

No. 2015-40

AN ACT

SB 663

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in support matters generally, further providing for liability for support; and, in child custody, further providing for consideration of criminal conviction.

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

Section 1. Section 4321 of Title 23 of the Pennsylvania Consolidated Statutes is amended by adding a paragraph to read:

§ 4321. Liability for support.

Subject to the provisions of this chapter:

* * *

(2.1) Paragraph (2) applies whether or not parental rights of the parent have been terminated due to a conviction for any of the following where the other parent is the victim and a child has been conceived as a result of the offense:

(i) 18 Pa.C.S. § 3121 (relating to rape);

(ii) 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault);

(iii) 18 Pa.C.S. § 3124.1 (relating to sexual assault), where the offense involved sexual intercourse;

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

(v) 18 Pa.C.S. § 4302 (relating to incest), where the offense involved sexual intercourse.

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

* * *

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

§ 5329. Consideration of criminal conviction.

* * *

(b.1) Parent convicted of certain sexual offenses.—

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

18 Pa.C.S. § 3121.

18 Pa.C.S. § 3122.1.

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

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

18 Pa.C.S. § 4302.

(2) A court may award any type of custody set forth in section 5323 to a parent who has been convicted of an offense under paragraph (1) if:

(i) the parent who is a victim had an opportunity to address the court;

(ii) the child is of suitable age and consents to the custody order; and

(iii) the court determines the award is in the best interest of the child.

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

**** * ****

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

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

APPROVED—The 1st day of October, A.D. 2015

TOM WOLF