

Pennsylvania Divorce Laws

DOMESTIC RELATIONS (TITLE 23)

PART III. Divorce

CHAPTER 31. PRELIMINARY PROVISIONS

§ 3101. Short title of part.

This part shall be known and may be cited as the Divorce Code.

§ 3102. Legislative findings and intent.

(a) Policy.--The family is the basic unit in society and the protection and preservation of the family is of paramount public concern. Therefore, it is the policy of the Commonwealth to:

1. Make the law for legal dissolution of marriage effective for dealing with the realities of matrimonial experience.
2. Encourage and effect reconciliation and settlement of differences between spouses, especially where children are involved.
3. Give primary consideration to the welfare of the family rather than the vindication of private rights or the punishment of matrimonial wrongs.
4. Mitigate the harm to the spouses and their children caused by the legal dissolution of the marriage.
5. Seek causes rather than symptoms of family disintegration and cooperate with and utilize the resources available to deal with family problems.
6. Effectuate economic justice between parties who are divorced or separated and grant or withhold alimony according to the actual need and ability to pay of the parties and insure a fair and just determination and settlement of their property rights.

(b) Construction of part.--The objectives set forth in subsection (a) shall be considered in construing provisions of this part and shall be regarded as expressing the legislative intent.

§ 3103. 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:

"Alimony."

An order for support granted by this Commonwealth or any other state to a spouse or former spouse in conjunction with a decree granting a divorce or annulment.

"Alimony pendente lite."

An order for temporary support granted to a spouse during the pendency of a divorce or annulment proceeding.

"Divorce."

Divorce from the bonds of matrimony.

"Grounds for divorce."

The grounds enumerated in section 3301 (relating to grounds for divorce).

"Irretrievable breakdown."

Estrangement due to marital difficulties with no reasonable prospect of reconciliation.

"Qualified professionals."

Includes marriage counselors, psychologists, psychiatrists, social workers, ministers, priests, rabbis or other persons who, by virtue of their training and experience, are able to provide counseling.

"Separate and apart."

Complete cessation of any and all cohabitation, whether living in the same residence or not.

"Spousal support."

Care, maintenance and financial assistance.

§ 3104. Bases of jurisdiction.

(a) Jurisdiction.--The courts shall have original jurisdiction in cases of divorce and for the annulment of void or voidable marriages and shall determine, in conjunction with any decree granting a divorce or annulment, the following matters, if raised in the pleadings, and issue appropriate decrees or orders with reference thereto, and may retain continuing jurisdiction thereof:

1. The determination and disposition of property rights and interests between spouses, including any rights created by any antenuptial, postnuptial or separation agreement and including the partition of property held as tenants by the entireties or otherwise and any accounting between them, and the order of any spousal support, alimony, alimony pendente lite, counsel fees or costs authorized by law.
2. The future care, custody and visitation rights as to children of the marriage or purported marriage.
3. Any support or assistance which shall be paid for the benefit of any children of the marriage or purported marriage.
4. Any property settlement involving any of the matters set forth in paragraphs (1), (2) and (3) as submitted by the parties.
5. Any other matters pertaining to the marriage and divorce or annulment authorized by law and which fairly and expeditiously may be determined and disposed of in such action.

(b) Residence and domicile of parties.--No spouse is entitled to commence an action for divorce or annulment under this part unless at least one of the parties has been a bona fide resident in this Commonwealth for at least six months immediately previous to the commencement of the action. Both parties shall be competent witnesses to prove their respective residence, and proof of actual residence within this Commonwealth for six months shall create a presumption of domicile within this Commonwealth.

(c) Powers of court.--The court has authority to entertain an action under this part notwithstanding the fact that the marriage of the parties and the cause for divorce occurred outside of this Commonwealth and that both parties were at the time of the occurrence domiciled outside this Commonwealth. The court also has the power to annul void or voidable marriages celebrated outside this Commonwealth at a time when neither party was domiciled within this Commonwealth.

(d) Foreign forum.--After the dissolution or annulment of a marriage in a foreign forum where a matter under subsection (a) has not been decided, a court of this Commonwealth shall have jurisdiction to determine a matter under subsection (a) to the fullest extent allowed under the Constitution of the United States.

(e) Venue.--A proceeding for divorce or annulment may be brought in the county:

1. where the defendant resides;
2. if the defendant resides outside of this Commonwealth, where the plaintiff resides;
3. of matrimonial domicile, if the plaintiff has continuously resided in the county;
4. prior to six months after the date of final separation and with agreement of the defendant, where the plaintiff resides or, if neither party continues to reside in the county of matrimonial domicile, where either party resides; or
5. after six months after the date of final separation, where either party resides.

Suspension by Court Rule. Section 3104(e) was suspended by Pennsylvania Rule of Civil Procedure No. 1920.91, as amended July 15, 1994, insofar as it applies to the practice and procedure in actions for divorce or annulment of marriage.

§ 3105. Effect of agreement between parties.

(a) Enforcement.--A party to an agreement regarding matters within the jurisdiction of the court under this part, whether or not the agreement has been merged or incorporated into the decree, may utilize a remedy or sanction set forth in this part to enforce the agreement to the same extent as though the agreement had been an order of the court except as provided to the contrary in the agreement.

(b) Certain provisions subject to modification.--A provision of an agreement regarding child support, visitation or custody shall be subject to modification by the court upon a showing of changed circumstances.

(c) Certain provisions not subject to modification.--In the absence of a specific provision to the contrary appearing in the agreement, a provision regarding the disposition of existing property rights and interests between the parties, alimony, alimony pendente lite, counsel fees or expenses shall not be subject to modification by the court.

CHAPTER 33. DISSOLUTION OF MARITAL STATUS

SUBCHAPTER A - GENERAL PROVISIONS

§3301. Grounds for divorce.

(a) Fault.--The court may grant a divorce to the innocent and injured spouse whenever it is judged that the other spouse has:

1. Committed willful and malicious desertion, and absence from the habitation of the injured and innocent spouse, without a reasonable cause, for the period of one or more years.
2. Committed adultery.
3. By cruel and barbarous treatment, endangered the life or health of the injured and innocent spouse.
4. Knowingly entered into a bigamous marriage while a former marriage is still subsisting.
5. Been sentenced to imprisonment for a term of two or more years upon conviction of having committed a crime.
6. Offered such indignities to the innocent and injured spouse as to render that spouse's condition intolerable and life burdensome.

(b) Institutionalization.--The court may grant a divorce from a spouse upon the ground that insanity or serious mental disorder has resulted in confinement in a mental institution for at least 18 months immediately before the commencement of an action under this part and where there is no reasonable prospect that the spouse will be discharged from inpatient care during the 18 months subsequent to the commencement of the action. A presumption that no prospect of discharge exists shall be established by a certificate of the superintendent of the institution to that effect and which includes a supporting statement of a treating physician.

(c) Mutual consent.--The court may grant a divorce where it is alleged that the marriage is irretrievably broken and 90 days have elapsed from the date of commencement of an action under this part and an affidavit has been filed by each of the parties evidencing that each of the parties consents to the divorce.

(d) Irretrievable breakdown.--

1. The court may grant a divorce where a complaint has been filed alleging that the marriage is irretrievably broken and an affidavit has been filed alleging that the parties have lived separate and apart for a period of at least two years and that the marriage is irretrievably broken and the defendant either:
 - (i) Does not deny the allegations set forth in the affidavit.
 - (ii) Denies one or more of the allegations set forth in the affidavit but, after notice and hearing, the court determines that the parties have lived separate and apart for a period of at least two years and that the marriage is irretrievably broken.
2. If a hearing has been held pursuant to paragraph (1)(ii) and the court determines that there is a reasonable prospect of reconciliation, then the court shall continue the matter for a period not less than 90 days nor more than 120 days unless the parties agree to a period in excess of 120 days. During this period, the court shall require counseling as provided in section 3302 (relating to counseling). If the parties have not reconciled at the expiration of the time period and one party states under oath that the marriage is irretrievably broken, the court shall determine whether the marriage is irretrievably broken. If the court determines that the marriage is irretrievably broken, the court shall grant the divorce. Otherwise, the court shall deny the divorce.

(e) No hearing required in certain cases.--If grounds for divorce alleged in the complaint or counterclaim are established under subsection (c) or (d), the court shall grant a divorce without requiring a hearing on any other grounds.

§3302. Counseling.

(a) Indignities.--Whenever indignities under section 3301(a)(6) (relating to grounds for divorce) is the ground for divorce, the court shall require up to a maximum of three counseling sessions where either of the parties requests it.

(b) Mutual consent.--Whenever mutual consent under section 3301(c) is the ground for divorce, the court shall require up to a maximum of three counseling sessions within the 90 days following the commencement of the action where either of the parties requests it.

(c) Irretrievable breakdown.--Whenever the court orders a continuation period as provided for irretrievable breakdown in section 3301(d)(2), the court shall require up to a maximum of three counseling sessions within the time period where either of the parties requests it or may require such counseling where the parties have at least one child under 16 years of age.

(d) Notification of availability of counseling.--Whenever section 3301(a)(6), (c) or (d) is the ground for divorce, the court shall, upon the commencement of an action under this part, notify both parties of the availability of counseling and, upon request, provide both parties a list of qualified professionals who provide such services.

(e) Choice of qualified professionals unrestricted.--The choice of a qualified professional shall be at the option of the parties, and the professional need not be selected from the list provided by the court.

(f) Report.--Where the court requires counseling, a report shall be made by the qualified professional stating that the parties did or did not attend.

§3303. Annulment of void and voidable marriages.

(a) General rule.--In all cases where a supposed or alleged marriage has been contracted which is void or voidable under this title or under applicable law, either party to the supposed or alleged marriage may bring an action in annulment to have it declared void in accordance with the procedures provided by this part and prescribed by general rules.

(b) Common-law marriage.--In the case of a purported common-law marriage where a party was under 18 years of age, a parent or guardian of the minor may bring a declaratory judgment proceeding during the party's minority to have the marriage declared void.

§3304. Grounds for annulment of void marriages.

(a) General rule.--Where there has been no confirmation by cohabitation following the removal of an impediment, the supposed or alleged marriage of a person shall be deemed void in the following cases:

- 1) Where either party at the time of such marriage had an existing spouse and the former marriage had not been annulled nor had there been a divorce except where that party had obtained a decree of presumed death of the former spouse.
- 2) Where the parties to such marriage are related within the degrees of consanguinity prohibited by section 1304(e) (relating to restrictions on issuance of license).
- 3) Where either party to such marriage was incapable of consenting by reason of insanity or serious mental disorder or otherwise lacked capacity to consent or did not intend to consent to the marriage.
- 4) Where either party to a purported common-law marriage was under 18 years of age.

(b) Procedures.--In all cases of marriages which are void, the marriage may be annulled as set forth in section 3303 (relating to annulment of void and voidable marriages) or its invalidity may be declared in any collateral proceeding.

§3305. Grounds for annulment of voidable marriages.

(a) General rule.--The marriage of a person shall be deemed voidable and subject to annulment in the following cases:

- 1) Where either party to the marriage was under 16 years of age unless the marriage was expressly authorized by the court.
- 2) Where either party was 16 or 17 years of age and lacked the consent of parent or guardian or express authorization of the court and has not subsequently ratified the marriage upon reaching 18 years of age and an action for annulment is commenced within 60 days after the marriage ceremony.
- 3) Where either party to the marriage was under the influence of alcohol or drugs and an action for annulment is commenced within 60 days after the marriage ceremony.
- 4) Where either party to the marriage was at the time of the marriage and still is naturally and incurably impotent unless the condition was known to the other party prior to the marriage.
- 5) Where one party was induced to enter into the marriage due to fraud, duress, coercion or force attributable to the other party and there has been no subsequent voluntary

cohabitation after knowledge of the fraud or release from the effects of fraud, duress, coercion or force.

(b) Status of voidable marriage.--In all cases of marriages which are voidable, either party to the marriage may seek and obtain an annulment of the marriage but, until a decree of annulment is obtained from a court of competent jurisdiction, the marriage shall be valid. The validity of a voidable marriage shall not be subject to attack or question by any person if it is subsequently confirmed by the parties to the marriage or if either party has died.

§3306. Proceedings to determine marital status.

When the validity of a marriage is denied or doubted, either or both of the parties to the marriage may bring an action for a declaratory judgment seeking a declaration of the validity or invalidity of the marriage and, upon proof of the validity or invalidity of the marriage, the marriage shall be declared valid or invalid by decree of the court and, unless reversed upon appeal, the declaration shall be conclusive upon all persons concerned.

§3307. Defenses.

(a) General rule.--Existing common-law defenses are retained as to the grounds enumerated in section 3301(a) and (b) (relating to grounds for divorce). The defenses of condonation, connivance, collusion, recrimination and provocation are abolished as to the grounds enumerated in section 3301(c) and (d).

(b) Adultery.--In an action for divorce on the ground of adultery, it is a good defense and a perpetual bar against the action if the defendant alleges and proves, or if it appears in the evidence, that the plaintiff:

- 1) has been guilty of like conduct;
- 2) has admitted the defendant into conjugal society or embraces after the plaintiff knew of the fact;
- 3) allowed the defendant's prostitution or received hire from it; or
- 4) exposed the defendant to lewd company whereby the defendant became involved in the adultery.

§3308. Action where defendant suffering from mental disorder.

If a spouse is insane or suffering from serious mental disorder, an action may be commenced under this part against that spouse upon any ground for divorce or annulment.

§3309. General appearance and collusion.

The entry of a general appearance by, or in behalf of, a defendant does not constitute collusion. Collusion shall be found to exist only where the parties conspired to fabricate grounds for divorce or annulment, agreed to and did commit perjury or perpetrated fraud on the court. Negotiation and discussion of terms of property settlement and other matters arising by reason of contemplated divorce or annulment do not constitute collusion.

SUBCHAPTER B – PROCEDURE

§3321. Hearing by master.

