

## No. 2005-43

## AN ACT

## SB 86

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, consolidating The Support Law; further providing for property of persons liable for support expenses; further providing for disposition of complaints received; and making a repeal related to the consolidation of The Support Law.

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

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

CHAPTER 46  
SUPPORT OF THE INDIGENT

## Sec.

- 4601. Scope of chapter.
- 4602. Definitions.
- 4603. Relatives' liability; procedure.
- 4604. Property liable for expenses.
- 4605. Recovery of money.
- 4606. Guardian.

## § 4601. Scope of chapter.

This chapter relates to support of indigent persons.

## § 4602. 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:

“Court.” A court of common pleas and the Philadelphia Municipal Court.

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

## § 4603. Relatives' liability; procedure.

## (a) Liability.—

(1) Except as set forth in paragraph (2), all of the following individuals have the responsibility to care for and maintain or financially assist an indigent person, regardless of whether the indigent person is a public charge:

- (i) The spouse of the indigent person.
- (ii) A child of the indigent person.
- (iii) A parent of the indigent person.

(2) Paragraph (1) does not apply in any of the following cases:

- (i) If an individual does not have sufficient financial ability to support the indigent person.

(ii) A child shall not be liable for the support of a parent who abandoned the child and persisted in the abandonment for a period of ten years during the child's minority.

(b) Amount.—

(1) Except as set forth in paragraph (2), the amount of liability shall be set by the court in the judicial district in which the indigent person resides.

(2) For medical assistance for the aged other than public nursing home care, as provided in section 401 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, the following apply:

(i) Except as set forth in subparagraph (ii), the amount of liability shall, during any 12-month period, be the lesser of:

(A) six times the excess of the liable individual's average monthly income over the amount required for the reasonable support of the liable individual and other persons dependent upon the liable individual; or

(B) the cost of the medical assistance for the aged.

(ii) The department may, by reasonable regulations, adjust the liability under subparagraph (i), including complete elimination of the liability, at a cost to the Commonwealth not exceeding those funds certified by the Secretary of the Budget as available for this purpose.

(c) Procedure.—A court has jurisdiction in a case under this section upon petition of:

(1) an indigent person; or

(2) any other person or public body or public agency having any interest in the care, maintenance or assistance of such indigent person.

(d) Contempt.—

(1) If an individual liable for support under this section fails to comply with an order under this section, the court shall schedule a contempt hearing. At the hearing, if the court determines that the individual liable for support has intentionally failed to comply with the order, the court may hold the individual in contempt of court and may sentence the individual to up to six months' imprisonment.

(2) This subsection applies regardless of whether the indigent person is confined in a public institution.

§ 4604. Property liable for expenses.

(a) General rule.—Except as limited by subsection (c), the following apply:

(1) Subject to paragraph (2), the personal property of an indigent person shall be liable for the expenses incurred by a public body or public agency for the support, maintenance, assistance and burial of:

(i) the indigent person;

(ii) the spouse of the indigent person; and

(iii) each unemancipated child of the indigent person.

(2) Paragraph (1) applies to personal property if:

(i) the property was owned during the time the expenses were incurred; or

(ii) during the time the expenses were incurred, there existed a cause of action which resulted in the ownership of the property.

(b) Suit.—

(1) A public body or public agency may sue the owner of property referred to in this subsection for money expended.

(2) Except as set forth in paragraph (3) or subsection (c), the following apply:

(i) A judgment obtained under this subsection shall be a lien upon the estate of the defendant and may be collected as other judgments.

(ii) A claim under this section shall have the force and effect against the real and personal estate of a deceased person as other debts of a decedent and shall be ascertained and recovered in the same manner.

(3) Paragraph (2)(i) does not apply to the real and personal property comprising the home and furnishings of the defendant.

(c) Lien prohibited.—Except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of an individual, no lien may be imposed against the real property which is the primary residence of any individual or of the individual's spouse on account of assistance paid or to be paid on the individual's behalf.

(d) Lien against proceeds.—In order to carry out the purposes of this section, the department shall have a first lien against the proceeds of any cause of action that existed during the time an individual, his spouse or his unemancipated children received cash assistance. Unless otherwise directed by the department, no payment or distribution shall be made to a claimant or claimant's designee of the proceeds of any action, claim or settlement where the department has an interest without first satisfying or assuring the satisfaction of the interest of the Commonwealth. Any person who, after receiving notice of the department's interest, knowingly fails to comply with this subsection shall be liable to the department, and the department may sue and recover from the person.

§ 4605. Recovery of money.

