by the county and that, after payment by the parties or the county, or both, all or part or none of it be taxed as costs in the action. Subject to general rules, the fee of an expert witness called by a party but not appointed by the court shall be paid by the party calling him, but shall not be taxed as costs in the action.

(f) **Effect of test results.**—If the court finds that the conclusions of all the experts as disclosed by the evidence based upon the tests are that the alleged father is not the father of the child, the question of paternity, parentage or identity of a child shall be resolved accordingly. If the experts disagree in their findings or conclusions, the question shall be submitted upon all the evidence.

(g) **Effect on presumption of legitimacy.**—The presumption of legitimacy of a child born during wedlock is overcome if the court finds that the conclusions of all the experts as disclosed by the evidence based upon the tests show that the husband is not the father of the child.

## CHAPTER 53 CUSTODY

### Subchapter

#### B. Child Custody Jurisdiction

### SUBCHAPTER B CHILD CUSTODY JURISDICTION

#### Sec.

- 5341. Short title of subchapter.
- 5342. Purposes and construction of subchapter.
- 5343. Definitions.
- 5344. Jurisdiction.
- 5345. Notice and opportunity to be heard.
- 5346. Notice to persons outside this Commonwealth; submission to jurisdiction.
- 5347. Simultaneous proceedings in other states.
- 5348. Inconvenient forum.
- 5349. Jurisdiction declined by reason of conduct.
- 5350. Information under oath to be submitted to the court.
- 5351. Additional parties.
- 5352. Appearance of parties and the child.
- 5353. Binding force and res judicata effect of custody decree.
- 5354. Recognition of out-of-State custody decrees.
- 5355. Modification of custody decree of another state.
- 5356. Filing and enforcement of custody decree of another state.
- 5357. Registry of out-of-State custody decrees and proceedings.
- 5358. Certified copies of custody decree.
- 5359. Taking testimony in another state.
- 5360. Hearings and studies in another state; orders to appear.
- 5361. Assistance to courts of other states.

5362. Preservation of documents for use in other states.

5363. Request for court records of another state.

5364. Intrastate application.

5365. International application.

5366. Priority.

§ 5341. Short title of subchapter.

This subchapter shall be known and may be cited as the Uniform Child Custody Jurisdiction Act.

§ 5342. Purposes and construction of subchapter.

(a) Purposes.—The general purposes of this subchapter are to:

(1) Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being.

(2) Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child.

(3) Assure that litigation concerning the custody of a child takes place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training and personal relationships is most readily available, and that courts of this Commonwealth decline the exercise of jurisdiction when the child and his family have a closer connection with another state.

(4) Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child.

(5) Deter abductions and other unilateral removals of children undertaken to obtain custody awards.

(6) Avoid relitigation of custody decisions of other states in this Commonwealth insofar as feasible.

(7) Facilitate the enforcement of custody decrees of other states.

(8) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this Commonwealth and those of other states concerned with the same child.

(b) Construction.—This subchapter shall be construed to promote the general purposes stated in this section.

§ 5343. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Contestant.” An institution or an individual, including a parent, who claims a right to custody or visitation rights with respect to a child.

“Custody determination.” A court decision and court orders and instructions providing for the custody of a child, including visitation rights. The term does not include a decision relating to child support or any other monetary obligation of any person.

**“Custody proceeding.”** Includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings.

**“Decree” or “custody decree.”** A custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree.

**“Home state.”** The state in which the child immediately preceding the time involved lived with his parents, a parent or a person acting as parent, or in an institution, for at least six consecutive months, and, in the case of a child less than six months old, the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period.

**“Initial decree.”** The first custody decree concerning a particular child.

**“Modification decree.”** A custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court.

**“Person acting as parent.”** A person, including an institution other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody.

**“Physical custody.”** Actual possession and control of a child.

§ 5344. Jurisdiction.

(a) General rule.—A court of this Commonwealth which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

(1) this Commonwealth:

(i) is the home state of the child at the time of commencement of the proceeding; or

(ii) had been the home state of the child within six months before commencement of the proceeding and the child is absent from this Commonwealth because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this Commonwealth;

(2) it is in the best interest of the child that a court of this Commonwealth assume jurisdiction because:

(i) the child and his parents, or the child and at least one contestant, have a significant connection with this Commonwealth; and

(ii) there is available in this Commonwealth substantial evidence concerning the present or future care, protection, training and personal relationships of the child;

(3) the child is physically present in this Commonwealth, and:

(i) the child has been abandoned; or

(ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent;

(4) (i) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraph (1), (2) or (3), or another state has declined to exercise jurisdiction on the ground that

this Commonwealth is the more appropriate forum to determine the custody of the child; and

(ii) it is in the best interest of the child that the court assume jurisdiction; or

(5) the child welfare agencies of the counties wherein the contestants for the child live, have made an investigation of the home of the person to whom custody is awarded and have found it to be satisfactory for the welfare of the child.

(b) Physical presence insufficient.—Except under subsection (a)(3) and (4), physical presence in this Commonwealth of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this Commonwealth to make a child custody determination.

(c) Physical presence unnecessary.—Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

§ 5345. Notice and opportunity to be heard.

Before making a decree under this subchapter, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of the child. If any of these persons is outside this Commonwealth, notice and opportunity to be heard shall be given pursuant to section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction).

§ 5346. Notice to persons outside this Commonwealth; submission to jurisdiction.

(a) General rule.—Notice required for the exercise of jurisdiction over a person outside this Commonwealth shall be given in a manner reasonably calculated to give actual notice, and may be:

(1) by personal delivery outside this Commonwealth in the manner prescribed for service of process within this Commonwealth;

(2) in the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(3) by any form of mail addressed to the person to be served and requesting a receipt; or

(4) as directed by the court, including publication, if other means of notification are ineffective.

(b) Duration.—Notice under this section shall be served, mailed or delivered or last published at least ten days before any hearing in this Commonwealth.

(c) Proof of service.—Proof of service outside this Commonwealth may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this Commonwealth, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(d) Submission to jurisdiction.—Notice is not required if a person submits to the jurisdiction of the court.

§ 5347. Simultaneous proceedings in other states.

(a) General rule.—A court of this Commonwealth shall not exercise its jurisdiction under this subchapter if, at the time of filing the petition, a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this subchapter, unless the proceeding is stayed by the court of the other state because this Commonwealth is a more appropriate forum or for other reasons.

(b) Procedure.—Before hearing the petition in a custody proceeding, the court shall examine the pleadings and other information supplied by the parties under section 5350 (relating to information under oath to be submitted to the court) and shall consult the child custody registry established under section 5357 (relating to registry of out-of-State custody decrees and proceedings) concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(c) Stay; communication with other court.—If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with sections 5360 (relating to hearings and studies in another state; orders to appear) through 5363 (relating to request for court records of another state). If a court of this Commonwealth has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

§ 5348. Inconvenient forum.

(a) General rule.—A court which has jurisdiction under this subchapter to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(b) Moving party.—A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(c) Factors to be considered.—In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose, it may take into account the following factors, among others:

- (1) If another state is or recently was the home state of the child.
- (2) If another state has a closer connection with the child and his family or with the child and one or more of the contestants.

(3) If substantial evidence concerning the present or future care, protection, training and personal relationships of the child is more readily available in another state.

(4) If the parties have agreed on another forum which is no less appropriate.

(5) If the exercise of jurisdiction by a court of this Commonwealth would contravene any of the purposes stated in section 5342 (relating to purposes and construction of subchapter).

(d) Communication with other court.—Before determining whether to decline or retain jurisdiction, the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(e) Disposition.—If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(f) Effect on divorce or other proceeding.—The court may decline to exercise its jurisdiction under this subchapter if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) Costs and expenses.—Subject to general rules:

(1) If it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this Commonwealth, necessary travel and other expenses, including attorney fees, incurred by other parties or their witnesses.

(2) Payment is to be made to the office of the clerk of the court of common pleas for remittance to the proper party.

(h) Notice of disposition.—Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact or, if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official of the other state for forwarding to the appropriate court.

(i) Registry of out-of-State stay; notice of assumption of jurisdiction.—Any communication received from another state informing this Commonwealth of a finding of inconvenient forum because a court of this Commonwealth is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction, the court of this Commonwealth shall inform the original court of this fact.

§ 5349. Jurisdiction declined by reason of conduct.

(a) General rule.—If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in conduct intending to benefit his position in a custody hearing, the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

(b) Restriction on modification of foreign decree.—Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction unless the petitioner can show that conditions in the custodial household are physically or emotionally harmful to the child, the burden of proof being on the petitioner requesting the court to take jurisdiction.

(c) Costs and expenses.—Subject to general rules, in appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney fees, incurred by other parties or their witnesses.

§ 5350. Information under oath to be submitted to the court.

(a) General rule.—Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the present address of the child, the places where the child has lived within the last five years and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit, every party shall further declare under oath whether:

(1) he has participated (as a party, witness, or in any other capacity) in any other litigation concerning the custody of the same child in this or any other state;

(2) he has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(3) he knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(b) Additional information.—If the declaration as to any of the items set forth in subsection (a) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the jurisdiction of the court and the disposition of the case.

(c) Continuing duty.—Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this Commonwealth or any other state of which he obtained information during proceedings under this subchapter.

**§ 5351. Additional parties.**

If the court learns from information furnished by the parties pursuant to section 5350 (relating to information under oath to be submitted to the court) or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this Commonwealth, he shall be served with process or otherwise notified in accordance with section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction).

**§ 5352. Appearance of parties and the child.**

(a) General rule.—The court may order any party to the proceeding who is in this Commonwealth to appear personally before the court. If that party has physical custody of the child, the court may order that he appear personally with the child.

(b) Out-of-State persons.—If a party to the proceeding whose presence is desired by the court is outside this Commonwealth with or without the child, the court may order that the notice given under section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction) include a statement directing that party to appear personally, with or without the child, and declaring that failure to appear may result in a decision adverse to that party.

(c) Costs and expenses.—If a party to the proceeding who is outside this Commonwealth is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

**§ 5353. Binding force and res judicata effect of custody decree.**

A custody decree rendered by a court of this Commonwealth which had jurisdiction under section 5344 (relating to jurisdiction) binds all parties who have been served in this Commonwealth or notified in accordance with section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction) or who have submitted to the jurisdiction of the court and who have been given an opportunity to be heard. As to these parties, the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this subchapter.

**§ 5354. Recognition of out-of-State custody decrees.**

The courts of this Commonwealth shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this subchapter or which was made under factual circumstances meeting the jurisdictional standards of this subchapter, so long as the decree has not been modified in accordance with jurisdictional standards substantially similar to those of this subchapter.



**§ 5355. Modification of custody decree of another state.**

(a) General rule.—If a court of another state has made a custody decree, a court of this Commonwealth shall not modify that decree unless:

- (1) it appears to the court of this Commonwealth that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this subchapter or has declined to assume jurisdiction to modify the decree; and
- (2) the court of this Commonwealth has jurisdiction.