The court may appoint a master to hear testimony on all or some issues, except issues of custody and paternity, and return the record and a transcript of the testimony together with a report and recommendation as prescribed by general rules, or a judge of the court in chambers may appoint a master to hold a nonrecord hearing and to make recommendations and return the same to the court, in which case either party may demand a hearing de novo before the court.

[Section 3321 was suspended by Pennsylvania Rule of Civil Procedure No. 1920.91, as amended July 15, 1994, insofar as it prohibits the appointment of masters in partial custody or visitation matters.]

§3322. Jury trial.

(a) Application for jury trial.--After service of the complaint in divorce or annulment on the defendant in the manner prescribed by general rules or entry of a general appearance for the defendant, if either of the parties desires any matter of fact that is affirmed by one and denied by the other to be tried by a jury, that party may take a rule upon the opposite party, to be allowed by a judge of the court, to show cause why the issues of fact set forth in the rule should not be tried by a jury, which rule shall be served upon the opposite party or counsel for the opposite party.

(b) Disposition of application.--Upon the return of the rule, after hearing, the court may discharge it, make it absolute or frame issues itself. Only the issues ordered by the court shall be tried. The rule shall not be made absolute when, in the opinion of the court, a trial by jury cannot be had without prejudice to the public morals.

§3323. Decree of court.

(a) General rule.--In all matrimonial causes, the court may either dismiss the complaint or enter a decree of divorce or annulment of the marriage.

(b) Contents of decree.--A decree granting a divorce or an annulment shall include, after a full hearing, where these matters are raised in any pleadings, an order determining and disposing of existing property rights and interests between the parties, custody, partial custody and visitation rights, child support, alimony, reasonable attorney fees, costs and expenses and any other related matters, including the enforcement of agreements voluntarily entered into between the parties. In the enforcement of the rights of any party to any of these matters, the court shall have all necessary powers, including, but not limited to, the power of contempt and the power to attach wages.

(c) Bifurcation.--In the event that the court is unable for any reason to determine and dispose of the matters provided for in subsection (b) within 30 days after the report of the master has been filed, it may enter a decree of divorce or annulment. Upon the request of either party and after a hearing, the court may order alimony pendente lite, reasonable counsel fees, costs and expenses and may make a temporary order necessary to protect the interests of the parties pending final disposition of the matters in subsection (b).

(d) Substitution for deceased party.--If one of the parties dies after the decree of divorce has been entered, but prior to the final determination in such proceeding of the property rights and interests of the parties under this part, the personal representative of the deceased party shall be substituted as a party as provided by law and the action shall proceed.

(e) Costs.--The court may award costs to the party in whose favor the order or decree shall be entered or may order that each party shall pay their own costs or may order that costs be divided equitably as it shall appear just and reasonable.

(f) Equity power and jurisdiction of the court.--In all matrimonial causes, the court shall have full equity power and jurisdiction and may issue injunctions or other orders which are necessary to protect the interests of the parties or to effectuate the purposes of this part and may grant such other relief or remedy as equity and justice require against either party or against any third person over whom the court has jurisdiction and who is involved in or concerned with the disposition of the cause.

SUBCHAPTER C - ATTACKS UPON DECREES

§3331. Limitations on attacks upon decrees.

The validity of a decree of divorce or annulment issued by a court shall not be questioned, except by appeal, in any court or place in this Commonwealth after the death of either party to the proceeding. If it is shown that a party who subsequently attempts to question the validity of the decree had full knowledge of the facts and circumstances later complained of at the time of issuance of the decree or failed to take any action despite this knowledge within two years after the date of the decree, the party shall be barred from questioning the decree, and it shall be valid in all courts and places within this Commonwealth.

§3332. Opening or vacating decrees.

A motion to open a decree of divorce or annulment may be made only within the period limited by 42 Pa.C.S. § 5505 (relating to modification of orders) and not thereafter. The motion may lie where

it is alleged that the decree was procured by intrinsic fraud or that there is new evidence relating to the cause of action which will sustain the attack upon its validity. A motion to vacate a decree or strike a judgment alleged to be void because of extrinsic fraud, lack of jurisdiction over the subject matter or a fatal defect apparent upon the face of the record must be made within five years after entry of the final decree. Intrinsic fraud relates to a matter adjudicated by the judgment, including perjury and false testimony, whereas extrinsic fraud relates to matters collateral to the judgment which have the consequence of precluding a fair hearing or presentation of one side of the case.

§3333. Res judicata and estoppel.

The validity of a divorce or annulment decree granted by a court having jurisdiction over the subject matter may not be questioned by a party who was subject to the personal jurisdiction of the court except by direct appeal provided or prescribed by law. A party who sought and obtained a decree, financed or agreed to its procurement, or accepted a property settlement, alimony pendente lite or alimony pursuant to the terms of the decree, or who remarries after the decree, or is guilty of laches, is barred from making a collateral attack upon the validity of the decree unless, by clear and convincing evidence, it is established that fraud by the other party prevented the making of a timely appeal from the divorce or annulment decree.

CHAPTER 35 - PROPERTY RIGHTS

§ 3501. Definitions

(a) General rule.-As used in this chapter, "marital property" means all property acquired by either party during the marriage, including the increase in value, prior to the date of final separation, of any nonmarital property acquired pursuant to paragraphs (1) and (3), except:

1. Property acquired prior to marriage or property acquired in exchange for property acquired prior to the marriage.
2. Property excluded by valid agreement of the parties entered into before, during or after the marriage.
3. Property acquired by gift, except between spouses, bequest, devise or descent.
4. Property acquired after final separation until the date of divorce, except for property acquired in exchange for marital assets.
5. Property which a party has sold, granted, conveyed or otherwise disposed of in good faith and for value prior to the date of final separation.
6. Veterans' benefits exempt from attachment, levy or seizure pursuant to the act of September 2, 1958 (Public Law 85-857, 72 Stat. 1229), [38 U.S.C. 3101], as amended, except for those benefits received by a veteran where the veteran has waived a portion of his military retirement pay in order to receive veterans' compensation.
7. Property to the extent to which the property has been mortgaged or otherwise encumbered in good faith for value prior to the date of final separation.
8. Any payment received as a result of an award or settlement for any cause of action or claim which accrued prior to the marriage or after the date of final separation regardless of when the payment was received.

(b) Presumption.-All real or personal property acquired by either party during the marriage is presumed to be marital property regardless of whether title is held individually or by the parties in some form of co-ownership such as joint tenancy, tenancy in common or tenancy by the entirety. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (a).

§ 3502. Equitable division of marital property

(a) General rule.-In an action for divorce or annulment, the court shall, upon request of either party, equitably divide, distribute or assign, in kind or otherwise, the marital property between the parties without regard to marital misconduct in such proportions and in such manner as the court deems just after considering all relevant factors, including:

1. The length of the marriage.
2. Any prior marriage of either party
3. The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties.

4. The contribution by one party to the education, training or increased earning power of the other party.
 5. The opportunity of each party for future acquisitions of capital assets and income.
 6. The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
 7. The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker.
 8. The value of the property set apart to each party.
 9. The standard of living of the parties established during the marriage.
 10. The economic circumstances of each party, including Federal, State and local tax ramifications, at the time the division of property is to become effective.
 11. Whether the party will be serving as the custodian of any dependent minor children.
- (b) Lien.-The court may impose a lien or charge upon property of a party as security for the payment of alimony or any other award for the other party.
- (c) Family home.-The court may award, during the pendency of the action or otherwise, to one or both of the parties the right to reside in the marital residence.
- (d) Life insurance.-The court may direct the continued maintenance and beneficiary designations of existing policies insuring the life or health of either party which were originally purchased during the marriage and owned by or within the effective control of either party. Where it is necessary to protect the interests of a party, the court may also direct the purchase of, and beneficiary designations on, a policy insuring the life or health of either party.
- (e) Powers of the court.-If, at any time, a party has failed to comply with an order of equitable distribution, as provided for in this chapter or with the terms of an agreement as entered into between the parties, after hearing, the court may, in addition to any other remedy available under this part, in order to effect compliance with its order:
1. enter judgment;
 2. authorize the taking and seizure of the goods and chattels and collection of the rents and profits of the real and personal, tangible and intangible property of the party;
 3. award interest on unpaid installments;
 4. order and direct the transfer or sale of any property required in order to comply with the court's order;
 5. require security to insure future payments in compliance with the court's order
 6. issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order be brought before the court, at such time as the court may direct. If the court finds, after hearing, that the person willfully failed to comply with the court order, it may deem the person in civil contempt of court and, in its discretion, make an appropriate order, including, but not limited to, commitment of the person to the county jail for a period not to exceed six months;
 7. award counsel fees and costs;
 8. attach wages; or
 9. find the party in contempt.

§ 3503. Effect of divorce on property rights generally

Whenever a decree or judgment is granted which nullifies or absolutely terminates the bonds of matrimony, all property rights which are dependent upon the marital relation, except those which are vested rights, are terminated unless the court expressly provides otherwise in its decree. All duties, rights and claims accruing to marriage shall cease, and the parties shall severally be at liberty to marry again as if they had never been married.

§ 3504. Disposition of property after termination of marriage

Unless provided otherwise by the court, whenever a decree of divorce or annulment is entered by a court of competent jurisdiction, both parties whose marriage is terminated or affected shall have complete freedom of disposition as to their separate real and personal property and may mortgage, sell, grant, convey or otherwise encumber or dispose of their separate property, whether the property was acquired before, during or after coverture, and neither need join in, consent to or acknowledge a deed, mortgage or instrument of the other.

§ 3505. Disposition of property to defeat obligations.

(a) Preliminary relief.--Where it appears to the court that a party is about to leave the jurisdiction of the court or is about to remove property of that party from the jurisdiction of the court or is about to dispose of, alienate or encumber property in order to defeat equitable distribution, alimony pendente lite, alimony, child and spousal support or a similar award, an injunction may issue to prevent the removal or disposition and the property may be attached as prescribed by general rules. The court may also issue a writ of ne exeat to preclude the removal.

(b) Inventory of property.--Both parties shall submit to the court an inventory and appraisalment, which shall contain all of the following:

1. A list of the property owned or possessed by either or both of them as of:
 - (i) the date of separation; and
 - (ii) thirty days prior to the date of hearing on equitable distribution.
2. A list of the value of the property owned or possessed by either or both of them as of:
 - (i) the date of acquisition;
 - (ii) the date of separation; and
 - (iii) thirty days prior to the date of hearing on equitable distribution.
3. A list of the liabilities of either or both of them as of 30 days prior to the date of hearing on equitable distribution, whether or not the liabilities are related to the property set forth in the inventory and appraisalment.

(c) Discovery.--Discovery under this part shall be as provided for all other civil actions under the Pennsylvania Rules of Civil Procedure.

(d) Constructive trust for undisclosed assets.--If a party fails to disclose information required by subsection (b) and in consequence thereof an asset or assets with a fair market value of \$500 or more is omitted from the final distribution of property, the party aggrieved by the nondisclosure may at any time petition the court granting the award to declare the creation of a constructive trust as to all undisclosed assets for the benefit of the parties and their minor or dependent children, if any. The party in whose name the assets are held shall be declared the constructive trustee, and the trust may include any terms and conditions the court may determine. The court shall grant the petition upon a finding of a failure to disclose the assets as required under subsection (b).

(e) Encumbrance or disposition to third parties.--An encumbrance or disposition of marital property to third persons who paid wholly inadequate consideration for the property may be deemed fraudulent and declared void.

§ 3506. Statement of reasons for distribution.

In an order made under this chapter for the distribution of property, the court shall set forth the reason for the distribution ordered.

§ 3507. Division of entireties property between divorced persons.

(a) General rule.--Whenever married persons holding property as tenants by entireties are divorced, they shall, except as otherwise provided by an order made under this chapter, thereafter hold the property as tenants in common of equal one-half shares in value, and either of them may bring an action against the other to have the property sold and the proceeds divided between them.

(b) Division of proceeds.--Except as provided in subsection (c), the proceeds of a sale under this section, after the payment of the expenses of sale, shall be equally divided between the parties.

(c) Liens.--The amount of any lien entered of record jointly against both of the parties, together with any interest due on the lien and docket costs, shall be deducted from the proceeds of sale and the amount of the liens entered of record against either of the parties, together with any interest due on the liens and docket costs, shall be deducted from the share of the party against whom the lien is filed and paid to the person or persons to whom the amount of the lien is due and payable.

(d) Record of divorce decree.--No decree of divorce shall be effective to change the existing law relating to liens upon property held by tenants by the entireties except a decree of divorce that is valid in this Commonwealth and not until the decree of divorce or a certified copy of the decree is recorded in the office of the recorder of deeds of the county where the property is situated. The decree shall be indexed in the grantor's index against each of the tenants by the entireties.

§ 3508. Conveyance of entireties property to divorced spouse.

Whenever married persons have acquired real estate as tenants by entireties and thereafter are divorced, either former spouse, except as otherwise provided by an order made under this chapter, may convey to the other, without the joinder of the other, the grantor's interest in the real estate so that the grantee holds the real estate in fee simple, freed from all right, title and interest which the grantor had in the real estate as a tenant by the entireties.

CHAPTER 37 ALIMONY AND SUPPORT

§ 3701. Alimony.

(a) General rule.-Where a divorce decree has been entered, the court may allow alimony, as it deems reasonable, to either party only if it finds that alimony is necessary.

(b) Factors relevant.-In determining whether alimony is necessary and in determining the nature, amount, duration and manner of payment of alimony, the court shall consider all relevant factors, including:

1. The relative earnings and earning capacities of the parties.
2. The ages and the physical, mental and emotional conditions of the parties.
3. The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
4. The expectancies and inheritances of the parties.
5. The duration of the marriage.
6. The contribution by one party to the education, training or increased earning power of the other party.
7. The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child.
8. The standard of living of the parties established during the marriage.
9. The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment.
10. The relative assets and liabilities of the parties.
11. The property brought to the marriage by either party.
12. The contribution of a spouse as homemaker.
13. The relative needs of the parties.
14. The marital misconduct of either of the parties during the marriage. The marital misconduct of either of the parties from the date of final separation shall not be considered by the court in its determinations relative to alimony, except that the court shall consider the abuse of one party by the other party. As used in this paragraph, "abuse" shall have the meaning given to it under section 6102 (relating to definitions).
15. The Federal, State and local tax ramifications of the alimony award.
16. Whether the party seeking alimony lacks sufficient property, including, but not limited to, property distributed under Chapter 35 (relating to property rights), to provide for the party's reasonable needs.
17. Whether the party seeking alimony is incapable of self-support through appropriate employment.

