

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 86

Session of  
2005

INTRODUCED BY GREENLEAF, RAFFERTY, COSTA, M. WHITE, LEMMOND,  
ORIE, O'PAKE, LOGAN, MUSTO, WONDERLING, THOMPSON, KITCHEN,  
KASUNIC, PILEGGI, BOSCOLA, STACK, REGOLA AND WAUGH,  
JANUARY 31, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JULY 1, 2005

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, CONSOLIDATING THE SUPPORT LAW; FURTHER <—  
3 PROVIDING FOR PROPERTY OF PERSONS LIABLE FOR SUPPORT  
4 EXPENSES; further providing for disposition of complaints  
5 received; AND MAKING A REPEAL RELATED TO THE CONSOLIDATION OF <—  
6 THE SUPPORT LAW.

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

9 ~~Section 1. Section 6334 of Title 23 of the Pennsylvania~~ <—  
10 ~~Consolidated Statutes is amended by adding a subsection to read:~~

11 SECTION 1. TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED <—  
12 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

13 CHAPTER 46  
14 SUPPORT OF THE INDIGENT  
15 SEC.

16 4601. SCOPE.

17 4602. DEFINITIONS.

18 4603. RELATIVES' LIABILITY; PROCEDURE.

1 4604. PROPERTY LIABLE FOR EXPENSES.

2 4605. RECOVERY OF MONEY.

3 4606. GUARDIAN.

4 § 4601. SCOPE.

5 THIS CHAPTER RELATES TO SUPPORT OF INDIGENT PERSONS.

6 § 4602. DEFINITIONS.

7 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
8 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
9 CONTEXT CLEARLY INDICATES OTHERWISE:

10 "COURT." A COURT OF COMMON PLEAS AND THE PHILADELPHIA  
11 MUNICIPAL COURT.

12 "DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE  
13 COMMONWEALTH.

14 § 4603. RELATIVES' LIABILITY; PROCEDURE.

15 (A) LIABILITY.--

16 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), ALL OF THE  
17 FOLLOWING INDIVIDUALS HAVE THE RESPONSIBILITY TO CARE FOR AND  
18 MAINTAIN OR FINANCIALLY ASSIST AN INDIGENT PERSON, REGARDLESS  
19 OF WHETHER THE INDIGENT PERSON IS A PUBLIC CHARGE:

20 (I) THE SPOUSE OF THE INDIGENT PERSON.

21 (II) A CHILD OF THE INDIGENT PERSON.

22 (III) A PARENT OF THE INDIGENT PERSON.

23 (2) PARAGRAPH (1) DOES NOT APPLY IN ANY OF THE FOLLOWING  
24 CASES:

25 (I) IF AN INDIVIDUAL DOES NOT HAVE SUFFICIENT  
26 FINANCIAL ABILITY TO SUPPORT THE INDIGENT PERSON.

27 (II) A CHILD SHALL NOT BE LIABLE FOR THE SUPPORT OF  
28 A PARENT WHO ABANDONED THE CHILD AND PERSISTED IN THE  
29 ABANDONMENT FOR A PERIOD OF TEN YEARS DURING THE CHILD'S  
30 MINORITY.

1 (B) AMOUNT.--

2 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE AMOUNT OF  
3 LIABILITY SHALL BE SET BY THE COURT IN THE JUDICIAL DISTRICT  
4 IN WHICH THE INDIGENT PERSON RESIDES.

5 (2) FOR MEDICAL ASSISTANCE FOR THE AGED OTHER THAN  
6 PUBLIC NURSING HOME CARE, AS PROVIDED IN SECTION 401 OF THE  
7 ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC  
8 WELFARE CODE, THE FOLLOWING APPLY:

9 (I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (II), THE  
10 AMOUNT OF LIABILITY SHALL, DURING ANY 12-MONTH PERIOD, BE  
11 THE LESSER OF:

12 (A) SIX TIMES THE EXCESS OF THE LIABLE  
13 INDIVIDUAL'S AVERAGE MONTHLY INCOME OVER THE AMOUNT  
14 REQUIRED FOR THE REASONABLE SUPPORT OF THE LIABLE  
15 INDIVIDUAL AND OTHER PERSONS DEPENDENT UPON THE  
16 LIABLE INDIVIDUAL; OR

17 (B) THE COST OF THE MEDICAL ASSISTANCE FOR THE  
18 AGED.