(b) Consideration of out-of-State record.—If a court of this Commonwealth is authorized under subsection (a) and section 5349 (relating to jurisdiction declined by reason of conduct) to modify a custody decree of another state, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section 5363 (relating to request for court records of another state).

**§ 5356. Filing and enforcement of custody decree of another state.**

(a) General rule.—A certified copy of a custody decree of another state whose decrees are recognized under section 5354 (relating to recognition of out-of-State custody decrees) may be filed in any office of the clerk of the court of common pleas of this Commonwealth. The clerk shall treat the decree in the same manner as a custody decree of a court of common pleas of this Commonwealth. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this Commonwealth.

(b) Costs and expenses.—A person violating a custody decree of another state which makes it necessary to enforce the decree in this Commonwealth may be required to pay necessary travel and other expenses, including attorney fees, incurred by the party entitled to the custody or his witnesses.

**§ 5357. Registry of out-of-State custody decrees and proceedings.**

Each office of the clerk of the court of common pleas shall maintain a registry in which it shall enter the following:

- (1) Certified copies of custody decrees of other states received for filing.
- (2) Communications as to the pendency of custody proceedings in other states.
- (3) Communications concerning a finding of inconvenient forum by a court of another state.
- (4) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this Commonwealth or the disposition to be made by it in a custody proceeding.

**§ 5358. Certified copies of custody decree.**

The office of the clerk of the court of common pleas, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

§ 5359. Taking testimony in another state.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

§ 5360. Hearings and studies in another state; orders to appear.

(a) Hearings and studies.—A court of this Commonwealth may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this Commonwealth; and to forward to the court of this Commonwealth certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. Subject to general rules, the cost of the services may be assessed against the parties or, if necessary, ordered paid by the county.

(b) Order to appear.—A court of this Commonwealth may request the appropriate court of another state to order a party to custody proceedings pending in the court of this Commonwealth to appear in the proceedings, and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

§ 5361. Assistance to courts of other states.

(a) General rule.—Upon request of the court of another state, the courts of this Commonwealth which are competent to hear custody matters may order a person in this Commonwealth to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this Commonwealth or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced, any psychological studies and any social studies prepared shall be forwarded to the requesting court.

(b) Voluntary testimony.—A person within this Commonwealth may voluntarily give his testimony or statement in this Commonwealth for use in a custody proceeding outside this Commonwealth.

(c) Appearance in other state.—Upon request of the court of another state, a competent court of this Commonwealth may order a person in this Commonwealth to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

§ 5362. Preservation of documents for use in other states.

In any custody proceeding in this Commonwealth, the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies and other pertinent documents until the child reaches 18

years of age. Upon appropriate request of the court of another state, the court shall forward to the other court certified copies of any or all of such documents.

§ 5363. Request for court records of another state.

If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this Commonwealth, the court of this Commonwealth upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 5362 (relating to preservation of documents for use in other states).

§ 5364. Intrastate application.

(a) General rule.—Except as otherwise provided in this section, the provisions of this subchapter allocating jurisdiction and functions between and among courts of different states shall also allocate jurisdiction and functions between and among the courts of common pleas of this Commonwealth.

(b) Home jurisdiction.—For the purposes of the definition of “home state” in section 5343 (relating to definitions), a period of temporary absence of the child from the physical custody of the parent, person acting as parent or institution shall not affect the six months or other period.

(c) Petitioner.—As used in this subchapter, insofar as relates to the allocation of jurisdiction and functions between and among the courts of common pleas of this Commonwealth, the term “petitioner” means anyone seeking change in the status of custody of a child either by an affirmative action brought in a court or as a defense to a custody action brought by a person acting as parent who had previously been awarded custody of the child.

(d) Effect of agency investigation.—Section 5344(a)(5) (relating to jurisdiction) shall not be applicable for the purposes of this section.

(e) Period of notice.—Notice under section 5346 (relating to notice to persons outside this Commonwealth; submission to jurisdiction) shall be served, mailed, delivered or last published at least 20 days before any hearing.

(f) Jurisdiction declined by reason of conduct.—

(1) If it is just and proper under the circumstances, when the petitioner for an initial decree has wrongfully taken the child from another jurisdiction or has engaged in improper conduct intending to benefit his position in a custody proceeding, upon presentation of the petition, the court shall decline to exercise jurisdiction or shall exercise jurisdiction only to issue an order, pending a full hearing in the appropriate jurisdiction, returning the parties to the custodial status quo existing prior to the improper conduct or wrongful taking unless the petitioner can show that conditions in the former custodial household are physically or emotionally harmful to the child.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another court if the petitioner, without consent of the person entitled to custody, has:

- (i) improperly removed the child from the physical custody of the person entitled to custody;
- (ii) improperly retained the child after a visit or other temporary relinquishment of physical custody; or
- (iii) removed the child from the jurisdiction of the court entering the decree without 20 days' written notice to the court entering the decree and any party entitled to custody or visitation rights under the terms of the decree.

If the petitioner has violated any provision of a custody decree of another court, the court shall decline to exercise its jurisdiction unless the contestant can show that conditions in the custodial household are physically or emotionally harmful to the child. The burden of proof on this issue is on the contestant requesting the court to take jurisdiction.

(3) Subject to general rules, in appropriate cases a court dismissing a petition under this subsection may charge the petitioner with necessary travel and other expenses, including attorney fees, incurred by other parties or their witnesses.

(g) Statewide orders.—A court may under section 5352(a) (relating to appearance of parties and the child) issue orders to any party to the proceeding who is in any judicial district of this Commonwealth.

(h) Modification of custody decrees.—

(1) If another court has made a custody decree, a court before which a petition for modification is pending shall not modify the decree of the other court unless it appears to the court before which the petition is pending that the other court which rendered the decree does not have jurisdiction under jurisdictional prerequisites substantially in accordance with this subchapter or has declined to assume jurisdiction to modify its decree and the provisions of subsection (f)(2) will not be violated by an exercise of jurisdiction by the court before which the petition is pending.

(2) If a court of this Commonwealth is authorized under paragraph (1) to modify a custody decree of another court, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section 5363 (relating to request for court records of another state).

#### § 5365. International application.

The general policies of this subchapter extend to the international area. The provisions of this subchapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

#### § 5366. Priority.

Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this subchapter, the case shall be given calendar priority and handled expeditiously.

CHAPTER 55  
LIABILITY FOR TORTIOUS ACTS OF CHILDREN

**Sec.**

- 5501. Definitions.
- 5502. Liability of parents.
- 5503. Establishing liability in criminal or juvenile proceedings.
- 5504. Establishing liability in civil proceedings.
- 5505. Monetary limits of liability.
- 5506. Double recovery for same injury prohibited.
- 5507. Indemnity or contribution from child prohibited.
- 5508. Liability of parent not having custody or control of child.
- 5509. Other liability of parent or child unaffected.

**§ 5501. Definitions.**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Child.” An individual under 18 years of age.

“Injury.” Includes injury to the person and theft, destruction or loss of property.

“Parent.” Includes natural or adoptive parents.

“Person.” Includes government units and Federal agencies.

“Tortious act.” A willful tortious act resulting in injury.

**§ 5502. Liability of parents.**

Any parent whose child is found liable or is adjudged guilty by a court of competent jurisdiction of a tortious act shall be liable to the person who suffers the injury to the extent set forth in this chapter.

**§ 5503. Establishing liability in criminal or juvenile proceedings.**

(a) General rule.—In any criminal proceeding against a child and in any proceeding against a child under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the court shall ascertain the amount sufficient to fully reimburse any person who has suffered injury because of the tortious act of the child and direct the parents to make payment in the amount not to exceed the limitations set forth in section 5505 (relating to monetary limits of liability).

(b) Noncompliance with direction of court.—If the parents fail to comply with the direction of the court, the amount may be recovered in a civil action against the parents or either of them.

**§ 5504. Establishing liability in civil proceedings.**

(a) Petition.—If a judgment has been rendered against the child in a civil action for injury because of the tortious act of the child and the judgment has not been satisfied within a period of 30 days, the injured person may petition the court for a rule to show cause why judgment should not be entered against the parent.

(b) Answer and trial.—The parent may file an answer to the petition, and, if there is any dispute as to unlitigated facts, the case shall be set down for trial.

(c) Judgment.—If there is no dispute as to the unlitigated facts, the court shall authorize the entry of a judgment against the parent. In no case shall the judgment against the parent exceed the limitations set forth in section 5505 (relating to monetary limits of liability).

§ 5505. Monetary limits of liability.

(a) General rule.—Liability of the parents under this chapter shall be limited to:

(1) The sum of \$300 for injuries suffered by any one person as a result of one tortious act or continuous series of tortious acts.

(2) The sum of \$1,000 regardless of the number of persons who suffer injury as a result of one tortious act or continuous series of tortious acts.

(b) Proceedings where loss exceeds liability.—In the event that actual loss as ascertained by the court or the judgment against the child exceeds \$1,000, the parents shall be discharged from further liability by the payment of \$1,000 into court. The court shall cause all aggrieved parties to submit itemized statements of loss in writing and shall make distribution proportionately, whether the claims be for injuries to the person or for theft, destruction or loss of property. The court may take testimony to assist it in making proper distribution and may appoint a master to accomplish this purpose. All costs and fees incurred in these proceedings shall be paid from the \$1,000 paid into court.

(c) Joint acts by children of same parent.—The limitations on liability set forth in subsections (a) and (b) shall be applicable when two or more children of the same parent engage jointly in the commission of one tortious act or series of tortious acts.

§ 5506. Double recovery for same injury prohibited.

In no case shall there be a double recovery for one injury. Any judgment against a child resulting from a tortious act for which a parent makes payment under this chapter shall be reduced by the amount paid by the parent.

§ 5507. Indemnity or contribution from child prohibited.

The parent shall have no right of indemnity or contribution against the child.

§ 5508. Liability of parent not having custody or control of child.

(a) General rule.—No liability may be imposed upon a parent under this chapter if, at the time of commission of the tortious act, the parent has neither custody of the child nor is entitled to custody of the child or if the child is institutionalized or emancipated.

(b) Exception.—No parent is absolved of liability due to the desertion of the child by the parent.

§ 5509. Other liability of parent or child unaffected.

The liability imposed upon parents by this chapter shall not limit the common-law liability of parents for damages caused by a child and shall be separate and apart from any liability which may be imposed upon the child.