(c) Duration.-The court in ordering alimony shall determine the duration of the order, which may be for a definite or an indefinite period of time which is reasonable under the circumstances.

(d) Statement of reasons.-In an order made under this section, the court shall set forth the reason for its denial or award of alimony and the amount thereof.

(e) Modification and termination.-An order entered pursuant to this section is subject to further order of the court upon changed circumstances of either party of a substantial and continuing nature whereupon the order may be modified, suspended, terminated or reinstated or a new order made. Any further order shall apply only to payments accruing subsequent to the petition for the requested relief. Remarriage of the party receiving alimony shall terminate the award of alimony.

(f) Status of agreement to pay alimony.-Whenever the court approves an agreement for the payment of alimony voluntarily entered into between the parties, the agreement shall constitute the order of the court and may be enforced as provided in section 3703 (relating to enforcement of arrearages).

§ 3702. Alimony pendente lite, counsel fees and expenses.

In proper cases, upon petition, the court may allow a spouse reasonable alimony pendente lite, spousal support and reasonable counsel fees and expenses. Reasonable counsel fees and expenses may be allowed pendente lite, and the court shall also have authority to direct that adequate health and hospitalization insurance coverage be maintained for the dependent spouse pendente lite.

§ 3703. ENFORCEMENT OF ARREARAGES.

If at any time a party is in arrears in the payment of alimony or alimony pendente lite as provided for in sections 3701 (relating to alimony) and 3702 (relating to alimony pendente lite, counsel fees and expenses), the court may, after hearing, in order to effect payment of the arrearages:

1. Enter judgment.
2. Authorize the taking and seizure of the goods and chattels and the collection of the rents and profits of the real estate of the party.
3. Attach no more than 50% of the wages of the party.
4. Award interest on unpaid installments.
5. Require security to insure future payments.
6. Issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order be brought before the court at such time as the court may direct. If the court finds, after hearing, that the named person willfully failed to comply with the court order, it may declare the person in civil contempt of court and in its discretion make an appropriate order, including, but not limited to, commitment of the person to prison for a period not to exceed six months.
7. Award counsel fees and costs.

§ 3704 Payment Of Support, Alimony And Alimony Pendente Lite.

When so ordered by the court, all payments of child and spousal support, alimony or alimony pendente lite shall be made to the domestic relations section of the court which issued the order or the domestic relations section of the court at the residence of the party entitled to receive the award. The domestic relations section shall keep an accurate record of all payments and shall notify the court immediately whenever a person subject to a payment order is 30 days in arrears of payment so that appropriate action may be taken to enforce the order of the court. The domestic relations section shall distribute the payments to the person entitled to them as soon as possible after receipt.

§ 3705. Enforcement Of Foreign Decrees.

(a) General rule.--Whenever a person subject to a valid decree of a sister state or territory for the distribution of marital property or for the payment of alimony, temporary alimony or alimony pendente lite, or the property of that person is found within this Commonwealth, the obligee of the decree may petition the court where the obligor or the property of the obligor is found to register, adopt as its own and enforce the decree as a properly issued and authenticated decree of a sister state or territory. Upon registration and adoption, such relief and process for enforcement as is provided or prescribed by law in similar cases originally commenced in this Commonwealth shall be available. A copy of the decree and order shall be forwarded to the court of the state or territory which issued the original decree. The obligor shall have whatever defenses and relief are available to the obligor in the state or territory which issued the original decree and may question the jurisdiction of that court if not otherwise barred. Interest may be awarded on unpaid installments and security may be required to insure future payments as in cases originally commenced in this Commonwealth. Where property of the obligor, but not the person of the obligor, is found within this Commonwealth, there shall be jurisdiction quasi in rem, and, upon registration and adoption of the decree of the sister state or territory, relief and enforcement of the decree shall be available as in other proceedings which are quasi in rem.

(b) Optional procedure.--The right of a judgment creditor to proceed under 42 Pa.C.S. §4306 (relating to enforcement of foreign judgments) or otherwise instead of proceeding under this section remains unimpaired.

§ 3706. Bar to Alimony.

No petitioner is entitled to receive an award of alimony where the petitioner, subsequent to the divorce pursuant to which alimony is being sought, has entered into cohabitation with a person of the opposite sex who is not a member of the family of the petitioner within the degrees of consanguinity.

§ 3707. Effect Of Death Of Either Party.

Upon the death of the payee party, the right to receive alimony pursuant to this chapter shall cease. Upon the death of the payor party, the obligation to pay alimony shall cease unless otherwise indicated in an agreement between the parties or an order of court.

CHAPTER 39. MEDIATION

§ 3901. Mediation programs.

(a) Establishment.--A court may establish a mediation program for actions brought under this part or Chapter 53 (relating to custody).

(b) Issues subject to mediation.--When a program has been established pursuant to subsection (a), the court may order the parties to attend an orientation session to explain the mediation process. Thereafter, should the parties consent to mediation, the court may order them to mediate such issues as it may specify.

(c) Local rules.--

1. The court shall adopt local rules for the administration of the mediation program to include rules regarding qualifications of mediators, confidentiality and any other matter deemed appropriate by the court.
2. The court shall not order an orientation session or mediation in a case where either party or child of either party is or has been a subject of domestic violence or child abuse at any time during the pendency of an action under this part or within 24 months preceding the filing of any action under this part.

(d) Model guidelines.--The Supreme Court shall develop model guidelines for implementation of this section and shall consult with experts on mediation and domestic violence in this Commonwealth in the development thereof. The effective date of this chapter shall not be delayed by virtue of this subsection.

§ 3902. Fees and costs.

(a) Imposition of fee.--A county in which the court has established a mediation program may impose an additional filing fee of up to \$20 on divorce and custody complaints to be used to fund the mediation program.

(b) Assessment of additional costs.--The court may assess additional costs of mediation on either party.

§ 3903. Review of programs.

The Supreme Court shall monitor mediation programs established by courts of common pleas. The Supreme Court shall establish procedures for the evaluation of the effectiveness of the program.

§ 3904. Existing programs.

This chapter shall not affect any existing mediation program established in any judicial district pursuant to local rule.

PART IV. Support, Property and Contracts

CHAPTER 41 - GENERAL PROVISIONS

§ 4101. Liability for debts contracted before marriage.

(a) General rule.--A spouse is not liable for the debts of the other spouse contracted before marriage.

(b) Liability of property unaffected.--This chapter does not protect the property of a married person from liability for debts contracted by or in the name of the married person by any person authorized to so contract.

§ 4102. Proceedings in case of debts contracted for necessities.

In all cases where debts are contracted for necessities by either spouse for the support and maintenance of the family, it shall be lawful for the creditor in this case to institute suit against the husband and wife for the price of such necessities and, after obtaining a judgment, have an execution against the spouse contracting the debt alone; and, if no property of that spouse is found, execution may be levied upon and satisfied out of the separate property of the other spouse.

§ 4103. (Reserved).

§ 4104. Right of married person to separate earnings.

Except as otherwise provided in this title, the separate earnings of any married person of this Commonwealth, whether these earnings are wages for labor, salary, property, business or otherwise, shall accrue to and enure to the separate benefit and use of that married person independently of the other spouse, and so as not to be subject to any legal claim of the other spouse. However, in any action in which the ownership of such property is in dispute, the person claiming such property shall be compelled, in the first instance, to show title and ownership in the property.

§ 4105. Loans between married persons.

A married person may loan the other spouse money from the separate estate of the married person and take in security therefor a judgment or mortgage against the property of the other spouse which shall be valid as otherwise provided by law.

§ 4106. Construction of chapter.

This chapter shall not be construed to affect Part IV (relating to divorce).

CHAPTER 43 - SUPPORT MATTERS GENERALLY

SUBCHAPTER A - GENERAL PROVISIONS

§ 4301. Scope of chapter.

(a) General rule.--Actions or proceedings provided by this chapter are in addition to and not in substitution of actions or proceedings provided by unsuspended statutes where there is desertion or a failure to perform a duty to support.

(b) Persons in institutions and foster homes.--Matters relating to the support of persons living in public or private institutions or receiving foster home care and who are otherwise entitled to support under this chapter shall be determined by the court under the statutes pertaining to those institutions or foster homes.

§ 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:

"Consumer reporting agency."

As defined in section 630(f) of the Federal Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681a(f)).

"Department."

The Department of Public Welfare of the Commonwealth.

"Employer."

Includes an individual, partnership, association, corporation, trust, Federal agency, Commonwealth agency or political subdivision paying or obligated to pay income.

"Genetic tests."

Includes any blood or tissue testing processes used to confirm or exclude parentage.

"Income."

Includes compensation for services, including, but not limited to, wages, salaries, bonuses, 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; worker's compensation; unemployment compensation; or other entitlements to money or lump sum awards, without regard to source, including lottery winnings; income tax refunds; insurance compensation or settlements; awards or verdicts; and any form of payment due to and collectible by an individual regardless of source.

"Judgment by operation of law."

A judgment which exists without the need for any ministerial act and which arises out of the existence of facts readily verifiable from the domestic relations section's records. The existence of a valid support order and nonpayment of the order, together, create the judgment.

"Net income."

Gross income minus taxes and any other deductions mandated by the employer as a condition of employment.

"Obligee."

The term shall have the meaning given in section 7101(b) (relating to short title of part and definitions).

"Obligor."

The term shall have the meaning given in section 7101(b) (relating to short title of part and definitions).

"Order of support."

Includes assistance imposed or imposable by law or by any court order, or by an agency administering a State Title IV-D program, whether final or subject to modification and whether incidental to a proceeding for divorce, separate maintenance, action for failure to support a child born out of wedlock or otherwise. The term includes an order for the support and maintenance of a child, including a child who has attained the age of majority or for the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, interest and penalties, income withholding, attorney's fees and other relief.

"Overdue support."

Support which is delinquent under a payment schedule established by the court.

"Past due support."

Support included in an order of support which has not been paid.

"State disbursement unit."

The organizational unit established within the Department of Public Welfare responsible for collecting and disbursing support, as provided in section 4374 (relating to State disbursement unit.).

"Support."

Care, maintenance and financial assistance.

§ 4303. Information to consumer reporting agency.

Information regarding the name and the amount of arrearages owed by an obligor shall be provided periodically to consumer reporting agencies whenever the obligor owes overdue support, subject to the following:

1. The information shall be available only after the obligor owing the arrearages has been notified of the proposed action and given a period not to exceed 20 days to contest the accuracy of the information. The notice shall be as provided by local rule of the court of common pleas.
2. Such information shall not be made available to:

- i. a consumer reporting agency which the department determines not to have sufficient capability to systematically and timely make accurate use of such information; or
- ii. an entity which has not furnished evidence satisfactory to the department that the entity is a consumer reporting agency.

§ 4304.1. Cooperation of government and nongovernment 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 provide information prescribed by the department regarding a person's wages, income, telephone numbers, addresses, Social Security numbers and date of birth, employer names, addresses and telephone numbers.
2. Require the Social Security number of an individual who has one on any application for a professional or occupational license or certification; a permit; a driver's license, including a commercial driver's license; a recreational license; or a marriage license. Collection of the Social Security number shall be performed in such manner as to protect its confidentiality. If the government agency uses another identifying number on the face of the application, the government agency shall advise the applicant and shall keep the Social Security number on file at the agency.
3. Require the Social Security number of any individual subject to a divorce decree, support order, paternity determination or acknowledgement of paternity in all records relating to the matter. Collection of the Social Security number shall be kept confidential.
4. Require the Social Security number of a deceased individual in records relating to the death, including the death certificate.

(b) Cooperation of labor organizations. - Labor organizations shall at the request of the department 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.

(b.1) Cooperation of financial institutions.- Notwithstanding any other provision of law, all financial institutions doing business in this Commonwealth shall:

1. Provide for each calendar quarter such identifying information, asset information and benefit information as the department may specify for any obligor who owes past due support as identified by the department by name and Social Security number or other taxpayer identification number.
2. Upon receipt of a notice of lien or seizure order from the domestic relations section or the department, encumber or surrender, as the case may be, identified assets of an obligor who is subject to a child support lien. The Supreme Court shall, by general rule, prescribe the form of the order. The financial institution shall remit to the domestic relations section or to the department the assets available in the account on the date of the receipt of the notice of lien or seizure order by the financial institution. Remittance by the financial institution shall be made within a reasonable period of time.

(b.2) Agreements between the department and financial institutions.- Notwithstanding any other provision of law, the department and any financial institution doing business in this Commonwealth are authorized to enter into agreements for the purpose of carrying out the provisions of subsection (b.1). The agreement may specify payment of a fee by the department to the financial institution to conduct the activities in accordance with subsection (b.1)(1) which shall not exceed actual and reasonable costs incurred by the financial institution.

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

(d) Confidentiality.- Any information provided or collected pursuant to this section shall be confidential and may be used by the department, the court or the domestic relations section solely for purposes of child and spousal support enforcement and to the extent allowed by Federal law, for administration of public assistance programs. 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.

(d.1) Notification.- No financial institution shall be required to notify an obligor of a request for information by the department or the court under this section.

(e) Immunity.- A person, government agency, labor organization or financial institution providing information, encumbering or surrendering property pursuant to this section shall not be subject to civil or criminal liability to any person or entity. The department, a court, a domestic relations section or an authorized employee of such an entity requesting information under this section or ordering the seizure, encumbrance or surrender of an asset held by a financial institution shall not be subject to any civil or criminal liability. A financial institution shall not be subject to any civil or criminal liability for encumbering or surrendering assets of an obligor as required by this section. The immunity provided by this subsection shall not apply to any person or agent of a government agency, labor organization or financial institution who knowingly supplies false information under this section.

