

Pennsylvania Family Lawyer

Volume 47, Issue No.3

From the Chair

By Jerry Shoemaker

As I start my year as chair, there are a few attorneys who I owe praise and gratitude for in helping me get to this spot. First, my law partners, **Cheryl Young, Helen Casale** and **Kelley Fazzini**. They deserve thanks for picking up my slack while I am taking time away from practice (not really — just working later) to be involved in the Bar Association, although I will say that I am following in great footsteps as Cheryl and Helen are both past chairs of our section. Hopefully, Kelley will follow us in her future path. Next, I need to thank **Hillary Moonay**, who has not only become a colleague (albeit on opposite sides of cases), but also a friend. I watched her lead our section with grace and put into place the Leadership Development Program, which is invaluable for gearing up the pipeline of our next leaders in the bar and the section. **Stephanie Winegrad** and **Missy Boyd** have also been great friends through this process, and Missy comes off the completion of a great year as chair, capped off by a wildly successful meeting in Washington, D.C. While no longer a practicing attorney, the **Honorable Alita Rovito** also deserves a name drop as she, Hillary and I became a trio of friends while studying together for the American Academy of Matrimonial Lawyers' exam.



Jerry Shoemaker

This year, I've decided primarily to focus on how to make an already difficult practice easier on lawyers and judges. To that end, I have tasked the Legislative Committee and Rules Committee to review all divorce, support, custody and PFA Rules and legislation to determine what should be revamped to make our practice more streamlined, all while maintaining due process to litigants. The Legislative Committee is co-chaired by **Meredith Brennan, Skip Persick** and **Hillary Moonay**, while the Rules

Committee is headed up by **Andrew Taylor** and **Jonathan Hoffman**. The committees have already drafted separate Reports and Recommendations relative to making our professional lives easier when possible. These Reports and Recommendations were passed by council on Sept. 4, 2025 and will now go to the Board of Governors and House of Delegates in November. If approved, they will become PBA policy.

Copies of the Reports and Recommendations will be published once adopted by PBA. We will continue the process of reviewing rules and legislation throughout my year so if you have any input, let me or those members of the committees know.

We have already started preparing for the Winter Meeting which takes place in Philadelphia from Jan. 16-18 at the Logan Hotel. **Amanda Frett** and **Megan DelVecchio** are in the planning stages for the programs, and the preliminary line up looks fantastic. This year, we will try to maintain two different levels for the breakouts, one program for more recent family lawyers and the other program against it for more seasoned practitioners. The preliminary plan includes a program on AI, an appellate program with Superior Court judges, as well as the two divergent programs on reading tax returns — basic and advanced.

In terms of sponsorship, **Kelley Fazzini** and **Stephanie Steckclair** are truly hitting it out of the park and already have sponsorship money in the door for the

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From the Chair

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Winter Meeting as I write this column (on Sept. 5th). They are working with prior sponsors and also recruiting new sponsorship to grow the section finances.

A committee that has been crazy busy this last year and will continue to be busy in 2025-26 is the Parentage Committee, headed by **Rebecca Nayak** and **Helen Casale**. Now that the Uniform Parentage Act has passed the House, it moves on to the Senate. Our section has already adopted a report and resolution supporting this groundbreaking and necessary legislation. Helen and Becca have worked countless hours, including weekends, to advance this important bill, and we will continue to support them in this process through the Senate.

This publication would not be possible without **Liz Fineman** and **Judy Springer**, who are tireless in their pursuit to get each issue out timely — and they do so without fail. Please contact them if you or any of your colleagues would like to write an article for the *Pennsylvania Family Lawyer* or convert a blog post to an article. They are always looking for good material to publish, and it is a great way for younger lawyers to get their names out in the family law realm.

In terms of continuing education (even if not for CLE), we will continue to put on our monthly Lunchtime Updates. That committee is headed by **Carla Schiff Donnelly** and **Gwen Lentine**. They have been so successful in recruiting individuals to present that the speaking slots are filled for my year. Some of the speakers will be from the Leadership Development Program, which is run by **Stephanie Winegrad** and **Darren Holst**. This year, Darren and Stephanie have eight members they are mentoring into future leaders of our section. When you see them at our meetings, be sure to introduce yourself.