PART VII  
ABUSE OF FAMILY

## Chapter

- 61. Protection from Abuse
- 63. Child Protective Services

CHAPTER 61  
PROTECTION FROM ABUSE

## Sec.

- 6101. Short title of chapter.
- 6102. Definitions.
- 6103. Effect of departure to avoid abuse.
- 6104. Registration of order.
- 6105. Responsibilities of local law enforcement agencies.
- 6106. Commencement of proceedings.
- 6107. Hearings.
- 6108. Relief.
- 6109. Service of orders.
- 6110. Emergency relief by minor judiciary.
- 6111. Domestic violence counselor/advocate.
- 6112. Disclosure of addresses.
- 6113. Arrest for violation of order.
- 6114. Contempt for violation of order or agreement.
- 6115. Reporting abuse and immunity.
- 6116. Confidentiality.
- 6117. Procedure and other remedies.

## § 6101. Short title of chapter.

This chapter shall be known and may be cited as the Protection from Abuse Act.

## § 6102. Definitions.

(a) General rule.—The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Abuse.” The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

- (1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon.
- (2) Placing by physical menace another in fear of imminent serious bodily injury.
- (3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).
- (4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).

**“Adult.”** An individual who is 18 years of age or older.

**“Confidential communications.”** Information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship and in confidence by a means which, insofar as the victim is aware, discloses the information to no third person other than to those who are present to further the interest of the victim in the consultation or assistance, to those who are coparticipants in the counseling service or to those to whom disclosure is reasonably necessary for the transmission of the information or an accomplishment of the purpose for which the domestic violence counselor or advocate is consulted. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports or working papers given or made in the course of the relationship.

**“Domestic violence counselor/advocate.”** An individual who is engaged in a domestic violence program, who provides services to victims of domestic violence, who has undergone 40 hours of training and who is under the control of a direct services supervisor of a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence.

**“Domestic violence program.”** A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and interface; transportation, information and referral; and victim assistance.

**“Family or household members.”** Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

**“Hearing officer.”** A district justice, judge of the Philadelphia Municipal Court, bail commissioner appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue) and master appointed under 42 Pa.C.S. § 1126 (relating to masters).

**“Minor.”** An individual who is not an adult.

**“Victim.”** A person who is physically or sexually abused by a family or household member.

(b) Other terms.—Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa.C.S. (relating to crimes and offenses).

§ 6103. Effect of departure to avoid abuse.

The court shall have jurisdiction over all proceedings under this chapter. The right of plaintiff to relief under this chapter shall not be affected by plaintiff leaving the residence or household to avoid further abuse.

§ 6104. Registration of order.

(a) Registry.—The prothonotary shall maintain a registry in which it shall enter certified copies of orders entered by courts from other jurisdictions in this Commonwealth pursuant to this chapter.

(b) Registration of order in any county.—A plaintiff who obtains a valid order under this chapter may register that order in any county within this



Commonwealth where the plaintiff believes enforcement may be necessary. A court shall recognize and enforce a valid order under this chapter which has been issued by another court but properly registered with a county within the judicial district of the court where enforcement is sought.

(c) **Certified copy.**—A valid order under this chapter may be registered by the plaintiff in a county other than the issuing county by obtaining a certified copy of the order of the issuing court endorsed by the prothonotary of that court and presenting that certified order to the prothonotary where the order is to be registered.

(d) **Proof of registration.**—Upon receipt of a certified order for registration, the prothonotary shall provide the plaintiff with a copy bearing the proof of registration to be filed with the appropriate law enforcement agency.

**§ 6105. Responsibilities of local law enforcement agencies.**

The police department of each municipal corporation shall insure that all its officers and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers.

**§ 6106. Commencement of proceedings.**

(a) **General rule.**—An adult or an emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of minor children, or a guardian of the person of an adult who has been declared incompetent under 20 Pa.C.S. Ch. 51 Subch. B (relating to appointment of guardian) may seek relief on behalf of the incompetent adult, by filing a petition with the court alleging abuse by the defendant.

(b) **Affidavit of insufficient funds for fees.**—If the plaintiff files an affidavit stating that plaintiff does not have funds available to pay the fees for filing and service, the petition shall be filed and service shall be made without payment of fees, and leave of court to proceed in forma pauperis shall not be required.

(c) **Determination of indigency.**—When the petition is filed without payment of fees, the court shall determine at the hearing on the petition whether the plaintiff is able to pay the costs of filing and service. If the plaintiff is unable to pay the costs of filing and service, the court may waive the payment of costs or, if the plaintiff prevails in the action, assign them to the defendant. This subsection and subsection (b) apply to courts of common pleas and hearing officers.

(d) **Court to adopt means of service.**—The court shall adopt a means of prompt and effective service in those instances where the plaintiff avers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.

(e) **Service by sheriff.**—If the plaintiff files an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service or if the court so orders, the sheriff or other designated agency or individual shall serve the petition and order without prepayment of costs.

(f) Service of petition and orders.—The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police. Failure to serve shall not stay the effect of a valid order.

(g) Assistance and advice to plaintiff.—The courts and hearing officers shall:

(1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for a protection order for an individual not represented by counsel.

(2) Advise a plaintiff not represented by counsel of the right to file an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service and assist with the writing and filing of the affidavit.

#### § 6107. Hearings.

(a) General rule.—Within ten days of the filing of a petition under this chapter, a hearing shall be held before the court, at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of the right to be represented by counsel.

(b) Temporary orders.—If a plaintiff petitions for temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex parte proceeding. The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse.

(c) Continued hearings.—If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

(d) Costs.—If the plaintiff prevails, the court shall assign costs to the defendant unless the parties agree otherwise. If the defendant is indigent, costs shall be waived.

#### § 6108. Relief.

(a) General rule.—The court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

(1) Directing the defendant to refrain from abusing the plaintiff or minor children.

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, by consent agreement, allowing the defendant to provide suitable alternate housing.

(4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. A defendant shall not be granted custody or partial custody where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant abused the minor children of the parties or where the defendant has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order. If a plaintiff petitions for a temporary order under section 6107(b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107(a). Nothing in this paragraph shall bar either party from filing a petition for custody under Chapter 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.

(5) After a hearing in accordance with section 6107(a), directing the defendant to pay financial support to those persons the defendant has a duty to support. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters 43 (relating to support matters generally) and 45 (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

(6) Prohibiting the defendant from having any contact with the plaintiff, including, but not limited to, restraining the defendant from entering the place of employment or business or school of the plaintiff and from harassing the plaintiff or plaintiff's relatives or minor children.

(7) Ordering the defendant to temporarily relinquish to the sheriff the defendant's weapons which have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children. The court's order shall provide for the return of the weapons to the defendant subject to any restrictions and conditions as the court shall deem appropriate to protect the plaintiff or minor children from further abuse through the use of weapons.

(8) Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorney fees.

(b) Duration and amendment of order or agreement.—A protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(c) Title to real property unaffected.—No order or agreement under this chapter shall in any manner affect title to any real property.

§ 6109. Service of orders.

(a) Issuance.—A copy of an order under this chapter shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement in accordance with the provisions of this chapter or as ordered by the court or hearing officer.

(b) Placement in county registry.—Upon receipt of an order, the police department shall immediately place the order in a county registry of protection orders. The police department shall assure that the registry is current at all times and that orders are removed upon expiration thereof.

§ 6110. Emergency relief by minor judiciary.

(a) General rule.—When, in counties with less than four judges, the court is unavailable during the business day by reason of duties outside the county, illness or vacation, and when, in counties with at least four judges, the court deems itself unavailable from the close of business at the end of each day to the resumption of business the next morning or from the end of the business week to the beginning of the business week, a petition may be filed before a hearing officer who may grant relief in accordance with section 6108(a)(1) and (2) or (1) and (3) (relating to relief) if the hearing officer deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an *ex parte* proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for the purposes of this subsection.

(b) Expiration of order.—An order issued under subsection (a) shall expire as of the resumption of business of the court at the beginning of the next business day, at which time the court shall schedule hearings on protection orders entered by hearing officers under subsection (a) and shall review and continue in effect protection orders that are necessary to protect the plaintiff or minor children from abuse until the hearing, at which time the plaintiff may seek a temporary order from the court.

(c) Certification of order to court.—An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 6106 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the abuse of defendant at least five days prior to the hearing. Service of the verified statement shall be made subject to section 6106.

(d) Instructions regarding the commencement of proceedings.—Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court of

common pleas at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of programs for victims of domestic violence in the county or in nearby counties and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them.

**§ 6111. Domestic violence counselor/advocate.**

A domestic violence counselor/advocate may accompany a party to a hearing under this chapter.

**§ 6112. Disclosure of addresses.**

During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or plaintiff's family is endangered by disclosure of the permanent or temporary address of the plaintiff or minor children. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a domestic violence program.

**§ 6113. Arrest for violation of order.**

(a) **General rule.**—An arrest for violation of an order issued pursuant to this chapter may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer. The police officer may verify, if necessary, the existence of a protection order by telephone or radio communication with the appropriate police department, county registry or issuing authority.

(b) **Seizure of weapons.**—Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated weapons to the office of the sheriff. The sheriff shall maintain possession of the weapons until the court issues an order specifying the weapons to be relinquished and the persons to whom the weapons shall be relinquished.

(c) **Procedure following arrest.**—Subsequent to an arrest, the defendant shall be taken by the police officer without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer shall convey the defendant to a district justice designated as appropriate by local rules of court or, in counties of the first class, to the appropriate hearing officer.

(d) **Preliminary arraignment.**—The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(e) **Other emergency powers unaffected.**—This section shall not be construed to in any way limit any of the other powers for emergency relief provided in this chapter.

(f) **Hearing.**—A hearing on a charge or allegation of indirect criminal contempt shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

(g) **Notice.**—Notice shall be given to the defendant, in orders issued pursuant to section 6108 (relating to relief), of the possible ramifications of

resumption of residence in the family domicile contrary to court order. Resumption of co-residence on the part of the plaintiff and defendant shall not nullify the provisions of the court order directing the defendant to refrain from abusing the plaintiff or minor children.

§ 6114. Contempt for violation of order or agreement.

(a) General rule.—Upon violation of a protection order issued under this chapter or a court-approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(b) Trial and punishment.—A sentence for contempt under this chapter may include imprisonment up to six months or a fine not to exceed \$1,000, or both, and may include other relief set forth in this chapter. The defendant shall not have a right to a jury trial on such a charge; however, the defendant shall be entitled to counsel.

§ 6115. Reporting abuse and immunity.

(a) Reporting.—A person having reasonable cause to believe that a person is being abused may report the information to the local police department.

(b) Contents of report.—The report should contain the name and address of the abused person, information regarding the nature and extent of the abuse and information which the reporter believes may be helpful to prevent further abuse.

(c) Immunity.—A person who makes a report shall be immune from a civil or criminal liability on account of the report unless the person acted in bad faith or with malicious purpose.

§ 6116. Confidentiality.

Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter 63 (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.

§ 6117. Procedure and other remedies.

Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies.

