

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2018 Session of 2024

INTRODUCED BY HANBIDGE, BRIGGS, DONAHUE, HILL-EVANS, SANCHEZ, SHUSTERMAN, CONKLIN, DELLOSO, D. WILLIAMS, BERNSTINE, DALEY, SCOTT, HOWARD, WARREN, GREEN, CERRATO AND FLICK, FEBRUARY 7, 2024

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 30, 2024

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in child custody, further providing  
3 for factors to consider when awarding custody.

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

6 ~~Section 1. Section 5328(a) of Title 23 of the Pennsylvania~~ <--  
7 ~~Consolidated Statutes is amended to read:~~

8 ~~§ 5328. Factors to consider when awarding custody.~~

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

14 ~~(1) [Which party is more likely to encourage and permit~~  
15 ~~frequent and continuing contact between the child and another~~  
16 ~~party.] The level of cooperation and conflict between the~~  
17 ~~parties, including:~~

1 ~~(i) whether each party will encourage and permit~~  
2 ~~frequent and continuing contact between the child and the~~  
3 ~~other party or parties; and~~

4 ~~(ii) any attempt by a party to turn the child~~  
5 ~~against another party, but a party's good faith effort to~~  
6 ~~protect a child from abuse by another party is not~~  
7 ~~evidence of unwillingness or inability to cooperate with~~  
8 ~~the other party.~~

9 ~~(2) The present and past abuse committed by a party or~~  
10 ~~member of the party's household against the child, a~~  
11 ~~household member, or both, whether there is a continued risk~~  
12 ~~of harm to the child or an abused party and which party can~~  
13 ~~better provide adequate physical safeguards and supervision~~  
14 ~~of the child.~~

15 ~~(2.1) The information set forth in section 5329.1(a)~~  
16 ~~(relating to consideration of child abuse and involvement~~  
17 ~~with protective services).~~

18 ~~(2.2) Any multiple, unsubstantiated allegations of abuse~~  
19 ~~or neglect made by either party against another party.~~

20 ~~(3) [The] Each party's willingness or ability to:~~

21 ~~(i) prioritize the child's needs and provide~~  
22 ~~appropriate care, stability and continuity for the child,~~  
23 ~~considering the parental duties performed by each party~~  
24 ~~on behalf of the child[.] in the past and whether each~~  
25 ~~party is willing and able to perform the duties in the~~  
26 ~~future; and~~

27 ~~(ii) attend to the daily physical, emotional,~~  
28 ~~developmental, educational and special needs of the~~  
29 ~~child.~~

30 ~~{(4) The need for stability and continuity in the~~

1 ~~child's education, family life and community life.~~

2 ~~(5) The availability of extended family.]~~

3 ~~(6) The child's sibling and other familial~~  
4 ~~relationships.~~

5 ~~(7) The well reasoned preference of the child, based on~~  
6 ~~the child's maturity and judgment.~~

7 ~~{(8) The attempts of a parent to turn the child against~~  
8 ~~the other parent, except in cases of domestic violence where~~  
9 ~~reasonable safety measures are necessary to protect the child~~  
10 ~~from harm.~~

11 ~~(9) Which party is more likely to maintain a loving,~~  
12 ~~stable, consistent and nurturing relationship with the child~~  
13 ~~adequate for the child's emotional needs.~~

14 ~~(10) Which party is more likely to attend to the daily~~  
15 ~~physical, emotional, developmental, educational and special~~  
16 ~~needs of the child.]~~

17 ~~(11) The proximity of the residences of the parties.~~

18 ~~(12) Each party's employment schedule and availability~~  
19 ~~to care for the child or ability to make appropriate child~~  
20 ~~care arrangements.~~

21 ~~{(13) The level of conflict between the parties and the~~  
22 ~~willingness and ability of the parties to cooperate with one~~  
23 ~~another. A party's effort to protect a child from abuse by~~  
24 ~~another party is not evidence of unwillingness or inability~~  
25 ~~to cooperate with that party.]~~

26 ~~(14) The history of drug or alcohol abuse of a party or~~  
27 ~~member of a party's household.~~

28 ~~(15) The mental and physical condition of a party or~~  
29 ~~member of a party's household.~~

30 ~~(16) Any other relevant factor.~~

1       \* \* \*

2       ~~Section 2. This act shall take effect in 60 days.~~

3       SECTION 1. SECTION 5328(A) OF TITLE 23 OF THE PENNSYLVANIA <--  
4 CONSOLIDATED STATUTES, AMENDED APRIL 15, 2024 (P.L.24, NO.8), IS  
5 AMENDED TO READ:

6       § 5328. FACTORS TO CONSIDER WHEN AWARDING CUSTODY.