19 (II) THE DEPARTMENT MAY, BY REASONABLE REGULATIONS,  
20 ADJUST THE LIABILITY UNDER SUBPARAGRAPH (I), INCLUDING  
21 COMPLETE ELIMINATION OF THE LIABILITY, AT A COST TO THE  
22 COMMONWEALTH NOT EXCEEDING THOSE FUNDS CERTIFIED BY THE  
23 SECRETARY OF THE BUDGET AS AVAILABLE FOR THIS PURPOSE.

24 (C) PROCEDURE.--A COURT HAS JURISDICTION IN A CASE UNDER  
25 THIS SECTION UPON PETITION OF:

26 (1) AN INDIGENT PERSON; OR

27 (2) ANY OTHER PERSON OR PUBLIC BODY OR PUBLIC AGENCY  
28 HAVING ANY INTEREST IN THE CARE, MAINTENANCE OR ASSISTANCE OF  
29 SUCH INDIGENT PERSON.

30 (D) CONTEMPT.--

1 (1) IF AN INDIVIDUAL LIABLE FOR SUPPORT UNDER THIS  
2 SECTION FAILS TO COMPLY WITH AN ORDER UNDER THIS SECTION, THE  
3 COURT SHALL SCHEDULE A CONTEMPT HEARING. AT THE HEARING, IF  
4 THE COURT DETERMINES THAT THE INDIVIDUAL LIABLE FOR SUPPORT  
5 HAS INTENTIONALLY FAILED TO COMPLY WITH THE ORDER, THE COURT  
6 MAY HOLD THE INDIVIDUAL IN CONTEMPT OF COURT AND MAY SENTENCE  
7 THE INDIVIDUAL TO UP TO SIX MONTHS IMPRISONMENT.

8 (2) THIS SUBSECTION APPLIES REGARDLESS OF WHETHER THE  
9 INDIGENT PERSON IS CONFINED IN A PUBLIC INSTITUTION.

10 § 4604. PROPERTY LIABLE FOR EXPENSES.

11 (A) GENERAL RULE.--EXCEPT AS LIMITED BY SUBSECTION (C), THE  
12 FOLLOWING APPLY:

13 (1) SUBJECT TO PARAGRAPH (2), THE PERSONAL PROPERTY OF  
14 AN INDIGENT PERSON SHALL BE LIABLE FOR THE EXPENSES INCURRED  
15 BY A PUBLIC BODY OR PUBLIC AGENCY FOR THE SUPPORT,  
16 MAINTENANCE, ASSISTANCE AND BURIAL OF:

17 (I) THE INDIGENT PERSON;

18 (II) THE SPOUSE OF THE INDIGENT PERSON; AND

19 (III) EACH UNEMANCIPATED CHILD OF THE INDIGENT  
20 PERSON.

21 (2) PARAGRAPH (1) APPLIES TO PERSONAL PROPERTY IF:

22 (I) THE PROPERTY WAS OWNED DURING THE TIME THE  
23 EXPENSES WERE INCURRED; OR

24 (II) DURING THE TIME THE EXPENSES WERE INCURRED,  
25 THERE EXISTED A CAUSE OF ACTION WHICH RESULTED IN THE  
26 OWNERSHIP OF THE PROPERTY.

27 (B) SUIT.--

28 (1) A PUBLIC BODY OR PUBLIC AGENCY MAY SUE THE OWNER OF  
29 PROPERTY REFERRED TO IN THIS SUBSECTION FOR MONEY EXPENDED.