## CHAPTER 63 CHILD PROTECTIVE SERVICES

### Subchapter

- A. Preliminary Provisions
- B. Reporting Suspected Child Abuse
- C. Powers and Duties of Department

- D. Organization and Responsibilities of Child Protective Service
- E. Miscellaneous Provisions

SUBCHAPTER A  
PRELIMINARY PROVISIONS

Sec.

- 6301. Short title of chapter.
- 6302. Finding and purpose of chapter.
- 6303. Definitions.

§ 6301. Short title of chapter.

This chapter shall be known and may be cited as the Child Protective Services Law.

§ 6302. Finding and purpose of chapter.

(a) Finding.—Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment.

(b) Purpose.—It is the purpose of this chapter to encourage more complete reporting of suspected child abuse and to establish in each county a child protective service capable of investigating such reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the well-being of the child and to preserve and stabilize family life wherever appropriate.

(c) Effect on rights of parents.—This chapter does not restrict the generally recognized existing rights of parents to use reasonable supervision and control when raising their children.

§ 6303. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Child abuse.” Serious physical or mental injury which is not explained by the available medical history as being accidental, sexual abuse, sexual exploitation or serious physical neglect of a child under 18 years of age if the injury, abuse or neglect has been caused by the acts or omissions of the child’s parents or by a person responsible for the child’s welfare, or any individual residing in the same home as the child, or a paramour of the child’s parent. No child shall be deemed to be physically or mentally abused for the sole reason the child is in good faith being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof or is not provided specified medical treatment in the practice of religious beliefs, or solely on the grounds of environmental factors which are beyond the control of the person responsible for the welfare of the child such as inadequate housing, furnishings, income, clothing and medical care.

“Child-care services.” Child day-care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children,

juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation and drug and alcohol services for children; and any other child-care services which are provided by or subject to approval, licensure, registration or certification by the department or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may be offered by public and private schools, intermediate units or area vocational-technical schools.

“Child protective service.” That section of each county children and youth social service agency required to be established by section 6361 (relating to organization of child protective service).

“Cooperation with an investigation.” Includes, but is not limited to, a school or school district which permits authorized personnel from the department or child protection services to interview a student while the student is in attendance at school.

“Department.” The Department of Public Welfare of the Commonwealth.

“Expunge.” To strike out or obliterate entirely so that the expunged information may not be stored, identified or later recovered by any mechanical or electronic means or otherwise.

“Family members.” Spouses, parents and children or other persons related by consanguinity or affinity.

“Founded report.” A report made pursuant to this chapter if there has been any judicial adjudication based on a finding that a child who is a subject of the report has been abused.

“Indicated report.” A report made pursuant to this chapter if an investigation by the child protective service determines that substantial evidence of the alleged abuse exists based on any of the following:

- (1) Available medical evidence.
- (2) The child protective service investigation.
- (3) An admission of the acts of abuse by the parent of the child or person responsible for the welfare of the child.

“Secretary.” The Secretary of Public Welfare of the Commonwealth.

“Sexual abuse.” The obscene or pornographic photographing, filming or depiction of children for commercial purposes or the rape, molestation, incest, prostitution or other forms of sexual exploitation of children under circumstances which indicate that the child’s health or welfare is harmed or threatened thereby, as determined in accordance with regulations of the department.

“Subject of the report.” Any child reported to the central register of child abuse and a parent, guardian or other responsible person also named in the report.

“Under investigation.” A report pursuant to this chapter which is being investigated to determine whether it is “founded,” “indicated” or “unfounded.”

“Unfounded report.” Any report made pursuant to this chapter unless the report is a “founded report” or unless an investigation by the appropri-



ate child protective service determines that the report is an "indicated report."

## SUBCHAPTER B REPORTING SUSPECTED CHILD ABUSE

Sec.

- 6311. Persons required to report suspected child abuse.
- 6312. Persons permitted to report suspected child abuse.
- 6313. Reporting procedure.
- 6314. Photographs and X-rays of child subject to report.
- 6315. Taking child into protective custody.
- 6316. Admission to private and public hospitals.
- 6317. Reporting and postmortem investigation of deaths.
- 6318. Immunity from liability.
- 6319. Penalties for failure to report.

§ 6311. Persons required to report suspected child abuse.

(a) General rule.—Persons who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made in accordance with section 6313 (relating to reporting procedure) when they have reason to believe, on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is an abused child. The privileged communication between any professional person required to report and the patient or client of that person shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.

(b) Enumeration of persons required to report.—Persons required to report under subsection (a) include, but are not limited to, any licensed physician, osteopath, medical examiner, coroner, funeral director, dentist, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science practitioner, school administrator, school teacher, school nurse, social services worker, day-care center worker or any other child-care or foster-care worker, mental health professional, peace officer or law enforcement official.

(c) Staff members of institutions, etc.—Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification, the person in charge or the designated agent, if any, shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with section 6313. This chapter does not require more than one report from any such institution, school, facility or agency.

(d) Civil action for discrimination against person filing report.—Any person who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, makes or causes the report to be made and, as a result thereof, is discharged from his employment or in any other manner is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, may commence an action in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred for appropriate relief. If the court finds that the person is an individual who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, made or caused to be made a report of suspected child abuse and, as a result thereof, was discharged or discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, it may issue an order granting appropriate relief, including, but not limited to, reinstatement with back pay. The department may intervene in any action commenced under this subsection.

§ 6312. Persons permitted to report suspected child abuse.

In addition to those persons and officials required to report suspected child abuse, any person may make such a report if that person has reasonable cause to suspect that a child is an abused child.

§ 6313. Reporting procedure.

(a) General rule.—Reports from persons required to report under section 6311 (relating to persons required to report suspected child abuse) shall be made immediately by telephone and in writing within 48 hours after the oral report.

(b) Oral reports.—Oral reports shall be made to the department pursuant to Subchapter C (relating to powers and duties of department) and may be made to the appropriate child protective service. When oral reports of suspected child abuse are initially received at the child protective service, the child protective service shall, after seeing to the immediate safety of the child and other children in the home, immediately notify the department of the receipt of the report, which is to be held in the pending complaint file as provided in Subchapter C. The initial child abuse report summary shall be supplemented with a written report when a determination is made as to whether a report of suspected child abuse is a founded report, an unfounded report or an indicated report.

(c) Written reports.—Written reports from persons required to report under section 6311 shall be made to the appropriate child protective service in a manner and on forms the department prescribes by regulation. The written reports shall include the following information if available:

- (1) The names and addresses of the child and the parents or other person responsible for the care of the child if known.
- (2) Where the suspected abuse occurred.
- (3) The age and sex of the child.
- (4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.

- (5) The name of the person or persons responsible for causing the suspected abuse, if known.
- (6) Family composition.
- (7) The relationship of the suspected perpetrator to the child.
- (8) The source of the report.
- (9) The person making the report and where that person can be reached.
- (10) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.
- (11) Any other information which the department may require by regulation.

(d) Failure to confirm oral report.—The failure of a person reporting cases of suspected child abuse to confirm an oral report in writing within 48 hours shall not relieve the child protective service from any duties prescribed by this chapter. In such event, the child protective service shall proceed as if a written report were actually made.

**§ 6314. Photographs and X-rays of child subject to report.**

A person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the areas of trauma visible on a child who is subject to a report and, if medically indicated, cause to be performed a radiological examination on the child. Medical summaries or reports of the photographs or X-rays taken shall be sent to the child protective service at the time the written report is sent or as soon thereafter as possible. Child protective services shall have access to the actual photographs and X-rays and may obtain them or duplicates of them upon request.

**§ 6315. Taking child into protective custody.**

(a) General rule.—A child may be taken into protective custody:

- (1) As provided by 42 Pa.C.S. § 6324 (relating to taking into custody).
- (2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by the director, of any hospital or other medical institution where the child is being treated if protective custody is immediately necessary to protect the child from further serious physical injury, sexual abuse or serious physical neglect.

(b) Duration of custody.—No child may be held in protective custody for more than 24 hours unless the appropriate child protective service is immediately notified that the child has been taken into custody and the child protective service obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. Each court shall insure that a judge is available 24 hours a day, 365 days a year to accept and decide the actions brought by a child protective service under this subsection within the 24-hour period.

(c) Notice of custody.—An individual taking a child into protective custody under this chapter shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate child protective

service in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.

(d) Detention hearing.—In no case shall protective custody under this chapter be maintained longer than 72 hours without a detention hearing. If, at the detention hearing, it is determined that protective custody shall be continued, the child protective service shall within 48 hours file a petition with the court under 42 Pa.C.S. Ch. 63.

(e) Place of detention.—No child taken into protective custody under this chapter may be detained during the protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.

(f) Conference with parent or other custodian.—A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the caseworker designated by the child protection service to be responsible for the child shall be held within 48 hours of the time that the child is taken into custody for the purpose of:

(1) Explaining to the parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child.

(2) Expediting, wherever possible, the return of the child to the custody of the parent, guardian or other custodian where custody is no longer necessary.

§ 6316. Admission to private and public hospitals.

(a) General rule.—Children appearing to suffer any physical or mental trauma which may constitute child abuse shall be admitted to and treated in appropriate facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.

(b) Failure of hospital to admit child.—The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital.

§ 6317. Reporting and postmortem investigation of deaths.

A person or official required to report cases of suspected child abuse, including employees of a county children and youth social service agency and its child protective service, who has reasonable cause to suspect that a child died as a result of child abuse shall report that fact to the coroner. The coroner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate child protective service and, if the report is made by a hospital, the hospital.

§ 6318. Immunity from liability.

(a) General rule.—A person, hospital, institution, school, facility or agency participating in good faith in the making of a report, cooperating with an investigation or testifying in a proceeding arising out of an instance

of suspected child abuse, the taking of photographs or the removal or keeping of a child pursuant to section 6315 (relating to taking child into protective custody) shall have immunity from any civil or criminal liability that might otherwise result by reason of those actions.

(b) Presumption of good faith.—For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) shall be presumed.

§ 6319. Penalties for failure to report.

A person or official required by this chapter to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

### SUBCHAPTER C POWERS AND DUTIES OF DEPARTMENT

Sec.

- 6331. Establishment of pending complaint file and Statewide central register.
- 6332. Establishment of Statewide toll-free telephone number.
- 6333. Continuous availability of department.
- 6334. Disposition of complaints received.
- 6335. Information in pending complaint file.
- 6336. Information in Statewide central register.
- 6337. Disposition of unfounded reports.
- 6338. Disposition of founded and indicated reports.
- 6339. Confidentiality of reports.
- 6340. Release of information in confidential reports.
- 6341. Amendment, sealing or expungement of information.
- 6342. Studies of data in records.
- 6343. Investigating performance of child protective service.
- 6344. Information relating to prospective child-care personnel.
- 6345. Audits by Attorney General.
- 6346. Cooperation of other agencies.
- 6347. Annual reports to Governor and General Assembly.
- 6348. Regulations.
- 6349. Penalties.