(f) Date collection.- The department shall provide for the frequency and format, which may include automated data exchanges, for the collection of the information required in this section.

(g) Definitions.- As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Account."

A demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account or money market mutual fund account. The term does not include trust accounts, custodian accounts or accounts under 20 Pa.C.S. Ch. 53 (relating to the Pennsylvania Uniform Transfers to Minors Act).

"Asset information."

Account balances, deposits, withdrawals, interest, investments, trusts, dividends, certificates of deposits and other asset information.

"Benefit information."

Information regarding financial or health care benefits to which an individual may be entitled from government, an employer, an insurer or other source.

"Financial institution."

A depository institution, as defined by section 3(c) of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. \approx 1813(c)); an institution-affiliated party, as defined by section 3(u) of the Federal Deposit Insurance Act; a Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. \approx 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of the Federal Credit Union Act; and a benefit association, insurer, safe deposit company, money-market mutual fund or similar entity authorized to do business in this Commonwealth.

"Identifying information."

Name, record address, Social Security number or other taxpayer identification number.

"Insurer."

A foreign or domestic insurance company, association or exchange holding a certificate of authority under the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; a risk-assuming preferred provider organization operating under section 630 of The Insurance Company Law of 1921; a health maintenance organization holding a certificate of authority under the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act; a fraternal benefit society holding a certificate of authority under the act of December 14, 1992 (P.L.835, No.134), known as the Fraternal Benefit Societies Code; a hospital plan corporation holding a certificate of authority under 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations); a professional health service plan corporation holding a certificate of authority under 40 Pa.C.S. Ch. 63 (relating to professional health service plan corporations); or a similar entity authorized to do insurance business in this Commonwealth.

§ 4305. General administration of support matters.

(a) Powers and duties.- Subject to any inconsistent general rules and to the supervision and direction of the court, the domestic relations section shall have the power and duty to:

- (1) Process all complaints received under Pt. VIII (relating to uniform interstate family support) and Pt. VIII-A (relating to intrastate family support).
- (2) Make such investigation as may be necessary.
- (3) Take charge of any obligor before or after hearing, as may be directed by the court.

(4) Collect and pay over to the persons entitled thereto moneys received pursuant to support proceedings.

(5) Keep a full and complete record of all support proceedings, including orders of the court.

(6) Keep account of all payments made under order of court and promptly bring to the attention of the court and the district attorney any default in compliance with any order of court.

(6.1) In the case of a dispute as to the amount of an order of support proposed by the domestic relations section, issue a temporary order of support pending judicial determination. A temporary order of support under this paragraph may not be for less than the full amount of the proposed order of support being disputed.

(7) Make effective the orders of support entered.

(8) Furnish the court with such information and assistance as it may require and generally perform such services as it may direct relating to support proceedings.

(9) Inform both parties to a support action that guidelines as specified in section 4322 (relating to support guidelines) are available in the domestic relations section.

(10) Implement safeguards applicable to all confidential information received by the domestic relations section, in order to protect the privacy rights of the parties, including:

- i. safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity or to establish, modify or enforce support or to make or enforce a child custody determination;
- ii. prohibitions against the release of information on the whereabouts of one party or the child to another party against whom a protective order with respect to the former party or the child has been entered; and
- iii. prohibitions against the release of information on the whereabouts of one party or the child to another person if the domestic relations section has reason to believe that the release of the information may result in physical or emotional harm to the party or the child.

(11) Initiate judicial proceedings to void a fraudulent transfer or obtain a settlement from the transferee in the best interests of the child support obligee.

(b) Additional powers.--Subject to the supervision and direction of the court, but without the need for prior judicial order, the domestic relations section shall have the power to expedite the establishment and enforcement of support to:

1. Order genetic testing for the purpose of paternity establishment pursuant to section 4343 (relating to paternity).
2. Issue subpoenas against any entity within this Commonwealth, including for-profit, not-for-profit and governmental employers, to require production of information regarding the employment, compensation and benefits of any individual employed by the entity as an employee or contractor.
3. Access records of all State and local government agencies, including the following:
 - i. vital statistic records, including records of marriage, birth and divorce;
 - ii. State and local tax and revenue records, including information on residence address, employer, income and assets;
 - iii. records of real and titled personal property;
 - iv. records of occupational and professional licenses;
 - v. records of the ownership and control of corporations, partnerships and other business entities;
 - vi. employment security records;
 - vii. records of agencies administering public assistance programs;
 - viii. motor vehicle registration and operator licensing records;
 - ix. probation and parole records; and
 - x. corrections records.
4. Issue subpoenas for the records of public utilities and cable television companies with respect to individuals who are owed support, or against whom or with respect to whom a support obligation is sought, consisting of the names and addresses of the individuals or of their employers.
5. Issue subpoenas for the records held by financial institutions with respect to individuals who are owed support, or against whom or with respect to whom a support obligation is sought.

6. Issue subpoenas for financial or other information needed to establish, modify or enforce a support order.
 7. Issue orders directing an obligor or other payor to change the payee of a support order.
 8. Order income withholding pursuant to section 4348 (relating to attachment of income).
 9. Increase the amount of monthly support payments for the payment of arrearages, as may be provided by general rule or previous court order.
 10. Issue orders in cases where there is a support arrearage to secure assets to satisfy current support obligation and the arrearage by:
 - i. Intercepting or seizing periodic or lump sum payments from a government agency, including unemployment compensation, workers' compensation and other benefits.
 - ii. Intercepting or seizing judgments or settlements.
 - iii. Attaching and seizing assets of the obligor held in financial institutions.
 - iv. Attaching public and private retirement funds.
 - v. Imposing liens on property.
 - vi. Directing the sheriff to levy and sell other real or personal property.
 11. Transmit to another state a request for assistance in a case involving the enforcement of a support order and sufficient information to enable the state to which the request is transmitted to compare the information to the information in the data bases of the state. The transmittal shall serve as a certification of arrears and a certification that the state has complied with all procedural due process requirements applicable to the case.
 12. Respond to a request for assistance received from another state. The response shall confirm the receipt of the request, the action taken and the amount of support collected and specify any additional information or action required of the requesting tribunal to obtain enforcement of the child support obligation.
- (c) Civil penalty.--In addition to initiating contempt proceedings, the domestic relations section may assess a civil administrative penalty of up to \$1,000 per violation upon any person or entity which fails to comply with a subpoena or request for information under subsection (b)(2).
- (d) Due process and judicial review procedures.--Subject to general rules which may be promulgated by the Supreme Court, each court shall establish due process and judicial review procedures for domestic relations sections exercising powers under this section.
- (e) Transmission of information.--All information transmitted to this Commonwealth from another state for purposes of establishing or enforcing an order of support under this chapter may be transmitted electronically or by other methods.

§ 4306. Duties of Title IV-D attorney.

- (a) General rule.--The county Title IV-D attorney shall at all times aid in the enforcement of the duty of child support and child and spousal support and shall cooperate with the domestic relations section in the presentation of complaints or in any proceeding designed to obtain compliance with any order of the court.
- (b) Representation of complainant.--The district attorney, upon the request of the court or a Commonwealth or local public welfare official, shall represent any complainant in any proceeding under this subchapter.
- (b.1) Representation of Commonwealth.--In matters relating to the establishment and enforcement of child support and child and spousal support, the Title IV-D interests of the Commonwealth shall be represented, where appropriate, by the county Title IV-D attorney in a proceeding for child support and child and spousal support.
- (c) Joinder of Department of Public Welfare.--Whenever the record in any support action or proceeding indicates that the persons for whom support is sought have received public assistance from the Department of Public Welfare at any time since the initiation of the matter, the department may become a party to the action or proceeding by filing an entry of appearance. This entry of appearance may be entered without leave of court at any time and at any stage of the action or proceeding.

§ 4307. State income tax intercept.

The department shall have the authority to implement a State income tax refund intercept program pursuant to section 466(a)(3) of the Social Security Act (Public Law 74-271, 42 U.S.C. § 666(a)(3)) when, in the judgment of the department, it is cost effective to do so.

§ 4308. Lottery winnings intercept.

(a) Duty of Department of Revenue.--In the case of any person winning more than \$2,500 in the Pennsylvania State Lottery, the Department of Revenue shall request the department to make all reasonable efforts to determine if the winner is a delinquent support obligor prior to making any lottery winnings payment. If the winner is so found, the amount of any arrearages shall be deducted from the amount of lottery winnings and paid to the obligee in the manner provided in this title for the administration of support payments.

(b) Duties of department.--The department shall:

1. Cause a search to be made periodically of the following:
 - i. Its records relative to the Title IV-D Program
 - ii. Any information received from county domestic relations offices relative to arrearages of court-ordered child support.
 - iii. Any information received from states with reciprocal enforcement of child support relative to arrearages of court-ordered child support.
2. Furnish the Department of Revenue with the following information:
 - i. The department identifier.
 - ii. The obligor's full name and Social Security number.
 - iii. The amount of the arrearage and the identifier of the court order which underlies it.
3. Request the Department of Revenue to withhold from a lottery prizewinner the amount of any arrearage discovered pursuant to the provisions of paragraph (1).
4. Request the Department of Revenue to pay over, whether in a lump sum or by installment, to the department that part of the prize which satisfies this arrearage and:
 - i. Deduct from the amount received from the Department of Revenue any amount assigned to the Department of Public Welfare.
 - ii. Pay over to the domestic relations section for distribution to the obligee of the child support court order the amount of prizewinnings which satisfies the arrearage owed to the obligee. This payment shall be made within 30 days of the date when the winnings are withheld.
5. May, if prizewinnings are insufficient to satisfy the arrearages owed under the child support order, proceed as follows:
 - i. It may collect as provided by law.
 - ii. It may reinstate the procedures set forth in this section if the obligor wins a subsequent lottery prize.
6. Determine and set a fee which reflects the actual costs it and the Department of Revenue incur to administer this section, submit this calculation to the Department of Revenue for its approval, request the Department of Revenue to deduct the calculated amount from the amount to be paid to the prizewinner after the prizewinner's child support obligation has been fully satisfied and request that the deducted amount be divided between both departments based on the administrative expenses incurred by each.
7. Within 30 days of the date the prize was won:
 - i. Award the prizewinner the lottery prize winnings in whole or in part.
 - ii. If applicable, notify the prizewinner that the prize or a portion thereof was used to satisfy arrearages owed for court-ordered child support.

(c) Notice.--The domestic relations section shall send a one-time notice to all obligors of existing orders informing them that arrearages may be intercepted as provided by this section.

(d) Right to review.--A lottery prizewinner whose prize is used to satisfy an obligation under this section may appeal to the department in accordance with 2 Pa.C.S. (relating to administrative law and procedure). The appeal shall be filed within 30 days after the prizewinner is notified by the Department of Revenue that the prize has been reduced or totally withheld to satisfy the prizewinner's outstanding arrearages for child support and related obligations.

(e) Rules and regulations.--The Department of Revenue and the department shall, in the manner provided by law, jointly promulgate the rules and regulations necessary to carry out this section.

§4309. Publication of delinquent support obligors.

(a) General rule.--Any county, through its domestic relations section, may publish the names of delinquent support obligors who are in arrears 30 days or more in newspapers of general or special circulation in the county.

(b) Immunity.--The county, its officials and newspapers shall be immune from any and all criminal and civil liability as a result of the publication of names and identities under subsection (a), unless the publication is a result of intentional misconduct by the county, its officials or newspapers.

SUBCHAPTER B – SUPPORT

§4321. Liability for support.

Subject to the provisions of this chapter:

1. Married persons are liable for the support of each other according to their respective abilities to provide support as provided by law.
2. Parents are liable for the support of their children who are unemancipated and 18 years of age or younger.
3. Parents may be liable for the support of their children who are 18 years of age or older.

§4322. Support guideline.

(a) Statewide guideline.--Child and spousal support shall be awarded pursuant to a Statewide guideline as established by general rule by the Supreme Court, so that persons similarly situated shall be treated similarly. The guideline shall be based upon the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support. In determining the reasonable needs of the child or spouse seeking support and the ability of the obligor to provide support, the guideline shall place primary emphasis on the net incomes and earning capacities of the parties, with allowable deviations for unusual needs, extraordinary expenses and other factors, such as the parties' assets, as warrant special attention. The guideline so developed shall be reviewed at least once every four years.

(b) Rebuttable presumption.--There shall be a rebuttable presumption, in any judicial or expedited process, that the amount of the award which would result from the application of such guideline is the correct amount of support to be awarded. A written finding or specific finding on the record that the application of the guideline would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, provided that the finding is based upon criteria established by the Supreme Court by general rule within one year of the effective date of this act.

§4323. Support of emancipated child.

(a) Emancipated child.--A court shall not order either or both parents to pay for the support of a child if the child is emancipated.

(b) Marital status of parents immaterial.--In making an order for the support of a child, no distinction shall be made because of the marital status of the parents.

§4324. Inclusion of spousal medical support.

In addition to periodic support payments, the court may require that an obligor pay a designated percentage of a spouse's reasonable and necessary health care expenses. If health care coverage is available through an obligor or obligee at no cost as a benefit of employment or at a reasonable cost, the court shall order an obligor or obligee to provide or extend health care coverage to a spouse. Upon failure of the obligor to make this payment or reimburse the spouse and after compliance with procedural due process requirement, the court shall treat the amount as arrearages.

§4325. Payment of order of support.

Unless procedures established by the department for the State disbursement unit provide otherwise, an order of support shall direct payment to be made payable to or payment to be made to the domestic relations section for transmission to the obligee or for transmission directly to a public body or public or private agency whenever the care, maintenance and assistance of the obligee is provided for by the public body or public or private agency.

§4326. Mandatory inclusion of child medical support.

(a) General rule.--In every proceeding to establish or modify an order which requires the payment of child support, the court shall ascertain the ability of each parent to provide health care coverage for the children of the parties, and the order shall provide health care coverage for each child as appropriate.

