

No. 2013-107

AN ACT

HB 414

Amending Titles 23 (Domestic Relations) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in child custody, further providing for factors to consider when awarding custody; providing for consideration of child abuse and involvement with child protective services; in child protective services, further providing for release of information in confidential reports and for county agency requirements for general protective services; and, in juvenile matters, further providing for inspection of court files and records and for law enforcement records.

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

Section 1. Section 5328(a) of Title 23 of the Pennsylvania Consolidated Statutes is amended by adding a paragraph to read:

§ 5328. Factors to consider when awarding custody.

(a) Factors.—In ordering any form of custody, the court shall determine the best interest of the child by considering all relevant factors, giving weighted consideration to those factors which affect the safety of the child, including the following:

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(2.1) The information set forth in section 5329.1(a)¹ (relating to consideration of child abuse and involvement with protective services).

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Section 2. Title 23 is amended by adding a section to read:

§ 5329.1. *Consideration of child abuse and involvement with protective services.*

(a) Information sharing.—In accordance with section 6340(a)(5.1) (relating to release of information in confidential reports), where a party seeks any form of custody subject to the examination of the parties, the court shall determine:

(1) With respect to child abuse under Chapter 63 (relating to child protective services) or a child who is a victim of a crime under 18 Pa.C.S. (relating to crimes and offenses) which would constitute abuse under Chapter 63:

(i) Whether the child is the subject of an indicated or founded report of child abuse.

(ii) Whether a party or a member of the party's household has been identified as the perpetrator in an indicated or founded report of child abuse.

(iii) The date and circumstances of the child abuse.

(iv) The jurisdiction where the child abuse investigation took place.

¹"5329.1(a)(1) and (2)" in enrolled bill.

(2) With respect to child protective services or general protective services under Chapter 63:

(i) Whether a party or a member of a party's household has been provided services.

(ii) The type of services provided.

(iii) The circumstances surrounding the provision of services.

(iv) The status of services.

(v) The date the services were provided.

(vi) The jurisdiction where the services were provided.

(b) Cooperation.—The following apply:

(1) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the court and assist the court in fulfilling its duties under this section.

(2) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the governing authority in order to implement the provisions of this section.

(3) The governing authority shall develop procedures to implement the provisions of this section.

(4) As used in this subsection, the term "governing authority" shall have the meaning given to it in 42 Pa.C.S. § 102 (relating to definitions).

Section 3. Section 6340(a)(5.1) of Title 23 is amended to read:

§ 6340. Release of information in confidential reports.

(a) General rule.—Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

(5.1) A court of common pleas in connection with any matter involving custody of a child[. The department shall provide to the court any reports and files which the court considers relevant.] as set forth in sections 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services).

Section 4. Section 6375 of Title 23 is amended by adding a subsection to read:

§ 6375. County agency requirements for general protective services.

(o) Availability of information.—Information related to reports of a child in need of general protective services shall be available to individuals and entities to the extent they are authorized to receive information under section 6340 (relating to release of information in confidential reports).

Section 5. Sections 6307(a) and 6308(a) of Title 42 are amended by adding paragraphs to read:

§ 6307. Inspection of court files and records.

(a) General rule.—All files and records of the court in a proceeding under this chapter are open to inspection only by:

(4.1) A court in determining custody, as provided in 23 Pa.C.S. §§ 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services).

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(6.5) The Department of Public Welfare for use in determining whether an individual named as the perpetrator of an indicated report of child abuse should be expunged from the Statewide database.

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§ 6308. Law enforcement records.

(a) General rule.—Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 6355 (relating to transfer to criminal proceedings), the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public except as provided in subsection (b); but inspection of the records and files is permitted by:

* * *

(6) The Department of Public Welfare for use in determining whether an individual named as the perpetrator of an indicated report of child abuse should be expunged from the Statewide database.

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Section 6. The amendment or addition of 23 Pa.C.S. §§ 5328(a)(2.1), 5329.1, 6340(a)(5.1) and 6375(o) and 42 Pa.C.S. §§ 6307(a)(4.1) and (6.5) and 6308(a)(6) shall apply to:

(1) Any action regarding custody of a child under 23 Pa.C.S. Ch. 53 that is filed on or after the effective date of this section.

(2) Any petition to modify a custody order under 23 Pa.C.S. Ch. 53 that is filed on or after the effective date of this section.

Section 7. This act shall take effect January 1, 2014, or immediately, whichever occurs later.

APPROVED—The 18th day of December, A.D. 2013

TOM CORBETT