§ 6331. Establishment of pending complaint file and Statewide central register.

There shall be established in the department:

- (1) A pending complaint file of child abuse reports under investigation.
- (2) A Statewide central register of child abuse which shall consist of founded and indicated reports of child abuse.

**§ 6332. Establishment of Statewide toll-free telephone number.**

(a) **General rule.**—The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse. A child protective service may use the Statewide toll-free telephone number for determining the existence of prior founded or indicated reports of child abuse in the Statewide central register or reports under investigation in the pending complaint file.

(b) **Limitation on use.**—A child protective service may only request and receive information pursuant to this subsection either on its own behalf because it has received a report of suspected child abuse or on behalf of a physician examining or treating a child or on behalf of the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by the director suspects the child of being an abused child.

**§ 6333. Continuous availability of department.**

The department shall be capable of receiving oral reports of child abuse made pursuant to this chapter and report summaries of child abuse from child protective services and shall be capable of immediately identifying prior reports of child abuse in the Statewide central register and reports under investigation in the pending complaint file and of monitoring the provision of child protective services 24 hours a day, seven days a week.

**§ 6334. Disposition of complaints received.**

(a) **Notice to child protective service.**—Upon receipt of a complaint of suspected child abuse, the department shall immediately transmit orally to the appropriate child protective service notice that the complaint of suspected child abuse has been received and the substance of the complaint. If the Statewide central register or the pending complaint file contains information indicating a prior report or a current investigation concerning a subject of the report, the department shall immediately notify the appropriate child protective service of this fact.

(b) **Referral for services or investigation.**—If the complaint received does not suggest suspected child abuse but does suggest a need for social services or other services or investigation, the department shall transmit the information to the county children and youth social service agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has reason to believe after investigation that abuse occurred. If the agency has reason to believe that abuse occurred, the agency shall notify the department, and the initial complaint shall be considered to have been a child abuse report.

(c) **Recording in pending complaint file.**—Upon receipt of a complaint of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the pending complaint file.

**§ 6335. Information in pending complaint file.**

(a) **Information authorized.**—No information other than that permitted to be retained in the Statewide central register in section 6336 (relating to

information in Statewide central register) shall be retained in the pending complaint file or otherwise by the department.

(b) Access to information.—Except as provided in sections 6332 (relating to establishment of Statewide toll-free telephone number), 6334 (relating to disposition of complaints received), 6340 (relating to release of information in confidential reports) and 6342 (relating to studies of data in records), no person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall at any time have access to any information in the pending complaint file or Statewide central register.

§ 6336. Information in Statewide central register.

(a) Information authorized.—The Statewide central register shall include and shall be limited to the following information:

- (1) The names, Social Security numbers, age and sex of the subjects of the reports.
- (2) The date or dates and the nature and extent of the alleged instances of suspected child abuse.
- (3) The home addresses of the subjects of the report.
- (4) The county in which the suspected abuse occurred.
- (5) Family composition.
- (6) The name and relationship to the abused child of the person or persons responsible for causing the abuse.
- (7) The source of the report.
- (8) Services planned or provided.
- (9) Whether the report is a founded report or an indicated report.
- (10) The progress of any legal proceedings brought on the basis of the report of suspected child abuse.

No information other than that permitted in this subsection shall be retained in the Statewide central register, the pending complaint file or otherwise by the department.

(b) Type of information released.—Except as provided in sections 6334 (relating to disposition of complaints received), 6335 (relating to information in pending complaint file), 6340 (relating to release of information in confidential reports) and 6342 (relating to studies of data in records), persons receiving information from the Statewide central register or pending complaint file may be informed only as to:

- (1) Whether the report is a founded or indicated abuse or is under investigation.
- (2) The number of such reports.
- (3) The nature and extent of the alleged or actual instances of suspected child abuse.
- (4) The county in which the reports are investigated.

(c) Limitation on release of information.—Except as provided in sections 6334, 6335, 6340 and 6342, no information shall be released from the Statewide central register or pending complaint file unless pursuant to section 6332 (relating to establishment of Statewide toll-free telephone number) and unless the department has positively identified the representa-

tive of the child protective service requesting the information and the department has inquired into and is satisfied that the representative has a legitimate need, within the scope of official duties and the provisions of section 6332, to obtain the information. Information in the Statewide central register or pending complaint file shall not be released for any purpose or to any individual not specified in section 6340.

§ 6337. Disposition of unfounded reports.

(a) General rule.—When a report of suspected child abuse is determined by the appropriate child protective service to be an unfounded report, the information concerning that report of suspected child abuse shall be expunged from the pending complaint file within 12 months of the date the report was received by the department, and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department.

(b) Absence of other determination.—If an investigation of a report of suspected child abuse conducted by the appropriate child protective service pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is an indicated report or an unfounded report, or unless within that same 60-day period court action has been initiated and is responsible for the delay, the report shall be considered to be an unfounded report, and all information identifying the subjects of the report shall be expunged within 12 months. The agency shall advise the department that court action has been initiated so that the pending complaint file is kept current regarding the status of all legal proceedings and expungement delayed. Nothing in this subsection shall in any way limit the powers and duties of the department as provided in section 6343 (relating to investigating performance of child protective service).

(c) Expungement of information.—All information identifying the subjects of any report of suspected child abuse determined to be an unfounded report shall be expunged from the pending complaint file within 12 months of the date the report was received by the department. The expungement shall be mandated and guaranteed by the department.

§ 6338. Disposition of founded and indicated reports.

(a) General rule.—When a report of suspected child abuse is determined by the appropriate child protective service to be a founded report or an indicated report, the information concerning that report of suspected child abuse shall be expunged immediately from the pending complaint file, and an appropriate entry shall be made in the Statewide central register. Notice of the determination must be given to the subjects of the report, other than the abused child, along with an explanation of the implications of the determination. Notice given to subjects of the report shall include notice that their ability to obtain employment in a child-care facility or program may be adversely affected by entry of the report in the Statewide central register. The notice shall also inform the subject of the report of his right, at any time, to request the secretary to amend, seal or expunge information contained in the Statewide central register and his right to a hearing if the request is denied.



(b) Expungement of information when child attains 18 years of age.—All information identifying the subjects of all indicated reports and all information identifying the subject child of all founded reports shall be expunged when the subject child reaches the age of 18 years, unless another report is received involving the same child, his sibling or offspring, or another child in the care of the persons responsible for the subject child's welfare. The identifying information may then be maintained in the register for five years after the subsequent case or report is closed. The expungement shall be mandated and guaranteed by the department.

§ 6339. Confidentiality of reports.

Except as otherwise provided in this subchapter, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and written reports made pursuant to section 6313(b) and (c) (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department, a county children and youth social service agency or a child protective service shall be confidential.

§ 6340. Release of information in confidential reports.

(a) General rule.—Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

(1) An authorized official of a child protective service in the course of official duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to services for protection of child at home or in custody).

(2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child.

(3) A guardian ad litem for the child.

(4) An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of child protective service).

(5) A court of competent jurisdiction pursuant to a court order.

(6) A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).

(7) The Attorney General.

(8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not have access to identifiable reports.

(9) Law enforcement officials in the course of investigating cases of:

(i) Homicide, sexual abuse, sexual exploitation or serious bodily injury perpetrated by persons whether or not related to the victim.

(ii) Child abuse perpetrated by persons who are not family members.

(iii) Repeated physical injury to a child under circumstances which indicate that the child's health or welfare is harmed or threatened.

(10) Law enforcement officials who shall receive reports of abuse in which the initial review gives evidence that the abuse is homicide, sexual abuse, sexual exploitation or serious bodily injury perpetrated by persons whether or not related to the victim, or child abuse perpetrated by persons who are not family members. Reports referred to law enforcement officials shall be on forms provided by and according to regulations promulgated by the department.

(11) County commissioners, to whom the department shall forward specific files upon request, for review when investigating the competence of county children and youth employees.

(12) A mandated reporter of child abuse as defined in section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child, but the information permitted to be released to the mandated reporter shall be limited to the following:

(i) The final status of the report following the investigation, whether it be indicated, founded or unfounded.

(ii) Any services provided, arranged for or to be provided by the child protective service to protect the child from further abuse.

(b) Release of information to subject child.—At any time and upon written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide central register or in any report filed pursuant to section 6313 (relating to reporting procedure).

(c) Protecting identity of person making report.—The release of data that would identify the person who made a report of suspected child abuse or the person who cooperated in a subsequent investigation is prohibited unless the secretary finds that the release will not be detrimental to the safety of that person.

(d) Definition.—As used in this section, "serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

§ 6341. Amendment, sealing or expungement of information.

(a) General rule.—At any time:

(1) The secretary may amend, seal or expunge any record upon good cause shown and notice to the appropriate subjects of the report.

(2) A subject of a report may request the secretary to amend, seal or expunge information contained in the Statewide central register on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter.

(b) Review of grant of request.—If the secretary grants the request under subsection (a)(2), the Statewide central register, appropriate child protective service agency and all subjects shall be so advised within seven days from the date of the decision. The child protective service agency and any subject have 45 days in which to file an appeal with the secretary. If an appeal is received,

the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and attending departmental regulations. If no appeal is received within the designated time period, the Statewide central register shall comply with the decision of the secretary and advise the child protective service agency to amend, seal or expunge the information in their records so that the records are consistent at both the State and local levels.

(c) Review of refusal of request.—If the secretary refuses the request under subsection (a)(2) or does not act within a reasonable time, but in no event later than 30 days after receipt of the request, the subject shall have the right to a hearing before the secretary or a designated agent of the secretary to determine whether the summary in the Statewide central register or the contents of any report filed pursuant to section 6313 should be amended, sealed or expunged on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with this chapter. The appropriate child protective service shall be given notice of the hearing. The burden of proof in the hearing shall be on the appropriate child protective service. The department shall assist the child protective service as necessary. In the hearings, the fact that there was a court finding of child abuse shall be presumptive evidence that the report was substantiated.

(d) Order.—The secretary or designated agent may make any appropriate order respecting the amendment or expungement of such records to make them accurate or consistent with the requirements of this chapter.

(e) Notice of expungement.—Written notice of an expungement of any record, made pursuant to the provisions of this chapter, shall be served upon the subject of the record who was responsible for the abuse and the appropriate child protective service. The latter, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse records and inform, for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating to reports to department and coroner). Whenever the investigation reveals that the report is unfounded but that the subjects need services and voluntarily accept services, the county children and youth social service agency may retain those portions of its records which do not specifically identify the source of the investigation or report as suspected child abuse.

(f) Access to sealed record.—Once sealed, a record shall not be otherwise available except as provided in section 6342 (relating to studies of data in records) or except if the secretary, upon notice to the subjects of the report, gives personal approval for an appropriate reason.

§ 6342. Studies of data in records.