Along the lines of education, the Podcast Committee has been very active. They put out approximately two podcasts per month under the leadership of **Aaron Weems** and **Jen Ryan**. In August, they released two episodes — (1) From the GALs Perspective: Insights for Family Lawyers and (2) How To Help Lawyers With Mental Health/Substance Use Challenges. In September, they are working on a marriage equality episode given the recent request for the U.S. Supreme Court to take up the issue of marriage equality.

Under Missy's leadership, we grew the membership of our section in large part thanks to the efforts of **Inna Materese** and **Eileen Murphy**, who co-chair the Member-

ship Committee. They will continue to do so this year, as they have been successful in not only maintaining membership, but growing it — especially when many professional associations are losing members. Kudos to Inna and Eileen.

The Adoption Committee, led by **Dorota Gasienica-Kozak** and **Joshua Gitelson**, is taking on the task of legislation as well. They will be looking into potential changes to existing adoption legislation, and we can expect a report and resolution from them at some point in 2025-26. While this committee has previously been fairly inactive, it will not be under my leadership.

Perhaps most important to our everyday practice, is the Health and Wellness Committee which is dedicated to keeping us sane. **Shawnee Burton** has graciously agreed to continue on as the chair of this committee. The plan is to have a spin class at the Winter Meeting and an additional outdoor activity at the Summer Meeting. In addition, there will be periodic activities throughout the year.

Last and certainly not least, is the Diversity Task Force Committee, which is charged with promoting diversity, equity and inclusion in the bar and our section. **Kristine Calalang** and **Julie Auerbach** have been long-time co-chairs of this Committee, and they will remain in that role. In these times when diversity may be viewed as a negative, we must not stop pressing for inclusion and equality for all classes of people.

While not a committee, our ADR liaisons, **Shelly Grossman** and **Carolyn Zack** are reviewing mandatory mediation in family law. This mediation requirement would apply not only to custody but other aspects such as divorce and support. We expect to be updated on their findings throughout the year.

Should you wish to join any of the committees, reach out to me, Pam or any of the individuals noted above who run the committee in which you are interested.

Jerry is a Shareholder in the Plymouth Meeting office of Hangley Aronchick Segal Pudlin and Schiller, PC. He is also a Fellow in the American Academy of Matrimonial Lawyers — Pennsylvania Chapter, and he serves as an Editor for the American Bar Association Family Law Section publication, Family Advocate. He received his J.D. from the University of Pittsburgh and his B.S. from Duquesne University. Jerry can be reached at gls@hangley.com or 610-313-1670.

From the Editors

It seems like there are many seasons for rejuvenation in our practices. January is always a fresh start with a new calendar year. Spring provides a season of rebirth with budding trees and flowers and improving weather. Fall is yet another season for rejuvenating our practices. Summer vacations are over, children are back to school and our meeting and work schedules normalize. It's a great time to get back into the swing of practice.

The section appreciates **Missy Boyd's** service to the section as chair. Missy ended her term in July. Missy tirelessly shepherded the section through her year as chair. One of Missy's many projects included her road show that took her and other section members and PBA staff across the commonwealth to host receptions in conjunction with local bar associations to increase section membership. Missy not only increased membership, but she also increased the engagement of members. Missy's meetings were well-attended with great programming. Her pride was evident as she hosted us in Washington D.C. in her old stomping grounds from childhood. Thank you Missy for your strong leadership.

With this issue, the section welcomes **Jerry Shoemaker** as the new section chair. Jerry has hit the ground running as you will see from his From the chair column by tasking numerous committees to make recommendations for streamlining and improving our practice of law in Pennsylvania. Jerry continues his firm's legacy of section chair, being the third member of his firm to serve. Highlights of Jerry's year will undoubtedly be the Winter Meeting in Philadelphia in January and the Summer Meeting in Chicago in July. We look forward to Jerry's leadership this year.

We would be remiss if we did not take time to thank everyone who contributes to the *Pennsylvania Family Lawyer*. It truly does take a village. This issue includes our regular columns and case notes, as well as a variety of articles that cover many areas of family law including protecting your fees through charging liens, protecting families in the LGBTQ+ realm and protecting domestic violence survivors. If you are interested in writing an article or case note, please let us know. If you are creative and would like to write a poem or fictional piece or submit a photograph or artwork, we welcome that as well. We are also still looking for someone to contribute technology articles two times per year. These articles would be brief and would provide a simple tip each month for family law practitioners. Let us know if you are interested.