30 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3) OR SUBSECTION

1 (C), THE FOLLOWING APPLY:

2 (I) A JUDGMENT OBTAINED UNDER THIS SUBSECTION SHALL  
3 BE A LIEN UPON THE ESTATE OF THE DEFENDANT AND MAY BE  
4 COLLECTED AS OTHER JUDGMENTS.

5 (II) A CLAIM UNDER THIS SECTION SHALL HAVE THE FORCE  
6 AND EFFECT AGAINST THE REAL AND PERSONAL ESTATE OF A  
7 DECEASED PERSON AS OTHER DEBTS OF A DECEDENT AND SHALL BE  
8 ASCERTAINED AND RECOVERED IN THE SAME MANNER.

9 (3) PARAGRAPH (2)(I) DOES NOT APPLY TO THE REAL AND  
10 PERSONAL PROPERTY COMPRISING THE HOME AND FURNISHINGS OF THE  
11 DEFENDANT.

12 (C) LIEN PROHIBITED.--EXCEPT PURSUANT TO THE JUDGMENT OF A  
13 COURT ON ACCOUNT OF BENEFITS INCORRECTLY PAID ON BEHALF OF AN  
14 INDIVIDUAL, NO LIEN MAY BE IMPOSED AGAINST THE REAL PROPERTY  
15 WHICH IS THE PRIMARY RESIDENCE OF ANY INDIVIDUAL OR OF THE  
16 INDIVIDUAL'S SPOUSE ON ACCOUNT OF ASSISTANCE PAID OR TO BE PAID  
17 ON THE INDIVIDUAL'S BEHALF.

18 (D) LIEN AGAINST PROCEEDS.--IN ORDER TO CARRY OUT THE  
19 PURPOSES OF THIS SECTION, THE DEPARTMENT SHALL HAVE A FIRST LIEN  
20 AGAINST THE PROCEEDS OF ANY CAUSE OF ACTION THAT EXISTED DURING  
21 THE TIME AN INDIVIDUAL, HIS SPOUSE OR HIS UNEMANCIPATED CHILDREN  
22 RECEIVED CASH ASSISTANCE. UNLESS OTHERWISE DIRECTED BY THE  
23 DEPARTMENT, NO PAYMENT OR DISTRIBUTION SHALL BE MADE TO A  
24 CLAIMANT OR CLAIMANT'S DESIGNEE OF THE PROCEEDS OF ANY ACTION,  
25 CLAIM OR SETTLEMENT WHERE THE DEPARTMENT HAS AN INTEREST WITHOUT  
26 FIRST SATISFYING OR ASSURING THE SATISFACTION OF THE INTEREST OF  
27 THE COMMONWEALTH. ANY PERSON WHO, AFTER RECEIVING NOTICE OF THE  
28 DEPARTMENT'S INTEREST, KNOWINGLY FAILS TO COMPLY WITH THIS  
29 SUBSECTION SHALL BE LIABLE TO THE DEPARTMENT; AND THE DEPARTMENT  
30 MAY SUE AND RECOVER FROM THE PERSON.

1 § 4605. RECOVERY OF MONEY.

2 (A) RECOVERY.--WHENEVER ANY PERSON SHALL BECOME A PUBLIC  
3 CHARGE OR RECEIVE PUBLIC ASSISTANCE, THE PUBLIC BODY OR PUBLIC  
4 AGENCY CARING FOR OR FURNISHING THE ASSISTANCE TO THE PERSON MAY  
5 SUE FOR AND RECOVER ANY SUM OF MONEY WHICH IS DUE THE PERSON.