The department may conduct or authorize the conducting of studies of the data contained in the pending complaint file and the Statewide central register and county agencies and distribute the results of the studies. No study may contain the name or other information by which a subject of a report could be identified. The department may allow Federal auditors access to nonidentifiable duplicates of reports in the pending complaint file and the Statewide central register if required for Federal financial participation in funding of agencies.

§ 6343. Investigating performance of child protective service.

(a) General rule.—If, within 30 days from the date of an initial report of suspected child abuse, the appropriate child protective service has not properly investigated the report and informed the department that the report is an indicated report or an unfounded report or unless within that same 30-day period the report is determined to be a founded report, the department shall immediately begin an inquiry into the performance of the child protective service which inquiry may include a performance audit of the child protective service as provided in subsection (b). On the basis of that inquiry, the department shall take appropriate action to require that the provisions of this chapter be strictly followed, which action may include, without limitation, the institution of appropriate legal action and the withholding of reimbursement for all or part of the activities of the county children and youth social service agency.

(b) Performance audit.—Notwithstanding any other provision of this chapter, the secretary or a designee of the secretary may direct, at their discretion, a performance audit of any activity engaged in pursuant to this chapter.

§ 6344. Information relating to prospective child-care personnel.

(a) Applicability.—This section applies to all prospective employees of child-care services, prospective foster parents, prospective adoptive parents, prospective self-employed family day-care providers and other persons seeking to provide child-care services under contract with a child-care facility or program. This section does not apply to administrative or other support personnel unless their duties will involve direct contact with children.

(b) Information submitted by prospective employees.—Administrators of child-care services shall require applicants to submit with their applications the following information obtained within the preceding one-year period:

(1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

(2) A certification from the department as to whether the applicant is named in the central register as the perpetrator of a founded or indicated report of child abuse. An indicated report shall not be included until the department adopts regulations specifying the manner in which the investigation required by sections 6366 (relating to continuous availability to receive reports) through 6372 (relating to protecting well-being of children detained outside home) is to be conducted.

(3) Where the applicant is not a resident of this Commonwealth, administrators shall require the applicant to submit with the application for employment a report of Federal criminal history record information pursuant to the Federal Bureau of Investigation appropriation of the

Department of Justice Appropriation Act of 1973 (Public Law 92-544, 86 Stat. 1116), and the department shall be the intermediary for the purposes of this section.

For the purposes of this subsection, an applicant may submit a copy of the required information with an application for employment. Administrators shall maintain a copy of the required information and shall require applicants to produce the original document prior to employment.

(c) **Grounds for denying employment.**—In no case shall an administrator hire an applicant where the department has verified that the applicant is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section. In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted, within five years immediately preceding the date of the report, of one or more of the following offenses under Title 18 (relating to crimes and offenses):

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122 (relating to statutory rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4303 (relating to concealing death of child born out of wedlock).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(d) **Prospective adoptive or foster parents.**—With regard to prospective adoptive or prospective foster parents, the following shall apply:

(1) In the course of causing an investigation to be made pursuant to section 2535(a) (relating to investigation), an agency or person designated by the court to conduct the investigation shall require prospective adoptive parents to submit the information set forth in subsection (b)(1) and (2) for review in accordance with this section.

(2) In the course of approving a prospective foster parent, a foster family care agency shall require prospective foster parents to submit the information set forth in subsection (b)(1) and (2) for review by the foster family care agency in accordance with this section.

(e) **Self-employed family day-care providers.**—Self-employed family day-care providers who apply for a certificate of registration with the depart-

ment shall submit with their registration application a report of criminal history record information and shall also obtain certification from the department as to whether the applicant is named in the central register as the perpetrator of a founded report of child abuse.

(f) Submissions by operators of child-care services.—The department shall require persons seeking to operate child-care services to submit the information set forth in subsection (b)(1) and (2) for review in accordance with this section.

(g) Regulations.—The department shall promulgate the regulations necessary to carry out this section. These regulations shall:

(1) Set forth criteria for unsuitability for employment in a child-care service in relation to criminal history record information which may include criminal history record information in addition to that set forth above. The criteria shall be reasonably related to the prevention of child abuse.

(2) Set forth sanctions for administrators who willfully hire applicants in violation of this section or in violation of the regulations promulgated under this section.

(3) Provide for the confidentiality of information obtained pursuant to subsection (b).

(h) Fees.—The department may charge a fee not to exceed \$10 in order to conduct the certification as required in subsection (b)(2).

(i) Time limit for certification.—The department shall comply with certification requests no later than 14 days from the receipt of the request.

(j) Voluntary certification of child caretakers.—The department shall develop a procedure for the voluntary certification of child caretakers to allow persons to apply to the department for a certificate indicating the person has met the requirements of subsection (b). The department shall also provide for the biennial recertification of child caretakers.

(k) Existing or transferred employees.—A person employed in child-care services on January 1, 1986, shall not be required to obtain the information required in subsection (b)(1) and (2) as a condition of continued employment. A person who has once obtained the information required under subsection (b)(1) and (2) may transfer to another child-care service established and supervised by the same organization and shall not be required to obtain additional reports before making the transfer.

(l) Temporary employees under special programs.—The requirements of this section do not apply to employees of child-care services who meet all the following requirements:

(1) They are under 21 years of age.

(2) They are employed for periods of 90 days or less.

(3) They are a part of a job development or job training program funded, in whole or in part, by public or private sources.

Once employment of a person who meets these conditions extends beyond 90 days, all requirements of this section shall take effect.

(m) Provisional employees for limited periods.—Notwithstanding subsection (b), administrators may employ applicants on a provisional basis for

a single period not to exceed 30 days or, for out-of-State applicants, a period of 90 days, if all of the following conditions are met:

(1) The applicant has applied for the information required under subsection (b) and the applicant provides a copy of the appropriate completed request forms to the administrator.

(2) The administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (c).

(3) The applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (c).

(4) If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment pursuant to subsection (c), the applicant shall be immediately dismissed by the administrator.

(5) The administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employee.

**§ 6345. Audits by Attorney General.**

The Attorney General shall conduct a mandated audit done randomly but at least once during each year on an unannounced basis to ensure that the expungement requirements of this chapter are being fully and properly conducted.

**§ 6346. Cooperation of other agencies.**

The secretary may request and shall receive from Commonwealth agencies, political subdivisions, an authorized agency or any other agency providing services under the local child protective services plan any assistance and data that will enable the department and the child protective services to fulfill their responsibilities properly, including law enforcement personnel when assistance is needed in conducting an investigation of alleged child abuse. School districts shall cooperate with the department and the agency by providing them upon request with such information as is consistent with law.

**§ 6347. Annual reports to Governor and General Assembly.**

No later than April 15 of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the central register of child abuse and the various child protective services. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department, together with a report on the implementation of this chapter and its total cost to the Commonwealth, the evaluation of the secretary of services offered under this chapter and recommendations for repeal or for additional legislation to fulfill the purposes of this chapter. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom. The report shall also include an explanation of services provided to children who were the subjects of founded or indicated reports of child abuse while receiving child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

**§ 6348. Regulations.**

The department shall adopt regulations necessary to implement this chapter.

**§ 6349. Penalties.**

(a) Failure to amend or expunge information.—

(1) A person or official authorized to keep the records mentioned in section 6337 (relating to disposition of unfounded reports) or 6338 (relating to disposition of founded and indicated reports) who willfully fails to expunge the information when required commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

(2) A person who willfully fails to obey a final order of the secretary or designated agent of the secretary to amend or expunge the summary of the report in the Statewide central register or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a summary offense.

(b) Unauthorized release of information.—A person who willfully releases or permits the release of any data and information contained in the pending complaint file, the Statewide central register or the child welfare records required by this chapter, including records maintained by any county children and youth social service agency and any child protective service, to persons or agencies not permitted by this chapter commits a misdemeanor of the third degree.

(c) Noncompliance with child-care personnel regulations.—An administrator, or other person responsible for employment decisions in a child-care facility or program, who willfully fails to comply with the provisions of section 6344 (relating to information relating to prospective child-care personnel) commits a violation of this chapter and shall be subject to a civil penalty as provided in this subsection. The department shall have jurisdiction to determine violations of section 6344 and may, following a hearing, assess a civil penalty not to exceed \$2,500. The civil penalty shall be payable to the Commonwealth.

#### SUBCHAPTER D ORGANIZATION AND RESPONSIBILITIES OF CHILD PROTECTIVE SERVICE

**Sec.**

- 6361. Organization of child protective service.
- 6362. Responsibilities of child protective service.
- 6363. Local plan for child protective services.
- 6364. Purchasing services of other agencies.
- 6365. Services for prevention and treatment of child abuse.
- 6366. Continuous availability to receive reports.
- 6367. Reports to department and coroner.
- 6368. Investigation of reports.
- 6369. Taking child into protective custody.
- 6370. Services for protection of child at home or in custody.
- 6371. Rehabilitative services for child and family.



**6372. Protecting well-being of children maintained outside home.****§ 6361. Organization of child protective service.**

(a) **Establishment.**—Unless the department finds it is unfeasible, every county children and youth social service agency shall establish a Child Protective Service within the agency. The department may waive the requirement that a county establish a separate child protective service upon a showing by the county that:

(1) A separate child protective service:

(i) would not be conducive to the best interests of all children within the county who need public child welfare services; and

(ii) would not be feasible or economical.

(2) The goals and objectives of this chapter will continue to be met if a waiver is granted.

If the department grants a waiver under this subsection, the county shall be bound by all other provisions of this chapter, including requirements concerning the maintenance and disclosure of confidential information and records.

(b) **Staff and organization.**—The child protective service shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual children and families.

(c) **Functions authorized.**—The child protective service shall perform those functions assigned by this chapter to it and only such others that would further the purposes of this chapter.

**§ 6362. Responsibilities of child protective service.**

(a) **General rule.**—The child protective service shall be the sole civil agency responsible for receiving and investigating all reports of child abuse made pursuant to this chapter, specifically including, but not limited to, reports of child abuse in facilities operated by the department and other public agencies, for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the well-being and development of the child and to preserve and stabilize family life wherever appropriate.

(b) **Assumption of responsibility by department.**—When the suspected abuse has been committed by the county children and youth social service agency or any of its agents or employees, the department shall assume the role of the agency with regard to the investigation and directly refer the child for services.

(c) **Action by agencies for abuse by agents or employees.**—Where suspected child abuse has occurred and an employee or agent of the department or the county children and youth social service agency or a private or public institution is a subject of the report, the department, agency or institution shall be informed of the investigation so that it may take appropriate action.

§ 6363. Local plan for child protective services.

(a) General rule.—No later than once each year as required by the department, each county agency child protective service shall prepare and submit a local plan for the provision of child protective services. The local plan may be a component of a county human service plan or a children and youth plan which may be required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) Certification by department.—The department shall certify whether or not the local plan fulfills the purposes of and meets the requirements set forth in this chapter. If the department certifies that the local plan does not do so, the department shall state the reasons therefor and may withhold reimbursement for all or part of the activities of the agency. If the department finds that a proposed local plan does not meet the requirements set forth in this chapter, the child protective service shall revise the local plan in accordance with the reasons of the department for disapproval.

