

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1525 Session of 2015

INTRODUCED BY PETRI, WATSON, COHEN, HARHART, MILLARD, D. PARKER, PICKETT, ZIMMERMAN, MOUL AND MICCARELLI, OCTOBER 14, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 17, 2016

AN ACT

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

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

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

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

16 * * *

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

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

1 (2) The individual does not acknowledge paternity of the
2 child.

3 (3) No court has determined that the individual is the
4 father of the child.

5 (4) The individual has no interests in proceedings under
6 this part concerning the child.

7 "Household." A group of people who reside together in the
8 same housing unit.

9 * * *

10 "Putative father." An alleged birth father of a child
11 conceived or born out of wedlock whose parental status has not
12 been legally established.

13 Section 2. Sections 2503(a), (b) (3) and (d) and 2512(c) of
14 Title 23 are amended to read:

15 § 2503. Hearing.

16 (a) General rule.--Upon presentation of a petition prepared
17 pursuant to section 2501 (relating to relinquishment to agency)
18 or section 2502 (relating to relinquishment to adult intending
19 to adopt child), the court shall fix a time for hearing which
20 shall not be less than ten days, nor more than 20 days, after
21 filing of the petition[.] UNLESS THE PETITIONER REQUESTS A LATER <--
22 DATE, IN WHICH CASE THE HEARING SHALL BE SCHEDULED NOT LATER
23 THAN 30 DAYS AFTER FILING OF THE PETITION. The petitioner must
24 appear at the hearing.

25 (b) Notice.--

26 * * *

27 (3) The [copy of the notice which is given to the]
28 putative father shall [state that his rights may also be
29 subject to termination pursuant to subsection (d) if he fails
30 to file either an acknowledgment of paternity or claim of

1 paternity pursuant to section 5103 (relating to
2 acknowledgment and claim of paternity) and fails to either
3 appear at the hearing for the purpose of objecting to the
4 termination of his rights or file a written objection to such
5 termination with the court prior to the hearing.] be given
6 notice in the form provided in section 2513(b) (relating to
7 hearing). If the identity or whereabouts of the putative
8 father is unknown, notice shall be given under section
9 2514(b) (relating to notice if identity or whereabouts of
10 parent or putative father unknown). Notice under this
11 paragraph shall state that the putative father's rights may
12 also be terminated under subsection (d) if any of the
13 following apply:

14 (i) He fails to file with the court prior to the
15 hearing a written objection to the termination.

16 (ii) He fails to appear at the hearing for the
17 purpose of objecting to the termination of his rights.

18 * * *

19 (d) [Putative father] Termination of putative father's
20 parental rights.--If a putative father [will not file a petition
21 to voluntarily relinquish his parental rights pursuant to
22 section 2501 (relating to relinquishment to agency) or 2502
23 (relating to relinquishment to adult intending to adopt child),]
24 has been given notice of the hearing being held pursuant to this
25 section [and], the court may enter a decree terminating his
26 parental rights, whether or not the putative father has filed a
27 claim of paternity under section 5103(b) (relating to
28 acknowledgment and claim of paternity), if the putative father
29 fails to [either]:

30 (1) file a written objection to the termination with the

1 court prior to the hearing; or

2 (2) appear at that hearing for the purpose of objecting
3 to termination of his parental rights [or file a written
4 objection to such termination with the court prior to the
5 hearing and has not filed an acknowledgment of paternity or
6 claim of paternity pursuant to section 5103, the court may
7 enter a decree terminating the parental rights of the
8 putative father pursuant to subsection (c)].

9 * * *

10 § 2512. Petition for involuntary termination.

11 * * *

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

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

17 § 2514. Notice if identity or whereabouts of parent or putative
18 father unknown.

19 (a) Diligent search.--A petitioner under sections 2501
20 (relating to relinquishment to agency), 2502 (relating to
21 relinquishment to adult intending to adopt child), 2504
22 (relating to alternative procedure for relinquishment) and 2512
23 (relating to petition for involuntary termination) must
24 establish that a diligent search has been made to identify or
25 locate a parent or putative father for the purpose of providing
26 notice in a proceeding under this part.

27 (b) Notice by publication.--If the petitioner can establish
28 that an unsuccessful diligent search has been made to identify
29 or locate a parent or putative father, notice of the proceeding
30 may be given to the parent or putative father by publication one

1 time in both a newspaper of general circulation and in the
2 county legal journal at least 10 days before the date of the
3 hearing. Proof of publication of the notice provided under this
4 subsection must be submitted to the court.

5 (c) Waiver of diligent search and publication of notice.--If
6 the putative father knows or has reason to know of the child's
7 birth, and the putative father has failed to make reasonable
8 efforts to maintain substantial and continuing contact with the
9 child and provide substantial financial support for the child,
10 the court may waive the requirement for a diligent search and
11 the publication of notice. Notice to a putative father shall be
12 considered given under this section if the court waives the
13 requirement for a diligent search and the publication of notice
14 and makes a specific determination that additional efforts to
15 locate or identify the putative father and provide notice do not
16 serve the best interests of the child.