(b) Noncustodial parent requirement.--If health care coverage is available at a reasonable cost to a noncustodial parent on an employment-related or other group basis, the court shall require that the noncustodial parent provide such coverage to the children of the parties. In cases where there are two noncustodial parents having such coverage available, the court shall require one or both parents to provide coverage.

(c) Custodial parent requirement.--If health care coverage is available at a reasonable cost to a custodial parent on an employment-related or other group basis, the court shall require that the custodial parent provide such coverage to the children of the parties, unless adequate health care coverage has already been provided through the noncustodial parent. In cases where the parents have shared custody of the child and coverage is available to both, the court shall require one or both parents to provide coverage, taking into account the financial ability of the parties and the extent of coverage available to each parent.

(d) Additional requirement.--If the court finds that health care coverage is not available to either parent at a reasonable cost on an employment-related or other group basis, the court shall order either parent or both parents to obtain for the parties' children health insurance coverage which is available at reasonable cost.

(e) Uninsured expenses.--The court shall determine the amount of any deductible and copayments which each parent shall pay. In addition, the court may require that either parent or both parents pay a designated percentage of the reasonable and necessary uncovered health care expenses of the parties' children, including birth-related expenses incurred prior to the filing of the complaint. Upon request of the domestic relations section, the department shall provide to the domestic relations section all birth-related expenses which the department has incurred in cases it has referred to the domestic relations section for child support services.

(f) Proof of insurance.--Within 30 days after the entry of an order requiring a parent to provide health care coverage for a child or after any change in health care coverage due to a change in the parent's employment, the obligated parent shall submit to the other parent, or person having custody of the child, written proof that health care coverage has been obtained or that application for coverage has been made. Proof of coverage shall consist of at a minimum:

1. The name of the health care coverage provider.
2. Any applicable identification numbers.
3. Any cards evidencing coverage.
4. The address to which claims should be made.
5. A description of any restrictions on usage, such as prior approval for hospital admissions, and the manner of obtaining approval.
6. A copy of the benefit booklet or coverage contract.
7. A description of all deductibles and copayments.
8. Five copies of any claim forms.

(g) Obligations of insurance companies.--Every insurer doing business within this Commonwealth shall be obligated as follows:

(1) to permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent and to make payment on such claims directly to such custodial parent, the provider or, in the case of Medical Assistance patients, to the department;

(2) to provide such information to the custodial parent as may be necessary to obtain benefits, including copies of benefit booklets, insurance contracts and claims information;

(3) if coverage is made available for dependents of the insured, to make such coverage available to the insured's children without regard to enrollment season restrictions, whether the child was born out of wedlock, whether the child is claimed as a dependent on the parent's Federal income tax return, whether the child resides in the insurer's service area, the amount of support contributed by a parent, the amount of time the child spends in the home or the custodial arrangements for the child;

(4) to permit the enrollment of children under court order upon application of the custodial parent, domestic relations section or the department within 30 days of receipt by the insurer of the order;

(4.1) not to disenroll or eliminate coverage of any child unless the insurer is provided satisfactory written evidence that a court order requiring coverage is no longer in effect or that the child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of such disenrollment;

(4.2) to receive, process and pay claims (whether or not on behalf of a child), including electronically submitted claims, submitted by the department within the time permitted by law without imposing any patient signature requirement or other requirement different from those imposed upon providers, agents or assignees of any insured individual;

(5) to provide the custodial parent who has complied with subsection (j) with the same notification of termination or modification of any health care coverage due to nonpayment of premiums or other reason as is provided to other insureds under the policy; and

(6) except as provided in paragraph (4.2), to not take into account the fact that any individual, whether or not a child, is eligible for or is being provided medical assistance when enrolling that individual or when making any payments for benefits to the individual or on the individual's behalf.

(h) Obligations of noninsurers.--To the maximum extent permitted by Federal law, the obligations of subsection (g) shall apply to noninsurers providing health care coverage within this Commonwealth, including health maintenance organizations, self-insured employee health benefit plans and any other entity offering a service benefit plan.

(h.1) Obligations of employers.--Every employer doing business within this Commonwealth shall be obligated as follows:

1. in any case in which a parent is required by a court order to provide health coverage for a child and the parent is eligible for family health coverage, the employer shall permit the insured parent to enroll any child who is otherwise eligible without regard to any enrollment season restrictions;
2. if the insured parent is enrolled but fails to make application to obtain coverage for such child, to enroll the child under the family coverage upon application by the child's other parent, the domestic relations section or the department; and
3. not to disenroll or eliminate coverage of any such child unless the employer is provided satisfactory written evidence that the court or administrative order is no longer in effect, the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment or the employer has eliminated family health coverage for all of its employees.

(i) Obligations of custodial parent.--The custodial parent shall comply with the insurer's existing claim procedures and present to the insurer one of the following documents:

1. a copy of a court order as defined in subsection (l); or
2. a release signed by the insured permitting the insurer to communicate directly with the custodial parent.

(j) Enforcement of order.--The employee's share, if any, of premiums for health coverage shall be deducted by the employer and paid to the insurer or other entity providing health care coverage. If an obligated parent fails to comply with the order to provide health care coverage for a child, fails to pay medical expenses for a child or receives payment from a third party for the cost of medical services provided to such child and fails to reimburse the custodial parent or provider of services, the court shall:

1. If, after a hearing, the failure or refusal is determined to have been willful, impose the penalties of section 4345(a) (relating to contempt for noncompliance with support order).
2. Enter an order for a sum certain against the obligated parent for the cost of medical care for the child and for any premiums paid or provided for the child during any period in which the obligated parent failed or refused to provide coverage. Failure to comply with an order under this paragraph shall be subject to section 4348 (relating to attachment of income).
3. Upon failure of the obligated parent to make this payment or reimburse the custodial parent and after compliance with due process requirements, treat the amount as arrearages.

(k) Enforcement against insurers.--Any insurer or other entity which violates the obligations imposed upon it under subsection (g) or (h) shall be civilly liable for damages and may be adjudicated in contempt and fined by the court.

(l) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Birth-related expenses."

Costs of reasonable and necessary health care for the mother or child or both incurred before, during or after the birth of a child both in or out of wedlock which are the result of

the pregnancy or birth and which benefit either the mother or child. Charges not related to the pregnancy or birth shall be excluded.

"Child."

A child to whom a duty of child support is owed.

"Health care coverage."

Coverage for medical, dental, orthodontic, optical, psychological, psychiatric or other health care services for a child. For the purposes of this section, medical assistance under Subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, shall not be considered health care coverage.

"Insurer."

A corporation or person incorporated or doing business in this Commonwealth by virtue of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; a hospital plan corporation as defined in 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations); a professional health service plan corporation as defined in 40 Pa.C.S. Ch. 63 (relating to professional health services plan corporations); a beneficial society subject to 40 Pa.C.S. Ch. 65 (relating to fraternal benefit societies); a health maintenance organization; or any other person, association, partnership, common-law trust, joint stock company, nonprofit corporation, profit corporation or other entity conducting an insurance business.

"Medical child support order."

An order which relates to the child's right to receive certain health care coverage and which:

1. includes the name and last known mailing address of the parent providing health care coverage and the name and last known mailing address of the child;
2. includes a reasonable description of the type of coverage to be provided or includes the manner in which coverage is to be determined;
3. designates the time period to which the order applies;
4. if coverage is provided through a group health plan, designates each plan to which the order applies; and
5. includes the name and address of the custodial parent.

§4327. Postsecondary educational costs.

(a) General rule.--Where applicable under this section, a court may order either or both parents who are separated, divorced, unmarried or otherwise subject to an existing support obligation to provide equitably for educational costs of their child whether an application for this support is made before or after the child has reached 18 years of age. The responsibility to provide for postsecondary educational expenses is a shared responsibility between both parents. The duty of a parent to provide a postsecondary education for a child is not as exacting a requirement as the duty to provide food, clothing and shelter for a child of tender years unable to support himself. This authority shall extend to postsecondary education, including periods of undergraduate or vocational education after the child graduates from high school. An award for postsecondary educational costs may be entered only after the child or student has made reasonable efforts to apply for scholarships, grants and work-study assistance.

(b) Action to recover educational expenses.--An action to recover educational costs may be commenced:

1. by the student if over 18 years of age; or
2. by either parent on behalf of a child under 18 years of age, but, if the student is over 18 years of age, the student's written consent to the action must be secured.

(c) Calculation of educational costs.--In making an award under this section, the court shall calculate educational costs as defined in this section.

(d) Grants and scholarships.--The court shall deduct from the educational costs all grants and scholarships awarded to the student.

(e) Other relevant factors.--After calculating educational costs and deducting grants and scholarships, the court may order either parent or both parents to pay all or part of the remaining educational costs of their child. The court shall consider all relevant factors which appear reasonable, equitable and necessary, including the following:

1. The financial resources of both parents.
2. The financial resources of the student.

3. The receipt of educational loans and other financial assistance by the student.
 4. The ability, willingness and desire of the student to pursue and complete the course of study.
 5. Any willful estrangement between parent and student caused by the student after attaining majority.
 6. The ability of the student to contribute to the student's expenses through gainful employment. The student's history of employment is material under this paragraph.
 7. Any other relevant factors.
- (f) When liability may not be found.--A court shall not order support for educational costs if any of the following circumstances exist:
1. Undue financial hardship would result to the parent.
 2. The educational costs would be a contribution for postcollege graduate educational costs.
 3. The order would extend support for the student beyond the student's twenty-third birthday. If exceptional circumstances exist, the court may order educational support for the student beyond the student's twenty-third birthday.
- (g) Parent's obligation.--A parent's obligation to contribute toward the educational costs of a student shall not include payments to the other parent for the student's living expenses at home unless the student resides at home with the other parent and commutes to school.
- (h) Termination or modification of orders.--Any party may request modification or termination of an order entered under this section upon proof of change in educational status of the student, a material change in the financial status of any party or other relevant factors.
- (i) Applicability.--
1. This act shall apply to all divorce decrees, support agreements, support orders, agreed or stipulated court orders, property settlement agreements, equitable distribution agreements, custody agreements and/or court orders and agreed to or stipulated court orders in effect on, executed or entered since, November 12, 1992.
 2. In addition, this act shall apply to all pending actions for support. This section shall not supersede or modify the express terms of a voluntary written marital settlement agreement or any court order entered pursuant thereto.
- (j) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
- "Educational costs."
Tuition, fees, books, room, board and other educational materials.
- "Postsecondary education."
An educational or vocational program provided at a college, university or other postsecondary vocational, secretarial, business or technical school.

SUBCHAPTER C -- PROCEEDINGS GENERALLY

§ 4341. Commencement of support actions or proceedings.

- (a) Procedure.--A support action or proceeding under this chapter shall be commenced in the manner prescribed by the Rules of Civil Procedure governing actions of support.
- (b) Standing.--Any person caring for a child shall have standing to commence or continue an action for support of that child regardless of whether a court order has been issued granting that person custody of the child.
- (c) Jurisdiction.--The court shall exercise Statewide jurisdiction over the parties to a proceeding under this chapter.

§ 4342. Expedited procedure.

- (a) General rule.--The Supreme Court shall by general rule provide for expedited procedures for the determination of paternity and the determination and enforcement of support. The procedures shall include an office conference; a conference summary to the court by the hearing officer; an opportunity for the court to enter an order without hearing the parties; and an opportunity for the parties to demand a full hearing by the court.
- (b) Alternate procedure.--The Supreme Court shall also provide an alternate expedited procedure which may be adopted by local rule of the courts of common pleas. The procedure shall include an office conference; an evidentiary hearing before a hearing officer who shall be an attorney; a

transcript of the testimony; a report and recommendation to the court by the hearing officer; and an opportunity for the filing of exceptions with and argument before the court.

(c) Long arm procedures.--The Supreme Court shall by general rule establish procedures for the exercise of long arm jurisdiction to establish paternity and to establish and enforce support. Long arm jurisdiction shall be used in preference to proceedings under Part VIII (relating to uniform interstate family support) or VIII-A (relating to intrastate family support) unless it would be more effective to proceed otherwise. Long arm proceedings may be commenced or continued in any county where the plaintiff resides regardless of whether the parties maintained a family domicile in that county.

(d) [Deleted.]

(e) Default.--The court shall enter a default order establishing paternity and enforcing support upon a showing that the defendant has been properly served and has not appeared.

(f) Hearsay exception.--For proceedings pursuant to this section, a verified petition, affidavit or document and a document incorporated by reference in any of them which would not be excluded under the hearsay rule if given in person is admissible in evidence if given under oath by a party or witness..

(g) Payment record.--A copy of the record of support payments certified as a true copy of the original by the custodian of the record is evidence of facts asserted in it and is admissible to show whether payments were made.

(h) Bills.--Copies of billing statements, bills for testing for parentage and for prenatal and postnatal health care of the mother and child furnished to the adverse party at least ten days before a court proceeding are admissible in evidence to prove the amount of the charges billed and to prove that the charges were reasonable, necessary and customary.

(i) Transmission of documentary evidence.--Documentary evidence transmitted to the domestic relations section by telephone, telecopier or other means which do not provide an original writing may not be excluded from evidence based on the means of transmission.

(j) Testimony.--In a proceeding under this part, a court may permit a party or witness to be deposed or to testify by telephone, audiovisual or other electronic means at a designated location.

§ 4344. Contempt for failure of obligor to appear.

A person who willfully fails or refuses to appear in response to a duly served order or other process under this chapter 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.
3. Probation for a period not to exceed six months.

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 \$1000.
3. Probation for a period not to exceed 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.

§ 4346. Contempt for noncompliance with visitation or partial custody order.

(a) General rule.--A party who willfully fails to comply with any visitation or partial custody order 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.
3. Probation for a period not to exceed six months.
4. An order for nonrenewal, suspension or denial of operating privilege pursuant to section 4355 (relating to denial or suspension of licenses.)

(b) Condition for release.--An order committing a person to jail under this section shall specify the condition which, when fulfilled, will result in the release of the obligor.

§ 4347. Security for attendance or performance.