§ 6364. Purchasing services of other agencies.

Any other provision of law notwithstanding but consistent with sections 6361 (relating to organization of child protective service) and 6362 (relating to responsibilities of child protective service), the county children and youth social service agency, based upon the local plan of services as provided in section 6363 (relating to local plan for child protective services), may purchase and utilize the services of any appropriate public or private agency.

§ 6365. Services for prevention and treatment of child abuse.

Each child protective service shall make available among its services for the prevention and treatment of child abuse multidisciplinary teams, instruction and education for parenthood, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of groups organized by former abusing parents to encourage self-reporting and self-treatment of present abusers.

§ 6366. Continuous availability to receive reports.

Each child protective service shall receive 24 hours a day, seven days a week, all reports, both oral and written, of suspected child abuse in accordance with this chapter, the local plan for the provision of child protective services and the regulations of the department.

§ 6367. Reports to department and coroner.

(a) Reports to department.—Upon the receipt of each report of suspected child abuse made pursuant to this chapter, the child protective service shall immediately transmit a child abuse report summary as provided in section 6313 (relating to reporting procedure) to the department. Supplemental reports shall be made at regular intervals thereafter in a manner and form the department prescribes by regulation to the end that the department is kept fully informed and up-to-date concerning the status of reports of child abuse.

(b) Reports to coroner.—The child protective service shall give telephone notice and forward immediately a copy of reports made pursuant to this

chapter which involve the death of a child to the appropriate coroner pursuant to section 6317 (relating to reporting and postmortem investigation of deaths).

**§ 6368. Investigation of reports.**

(a) **General rule.**—Upon receipt of each report of suspected child abuse, the child protective service shall commence within 24 hours an appropriate investigation which shall include a determination of the risk to the child or children if they continue to remain in the existing home environment as well as a determination of the nature, extent and cause of any condition enumerated in the report and, after seeing to the safety of the child or children, immediately notify the subjects of the report in writing of the existence of the report and their rights pursuant to this chapter in regard to amendment or expungement.

(b) **Conditions outside home environment.**—The investigation shall determine whether the child is being harmed by factors beyond the control of the parent or other person responsible for the welfare of the child, and, if so determined, the child protective service shall promptly take all available steps to remedy and correct these conditions, including, but not limited to, the coordination of social services for the child and the family.

(c) **Limitation of actions.**—The investigation shall be completed within 30 days. The child protective service shall determine, within 30 days, whether the report is “founded,” “indicated” or “unfounded.”

**§ 6369. Taking child into protective custody.**

Pursuant to the provisions of section 6315 (relating to taking child into protective custody) and after court order, the child protective service shall take a child into protective custody for protection from further abuse. No child protective service worker may enter the home of any individual for this purpose without judicial authorization.

**§ 6370. Services for protection of child at home or in custody.**

(a) **General rule.**—Based on the investigation and evaluation conducted pursuant to this chapter, the child protective service shall provide or contract with private or public agencies for the protection of the child at home whenever possible and those services necessary for adequate care of the child when placed in protective custody. Prior to offering these services to a family, the agency shall explain that it has no legal authority to compel the family to receive the services but may inform the family of the obligations and authority of the child protective service to initiate appropriate court proceedings.

(b) **Initiation of court proceedings.**—In those cases in which an appropriate offer of service is refused and the child protective service determines, or if the service for any other appropriate reason determines, that the best interests of the child require court action, the child protective service shall initiate the appropriate court proceeding. The child protective service shall assist the court during all stages of the court proceeding in accordance with the purposes of this chapter.

**§ 6371. Rehabilitative services for child and family.**

The child protective service shall provide or arrange for and monitor rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the court.

§ 6372. Protecting well-being of children maintained outside home.

The child protective service shall be as equally vigilant of the status, well-being and conditions under which a child is living and being maintained in a facility other than that of a parent, custodian or guardian from which the child has been removed as the service is of the conditions in the dwelling of the parent, custodian or guardian. Where the child protective service finds that the placement for any temporary or permanent custody, care or treatment is for any reason inappropriate or harmful in any way to the physical or mental well-being of the child, it shall take immediate steps to remedy these conditions, including petitioning the court.

SUBCHAPTER E  
MISCELLANEOUS PROVISIONS

Sec.

6381. Evidence in court proceedings.

6382. Guardian ad litem for child in court proceedings.

6383. Education and training.

6384. Legislative oversight.

§ 6381. Evidence in court proceedings.

(a) General rule.—In addition to the rules of evidence provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the rules of evidence in this section shall govern in child abuse proceedings in court.

(b) Reports of unavailable persons.—Whenever a person required to report under this chapter is unavailable due to death or removal from the jurisdiction of the court, the written report of that person shall be admissible in evidence in any proceedings arising out of child abuse other than proceedings under Title 18 (relating to crimes and offenses). Any hearsay contained in the reports shall be given such weight, if any, as the court determines to be appropriate under all of the circumstances. However, any hearsay contained in a written report shall not of itself be sufficient to support an adjudication based on abuse.

(c) Privileged communications.—Except for privileged communications between a lawyer and a client and between a minister and a penitent, a privilege of confidential communication between husband and wife or between any professional person, including, but not limited to, physicians, psychologists, counselors, employees of hospitals, clinics, day-care centers and schools and their patients or clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse or the cause of child abuse.

(d) Prima facie evidence of abuse.—Evidence that a child has suffered serious physical injury, sexual abuse or serious physical neglect of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the welfare of the child shall be prima facie evidence of child abuse by the parent or other person responsible for the welfare of the child.

**§ 6382. Guardian ad litem for child in court proceedings.**

(a) **Appointment.**—When a proceeding has been initiated alleging child abuse, the court shall appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney at law.

(b) **Powers and duties.**—The guardian ad litem shall be given access to all reports relevant to the case and to any reports of examination of the parents or other custodian of the child pursuant to this chapter. The guardian ad litem shall be charged with the representation of the best interests of the child at every stage of the proceeding and shall make such further investigation necessary to ascertain the facts, interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the child.

(c) **Duty of court.**—The court shall, upon consideration of the petition of any attorney for the child, order a local child protective service or other agency to establish and implement, fully and promptly, appropriate services, treatment and plans for a child found in need of them. The court shall also, upon consideration of the petition of an attorney for the child, terminate or alter the conditions of any temporary or permanent placement of a child.

**§ 6383. Education and training.**

The department and each child protective service, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse, the identification of abused children and the provision of necessary ameliorative services to abused children and their families. In addition, the department and each child protective service shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families.

**§ 6384. Legislative oversight.**

A committee of the Senate designated by the President pro tempore of the Senate and a committee of the House of Representatives designated by the Speaker of the House of Representatives, either jointly or separately, shall review the manner in which this chapter has been administered at the State and local level for the following purposes:

(1) Providing information that will aid the General Assembly in its oversight responsibilities.

(2) Enabling the General Assembly to determine whether the programs and services mandated by this chapter are effectively meeting the goals of this chapter.

(3) Assisting the General Assembly in measuring the costs and benefits of this program and the effects and side-effects of mandated program services.

(4) Permitting the General Assembly to determine whether the confidentiality of records mandated by this chapter is being maintained at the State and local level.

(5) Providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this chapter.

Section 3. Amendments to Title 18.—Section 2711(d) of Title 18 is amended to read:

§ 2711. Probable cause arrests in domestic violence cases.

\* \* \*

(d) Notice of rights.—Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: “If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to [the act of October 7, 1976 (P.L.1090, No.218), known as the Protection From Abuse Act,] 23 Pa.C.S. Ch. 61 (relating to protection from abuse) which could include the following:

- (1) An order restraining the abuser from further acts of abuse.
- (2) An order directing the abuser to leave your household.
- (3) An order preventing the abuser from entering your residence, school, business or place of employment.
- (4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
- (5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.”

Section 4. Amendments to Title 42.—Sections 1725.1(c), 4136, 5924, 5945, 7541(c) and 8127 of Title 42 are amended and the title is amended by adding sections to read:

§ 1126. Masters.

*The President Judge of the Philadelphia Municipal Court may appoint attorneys who are members of the Pennsylvania Bar to serve as masters in proceedings under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).*

§ 1725.1. Costs.

\* \* \*

(c) Unclassified costs or charges.—The costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

- (1) Entering transcript of judgment from another member of the minor judiciary..... \$ 3.00
- (2) Marrying each couple, making record thereof, and certificate to the parties..... \$10.00
- (3) Granting emergency relief pursuant to [the act of October 7, 1976 (P.L.1090, No.218), known as the “Protection From Abuse Act”] 23 Pa.C.S. Ch. 61 (relating to protection from abuse)..... \$10.00
- (4) Issuing a search warrant (except as provided in subsection (d))..... \$10.00

(5) Any other issuance not otherwise provided for in this subsection..... \$10.00  
 \* \* \*

§ 4136. Rights of persons charged with certain indirect criminal contempts.

(a) General rule.—A person charged with indirect criminal contempt for violation of a restraining order or injunction issued by a court shall enjoy:

- (1) The rights to bail that are accorded to persons accused of crime.
- (2) The right to be notified of the accusation and a reasonable time to make a defense, if the alleged contempt is not committed in the immediate view or presence of the court.
- (3) (i) Upon demand, the right to a speedy and public trial by an impartial jury of the judicial district wherein the contempt is alleged to have been committed.
- (ii) The requirement of subparagraph (i) shall not be construed to apply to contempts:

(A) **[committed]** *Committed* in the presence of the court or so near thereto as to interfere directly with the administration of justice, or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court[; or].

(B) *Subject to 23 Pa.C.S. § 6114 (relating to contempt for violation of order or agreement).*

**[(B) subject]** (C) *Subject to 75 Pa.C.S. § 4108(c) (relating to nonjury criminal contempt proceedings).*

(4) The right to file with the court a demand for the withdrawal of the judge sitting in the proceeding, if the alleged contempt arises from an attack upon the character or conduct of such judge, and if the attack occurred otherwise than in open court. Upon the filing of any such demand, the judge shall thereupon proceed no further but another judge shall be designated by the court. The demand shall be filed prior to the hearing in the contempt proceeding.

(b) Punishment.—Except as otherwise provided in this title or by statute hereafter enacted, punishment for a contempt specified in subsection (a) may be by fine not exceeding \$100 or by imprisonment not exceeding 15 days in the jail of the county where the court is sitting, or both, in the discretion of the court. Where a person is committed to jail for the nonpayment of such a fine, he shall be discharged at the expiration of 15 days, but where he is also committed for a definite time, the 15 days shall be computed from the expiration of the definite time.