As a reminder, the articles contained in the *Pennsylvania Family Lawyer* do not necessarily reflect the



Elizabeth J. Fineman



Judy M. Springer

opinions of the editors or the Pennsylvania Bar Association Family Law Section. Our positions as co-editors are volunteer positions and we do not police the content or opinions expressed in submissions. Authors are responsible for all research and writing and to ensure that their facts, references and citations are accurate. Submissions that are relevant to the section are generally included in the publication.

We hope that you enjoy this issue. If you have any feedback regarding the *Pennsylvania Family Lawyer*, please let us know. Please also continue to submit news and updates to **Adam H. Tanker** so that we can continue to keep up with all of our section members. Please also provide names of volunteers to write case notes to **Meredith Brennan** and **Colleen McCue Norcross**. We hope that you enjoy the start to fall and can appreciate the changing leaves and fall festivities.

Elizabeth J. Fineman is a partner at Antheil Maslow & MacMinn LLP in Doylestown. She is co-chair of the Bucks County Bar Association Family Law Section and frequently teaches continuing legal education courses. Fineman earned a bachelor of arts in government and law from Lafayette College and earned both a Juris Doctor and LL.M. in taxation from Temple University Beasley School of Law. efineman@ammlaw.com; 215-230-7500.

Judy M. Springer is a partner at Astor Weiss Kaplan & Mandel LLP. Springer is an active member of the PBA Family Law Section. She is the author of the international custody section in the "Custody Law Practice and Procedure" book published by PBI and has written and lectured numerous times regarding family law issues. She is a graduate of Virginia Tech and Villanova Law School. jspringer@astorweiss.com; 215-790-0100.

Law In the Family Blog

By Aaron Weems and Jennifer R. Ryan

The Pennsylvania Bar Association's Family Law Section released a new podcast on Sept. 30, 2021, titled "Law in the Family" to serve as a platform for discussing interesting and emerging issues in the law, as well as events within the PBA Family Law Section. Though a family law-oriented podcast, the topics will often delve into other areas of law and commerce as I interview a variety of people from diverse professions and viewpoints.

The podcast is hosted by Aaron Weems of Fox Rothschild LLP and Jennifer R. Ryan of Boyd & Early Family Law with episodes available on iTunes, Spotify and Anchor. Episodes are released periodically covering issues related to family law and other legal topics that affect the family law practice directly and indirectly. The podcast is intended to be a way to connect with section members with new concepts and guests who bring interesting perspectives and expertise.

Each issue of the *Pennsylvania Family Lawyer* will include a list of the episodes released since the prior issue with a link to all episodes. Five more episodes have been released since the summer issue:

Episode 53 — Reports of Child Abuse in Custody Cases with Sarah Katz

Episode 54 — The Cure for Imposter Syndrome! with Dr. Adam Assoian

Episode 55 — From the GALs Perspective: Insights for Family Lawyers with Maria Testa and Kimberly Dudick

Episode 56 — How to Help Lawyers with Mental Health/Substance Use Challenges with Brian Quinn



[Listen to Law in the Family](#) Podcast

Episode 57 — Marriage Equality — Recent Supreme Court Petition Raises Concerns of Fresh Attacks with Helen Casale and Rebecca Levin Nayak

Click on the link above to listen to these and every episode of "Law in the Family!"

Aaron D. Weems is a litigation partner in Fox Rothschild's Family Law practice group and based in their Blue Bell, Montgomery County office. Aaron is involved in a variety of local and state bar association activities, including serving as a chair of the Montgomery County Bar Association Family Law Section, council for the Pennsylvania Bar Association's Family Law Section and on PBA's Family Law Section Executive Committee. Weems is a Villanova University and Villanova University School of Law graduate. He can be reached at AWeems@foxrothschild.com or 610-397-7989.

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Authors' submission due dates for upcoming issues: winter issue — Nov. 1; spring issue 2026 — March 1; summer issue 2026 — May 1; fall issue 2026 — Sept. 1

Family Law Section Executive Board

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Eric Turner Award Nominations

As many of you know, the Eric Turner award is given annually in honor of Eric Turner, who was an esteemed member of the section and died prematurely in 1999.