7       (A) FACTORS.--IN ORDERING ANY FORM OF CUSTODY, THE COURT  
8 SHALL DETERMINE THE BEST INTEREST OF THE CHILD BY CONSIDERING  
9 ALL RELEVANT FACTORS, GIVING SUBSTANTIAL WEIGHTED CONSIDERATION  
10 TO THE FACTORS SPECIFIED UNDER PARAGRAPHS (1), (2), (2.1) AND  
11 (2.2) WHICH AFFECT THE SAFETY OF THE CHILD, INCLUDING THE  
12 FOLLOWING:

13           (1) WHICH PARTY IS MORE LIKELY TO ENSURE THE SAFETY OF  
14 THE CHILD.

15           (2) THE PRESENT AND PAST ABUSE COMMITTED BY A PARTY OR  
16 MEMBER OF THE PARTY'S HOUSEHOLD, WHICH MAY INCLUDE PAST OR  
17 CURRENT PROTECTION FROM ABUSE OR SEXUAL VIOLENCE PROTECTION  
18 ORDERS WHERE THERE HAS BEEN A FINDING OF ABUSE.

19           (2.1) THE INFORMATION SET FORTH IN SECTION 5329.1(A)  
20 (RELATING TO CONSIDERATION OF CHILD ABUSE AND INVOLVEMENT  
21 WITH PROTECTIVE SERVICES).

22           (2.2) VIOLENT OR ASSAULTIVE BEHAVIOR COMMITTED BY A  
23 PARTY.

24           (2.3) [WHICH PARTY IS MORE LIKELY TO ENCOURAGE AND  
25 PERMIT FREQUENT AND CONTINUING CONTACT BETWEEN THE CHILD AND  
26 ANOTHER PARTY IF CONTACT IS CONSISTENT WITH THE SAFETY NEEDS  
27 OF THE CHILD.] THE LEVEL OF COOPERATION AND CONFLICT BETWEEN  
28 THE PARTIES, INCLUDING:

29                   (I) WHICH PARTY IS MORE LIKELY TO ENCOURAGE AND  
30                   PERMIT FREQUENT AND CONTINUING CONTACT BETWEEN THE CHILD

1 AND THE OTHER PARTY OR PARTIES IF CONTACT IS CONSISTENT  
2 WITH THE SAFETY NEEDS OF THE CHILD; AND

3 (II) THE ATTEMPTS BY A PARTY TO TURN THE CHILD  
4 AGAINST THE OTHER PARTY, EXCEPT IN CASES OF ABUSE WHERE  
5 REASONABLE SAFETY MEASURES ARE NECESSARY TO PROTECT THE  
6 SAFETY OF THE CHILD. A PARTY'S GOOD FAITH AND REASONABLE  
7 EFFORT TO PROTECT THE SAFETY OF A CHILD OR SELF SHALL NOT  
8 BE CONSIDERED EVIDENCE OF UNWILLINGNESS OR INABILITY TO  
9 COOPERATE WITH THE OTHER PARTY. A PARTY'S REASONABLE  
10 CONCERNS FOR THE SAFETY OF THE CHILD AND THE PARTY'S  
11 REASONABLE EFFORTS TO PROTECT THE CHILD SHALL NOT BE  
12 CONSIDERED ATTEMPTS TO TURN THE CHILD AGAINST THE OTHER  
13 PARTY. A CHILD'S DEFICIENT OR NEGATIVE RELATIONSHIP WITH  
14 A PARTY SHALL NOT BE PRESUMED TO BE CAUSED BY THE OTHER  
15 PARTY.

16 (2.4) ANY MULTIPLE, UNSUBSTANTIATED ALLEGATIONS OF ABUSE  
17 OR NEGLECT MADE BY EITHER PARTY AGAINST ANOTHER PARTY.