§ 5924. Spouses as witnesses against each other.

(a) General rule.—In a civil matter neither husband nor wife shall be competent or permitted to testify against each other.

(b) Exception.—Subsection (a) shall not apply in an action or proceeding:

- (1) For divorce, including ancillary proceedings for the partition or division of property.

(2) For support or relating to the protection or recovery of marital or separate property.

(3) For custody or care of children, including actions or proceedings relating to visitation rights and similar matters.

(4) Arising under [the act of October 7, 1976 (P.L.1090, No.218), known as the "Protection From Abuse Act."] 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(5) When a statute heretofore or hereafter enacted applicable to the action or proceeding provides either expressly or by necessary implication that spouses may testify therein against each other.

§ 5945. Confidential communications to school personnel.

(a) General rule.—No guidance counselor, school nurse, school psychologist, or home and school visitor in the public schools or in private or parochial schools or other educational institutions providing elementary or secondary education, including any clerical worker of such schools and institutions, who, while in the course of his professional or clerical duties for a guidance counselor, home and school visitor, school nurse or school psychologist, has acquired information from a student in confidence shall be compelled or allowed:

(1) without the consent of the student, if the student is 18 years of age or over; or

(2) without the consent of his parent or guardian, if the student is under the age of 18 years;

to disclose such information in any legal proceeding, trial, or investigation before any government unit.

(b) Exemption.—Notwithstanding subsection (a), no such person shall be excused or prevented from complying with [the act of November 26, 1975 (P.L.438, No.124), known as the "Child Protective Services Law."] 23 Pa.C.S. Ch. 63 (relating to child protective services).

§ 5948. Confidential communications to qualified professionals.

*Communications of a confidential character made by a spouse to a qualified professional as defined in 23 Pa.C.S. § 3103 (relating to definitions) shall be privileged and inadmissible in evidence in any matter under 23 Pa.C.S. Pt. IV (relating to divorce) or VI (relating to children and minors) unless the party concerned waives this privilege.*

§ 7541. Construction of subchapter.

\* \* \*

(c) Exceptions.—Relief shall not be available under this subchapter with respect to any:

(1) Action wherein a divorce or annulment of marriage is sought *except as provided by 23 Pa.C.S. § 3306 (relating to proceedings to determine marital status).*

(2) Proceeding within the exclusive jurisdiction of a tribunal other than a court.

(3) Proceeding involving an appeal from an order of a tribunal.



§ 8127. Personal earnings exempt from process.

The wages, salaries and commissions of individuals shall while in the hands of the employer be exempt from any attachment, execution or other process except upon an action or proceeding:

(1) *Under 23 Pa.C.S. Pt. IV (relating to divorce).*

[(1)] (2) For support.

[(2)] (3) For board for four weeks or less.

[(3)] (4) Under the act of August 7, 1963 (P.L.549, No.290), referred to as the Pennsylvania Higher Education Assistance Agency Act.

Section 5. Construction of Divorce Code.—The provisions of 23 Pa.C.S. Pt. IV (relating to divorce) shall apply to all cases, whether the cause for divorce or annulment arose prior or subsequent to the enactment of this act. The provisions of 23 Pa.C.S. Pt. IV shall not affect any suit or action pending on the effective date of the Divorce Code of 1980, but the suit or action may be proceeded with and concluded either under the laws in existence when the suit or action was instituted, notwithstanding the repeal of such laws, or, upon application granted, under the provisions of 23 Pa.C.S. Pt. IV. The provisions of 23 Pa.C.S. Pt. IV shall not apply to any case in which a decree has been rendered prior to the effective date of the Divorce Code of 1980. The provisions of 23 Pa.C.S. Pt. IV shall not affect any marital agreement executed prior to the effective date of the Divorce Code of 1980 or any amendment or modification thereto.

Section 6. Repeals.—(a) The following acts and parts of acts are repealed:

Act of March 13, 1815 (P.L.150, No.109), entitled “An act concerning divorces.”

Act of April 11, 1848 (P.L.536, No.372), entitled “A supplement to an act, entitled ‘An Act relative to the Le Raysville Phalanx,’ passed March, Anno Domini one thousand eight hundred and forty-seven, and relative to obligors and obligees, to secure the right of married women, in relation to defalcation, and to extend the boundaries of the borough of Ligonier.”

Act of April 15, 1851 (P.L.669, No.358), entitled “An act to incorporate a company to erect a bridge over the river Schuylkill at Spring Mill, in Montgomery county, relative to the nineteenth section of ‘An act regulating certain election districts, &c,’ approved March twenty-ninth, eighteen hundred and fifty-one, to school directors in Philadelphia county, to actions for damages sustained by injuries done to the person by negligence or default, relative to the accounts of John Humes, deceased, to authorize the trustees of the Seventh Presbyterian church of Philadelphia to convey certain real estate, to security for moneys loaned by wives to husbands, to unpaid school taxes in Bradford county, and relative to service or process on agents of joint stock companies.”

Act of May 14, 1857 (P.L.507, No.567), entitled “An act to Legitimate Children Born out of Lawful Wedlock.”

Act of April 21, 1858 (P.L.413, No.444), entitled “An act relating to Illegitimate Children.”

Act of March 22, 1865 (P.L.30, No.14), entitled, as amended, "An act to authorize minor husbands and wives, seventeen years of age and older, to join in conveyances of their adult spouses' real estate, and to validate such conveyances heretofore made."

Act of April 6, 1868 (P.L.67, No.31), entitled "An act to validate certain marriages and legitimize the issue thereof."

Act of June 2, 1871 (P.L.283, No.263), entitled "An act to authorize married women owning capital stock of any railroad company to sell and transfer the same."

Act of April 3, 1872 (P.L.35, No.24), entitled "An act securing to married women their separate earnings."

Act of April 1, 1874 (P.L.49, No.9), entitled "An act to authorize married women owning loans of this commonwealth, or of the city of Philadelphia, or capital stock of any corporation of this commonwealth, to sell and transfer the same."

Act of May 15, 1874 (P.L.179, No.110), entitled "An act to prevent traffic in children."

Act of June 26, 1895 (P.L.316, No.232), entitled "An act relating to husband and wife who are the parents of minor children, enlarging and extending the power, control and authority of the mother over their minor children, under certain circumstances."

Act of June 11, 1913 (P.L.468, No.313), entitled "An act to provide for the execution of orders of the court of quarter sessions, or other court of competent jurisdiction, for support and maintenance of a wife or children, or both, and for the execution of judgment entered upon contracts for such support and maintenance, by subjecting estates owned by the husband and wife by *entireties*, and the *rents*, *issues* and *profits* thereof, to such executions; defining the title of the purchaser at the sheriff's sale on such executions; and providing for the application of the proceeds of such sales."

Act of April 18, 1919 (P.L.67, No.52), entitled "An act to give to women, married and single, the same right as men to be incorporators, and, in furtherance of their interests as stockholders, to serve as directors and officers of corporations for profit."

Act of May 24, 1923 (P.L.446, No.238), entitled "An act authorizing the sale of real estate held by *entireties* by husband and wife when an order of support has been secured against the husband who has neglected to comply with the same, or whose whereabouts is unknown, or who has absented himself from this Commonwealth; prescribing the procedure to be followed; permitting husband and wife to testify; providing for the disposition of the proceeds of such sale; and granting a divorced woman the same rights under this act as a wife."

Act of April 11, 1927 (P.L.181, No.151), entitled "An act authorizing a married woman, granted a divorce from bed and board, to convey and encumber her real estate, without the joinder of her husband."

Act of May 10, 1927 (P.L.884, No.451), entitled, as amended, "An act modifying the common-law rule relating to property hereafter acquired by husband and wife as tenants by *entireties*, where such husband and wife are

subsequently divorced; creating a tenancy in common in such cases; providing for the sale of property held by husband and wife as tenants by entireties where they have been divorced; and directing the distribution of the proceeds of such sale.”

Act of June 22, 1935 (P.L.450, No.189), entitled “An act to promote public morals; abolishing civil causes of action for alienation of affections, except in certain cases, and breach of promise to marry; making it unlawful to file, cause to be filed, threaten to file, or threaten to cause to be filed any such action; fixing a time for the commencement of such causes of action heretofore accrued; declaring void all future contracts in settlement of such actions; making it unlawful to induce the execution of such a contract or payment thereunder or institution of suit thereon; and providing penalties.”

Act of May 13, 1949 (P.L.1319, No.390), entitled “An act authorizing the conveyance of the interest of either former spouse after a divorce to the other without the joinder of the other, of such former spouse’s interest in real estate which is held by them as tenants by the entireties, and validating such conveyances formerly made.”

Act of August 22, 1953 (P.L.1344, No.383), known as The Marriage Law.

Act of December 17, 1959 (P.L.1916, No.695), entitled “An act relating to the legitimacy of children born of void or voidable marriages.”

Act of August 7, 1961 (P.L.961, No.426), entitled “An act authorizing minor spouses to join their adult spouse in the conveyance or mortgaging of their real estate and to execute bonds or other obligations in connection therewith and validating such action taken.”

Act of July 27, 1967 (P.L.186, No.58), entitled “An act imposing liability upon parents for personal injury, or theft, destruction, or loss of property caused by the wilful, tortious acts of children under eighteen years of age, setting forth limitations, and providing procedure for recovery.”

Act of June 16, 1972 (P.L.472, No.151), entitled “An act authorizing persons eighteen years of age and older to enter into contracts.”

Act of December 6, 1972 (P.L.1404, No.300), entitled “An act making a person eighteen and older an adult for the purpose of suing and being sued.”

Act of November 26, 1975 (P.L.438, No.124), known as the Child Protective Services Law.

Act of October 7, 1976 (P.L.1090, No.218), known as the Protection From Abuse Act.

Act of April 2, 1980 (P.L.63, No.26), known as the Divorce Code.

Act of May 24, 1984 (P.L.326, No.64), known as the Pennsylvania Adoption Cooperative Exchange Act.

42 Pa.C.S. Ch. 53 Subch. C (relating to child custody jurisdiction).

42 Pa.C.S. Ch. 61 Subch. C (relating to blood tests to determine paternity).

42 Pa.C.S. Ch. 67 (relating to protection from abuse).

(b) Nothing in this act shall repeal, modify or supplant section 7 of the act of February 12, 1988 (P.L.66, No.13), entitled “An act amending the act of April 2, 1980 (P.L.63, No.26), entitled ‘An act consolidating, revising and amending the divorce and annulment laws of the Commonwealth and

making certain repeals, ' further providing for grounds for divorce, enforcement of foreign decrees, procedure, jurisdiction, marital property, relief and alimony; providing for agreements between parties; making editorial changes; and making a repeal.'"

(c) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 7. Effective date.—This act shall take effect in 90 days.

APPROVED—The 19th day of December, A. D. 1990.

ROBERT P. CASEY