Since 2000, except for 2002, the section has given an annual award to a member of the Family Law Bar or jurist who exemplifies the qualities possessed by Eric. The distinction goes to someone who is considered a mentor, teacher and person who holds the respect of the section and the legal community.

The section is encouraging you to submit a nomination for a recipient of this award for the 2026, which will be presented at the Winter Meeting in Philadelphia. We would greatly appreciate your input. Please email your nomination to Cheryl Young at cyoung@hangle.com by no later than Nov. 3, 2025.

Family Law Section Summer Meeting Photos



Reminder:

**Lunch and Learns —
occur the 2nd
Friday of every month at noon
via Zoom.**

A Rare Bird: The Superior Court Looks at a Charging Lien in Divorce

By: Mark Ashton

When and how an attorney can acquire a “lien” on marital assets in a divorce to compensate that attorney for service rendered is a topic most attorneys know little about. But Aug. 25 brought us the non-presidential decision in *Zimmerman v. Zimmerman (Rukavina)*, 2607 EDA 2024.

In May 2022, the plaintiff hired the Royer Cooper firm to represent her in a divorce. The firm presented and plaintiff signed a fee agreement addressing payment of services. Consistent with most such agreements, the legal fees not paid within 30 days of invoice were subject to interest charges and if the fees remained unpaid, the firm had the right to withdraw from the case, sue for the balance due and recover their own attorneys’ fees for the effort. As often occurs, the payments were not forthcoming such that the law firm filed to withdraw. As that request was granted, the law firm filed a charging lien in the amount of \$5,262 for the unpaid fees. The plaintiff sought a hearing and that hearing took place eight months after the lien was recorded. The court heard from the former attorney and the billing clerk at the Royer Cooper firm. The court affirmed the lien and added \$2,500 in attorneys’ fees, as authorized by the fee agreement, based on the evidence presented. Plaintiff appealed.

Before addressing the issues on appeal, it makes sense to review the elements of a charging lien as defined by the Pennsylvania Supreme Court in 1961:

(1) that there is a fund in court or otherwise applicable for distribution on equitable principles, (2) that the services of the attorney operated substantially or primarily to secure the fund out of which he seeks to be paid, (3) that it was agreed that counsel look to the fund rather than the client for his compensation, (4) that the lien claimed is limited to costs, fees or other disbursements incurred in the litigation by which the fund was raised and (5) that there are equitable considerations which necessitate the recognition and application of the charging lien.

Recht v. Urban Development Authority of the City of Clairton, 168 A.2d 134, 137 (Pa.).

On appeal the plaintiff challenged whether the *Recht* standard had been met. In the end, the Superior Court reversed as the trial court had not shown that the fee agreement or any subsequent document confirmed that the lawyers were “looking to the fund” rather than

the client for payment of the fees due. The court distinguishes this case from its ruling in *Sawyer v. Taylor*, 3116 EDA 2022 (8/16/2023), where the fee agreement made a specific reference to the attorney’s right to a charging lien. The Court agreed that there is no magic language that creates such a lien, but then noted that the Royer Cooper contract had no reference, explicit or implied, to lien rights. The decision also references a Pennsylvania Bar Association Ethics opinion 2006 WestLaw 4590880, noting that these liens are more often found in contingent fee cases than standard hourly fee agreements. The *Recht* case was non-contingent as to the payment, but it involved an eminent domain claim where the litigation inevitably results in payment of a liquidated amount (“a fund”). *Recht* held that for a charging lien to arise, there must be an express agreement that a “fund” will be the source of the legal payment due. The Court also noted a federal trial court opinion that suggests charging liens are an “either/or” proposition; which is to say the fee is due as invoices are rendered or deferred until the fund materializes either through trial or settlement. *Matter of Independent Pier Co.*, 210 B.R. 261 (E.D. Pa. 1997).

We don’t see what fund it was that the law firm was attempting to attach, and, until an equitable distribution is final, it would seem that all one can do is assert a kind of contingent lien on property not yet distributed. In theory, marital property is *in custodia legis* (in the court’s hands) until a distribution is affected. See *Klebach v. Mellon Bank*, 565 A.2d 448 (Pa. Super. 1987). Long ago, I tried asserting a charging lien based on funds opposing counsel and I held in escrow from sale of the marital residence. My claim was denied because my departing client had no present legal entitlement to those funds until the court decided the divorce or the parties resolved the case by agreement.

