

No. 1996-124

AN ACT

SB 434

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for definitions, for arrearages, for contempt of the court order, for attachment of income and for petition for custody by grandparents; and adding provisions relating to same sex marriages.

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

Section 1. Section 1102 of Title 23 of the Pennsylvania Consolidated Statutes is amended by adding a definition to read:

§ 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:

* * *

“Marriage.” A civil contract by which one man and one woman take each other for husband and wife.

* * *

Section 2. Title 23 is amended by adding a section to read:
§ 1704. ***Marriage between persons of the same sex.***

It is hereby declared to be the strong and longstanding public policy of this Commonwealth that marriage shall be between one man and one woman. A marriage between persons of the same sex which was entered into in another state or foreign jurisdiction, even if valid where entered into, shall be void in this Commonwealth.

Section 3. The definition of “income” in section 4302 of Title 23 is amended and the section is amended by adding definitions to read:

§ 4302. 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:

* * *

“Government agency.” Any agency of the Commonwealth, including departments, boards, commissions, authorities, any political subdivisions or agency of such political subdivision or local or municipal authority or other local government unit or any court or related agency.

“Income.” Includes compensation for services, including, but not limited to, wages, salaries, fees, compensation in kind, commissions and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and

endowment contracts; all forms of retirement; pensions; income from discharge of indebtedness; distributive share of partnership gross income; income in respect of a decedent; income from an interest in an estate or trust; military retirement benefits; railroad employment retirement benefits; social security benefits; temporary and permanent disability benefits; workmen's compensation and unemployment compensation; *or other entitlements to money or lump sum awards, without regard to source.*

* * *

"Labor organization." The term shall have the meaning given the term in section 2(5) of the National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151 et seq.) and shall include an entity used by the organization and an employer to carry out requirements of an agreement between the organization and the employer as set forth in section 8(f)(3) of the National Labor Relations Act.

* * *

Section 4. Section 4304 of Title 23 is repealed.

Section 5. Title 23 is amended by adding a section to read:

§ 4304.1. Cooperation of government agencies.

(a) Cooperation of government agencies.—Notwithstanding any other provision of law, including the provisions of section 731 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, all government agencies shall:

(1) At the request of the Department of Public Welfare provide information in a form prescribed by the department regarding a person's wages, income, telephone numbers, addresses, Social Security number and date of birth, employer names, addresses and telephone numbers.

(2) Require the Social Security number of an individual on any application for a professional or occupational license or certification.

(3) Require the Social Security number of any individual subject to a support order, paternity determination or acknowledgment of paternity in all records relating to the matter.

(b) Cooperation of labor organizations.—Labor organizations shall at the request of the Department of Public Welfare provide information in a form prescribed by the department regarding wages, income, telephone numbers, addresses, Social Security numbers and date of birth, employer names, addresses and telephone numbers.

(c) Penalty.—Following notice and hearing, the Department of Public Welfare may impose a civil penalty of up to \$1,000 per violation upon any government agency or labor organization which willfully fails to comply with a request by the Department of Public Welfare for information pursuant to this section.

(d) Confidentiality.—Any information provided or collected pursuant to this section shall be confidential and may only be used for purposes of child support enforcement by the Department of Public Welfare. Any person, government agency, employer or agent of the department who

divulges such information in a manner not provided in this section commits a misdemeanor of the third degree and, upon conviction, shall be sentenced to pay a fine of up to \$1,000 per violation and costs and shall be subject to a term of imprisonment of not more than one year, or both.

(e) Immunity.—A person, government agency or labor organization providing information pursuant to this section shall not be subject to civil or criminal liability. The immunity provided by this subsection shall not apply to any person or agent of a government agency or labor organization who knowingly supplies false information under this section.

Section 6. Sections 4345, 4348(o) and 5313 of Title 23 are amended to read:

§ 4345. Contempt for noncompliance with support order.

(a) General rule.—A person who willfully fails to comply with any order under this chapter, except an order subject to section 4344 (relating to contempt for failure of obligor to appear), may, as prescribed by general rule, be adjudged in contempt. Contempt shall be punishable by any one or more of the following:

(1) Imprisonment for a period not to exceed six months.

(2) A fine not to exceed [~~\$500~~] *\$1,000*.

(3) Probation for a period not to exceed [~~six months~~] *one year*.

(b) Condition for release.—An order committing a defendant to jail under this section shall specify the condition the fulfillment of which will result in the release of the obligor.

§ 4348. Attachment of income.

* * *

(o) Priority of attachment.—An order of attachment for support shall have priority over any attachment, execution, garnishment, *State or local tax withholding* or wage assignment.

* * *

§ 5313. When [~~child has resided with~~] grandparents *may petition*.

(a) *Partial custody and visitation*.—If an unmarried child has resided with his grandparents or great-grandparents for a period of 12 months or more and is subsequently removed from the home by his parents, the grandparents or great-grandparents may petition the court for an order granting them reasonable partial custody or visitation rights, or both, to the child. The court shall grant the petition if it finds that visitation rights would be in the best interest of the child and would not interfere with the parent-child relationship.

(b) *Physical and legal custody*.—*A grandparent has standing to bring a petition for physical and legal custody of a grandchild. If it is in the best interest of the child not to be in the custody of either parent and if it is in the best interest of the child to be in the custody of the grandparent, the court may award physical and legal custody to the grandparent. This subsection applies to a grandparent:*

(1) *who has genuine care and concern for the child;*

(2) whose relationship with the child began with the consent of a parent of the child or pursuant to an order of court; and

(3) who for 12 months has assumed the role and responsibilities of the child's parent, providing for the physical, emotional and social needs of the child, or who assumes the responsibility for a child who has been determined to be a dependent child pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who assumes or deems it necessary to assume responsibility for a child who is substantially at risk due to parental abuse, neglect, drug or alcohol abuse or mental illness. The court may issue a temporary order pursuant to this section.

Section 7. This act shall take effect in 60 days.

APPROVED—The 16th day of October, A.D. 1996.

THOMAS J. RIDGE