At any stage of the proceedings under this chapter, upon affidavit filed that the obligor is about to leave this Commonwealth or the judicial district or, where in the judgment of the court, the obligor has habitually failed to comply with court orders under this chapter, the court may, as prescribed by general rule, issue appropriate process directing that the obligor be brought before the court and may direct that the obligor give security to appear when directed by the court or to comply with any order of the court.

§ 4348. Attachment of income.

(a) Existing and certain future orders.--All orders of support existing as of the effective date of this provision, as well as all orders of support entered or modified after the effective date of this provision but before June 30, 1990, shall provide for mandatory attachment of income:

1. if the obligor is in arrears in payment in an amount equal to or greater than one month's support obligation;
2. at the request of the obligor;
3. at the request of the obligee; or
4. as of July 1, 1991, except as provided by subsection (b)(1) and (2).

(b) Future orders.--All orders of support entered or modified on or after July 1, 1990, shall, as part of the order, provide for the mandatory attachment of income unless:

1. the obligor is not in arrears in payment in an amount equal to or greater of one month's support obligation; and
2. (i) one of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or
(ii) A written agreement is reached between the parties which provides for an alternative arrangement.

The court may, on its own motion, order the attachment of the obligor's income where the court has a reasonable basis to believe the obligor will not comply with the order of support. In making this determination, the court may consider evidence of the person's previous violations of orders entered in any jurisdiction or evidence that the obligor has attempted to conceal income or to transfer, convey or encumber property in order to reduce the obligor's support obligation. Attachment shall occur under this subsection without amendment to the order of support and, if arrearages occur, without the need for a judicial or administrative hearing.

(c) Assessment of penalty.--The court may impose a penalty of not more than 10% on any amount in arrears for 30 days or more if the court determines that the arrearage was willful.

(d) Arrearages.--If support arrearages exist at the time of the entry of the order, the order shall specify all of the following:

1. To whom an arrearage is owed and the amount of the arrearage.
2. The period of time for which the arrearage is calculated.
3. The amount of periodic support to be applied to current support and the amount to be applied to arrearages.
4. If support arrearages are owed to more than one obligee, how payments are to be divided and in which priority.
5. A direction that all payments are to be credited to current support obligations first, with any payment in excess to be applied to arrearages.

(d.1) Insurance.--If an obligor or obligee is in violation of an order under section 4326(j)(3) (relating to mandatory inclusion of child medical support), the attachment shall be in favor of the appropriate provider of health care coverage.

(e) Attachment process.--

1. The obligor shall be given notice of the attachment of his income. Such notice shall specify all of the following:
 - i. The amount to be withheld on account of current support and on account arrears.
 - ii. That the order of attachment shall apply to current and future employers.
 - iii. That the grounds for contesting the order of attachment shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of current support owed, errors in the amount of arrearage, an attachment in excess of the maximum amount set forth in subsection (g) or mistaken identity of the obligor.
 - iv. That attachment has occurred or shall occur in all cases within ten days of the issuance of the notice.
 - v. A notice of how and when the order may be contested.
2. To contest the order, the obligor must appear before the domestic relations section no later than ten days after issuance of the initial notice, at which time it will be determined if a mistake of fact has occurred. If so, the order shall be modified accordingly.

(f) Request of obligor.--The court shall also order the attachment of income where the obligor so requests.

(g) Maximum amount.--The maximum amount of any attachment under this section shall not exceed the limits set forth in the Consumer Credit Protection Act (Public Law 90-321, 15 U.S.C. §1601 et seq.).

(h) Termination.--The court may order the termination of an order of attachment in any of the following instances:

1. The support obligation has terminated and the total arrearages are paid.
2. Where the payee cannot be located and it becomes impossible to forward payments.
3. The result would be unconscionable.

(i) Notice to employer.--The employer of an obligor shall be given notice of the attachment as provided by the Rules of Civil Procedure governing support. This notice shall include reference to subsections (g), (k), (l), (n) and (o) and all of the following:

1. The amount to be attached.
2. That the attachment shall be implemented as soon as possible and no later than 14 days from the issuance of the notice to the employer.
3. That the attachment payment must be sent to the domestic relations section or State disbursement unit, as appropriate, within seven business days of the date the obligor is paid.
4. That the attachment order is binding upon the employer until further notice.
5. That the employer may combine attachment payments into a single payment to the domestic relations section and separately identify the portions attributable to each obligor.
6. That the employer must notify the domestic relations section when the obligor terminates employment and provide his last known address and the new employer's name and address, if known.

(j) Effect of compliance by employer.--Compliance by an employer with an order of attachment of income that is regular on its face operates as a discharge of the civil liability of the employer to the obligor as to that portion of the employment income of the obligor affected. An employer shall not be subject to criminal or civil liability to any individual or agency for conduct in compliance with the order. The employer may deduct from the income of the obligor 2 % of the amount paid under the order for reimbursement of the expense in complying with the order. In no case shall the employer's reimbursement be deducted from the amount of the support order.

(k) Effect of noncompliance by employer.--

1. An employer or officer or employee thereof who willfully fails to comply with an order of attachment under this chapter may, as prescribed by general rule, be adjudged in contempt and committed to jail or fined by the court.
2. The employer shall be liable for any amount the employer willfully fails to withhold from income due an employee under an order of attachment of income and any amount which is withheld from such income but not forwarded to the domestic relations office.
3. The court may, pursuant to general rule, attach funds or property of an employer.

(l) Disciplinary action by employer prohibited.--

1. When an order of attachment on income is about to be or has been entered, an employer or officer or employee thereof shall not use the attachment or possibility thereof as a basis, in whole or in part, for the refusal to employ or for the discharge of an employee or for any disciplinary action against or demotion of an employee. In case of a violation of this

subsection, the employer or officer or employee thereof may be adjudged in contempt and committed to jail or fined by the court.

2. Any employee aggrieved by a violation of this subsection shall have the substantive right to bring an action for damages by reason of such violation in a court of competent jurisdiction.
3. The department or a domestic relations section may impose a civil penalty of up to \$1,000 per violation against any employer that willfully violates the provisions of this subsection or that willfully fails to withhold income or to pay such amounts to the State disbursement unit.

(m) Certify income.--Upon request of the domestic relations section, the employer shall report and certify the income of an employee.

(n) Bonding.--The court may attach forms of income other than wages, assets, including spendthrift trusts, and private, public, State, county and municipal pensions, and include bonding or other requirements in cases involving obligors whose income is from sources other than wages, in order to assure that support owed by obligors in this Commonwealth will be collected without regard to the types of these obligors' income or the nature of their income-producing activities.

(o) [Deleted.]

(p) Nonresidents.--Income attachment shall be available to obligees residing outside this Commonwealth where the income of the obligor is derived in this Commonwealth.

(q) Priority of attachment.--An order of attachment for support shall have priority over any attachment, execution, garnishment or wage assignment. The Supreme Court shall by general rule provide for priorities for withholding and allocating income withheld for multiple child support obligees received by an employer for the same obligor under this section and Chapter 75 (relating to direct enforcement of order of another state without registration.)

(r) Information requests.--

1. Upon the request of the department, a county domestic relations section or a child support agency of another state, any employer doing business within this Commonwealth, including a for-profit, not-for-profit or governmental employer, shall promptly provide information regarding the employment, compensation and benefits of any employee or contractor of the employer.
2. In addition to any other remedy allowed by law, the department may impose a civil penalty of up to \$1,000 per violation on an individual or entity that wilfully fails to comply with a request for information under paragraph (l).

§ 4349. Consolidation of proceedings.

In order to facilitate frequent and unimpeded contact between children and parents, a judge may consolidate with a support action or proceeding any proceeding commenced for visitation rights, sole or shared custody, temporary or permanent custody or any other matters pertaining to support authorized by law which fairly and expeditiously may be determined and disposed of in the support action or proceeding.

§ 4350. Effect of appeal.

An appeal from an order of support entered pursuant to this chapter shall not operate as a supersedeas unless so ordered by the court.

§ 4351. Costs and fees.

(a) General rule.--If an obligee prevails in a proceeding to establish paternity or to obtain a support order, the court may assess against the obligor filing fees, reasonable attorney fees and necessary travel and other reasonable costs and expenses incurred by the obligee and the obligee's witnesses. Attorney fees may be taxed as costs and shall be ordered to be paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee shall have priority over fees, costs and expenses.

(b) Lack of good cause for failure to pay on time.--If the court determines that the person subject to a child support order did not have good cause for failing to make child support payments on time, it may further assess costs and reasonable attorney fees incurred by the party seeking to enforce the order.

§ 4352. Continuing jurisdiction over support orders.

(a) General rule.--The court making an order of support shall at all times maintain jurisdiction of the matter for the purpose of enforcement of the order and for the purpose of increasing, decreasing, modifying or rescinding the order unless otherwise provided by Part VIII (relating to uniform interstate family support) or VIII-A (relating to intrastate family support) without limiting the right of the obligee, or the department if it has an assignment or other interest, to institute additional proceedings for support in any county in which the obligor resides or in which property of the obligor is situated. The Supreme Court shall by general rule establish procedures by which each interested party shall be notified of all proceedings in which support obligations might be established or modified and shall receive a copy of any order issued in a case within 14 days after issuance of such order. A petition for modification of a support order may be filed at any time and shall be granted if the requesting party demonstrates a substantial change in circumstances.

(a.1) Automatic review.--A method shall be developed for the automatic review of each order of support at least once every three years from the date of establishment or the most recent review, for the purpose of making any appropriate increase, decrease, modification or rescission of the order. During the automatic review, the court shall adjust the order, without requiring proof of a change in circumstances, by applying the Statewide guidelines or a cost-of-living adjustment in accordance with a formula developed by general rule. Automated methods, including automated matches with wage or State income tax data, may be used to identify the support orders eligible for review and implement appropriate adjustments. If, however, it is determined that such a review would not be in the best interests of the child and neither parent nor the department, if it has an assignment or other interest, has requested a review, no review shall be required.

(b) Notice.--Each party subject to an automatic child support review shall receive:

1. thirty days' advance notice of the right of such party to request a review and adjustment of the order, except when the adjustment results from a cost-of-living adjustment or other automated adjustment;
2. a copy of any order establishing, modifying or rescinding a child support obligation or, in the case of a denied petition for modification, a notice of determination that there should be no change in the amount of the child support order, within 14 days after issuance of such order or determination; and
3. a 30-day period from the date of the notice of a cost-of-living adjustment or other automated adjustment to request an individual review and adjustment in accordance with the Statewide guideline.

(c) Transfer of action.--Where neither party to the action resides or is employed in the county wherein the support action was filed, the court may transfer the matter to any county wherein either party resides or where the defendant is regularly employed. If one of the parties resides outside of this Commonwealth, the action may be transferred to the county of residence or employment of the other party.

(d) Arrears as judgments.--On and after the date it is due, each and every support obligation shall constitute a judgment against the obligor by operation of law, with the full force, effect and attributes of a judgment of court, including the ability to be enforced, and shall be entitled as a judgment to full faith and credit in this or any other state. Overdue support obligations of this or any other state which are on record at the county domestic relations section shall constitute a lien by operation of law against all real property owned by the obligor within the county as provided in subsection (d.1). The department shall develop and implement a system for providing notice to the public of liens arising out of overdue support obligations. The system and its procedures shall ensure convenient access to lien information and shall address hours of access by the business community and the general public and access via modem or automated means. Thirty days after publication of notice in the Pennsylvania Bulletin that the system has been established, any lien on record shall constitute a lien against any real property in this Commonwealth owned by the obligor and shall also have the effect of a fully perfected security interest in personal property owned by the obligor in which a security interest can arise. The department shall consult with the Department of Transportation in the development of this system to enforce compliance with this subsection as it applies to liens on motor vehicles. The Supreme Court shall by general rule establish procedures for the recording of liens of other states at the county domestic relations section and for the enforcement of liens arising from overdue support without prior judicial notice or hearing. A bona fide good faith purchaser of personal property for value which is subject to a lien under this subsection acquires all title which the transferor had or had the power to transfer pursuant to 13 Pa.C.S. Ch. 24 (relating to title, creditors and good faith purchasers), and the obligee shall have all

rights against such property which would be preserved to a fully perfected secured creditor under 13 Pa.C.S. Div. 9 (relating to secured transactions; sales of accounts, contract rights and chattel paper). The obligation for payment of arrears or overdue support shall terminate by operation of law when all arrears or overdue support has been paid.

(d.1) Real property liens.--[to be inserted.]

(e) Retroactive modification of arrears.--No court shall modify or remit any support obligation, on or after the date it is due, except with respect to any period during which there is pending a petition for modification. If a petition for modification was filed, modification may be applied to the period beginning on the date that notice of such petition was given, either directly or through the appropriate agent, to the obligee or, where the obligee was the petitioner, to the obligor. However, modification may be applied to an earlier period if the petitioner was precluded from filing a petition for modification by reason of a significant physical or mental disability, misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition. In the case of an emancipated child, arrears shall not accrue from and after the date of the emancipation of the child for whose support the payment is made.

(f) [rescinded].

(g) Notice to obligors and obligees.--The domestic relations section shall mail notice to obligors and obligees of existing orders informing them that such orders may attain the status of a judgment by operation of law. The notice shall explain the nature of a judgment by operation of law and its effect. Further, the notice shall advise each party to a support proceeding of the party's duty to advise the domestic relations section of material changes in circumstance and of the necessity to promptly request a modification as soon as circumstances change.

(g.1) Nondisclosure of certain information.-If the court finds in an ex parte or other proceeding or if an existing order provides that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information not disclosed in a pleading or other document filed in a proceeding under this part. Any court order under this section must be docketed in the domestic relations section.

(g.2) Work activities.-If an obligor owes overdue support with respect to any child receiving cash or medical assistance, the court shall upon motion of the department or domestic relations section order that overdue support be paid in accordance with a plan approved by the court or that the obligor participate in work activities approved by the department. Work activities include:

1. Subsidized or unsubsidized public or private sector employment.
2. Work experience programs.
3. Work training programs.
4. Community service programs.
5. Job search requirements.
6. Job readiness programs.
7. Education directly related to employment.
8. Attendance at secondary school.
9. For a person who has not graduated high school, study leading to a high school diploma or equivalent.