The lawyer lesson here is that you can try to wedge charging lien language into your fee agreements to secure a stronger grasp on funds in controversy, but unless assets are distributed to your client *with prejudice* (meaning a final disposition of the fund even if other assets are not yet resolved), it’s not clear how you can seize funds while the litigation is unresolved. Put more directly, the charging lien occupies a rocky road when it comes to collecting sums otherwise due and payable for legal services

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Protection From Abuse Orders, Aggression & Narcissism

By Hillary Vesell

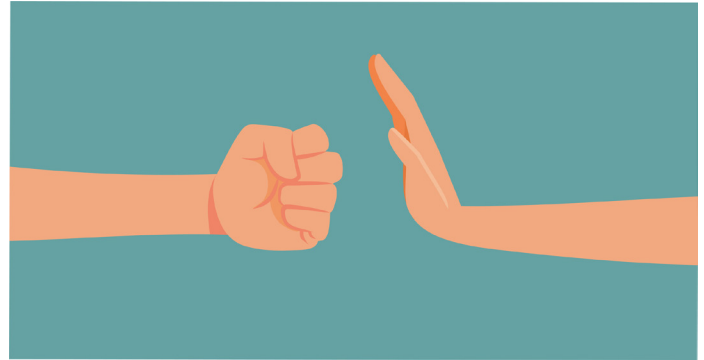
Narcissism: A History & Overview

The term narcissist comes from the Greek mythological character Narcissus, who fell in love with his own image reflected in still water. The story is an oxymoron of sorts because narcissists aren't capable of love. Narcissism can be thought of as entitled self-importance. Nearly everyone displays some degree of narcissism, although only a minority of individuals exhibit high enough levels of narcissism for it to be considered pathological and to interfere with normal functioning.

While everyone has some traits of narcissism, some have higher levels than others.ⁱ Individuals with high levels of narcissism show a higher inclination toward physical aggression, verbal aggression, smear campaigns, bullying behaviors and even displaced aggression against the public (i.e. road rage). People high in narcissism are not only more likely to lash out in anger, they are also more likely to be cold, deliberate and proactive in their aggression.ⁱⁱ Individuals who believe they are superior to others seem to have little reservation about attacking others whom they regard as inferior and may not be particularly picky about how they do it.ⁱⁱⁱ

Traits of narcissism, such as lack of empathy, entitlement (i.e. expectation of special treatment from others), selfishness, low frustration tolerance, hypersensitivity, rage and control are associated with a greater likelihood of acting out. While not all narcissists are abusers, many domestic batterers are believed to have personality disorders, often Narcissistic Personality Disorder.^{iv}

Narcissistic parents are thought to cause a host of maladaptive and life-long mental health issues for the children in their care. Parental alienation may be driven by narcissistic personality disorder, where a mentally ill parent projects their contemptuous behavior onto the other parent. Narcissists may not understand the negative effects and mental health consequences



their actions cause for their children. Instead, they objectify their children, disregarding their feelings and treating them as property. Alienation is hard to detect in any setting because it is set up to look like the child is rejecting the target parent for legitimate reasons. Borderline Personality Disorder may originate in the same abuse patterns that coexist with narcissism. Many people who have personality disorders are thought to have more than one.

Narcissists have a fragile sense of self — everything is a potential threat to their self-esteem, for which they may react with rage. A narcissist is likely to bring unwanted stress to almost any situation, especially an already stressful one. They tend to punish others for any perceived transgression, no matter how minor. They have a whole host of tools used to censure their target including the silent treatment, stonewalling — emotionally withdrawing and shutting down communication, devaluing and belittling, and physical abuse. Because narcissists often face difficulty in receiving constructive criticism, including about their children — whom they may be living vicariously through as extensions of themselves — any criticism may engender another round of punishments. Eventually, a target often modifies their behavior to avoid the potential wrath of a narcissist.

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contracted.

The opinion is here: [J-A08002-25m — 106485327324168524.pdf](https://www.pba.org/record-keeping/J-A08002-25m-106485327324168524.pdf).