6 (B) MANNER OF SUIT.--A SUIT UNDER SUBSECTION (A) SHALL BE  
7 BROUGHT IN THE NAME OF THE PERSON FOR THE USE OF THE PUBLIC BODY  
8 OR PUBLIC AGENCY. PROOF THAT THE PERSON TO WHOM THE MONEY IS DUE  
9 BECAME A PUBLIC CHARGE, OR WAS PUBLICLY ASSISTED, SHALL BE  
10 CONCLUSIVE PROOF OF THE RIGHT TO RECOVER WHATEVER MAY BE LEGALLY  
11 DUE THE PERSON. IF THE AMOUNT DUE HAS BEEN REDUCED TO JUDGMENT,  
12 THE PUBLIC BODY OR PUBLIC AGENCY MAY BE SUBSTITUTED AS PLAINTIFF  
13 IN THE JUDGMENT. IF THE AMOUNT DUE IS FOUNDED ON AN ORDER OR  
14 DECREE OF A COURT, THE PUBLIC BODY OR PUBLIC AGENCY SHALL HAVE  
15 THE RIGHT TO RECOVER THE AMOUNT.

16 (C) SELF-SUPPORT.--IF A PERSON BECOMES SELF-SUPPORTING OR  
17 SUPPORTED BY A RELATIVE OR FRIEND, ANY MONEY RECOVERED AND NOT  
18 EXPENDED IN THE CARE OR ASSISTANCE OF THE PERSON SHALL BELONG TO  
19 THE PERSON. IN THE CASE OF THE PERSON'S DEATH, MONEY NOT  
20 EXPENDED FOR THE PERSON'S CARE, ASSISTANCE AND BURIAL SHALL  
21 BELONG TO THE PERSON'S ESTATE.

22 § 4606. GUARDIAN.

23 (A) PETITION.--ANY PUBLIC BODY OR PUBLIC AGENCY CARING FOR  
24 OR ASSISTING ANY INDIGENT PERSON MAY PETITION THE COURT OF  
25 COMMON PLEAS, IF THE PERSON IS OF FULL AGE, OR THE ORPHANS'  
26 COURT, IF THE PERSON IS A MINOR, FOR A RULE TO SHOW CAUSE WHY  
27 THE PUBLIC BODY, PUBLIC AGENCY OR SOME OTHER PERSON APPOINTED BY  
28 THE COURT SHOULD NOT BECOME THE LEGAL GUARDIAN OF THE PERSON AND  
29 PROPERTY OF THE PERSON. THE PETITION SHALL HAVE ATTACHED AN  
30 INVENTORY OF THE PROPERTY OF THE PERSON. THE COURT SHALL

1 SCHEDULE A HEARING ON THE MATTER AND SHALL SERVE NOTICE OF THE  
2 HEARING UPON THE PERSON.

3 (B) ORDER.--AFTER CONDUCTING A HEARING PURSUANT TO  
4 SUBSECTION (A), THE COURT MAY ISSUE AN ORDER CONSTITUTING THE  
5 PUBLIC BODY, PUBLIC AGENCY OR SOME OTHER PERSON, GUARDIAN OF THE  
6 PERSON AND THE ESTATE OF THE PERSON, WHETHER OR NOT ALL OF THE  
7 ESTATE WAS ENUMERATED IN THE INVENTORY PROVIDED UNDER SUBSECTION  
8 (A). THE PROCEEDINGS AND ORDER SHALL BE INDEXED IN THE NAME OF  
9 THE PERSON PURSUANT TO COURT RULES.

10 (C) DISCHARGE.--

11 (1) NO PERSON FOR WHOM A GUARDIAN HAS BEEN APPOINTED  
12 UNDER THIS SECTION SHALL BE DISCHARGED FROM THE GUARDIANSHIP  
13 UNTIL THE PERSON HAS PETITIONED THE COURT FOR TERMINATION.  
14 THE COURT MAY TERMINATE THE GUARDIANSHIP IF IT IS SATISFIED  
15 THAT:

16 (I) THE PERSON HAS BECOME ABLE AND WILLING TO RESUME  
17 CONTROL OF THE PERSON'S OWN PERSON AND ESTATE; AND

18 (II) THE PUBLIC BODY OR PUBLIC AGENCY HAS BEEN FULLY  
19 REIMBURSED FOR THE EXPENSE OF THE PERSON'S CARE OR  
20 ASSISTANCE OR THAT ALL OF THE PERSON'S ESTATE HAS BEEN  
21 EXPENDED FOR THE REIMBURSEMENT.