(a) Recovery.—Whenever any person shall become a public charge or receive public assistance, the public body or public agency caring for or furnishing the assistance to the person may sue for and recover any sum of money which is due the person.

(b) Manner of suit.—A suit under subsection (a) shall be brought in the name of the person for the use of the public body or public agency. Proof that the person to whom the money is due became a public charge or was publicly assisted shall be conclusive proof of the right to recover whatever may be legally due the person. If the amount due has been reduced to judgment, the public body or public agency may be substituted as plaintiff in the judgment.

If the amount due is founded on an order or decree of a court, the public body or public agency shall have the right to recover the amount.

(c) Self-support.—If a person becomes self-supporting or supported by a relative or friend, any money recovered and not expended in the care or assistance of the person shall belong to the person. In the case of the person's death, money not expended for the person's care, assistance and burial shall belong to the person's estate.

§ 4606. Guardian.

(a) Petition.—Any public body or public agency caring for or assisting any indigent person may petition the court of common pleas, if the person is of full age, or the orphans' court, if the person is a minor, for a rule to show cause why the public body, public agency or some other person appointed by the court should not become the legal guardian of the person and property of the person. The petition shall have attached an inventory of the property of the person. The court shall schedule a hearing on the matter and shall serve notice of the hearing upon the person.

(b) Order.—After conducting a hearing pursuant to subsection (a), the court may issue an order constituting the public body, public agency or some other person, guardian of the person and the estate of the person, whether or not all of the estate was enumerated in the inventory provided under subsection (a). The proceedings and order shall be indexed in the name of the person pursuant to court rules.

(c) Discharge.—

(1) No person for whom a guardian has been appointed under this section shall be discharged from the guardianship until the person has petitioned the court for termination. The court may terminate the guardianship if it is satisfied that:

(i) the person has become able and willing to resume control of the person's own person and estate; and

(ii) the public body or public agency has been fully reimbursed for the expense of the person's care or assistance or that all of the person's estate has been expended for the reimbursement.

(2) The cost of the proceedings under this subsection shall be paid by the petitioner unless otherwise ordered by the court.

(d) Leases permitted.—Under the supervision of the appropriate court, a guardian may lease the real estate of any person for a term of years and receive and apply the proceeds of the lease to defray the expenses incurred in the care or assistance and burial of the person. The balance of the proceeds shall be paid to the person upon termination of the guardianship or to the legal representatives of the person after the person's death.

Section 2. Section 6334 of Title 23 is amended by adding a subsection to read:

§ 6334. Disposition of complaints received.

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*(d) Incidents occurring outside of this Commonwealth.—*

*(1) A report of suspected child abuse occurring in another state where the child victim is identified as a resident of this Commonwealth and the other state child protective services agency cannot investigate the report because of statutory or policy limitations shall be assigned as a general protective services report to the county of the child's residence or as determined by the department.*

*(2) In addition to complying with the other requirements of this chapter and applicable regulations, a copy of the report shall be provided to the other state's child protective services agency and, when applicable under Pennsylvania law, to law enforcement officials where the incident occurred.*

*(3) Reports and information under this subsection shall be provided within seven calendar days of completion of the general protective services assessment under section 6375 (relating to county agency requirements for general protective services).*

Section 3. The act of June 24, 1937 (P.L.2045, No.397), known as The Support Law, is repealed.

Section 4. The addition of 23 Pa.C.S. Ch. 46 is a continuation of the act of June 24, 1937 (P.L.2045, No.397), known as The Support Law. The following apply:

(1) Except as otherwise provided in 23 Pa.C.S. Ch. 46, all activities initiated under The Support Law shall continue and remain in full force and effect and may be completed under 23 Pa.C.S. Ch. 46. Orders, regulations and decisions which were made under The Support Law and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 23 Pa.C.S. Ch. 46. Contracts, obligations and agreements entered into under The Support Law are not affected nor impaired by the repeal of The Support Law.

(2) No provision of The Support Law which was suspended by order of the Supreme Court shall be revived by the addition of 23 Pa.C.S. Ch. 46.

(3) Except as set forth in paragraph (4), any difference in language between 23 Pa.C.S. Ch. 46 and The Support Law is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of The Support Law.

(4) Paragraph (3) does not apply to the addition of 23 Pa.C.S. § 4604(c) and (d).

(5) Any reference in a statute or a regulation to The Support Law shall be deemed a reference to 23 Pa.C.S. Ch. 46.

Section 5. This act shall take effect immediately.

APPROVED—The 7th day of July, A.D. 2005.

EDWARD G. RENDELL