Mark Ashton is a retired family lawyer and former chair of the Family Law Section of the PBA. He can be reached at mashton9953@gmail.com.

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Because of a narcissist's susceptibility to feelings of emptiness, paranoia and lack of empathy (traits present in most personality disorders), anything can potentially provoke them. Narcissists generally cannot sustain criticism as they live in a state of paranoia, believing the world is conspiring against them. With their emotional distance, low empathy and selfishness, narcissists are wired to be abusive. They are also inclined through their narcissistic rage to be vindictive. Narcissists have a tendency to commit psychological and emotional transgressions by sabotaging and slandering their target.^v Armed with arrogance and feelings of superiority, narcissists may feel entitled to mistreat others. Brain scans of narcissists show abnormalities in the area of the brain that correspond to compassion. A narcissist is not suited to meet the emotional demands of empathy, stability, consistency and availability required in close relationships, as they often use relationships as opportunities to exploit and take advantage of others.

Protection From Abuse Orders

In Pennsylvania, the legal remedy to protect oneself from aggression in a family setting where violence may erupt is a Protection from Abuse Order (PFA).^{vi} The primary goal of a PFA is to prevent abuse among members of the same household where aggression can quickly escalate into violence and imminent bodily harm.^{vii} The victim need not suffer actual injury as a reasonable fear of imminent serious bodily injury is sufficient to justify a PFA. Accordingly, all that is needed is the petitioner's testimony, if believed by the trial court that the victim was in reasonable fear of imminent bodily harm.^{viii} Where emotional abuse encourages or manifests in physical injuries, especially in children, abuse is considered to have occurred, justifying a PFA.^{ix}

A PFA can grant possession to the plaintiff of the residence or household, to the exclusion of the defendant, along with the relinquishment of any firearms or weapons in the possession of the defendant.^x The PFA Order may also direct that the defendant compensate the plaintiff for reasonable losses suffered from the abuse. These include medical, dental, relocation and moving expenses, counseling, loss of earnings or support, costs of repair or replacement of real or personal property damaged, destroyed or taken by the defendant or at the discretion of the defendant, along with any out-of-pocket losses for injuries sustained. The court may order the defendant to pay reasonable attorney fees, but can decide to waive fees and costs upon a showing of good cause or through a finding that the defendant is not

able to pay costs.^{xi} On the other hand, a defendant may recover actual damages and attorney fees where a PFA is found to be filed in bad faith.^{xii} The civil remedy, such as wrongful use of civil process and criminal prosecution relating to falsification and intimidation, are also available.^{xiii}

A PFA Order can grant temporary custody and support to the Plaintiff and any minor children.^{xiv} It can also grant temporary ownership rights over a companion animal, directing a defendant to refrain from possessing, contacting, attempting to contact, transferring or relocating a companion animal and prohibiting the defendant from contacting or entering the property of an individual sheltering the companion animal.^{xv}

Monetary penalties of a fine of not less than \$300 nor more than \$1,000 and imprisonment of up to six months exists for violations of the protection order.^{xvi} A PFA can be extended beyond three years for cause where violations exist, such as where the defendant engaged in a pattern of practice that indicates continued risk of harm to the plaintiff, minor child or companion animal.^{xvii} There are no limitations on the number of extensions that can be granted.^{xviii} The court may also amend or modify its order or agreement at any time upon subsequent petition filed by either party.^{xix} The PFA also allows the plaintiff to keep their address confidential in various related court pleadings and alerted prior to the release of the offender from incarceration.^{xx}

The court can order resources for the abuser such as batterer intervention programs and any necessary evaluations. While not all narcissists are abusers, many abusers are believed to have mental health issues that would benefit from a full psychological examination to identify mental health issues and recommend treatment.