18 (3) [THE PARENTAL DUTIES PERFORMED BY EACH PARTY ON  
19 BEHALF OF THE CHILD.] A WILLINGNESS AND ABILITY OF A PARTY  
20 TO:

21 (I) PRIORITIZE THE NEEDS OF THE CHILD BY PROVIDING  
22 APPROPRIATE CARE, STABILITY AND CONTINUITY FOR THE CHILD;  
23 AND

24 (II) CONSIDER THE PARENTAL DUTIES PERFORMED BY THE  
25 PARTY ON BEHALF OF THE CHILD IN THE PAST AND WHETHER THE  
26 PARTY IS WILLING AND ABLE TO PERFORM THE DUTIES IN THE  
27 FUTURE.

28 (4) THE NEED FOR STABILITY AND CONTINUITY IN THE CHILD'S  
29 EDUCATION, FAMILY LIFE AND COMMUNITY LIFE, EXCEPT IF CHANGES  
30 ARE NECESSARY TO PROTECT THE SAFETY OF THE CHILD OR A PARTY.

1 HOWEVER, A DEFICIENCY OR NEGATIVE RELATIONSHIP BETWEEN THE  
2 CHILD AND A PARTY SHALL NOT BE PRESUMED TO BE CAUSED BY THE  
3 ACTION OF ANOTHER PARTY.

4 [(5) THE AVAILABILITY OF EXTENDED FAMILY.]

5 (6) THE CHILD'S SIBLING AND OTHER FAMILIAL  
6 RELATIONSHIPS.

7 (7) THE WELL-REASONED PREFERENCE OF THE CHILD, BASED ON  
8 THE CHILD'S DEVELOPMENTAL STAGE, MATURITY AND JUDGMENT.

9 [(8) THE ATTEMPTS OF A PARTY TO TURN THE CHILD AGAINST  
10 THE OTHER PARTY, EXCEPT IN CASES OF ABUSE WHERE REASONABLE  
11 SAFETY MEASURES ARE NECESSARY TO PROTECT THE SAFETY OF THE  
12 CHILD. A PARTY'S REASONABLE CONCERNS FOR THE SAFETY OF THE  
13 CHILD AND THE PARTY'S REASONABLE EFFORTS TO PROTECT THE CHILD  
14 SHALL NOT BE CONSIDERED ATTEMPTS TO TURN THE CHILD AGAINST  
15 THE OTHER PARTY. A CHILD'S DEFICIENT OR NEGATIVE RELATIONSHIP  
16 WITH A PARTY SHALL NOT BE PRESUMED TO BE CAUSED BY THE OTHER  
17 PARTY.]

18 (9) WHICH PARTY IS MORE LIKELY TO MAINTAIN A LOVING,  
19 STABLE, CONSISTENT AND NURTURING RELATIONSHIP WITH THE CHILD  
20 ADEQUATE FOR THE CHILD'S EMOTIONAL NEEDS.

21 (10) WHICH PARTY IS MORE LIKELY TO ATTEND TO THE DAILY  
22 PHYSICAL, EMOTIONAL, DEVELOPMENTAL, EDUCATIONAL AND SPECIAL  
23 NEEDS OF THE CHILD.]

24 (11) THE PROXIMITY OF THE RESIDENCES OF THE PARTIES.

25 (12) EACH PARTY'S EMPLOYMENT SCHEDULE AND AVAILABILITY  
26 TO CARE FOR THE CHILD OR ABILITY TO MAKE APPROPRIATE CHILD-  
27 CARE ARRANGEMENTS.

28 [(13) THE LEVEL OF CONFLICT BETWEEN THE PARTIES AND THE  
29 WILLINGNESS AND ABILITY OF THE PARTIES TO COOPERATE WITH ONE  
30 ANOTHER. A PARTY'S EFFORT TO PROTECT A CHILD OR SELF FROM

1 ABUSE BY ANOTHER PARTY IS NOT EVIDENCE OF UNWILLINGNESS OR  
2 INABILITY TO COOPERATE WITH THAT PARTY.]

3 (14) THE HISTORY OF DRUG OR ALCOHOL ABUSE OF A PARTY OR  
4 MEMBER OF A PARTY'S HOUSEHOLD.

5 (15) THE MENTAL AND PHYSICAL CONDITION OF A PARTY OR  
6 MEMBER OF A PARTY'S HOUSEHOLD.

7 (16) ANY OTHER RELEVANT FACTOR.

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9 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.