(g.3) Fraudulent transfer.-The court may void any fraudulent transfer by the obligor pursuant to 12 Pa.C.S. Ch.51 (relating to fraudulent transfers). It shall be a rebuttable presumption that a transfer by an obligor is fraudulent as to an obligee if the transfer was made for less than reasonably equivalent value and the transfer occurred after the initiation of a proceeding to establish or enforce support.

(h) Applicability.--This section applies to all support orders whether entered under this chapter or any other statute.

§ 4353. Duty to report.

(a) Notice of changes affecting support.--An individual who is a party to a support proceeding shall notify the domestic relations section, the department and the other parties in writing or by personal appearance within seven days of any material change in circumstances relevant to the level of support or the administration of the support order, including, but not limited to:

1. change of employment; and
2. change of personal address or change of address of any child receiving support.

(a.1) Delivery.-In any subsequent child support enforcement action between the parties, upon sufficient showing that due diligence has been made to ascertain the location of a party, the court or the department may deem due process requirements for notice and service of process to be met

with respect to the party, upon delivery of written notice to the most recent residential address or employer address filed with the domestic relations section or the department pursuant to subsection (a).

(a.2) Notice of location information.--Each party to a support proceeding shall file with the domestic relations section and the department, and update as appropriate, information on the location and identity of the party, including Social Security number, residential and mailing addresses, telephone numbers, driver's license number and name, address and telephone number of employer.

(b) Failure to give notice.--Willful failure to comply with this section may be adjudged in contempt of court pursuant to section 4345 (relating to contempt for noncompliance with support order).

§ 4354. Willful failure to pay support order.

(a) Offense defined.--An individual who willfully fails to comply with a support order of a court of this Commonwealth when the individual has the financial ability to comply with the support order commits a summary offense.

(b) Application.--This section applies to all support cases, whether civil or criminal and whether the defendant is married, unmarried, separated or divorced.

(c) Jurisdiction.--Exclusive original jurisdiction of a proceeding under this section is vested in the courts of common pleas of this Commonwealth.

§ 4355. Denial or suspension of licenses.

(a) General rule.--Except as provided in subsection (d.1), where the domestic relations section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation or where an individual has failed to comply with a visitation or partial custody order pursuant to section 4346 (relating to contempt for noncompliance) or an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court, the domestic relations section or the department shall issue an order directing any licensing authority to:

1. prohibit the issuance or renewal of a license of the obligor or other individual; or
2. require the suspension of the license of the obligor or other individual.

(b) Notice to obligor or other individual.--

Prior to the issuance of an order to suspend, nonrenew or deny a license, the obligor or other individual shall be given advance notice. The notice shall specify:

1. The amount of arrears owed, if applicable.
2. How, when and where the notice can be contested.
3. That the grounds for contesting the notice shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of arrears owed or mistaken identity of the obligor.
4. That an order to the licensing authority to automatically suspend, nonrenew or deny the license will occur in all cases 30 days after issuance of the notice unless the arrearage is paid, a periodic payment schedule is approved by the court or the individual is excused from the failure to comply with the warrant or subpoena.

The Supreme Court shall by general rule provide a procedure for the court or disciplinary board to deny, suspend or not renew the license of an attorney who owes past due support in a manner comparable to the procedures set forth in this section.

(c) Order.--

1. Thirty days after the issuance of the notice, if the obligor has not paid the arrearage, entered into a court-approved periodic payment schedule or, if applicable, the obligor or other individual has not been excused from complying with the warrant or subpoena, the court, the domestic relations section or department shall direct or cause an order to be issued to the licensing authority to suspend or deny the issuance or renewal of a license. Upon receipt, the licensing authority shall immediately comply with the order or directive. The licensing authority shall have no authority to stay implementation of the order or to hold a hearing except in cases of mistaken identity.
2. An order providing for a periodic payment schedule shall also provide that failure to comply with the schedule shall result in the immediate suspension, nonrenewal or denial of the obligor's license.

3. Subject to section 4377(c) (relating to appeals), to contest the order, the obligor or other individual must appear before the domestic relations section not later than ten days after issuance of the order. The grounds for contesting shall be limited to mistakes of fact. If, as determined by the domestic relations section, a mistake of fact has occurred, the action shall be modified accordingly within ten days.

(d) Reinstatement or issuance of license.--Where an order or directive has been issued pursuant to subsection (c) and the obligor has satisfied the arrearage, entered into a court approved payment plan or, if applicable, the obligor or other individual has been excused from the failure to comply with the subpoena or warrant, the court, the domestic relations section or the department shall order or direct the licensing authority to reinstate or issue the license to the obligor or other individual. Upon receipt of the order, the licensing authority shall reinstate or issue the license immediately, provided that the obligor or other individual meets any and all other requirements for issuance or reinstatement.

(d.1) Special procedures for operating privilege.--

1. Where the domestic relations section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation or where an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court, the domestic relations section or the department may issue an order directing the Department of Transportation to:
 - i. prohibit the issuance or renewal of a license of the obligor or other individual; or
 - ii. require the suspension of the license of the obligor or other individual.
2. Prior to the issuance of an order to suspend, nonrenew or deny a license, the obligor or other individual shall be given advance notice. The notice shall specify:
 - i. The amount of arrears owed, if applicable.
 - ii. How, when and where the notice can be contested.
 - iii. That the grounds for contesting the notice shall be limited to mistakes of fact. Mistakes of fact shall be limited to errors in the amount of arrears owed or mistaken identity of the obligor.
 - iv. That an order to the Department of Transportation to automatically suspend, nonrenew or deny the license will occur in all cases 30 days after issuance of the notice unless the arrearage is paid, a periodic payment schedule is approved by the court or the individual is excused from the failure to comply with the warrant or subpoena.
3. Any order issued to the Department of Transportation pursuant to this section shall be issued as agreed upon by the department and the Department of Transportation. The order may be transmitted electronically or by other methods.
4. Upon receipt of an order or directive from a court, the domestic relations section or the department authorizing the Department of Transportation to suspend the operating privilege of an obligor or other individual, the Department of Transportation shall immediately suspend the operating privilege of that obligor or other individual. Upon receipt of an order from the court or the domestic relations section or a directive from the department authorizing the Department of Transportation to restore the operating privilege of an obligor or other individual, the Department of Transportation shall immediately restore the operating privilege of that obligor or other individual if the person complies with the provisions of 75 Pa.C.S. § 1960 (relating to reinstatement of operating privilege or vehicle registration).
5. An insurer may not increase premiums, impose a surcharge or rate penalty, make a driver record point assignment for automobile insurance or cancel or refuse to renew an automobile insurance policy on account of a suspension under this section.
6. There shall be no right to appeal from a suspension under this section pursuant to 75 Pa.C.S. § 1550 (relating to judicial review). Subject to section 4377(c) (relating to power to expedite support cases), the sole remedy shall be to petition the court which entered the underlying support order resulting in the suspension. The suspension, revocation or refusal to issue or renew the license.

(d.2) special procedures for recreational licenses issued by Pennsylvania Game Commission.--

1. where the domestic relations section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation, or where an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court may issue an order directing the pennsylvania game

commission to prohibit the issuance or renewal of a recreational license of the obligor or other individual or to require the suspension of the recreational license of the obligor or other individual.

2. procedures for notice of suspension, nonrenewal or denial, issuance of the appropriate order and reinstatement of a recreational license shall be in accordance with subsections (b), (c) and (d).
3. upon receipt of an order from a court requiring the Pennsylvania Game Commission to refuse to issue or renew or to revoke or suspend the recreational license of the obligor or other individual, the Pennsylvania Game Commission shall immediately comply with the order. Upon receipt of an order from the court authorizing the Pennsylvania Game Commission to restore the recreational license of an obligor or other individual, the Pennsylvania Game Commission shall immediately restore the recreational license of the obligor or other individual if the obligor or other individual complies with the provisions of 34 Pa.C.S. Ch. 27 (relating to hunting and furtaking licenses).
4. there shall be no right to appeal from a refusal to issue or renew or from a revocation or suspension under this section. The sole remedy shall be to petition the court which entered the underlying support order which resulted in the revocation, suspension or refusal to issue or renew the recreational license.

(d.3) Special procedures for licenses issued by Pennsylvania Fish and Boat Commission.--

1. Where the Domestic Relations Section or the department has been unable to attach the income of an obligor and the obligor owes support in an amount equal to or greater than three months of the monthly support obligation, or where an individual has failed, after appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings, the court may issue an order directing the Pennsylvania Fish and Boat Commission to prohibit the issuance or renewal of a recreational license of the obligor or other individual or to require the suspension of the recreational license of the obligor or other individual.
2. Procedures for notice of suspension, nonrenewal or denial, issuance of the appropriate order and reinstatement of a recreational license shall be in accordance with subsections (b), (c) and (d).
3. Upon receipt of an order from a court requiring the Pennsylvania Fish and Boat Commission to refuse to issue or renew or to revoke or suspend the recreational license of the obligor or other individual, the Pennsylvania Fish and Boat Commission shall immediately comply with the order. Upon receipt of an order from the court authorizing the Pennsylvania Fish and Boat Commission to restore the recreational license of an obligor or other individual, the Pennsylvania Fish and Boat Commission shall immediately restore the recreational license of the obligor or other individual if the obligor or other individual complies with the provisions of 30 Pa.C.S. Ch. 27 (relating to fishing licenses).
4. there shall be no right to appeal from a refusal to issue or renew or from a revocation or suspension under this section. The sole remedy shall be to petition the court which entered the underlying support order which resulted in the revocation, suspension or refusal to issue or renew the license.

(d.4) Implementation.--The department may promulgate regulations and issue directives to coordinate and carry out the provisions of this section.

(d.5) Construction.--This section shall supersede any conflicting provision in any other State law unless the provision specifically references this section and provides to the contrary.

(d.6) Immunity.--The court, the domestic relations section, the Department of Public Welfare, the Department of Transportation, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission or any employee of any of these entities or any employee of any of these entities or any person appointed by the Pennsylvania Game Commission or the Pennsylvania Fish and Boat Commission to issue licenses and permits pursuant to the applicable provisions of 30 Pa.C.S. (relating to fish) and 34 Pa.C.S. (relating to game) shall not be subject to civil or criminal liability for carrying out their duties under this section.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"License."

A license, certificate, permit or other authorization to:
engage in a profession, trade or business in this Commonwealth or a political subdivision or agency thereof; or
operate a motor vehicle for personal or commercial purposes.

"Licensing authority."

Any entity of the Commonwealth, political subdivision or agency thereof which issues a license.

"Operating privilege."

The privilege to apply for and obtain a license to use as well as the privilege to use a vehicle on a highway as authorized under Title 75 (relating to vehicles).

"Recreational license."

A hunting or fishing license.

"Licensing authority."

Any entity of the Commonwealth, political subdivision or agency thereof which issues a license.

SUBCHAPTER D-- PROCEEDINGS AGAINST ENTIRETIES PROPERTY

§4361. Execution of support order against entireties property.

(a) Entry of order.--Whenever married persons hold real property by the entireties and one spouse secures an order of court against the other spouse for the support of the plaintiff spouse or of a child of both persons or the defendant or for the support of both the plaintiff spouse and child and a copy of the order has been certified to the court of common pleas of the county in this Commonwealth in which the property is situated, the order shall be entered in that court as a judgment with the same effect as if it had been recovered as a judgment of that court.

(b) Execution on judgment.--Execution may be issued on the judgment against the real property held by the entireties, and the property may be sold in the manner provided by law for the sale of real property on execution issued on a judgment. In any writs of execution on the judgment, the defendant shall not be entitled to the benefit of 42 Pa.C.S. Ch. 81 Subch. B (relating to exemptions from execution) or any other exemption statute.

(c) Title of purchaser.--The sale of real property under this section conveys to the purchaser or purchasers thereof a good and valid title to the property and vests in the purchaser or purchasers the entire title of both the married persons in the same manner and with the same effect as if both married persons had joined in the conveyance of the property.

§4362. Plaintiff's share of proceeds of sale.

(a) General rule.--The plaintiff spouse shall be entitled, out of the proceeds of this sale, to such sums of money as represents the share in the property, based on the proportionate part of the original purchase money furnished by the plaintiff spouse for the purchase of the property.

(b) Petition to court.--The plaintiff spouse may petition the court of common pleas of the county where the real property is situated, either before or after the sale of the property by execution, setting forth plaintiff's claim, and the court shall fix a date for a hearing on the petition.

(c) Hearing and decree.--After notice and hearing, the court shall make such decree as shall be proper. At the hearing, both spouses shall be competent witnesses.

§4363. Trustee to distribute proceeds of sale.

(a) Appointment of trustee.--The court shall, at the time of the hearing or thereafter, appoint a trustee who shall receive from the sheriff the proceeds of the sale of the property after the costs have been paid.

(b) Disposition of proceeds.--The trustee shall, out of the proceeds, pay to the plaintiff spouse the sum of money the court decreed as plaintiff's share in the property sold and also the sums of money, and interest thereon from the time the respective items making them up became due and payable, which are due and payable under the order of support. The trustee shall also pay to the plaintiff spouse any additional sums the plaintiff may be entitled to under any order of court for the support of plaintiff or the children of defendant.

§4364. Credit to plaintiff who purchases property.

(a) General rule.--If the plaintiff spouse becomes the purchaser at the execution sale, the plaintiff shall be entitled to a credit on the purchase price thereof for the sum of money found by the court to represent the plaintiff's share in the property and also for the sums of money due the plaintiff

from the defendant under the order of support upon which the execution was issued at the time of the sale, together with interest on the sums due the plaintiff for support from the time the respective sums become due.

(b) Allowance or assignment of credit.--The credit shall be allowed the plaintiff by the sheriff or the plaintiff may assign the sums due the plaintiff to the purchaser of the property whereupon credit shall be given to the purchaser by the sheriff for the amount assigned.

§4365. Rights of divorced person in entireties property sold for support.