22 (2) THE COST OF THE PROCEEDINGS UNDER THIS SUBSECTION  
23 SHALL BE PAID BY THE PETITIONER, UNLESS OTHERWISE ORDERED BY  
24 THE COURT.

25 (D) LEASES PERMITTED.--UNDER THE SUPERVISION OF THE  
26 APPROPRIATE COURT, A GUARDIAN MAY LEASE THE REAL ESTATE OF ANY  
27 PERSON FOR A TERM OF YEARS AND RECEIVE AND APPLY THE PROCEEDS OF  
28 THE LEASE TO DEFRAY THE EXPENSES INCURRED IN THE CARE OR  
29 ASSISTANCE AND BURIAL OF THE PERSON. THE BALANCE OF THE PROCEEDS  
30 SHALL BE PAID TO THE PERSON UPON TERMINATION OF THE GUARDIANSHIP

1 OR TO THE LEGAL REPRESENTATIVES OF THE PERSON AFTER THE PERSON'S  
2 DEATH.

3 SECTION 2. SECTION 6334 OF TITLE 23 IS AMENDED BY ADDING A  
4 SUBSECTION TO READ:

5 § 6334. Disposition of complaints received.

6 \* \* \*

7 (d) Incidents occurring outside of this Commonwealth.--

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

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

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

26 SECTION 3. THE ACT OF JUNE 24, 1937 (P.L.2045, NO.397),  
27 KNOWN AS THE SUPPORT LAW, IS REPEALED. ←

28 SECTION 4. THE ADDITION OF 23 PA.C.S. CH. 46 IS A  
29 CONTINUATION OF THE ACT OF JUNE 24, 1937 (P.L.2045, NO.397),  
30 KNOWN AS THE SUPPORT LAW. THE FOLLOWING APPLY:

1           (1) EXCEPT AS OTHERWISE PROVIDED IN 23 PA.C.S. CH. 46,  
2 ALL ACTIVITIES INITIATED UNDER THE SUPPORT LAW SHALL CONTINUE  
3 AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE COMPLETED  
4 UNDER 23 PA.C.S. CH. 46. ORDERS, REGULATIONS AND DECISIONS  
5 WHICH WERE MADE UNDER THE SUPPORT LAW AND WHICH ARE IN EFFECT  
6 ON THE EFFECTIVE DATE OF SECTION 2 OF THIS ACT SHALL REMAIN  
7 IN FULL FORCE AND EFFECT UNTIL REVOKED, VACATED OR MODIFIED  
8 UNDER 23 PA.C.S. CH. 46. CONTRACTS, OBLIGATIONS AND  
9 AGREEMENTS ENTERED INTO UNDER THE SUPPORT LAW ARE NOT  
10 AFFECTED NOR IMPAIRED BY THE REPEAL OF THE SUPPORT LAW.

11           (2) NO PROVISION OF THE SUPPORT LAW WHICH WAS SUSPENDED  
12 BY ORDER OF THE SUPREME COURT SHALL BE REVIVED BY THE  
13 ADDITION OF 23 PA.C.S. CH. 46.

14           (3) EXCEPT AS SET FORTH IN PARAGRAPH (4), ANY DIFFERENCE  
15 IN LANGUAGE BETWEEN 23 PA.C.S. CH. 46 AND THE SUPPORT LAW IS  
16 INTENDED ONLY TO CONFORM TO THE STYLE OF THE PENNSYLVANIA  
17 CONSOLIDATED STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT  
18 THE LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR  
19 ADMINISTRATION AND IMPLEMENTATION OF THE SUPPORT LAW.

20           (4) PARAGRAPH (3) DOES NOT APPLY TO THE ADDITION OF 23  
21 PA.C.S. § 4604(C) AND (D).

22           (5) ANY REFERENCE IN A STATUTE OR A REGULATION TO THE  
23 SUPPORT LAW SHALL BE DEEMED A REFERENCE TO 23 PA.C.S. CH. 46.  
24 Section ~~2~~ 5. This act shall take effect immediately.           <—