17 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <--
18 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
19 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

20 "DILIGENT SEARCH." A SEARCH MADE TO IDENTIFY AND LOCATE A
21 PARENT OR PUTATIVE FATHER FOR THE PURPOSE OF PROVIDING NOTICE IN
22 AN ADOPTION PROCEEDING. A DILIGENT SEARCH SHALL INCLUDE, BUT NOT
23 BE LIMITED TO, ALL OF THE FOLLOWING:

24 (1) AN INQUIRY TO THE UNITED STATES POSTAL SERVICE TO
25 DETERMINE THE LAST KNOWN ADDRESS OF THE INDIVIDUAL.

26 (2) AN INQUIRY TO OR SEARCH OF THE RECORDS OF THE
27 DEPARTMENT OF HUMAN SERVICES, OR ITS EQUIVALENT IN THE STATE
28 IN WHICH THE INDIVIDUAL MAY RESIDE, INCLUDING PUBLIC
29 ASSISTANCE OR BENEFITS, CHILD SUPPORT PAYMENTS AND ANY OTHER
30 RECORDS MAINTAINED BY THE DEPARTMENT THAT MAY CONTAIN A LAST

1 KNOWN ADDRESS FOR THE SUBJECT OF THE INQUIRY.

2 (3) AN INQUIRY TO OR SEARCH OF THE RECORDS OF THE
3 DEPARTMENT OF TRANSPORTATION, OR ITS EQUIVALENT IN THE STATE
4 IN WHICH THE INDIVIDUAL MAY RESIDE, RELATING TO PERSONAL
5 IDENTIFICATION, DRIVER'S LICENSING, VEHICLE REGISTRATION,
6 TRAFFIC VIOLATIONS AND OTHER DRIVING OR VEHICLE RELATED
7 RECORDS THAT MAY CONTAIN A LAST KNOWN ADDRESS FOR THE SUBJECT
8 OF THE INQUIRY.

9 (4) AN INQUIRY TO OR SEARCH OF THE RECORDS OF THE
10 DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF STATE AND THE
11 DEPARTMENT OF REVENUE OR THEIR EQUIVALENTS IN THE STATE IN
12 WHICH THE INDIVIDUAL MAY RESIDE, THAT MAY CONTAIN A LAST
13 KNOWN ADDRESS FOR THE SUBJECT OF THE INQUIRY.

14 (5) A SEARCH OF MARRIAGE AND DIVORCE RECORDS, WILLS AND
15 ESTATES, DEEDS AND LAND RECORDS AND ANY OTHER PUBLIC RECORDS
16 FILED WITH THE JURISDICTION IN WHICH THE INDIVIDUAL MAY
17 RESIDE.

18 (6) INQUIRIES TO LOCAL LAW ENFORCEMENT AGENCIES AND
19 DATABASES IN THE JURISDICTION IN WHICH THE INDIVIDUAL MAY
20 RESIDE.

21 (7) AN INQUIRY TO THE PENNSYLVANIA STATE POLICE OR OTHER
22 STATEWIDE LAW ENFORCEMENT ENTITIES IN THE STATE WHERE THE
23 PERSON MAY RESIDE.

24 (8) AN INQUIRY TO OR SEARCH OF THE RECORDS OF THE ARMED
25 FORCES OF THE UNITED STATES AS TO WHETHER THERE IS ANY
26 INFORMATION AS TO THE PERSON.

27 (9) AN INTERNET SEARCH INCLUDING ONLINE SEARCH ENGINES,
28 SOCIAL MEDIA, GENEALOGY WEBSITES AND ANY OTHER ONLINE SOURCE
29 THAT MAY PROVIDE THE CURRENT RESIDENCE OR WHEREABOUTS OF THE
30 SUBJECT OF THE INQUIRY.

1 (10) AN INQUIRY TO THE UNITED STATES DEPARTMENT OF
2 HOMELAND SECURITY.

3 (11) AN INQUIRY TO THE UNITED STATES DEPARTMENT OF
4 STATE.

5 (12) ANY OTHER SOURCE THE COURT DETERMINES TO BE
6 NECESSARY TO IDENTIFY AND LOCATE A PARENT OR PUTATIVE FATHER
7 FOR THE PURPOSE OF PROVIDING NOTICE IN AN ADOPTION
8 PROCEEDING.

9 Section 4. Section 2711(c) of Title 23 is amended and the
10 section is amended by adding a subsection to read:

11 § 2711. Consents necessary to adoption.

12 * * *

13 (c) Validity of consent.--

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

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

28 (3) Any consent given outside this Commonwealth shall be
29 valid for purposes of this section if it was given in
30 accordance with the laws of the jurisdiction where it was

1 executed.

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

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

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

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

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

15 (2) An individual may not waive the revocation period
16 under paragraph (1).

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

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

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

24 (B) Thirty days after the entry of the adoption
25 decree.

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

28 (i) is proven by:

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

1 (B) clear and convincing evidence in all other
2 cases.

3 * * *

4 (e) Waiver of notice requirements.--A birth mother, father
5 or putative father who has consented to an adoption may execute
6 a waiver of notice of all legal proceedings concerning the
7 child. A person who has executed a waiver of further notice
8 under this subsection shall be provided with the advisement
9 required by section 2504(d) (relating to alternative procedure
10 for relinquishment) of the continuing right to file personal and
11 medical history pursuant to Subchapter B of Chapter 29 (relating
12 to records and access to information).

13 Section 5. Section 2712 of Title 23 is repealed:

14 [§ 2712. Consents not naming adopting parents.

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

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