(a) General rule.--After the divorce of any spouse who is a tenant by the entireties of real property with the former spouse, the divorced spouse is entitled to all the rights and remedies provided in this subchapter for the collection of any sums of money ordered by a court to be paid to the divorced spouse for the support of the children of the former spouse as fully as if no divorce had occurred.

(b) Proceeds of sale.--Upon the sale of the real property for the collection of any sums of money due the divorced spouse under an order of court, the divorced spouse shall be entitled to receive therefrom such sum of money as represents the share of the divorced spouse in the property, as ordered by the court under section 4362 (relating to plaintiff's share of proceeds of sale), together with any sums which may be due to the divorced spouse under an order of support against the former spouse.

§4366. Other enforcement remedies preserved.

This subchapter and other provisions of this chapter do not remove from the plaintiff the rights to any other existing remedies to enforce a support order, including, but not limited to, the right of the plaintiff to institute proceedings against the real or personal property of the defendant.

PART V. Children and Minors

CHAPTER 51 - GENERAL PROVISIONS

§ 5101. Attainment of full age.

(a) Age for entering into contracts.--Any individual 18 years of age and older shall have the right to enter into binding and legally enforceable contracts and the defense of minority shall not be available to such individuals.

(b) Age for suing and being sued.--Except where otherwise provided or prescribed by law, an individual 18 years of age and older shall be deemed an adult and may sue and be sued as such.

§ 5102. Children declared to be legitimate.

(a) General rule.--All children shall be legitimate irrespective of the marital status of their parents, and, in every case where children are born out of wedlock, they shall enjoy all the rights and privileges as if they had been born during the wedlock of their parents except as otherwise provided in Title 20 (relating to decedents, estates and fiduciaries).

(b) Determination of paternity.--For purposes of prescribing benefits to children born out of wedlock by, from and through the father, paternity shall be determined by any one of the following ways:

1. If the parents of a child born out of wedlock have married each other.
2. If, during the lifetime of the child, it is determined by clear and convincing evidence that the father openly holds out the child to be his and either receives the child into his home or provides support for the child.
3. If there is clear and convincing evidence that the man was the father of the child, which may include a prior court determination of paternity.

§ 5103. Acknowledgment and claim of paternity.

(a) Acknowledgment of paternity.--The father of a child born to an unmarried woman may file with the Department of Public Welfare, on forms prescribed by subsection (c), an acknowledgment of paternity of the child which shall include the consent of the mother of the child, supported by her

affidavit. In such case, the father shall have all the rights and duties as to the child which he would have had if he had been married to the mother at the time of the birth of the child, and the child shall have all the rights and duties as to the father which the child would have had if the father had been married to the mother at the time of birth.

(b) Claim of paternity.--If the mother of the child fails or refuses to join in the acknowledgment of paternity provided for in subsection (a), the Department of Public Welfare shall index it as a claim of paternity. The filing and indexing of a claim of paternity shall not confer upon the putative father any rights as to the child except that the putative father shall be entitled to notice of any proceeding brought to terminate any parental rights as to the child.

(c) Duty of hospital or birthing center.--Upon the birth of a child to an unmarried woman, an agent of the hospital or birthing center where the birth occurred shall:

1. Provide the newborn's birth parents with an opportunity to complete an affidavit acknowledging paternity. The completed, signed and notarized affidavit shall be sent to the Department of Public Welfare. A copy shall be given to each of the birth parents. This affidavit shall contain:
 - i. A sworn, signed statement by the birth mother consenting to the assertion of paternity.
 - ii. A signed, notarized statement by the birth father acknowledging his paternity.
 - iii. A written explanation of the parental duties and parental rights which arise from signing such a statement.
 - iv. The Social Security numbers and addresses of both birth parents.
2. Provide written information, furnished by the Department of Public Welfare to the birth mother, which explains the benefits of having the child's paternity established, the availability of paternity establishment services and the availability of child support enforcement agencies.

(d) Conclusive evidence.--An acknowledgment of paternity shall constitute conclusive evidence of paternity in any action to establish support. An acknowledgment of paternity may be set aside by the court only upon clear and convincing evidence that the defendant was unaware of the fact that he was acknowledging paternity when the acknowledgment was signed.

(e) Transfer.--The Department of Health shall transfer to the Department of Public Welfare all acknowledgments or claims of paternity filed with the Department of Health under prior statutes.

(f) Certifications.--The Department of Public Welfare shall provide necessary certifications under Part III (relating to adoption) as to whether any acknowledgment or claim of paternity has been filed in regard to any child who is a prospective adoptive child.

§ 5104. Blood tests to determine paternity.

(a) Short title of section.--This section shall be known and may be cited as the Uniform Act on Blood Tests to Determine Paternity.

(b) Scope of section.--

1. Civil matters.--This section shall apply to all civil matters.
2. Criminal proceedings.--This section shall apply to all criminal proceedings subject to the following limitations and provisions:
 - (i) An order for the tests shall be made only upon application of a party or on the initiative of the court.
 - (ii) The compensation of the experts shall be paid by the party requesting the blood test or by the county, as the court shall direct.
 - (iii) The court may direct a verdict of acquittal upon the conclusions of all the experts under subsection (f). Otherwise, the case shall be submitted for determination upon all the evidence.
 - (iv) The refusal of a defendant to submit to the tests may not be used in evidence against the defendant.

(c) Authority for test.--In any matter subject to this section in which paternity, parentage or identity of a child is a relevant fact, the court, upon its own initiative or upon suggestion made by or on behalf of any person whose blood is involved, may or, upon motion of any party to the action made at a time so as not to delay the proceedings unduly, shall order the mother, child and alleged father to submit to blood tests. If any party refuses to submit to the tests, the court may resolve the question of paternity, parentage or identity of a child against the party or enforce its order if the rights of others and the interests of justice so require.

(d) Selection of experts.--The tests shall be made by experts qualified as examiners of blood types, who shall be appointed by the court. The experts shall be called by the court as witnesses to testify to their findings and shall be subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts qualified as examiners of blood types perform independent tests under order of court, the results of which may be offered in evidence. The number and qualifications of experts shall be determined by the court.

(e) Compensation of experts.--The compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order. Subject to general rules, the court may order that it be paid by the parties in such proportions and at such times as it shall prescribe or that the proportion of any party be paid by the county and that, after payment by the parties or the county, or both, all or part or none of it be taxed as costs in the action. Subject to general rules, the fee of an expert witness called by a party but not appointed by the court shall be paid by the party calling him, but shall not be taxed as costs in the action.

(f) Effect of test results.--If the court finds that the conclusions of all the experts as disclosed by the evidence based upon the tests are that the alleged father is not the father of the child, the question of paternity, parentage or identity of a child shall be resolved accordingly. If the experts disagree in their findings or conclusions, the question shall be submitted upon all the evidence.

(g) Effect on presumption of legitimacy.--The presumption of legitimacy of a child born during wedlock is overcome if the court finds that the conclusions of all the experts as disclosed by the evidence based upon the tests show that the husband is not the father of the child.

CHAPTER 53. CUSTODY

SUBCHAPTER A - GENERAL PROVISIONS

§ 5301. Declaration of policy.

The General Assembly declares that it is the public policy of this Commonwealth, when in the best interest of the child, to assure a reasonable and continuing contact of the child with both parents after a separation or dissolution of the marriage and the sharing of the rights and responsibilities of child rearing by both parents and continuing contact of the child or children with grandparents when a parent is deceased, divorced or separated.

§ 5302. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Child."

Any unemancipated person under 18 years of age.

"Legal custody."

The legal right to make major decisions affecting the best interest of a minor child, including, but not limited to, medical, religious and educational decisions.

"Partial custody."

The right to take possession of a child away from the custodial parent for a certain period of time.

"Physical custody."

The actual physical possession and control of a child.

"Shared custody."

An order awarding shared legal or shared physical custody, or both, of a child in such a way as to assure the child of frequent and continuing contact with and physical access to both parents.

"Visitation."

The right to visit a child. The term does not include the right to remove a child from the custodial parent's control.

§ 5303. Award of custody, partial custody or visitation.

(a) General rule.--In making an order for custody, partial custody or visitation to either parent, the court shall consider, among other factors, which parent is more likely to encourage, permit and allow frequent and continuing contact and physical access between the noncustodial parent and the

child. In addition, the court shall consider each parent and adult household member's present and past violent or abusive conduct which may include, but is not limited to, abusive conduct as defined under the act of October 7, 1976 (P.L.1090, No.218), known as the Protection From Abuse Act.

(b) Consideration of criminal conviction.--If a parent has been convicted of or has pleaded guilty or no contest to an offense as set forth below, the court shall consider such criminal conduct and shall determine that the parent does not pose a threat of harm to the child before making an order of custody, partial custody or visitation to that parent:

1. 18 Pa.C.S. Ch. 25 (relating to criminal homicide);
2. 18 Pa.C.S. § 2901 (relating to kidnapping);
3. 18 Pa.C.S. § 2902 (relating to unlawful restraint);
4. 18 Pa.C.S. § 3121 (relating to rape);
5. 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault);
6. 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
7. 18 Pa.C.S. § 3124.1 (relating to sexual assault);
8. 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
9. 18 Pa.C.S. § 3126 (relating to indecent assault);
10. 18 Pa.C.S. § 3127 (relating to indecent exposure);
11. 18 Pa.C.S. § 4302 (relating to incest);
12. 18 Pa.C.S. § 4304 (relating to endangering welfare of children);
13. 18 Pa.C.S. § 5902(b) (relating to prostitution and related offenses); or
14. 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(c) Counseling.--In making a determination to award custody, partial custody or visitation pursuant to subsection (b), the court shall appoint a qualified professional to provide counseling to an offending parent described in subsection (b) and shall take testimony from that professional regarding the provision of such counseling prior to issuing any order of custody, partial custody or visitation. Counseling, required in accordance with this subsection, shall include a program of treatment or individual therapy designed to rehabilitate a parent which addresses, but is not limited to, issues regarding physical and sexual abuse, domestic violence, the psychology of the offender and the effects of abuse on the victim. If the court awards custody, partial custody or visitation to an offending parent described in subsection (b), the court may require subsequent periodic counseling and reports on the rehabilitation of the offending parent and the well-being of the child following an order relating to custody, partial custody or visitation. If, upon review of a subsequent report or reports, the court determines that the offending parent poses a threat of harm to the child, the court may schedule a hearing and modify the order of custody or visitation to protect the well-being of the child.

(d) Sole custody.--The court shall award sole custody when it is in the best interest of the child.

§ 5304. Award of shared custody.

An order for shared custody may be awarded by the court when it is in the best interest of the child:

1. upon application of one or both parents;
2. when the parties have agreed to an award of shared custody; or
3. in the discretion of the court.

§ 5305. Counseling.

(a) General rule.--The court may require the parents to attend counseling sessions and may consider the recommendations of the counselors prior to awarding sole or shared custody. These counseling sessions may include, but shall not be limited to, discussions of the responsibilities and decisionmaking arrangements involved in both sole and shared custody and the suitability of each arrangement to the capabilities of each parent or both parents.

(b) Temporary custody.--The court may temporarily award custody to either parent or both parents pending resolution of any counseling.

(c) Report.--The court may require the counselor to submit a report if the court desires and within such reasonable time as the court determines.

§ 5306. Plan for implementation of custody order.

The court, in its discretion, may require the parents to submit to the court a plan for the implementation of any custody order made under this subchapter. Upon the request of either parent or the court, the domestic relations section of the court or other party or agency approved by the court shall assist in the formulation and implementation of the plan.

§ 5307. Denial of custody under agreement or plan.

When the court declines to enter an order awarding custody either as agreed to by the parents or under the plan developed by the parents, the court shall state its reasons for denial on the record.

§ 5308. Removal of party or child from jurisdiction.

If either party intends to or does remove himself or the child from this Commonwealth after a custody order has been made, the court, on its own motion or upon motion of either party, may review the existing custody order.

§ 5309. Access to records and information.

(a) General rule.--Except as provided in subsections (b) and (c), each parent shall be provided access to all the medical, dental, religious or school records of the child, the residence address of the child and of the other parent and any other information that the court deems necessary.

(b) Court determination not to release information.--The court, in its discretion, may determine not to release any part or parts of the information in this section but in doing so must state its reason for denial on the record.

(c) Nondisclosure of confidential information.--The court shall not order that the address of a shelter for battered spouses and their dependent children or otherwise confidential information of a domestic violence counselor be disclosed to the defendant or his counsel or any party to the proceedings.

§ 5310. Modification of existing custody orders.

Any order for the custody of the child of a marriage entered by a court in this Commonwealth or any state may, subject to the jurisdictional requirements set forth in 42 Pa.C.S. §§ 5342 (relating to purposes and construction of subchapter) and 5344 (relating to jurisdiction), be modified at any time to an order of shared custody in accordance with this subchapter.

§ 5311. When parent deceased.

If a parent of an unmarried child is deceased, the parents or grandparents of the deceased parent may be granted reasonable partial custody or visitation rights, or both, to the unmarried child by the court upon a finding that partial custody or visitation rights, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the deceased parent and the child prior to the application.

§ 5312. When parents' marriage is dissolved or parents are separated.

In all proceedings for dissolution, subsequent to the commencement of the proceeding and continuing thereafter or when parents have been separated for six months or more, the court may, upon application of the parent or grandparent of a party, grant reasonable partial custody or visitation rights, or both, to the unmarried child if it finds that visitation rights or partial custody, or both, would be in the best interest of the child and would not interfere with the parent-child relationship. The court shall consider the amount of personal contact between the parents or grandparents of the party and the child prior to the application.

§ 5313. When child has resided with grandparents.

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.

§ 5314. Exception for adopted children.

Sections 5311 (relating to when parent deceased), 5312 (relating to when parents' marriage is dissolved or parents are separated) and 5313 (relating to when child has resided with grandparents) shall not apply if the child has been adopted by a person other than a stepparent or grandparent. Any visitation rights granted pursuant to this section prior to the adoption of the child shall be automatically terminated upon such adoption.