

No. 1978-46

AN ACT

HB 1106

Amending the act of July 13, 1953 (P.L.431, No.95), entitled "An act relating to support of dependents; providing a procedure for enforcement thereof, including attachment of property and earnings; conferring powers and imposing duties upon courts, district attorneys and probation officers," requiring support of a child born out of lawful wedlock, requiring the action to be brought within certain time limits, requiring trial by the court or by jury in a civil action and making repeals.

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

Section 1. Section 2, act of July 13, 1953 (P.L.431, No.95), known as "The Pennsylvania Civil Procedural Support Law," amended August 14, 1963 (P.L.872, No.420), is amended to read:

Section 2. Definitions.—The masculine pronoun when used in this act shall be construed to include the female.

"Court" as used in this act shall be construed to mean the [quarter sessions court] *court of common pleas* of any county, the County Court of Philadelphia and the County Court of Allegheny County.

"Law" includes both common and statute law.

"Duty of Support" includes any duty of support imposed or imposable by law or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, legal separation, separate maintenance, prosecution for failure to support a child born out of lawful wedlock, *support of a child born out of lawful wedlock*, or otherwise.

"Probation Officer" shall include any officer now or hereafter serving in any court at the direction of the court in the Domestic Relations Division of this court and to whom is assigned the enforcement of the duty to support.

"Initiating County" means any county in which any proceeding pursuant to this act is commenced.

"Responding County" means any county (including the initiating county) in which any proceeding pursuant to the proceeding in the initiating county is or may be commenced.

"Complaint" shall include any petition, information, affidavit or any other legal document for the institution of support proceedings.

Section 2. Section 5 of the act is amended by adding subsections to read:

Section 5. Commencement of Actions.—* * *

(e) *All actions commenced under this section shall be brought within six years of the birth of the child, except where the reputed father shall have*

voluntarily contributed to the support of the child or shall have acknowledged in writing his paternity, in which case an action may be brought at any time within two years of any such contribution or acknowledgement by the reputed father.

(f) An action commenced under this act shall be a civil action in accordance with the Rules of Civil Procedure. Where the paternity of a child born out of wedlock is disputed, the determination of paternity shall be by the court without a jury unless either party demands trial by jury. The trial, whether or not a trial by jury is demanded, shall be a civil action and there shall be no right to a criminal trial on the issue of paternity. The burden of proof shall be by a preponderance of the evidence.

Section 3. (a) Section 4323 of Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes is repealed, except that prosecutions already commenced under that section on the effective date of this act shall not be affected by this repeal.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent herewith.

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

APPROVED—The 28th day of April, A. D. 1978.

MILTON J. SHAPP