Because individuals with personality disorders may be vengeful and vindictive and can potentially turn violent in interpersonal relationships, a PFA can be a valuable tool. While a PFA can be obtained at any time, generally within a few weeks of any actual abuse, a safety plan should be developed to ensure a safe exit from the relationship. A domestic violence hotline can be contacted for help in developing a safety plan.^{xxi} Precautions should be taken around people who are physically violent, threatening or retaliate with acts of extreme mental cruelty.^{xxii}

While no contact may be the best strategy to forgo dealing with a likely cruel and otherwise aggressive narcissist, if contact is necessary for custody or other reasons, one may want to employ the strategy of what is called low contact or gray rocking.^{xxiii} Gray rocking refers

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to the practice of showing little to no emotion when dealing with difficult personalities, in the hopes that a narcissist who wishes to feel special or important will lose interest.^{xxiv} Only facts, not feelings, are discussed to deescalate conflict with individuals who often try to incite, bait and destabilize others. The idea is to be non-reactive, using uninteresting responses until the high conflict personality loses interest and directs their negative attention elsewhere.^{xxv} Because healthy boundaries generally can't be set with a narcissist, the best option may be to gray rock, limiting contact whenever possible.

To avoid shame, the narcissist will often unconsciously project the negative aspects of their personalities onto others, blaming others for their own bad behavior. Narcissists also often use gaslighting — denying another person's reality — to maintain control in their relationships. Individuals who have suffered significant childhood trauma, such as individuals with personality disorders, may have fragmented personalities where different areas of their lives are compartmentalized instead of fully integrated into their personalities. Think Dr. Jekyll and Mr. Hyde — these shadow or hidden parts of the personality may emerge when the individual is triggered, at which time the negative aspects of their personality can be projected onto others.

Beyond just social interactions, narcissists are likely to be antagonistic and oppositional, generally refusing to take accountability. They usually avoid intimacy, having few, if any, close friends. Although they initially appear warm and charismatic in hopes of exploiting their target, narcissists tend to be superficial and shallow, lacking depth and any real concern for others. They are also often dishonest (even if by omission), angling to usurp and gain the resources of those around them whom they often envy. Narcissists usually have no interest in supporting and celebrating the successes or accomplishments of others, and can derail celebrations including holidays, redirecting any attention back onto themselves. It goes without saying that a relationship with a narcissist is likely to be volatile, unstable and potentially explosive.

The Making of a Narcissist

Narcissists are made, not born. Theories abound on how an individual develops narcissism, ranging from genetic predisposition to environmental factors. Narcissism is largely thought to develop at a very young age in children from caretakers who are emotionally unavailable due to factors such as alcoholism, drug addiction and other untreated mental health issues.

Personality disorders are thought to form in early childhood through abusive relationships, where a child is unable to have their basic emotional needs met for positive self-regard. When a child can't internalize positive self-esteem and is instead overly criticized, their personality may develop in odd and rigid ways, where flexibility in our culture is the benchmark for good mental health.

Personality disorders can also form through undiagnosed medical disorders where proper bonding with a caretaker doesn't take place. Societal factors may also be at play — while our society values submissiveness and dependence in women, narcissistic traits such as grandiosity, selfishness and aggression are generally encouraged and reinforced in men. Society often harshly criticizes a woman who displays this behavior, requiring instead that she be humble and self-aware, traits oppositional to narcissism. Furthermore, while it may be acceptable for girls to cry in our culture, boys are often shamed for doing so. This practice is believed to dissociate a child from their emotions, teaching them how to gain control of relationships through emotional withholding and manipulation. Without the support of a child's emotional world, personalities may develop in dysfunctional and maladaptive ways.

In a materialistic society where thoughts and feelings are devalued, it is also theorized that narcissism can develop when a child's innate qualities, such as physical characteristics, are overvalued. For instance, society may more readily condemn an unattractive person who is dishonest, but not an attractive individual who is unreliable or deceptive. Narcissism may also develop where successes and achievements are celebrated, forcing children to earn affection instead of offering them unconditional love and warmth. In this way, children serve the needs of their adult caretakers. In a narcissistic family, a child will be forced to deny their own needs to cater to the needs of a narcissistic parent. When one's inner world is not supported, it becomes much easier to objectify others, especially in a society where mistreating others is accepted and even revered.^{xxvi} Accordingly, narcissism may be on the rise in our society due to cultural conditions that not only support but celebrate narcissistic traits.^{xxvii}

When a child is forced to please a narcissistic parent to gain positive esteem, a dynamic is created in which the same child in adulthood may similarly attempt to earn the love of a narcissistic partner. For a narcissistic parent, nothing will ever be enough, which can be exhausting

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depending on the sensitivities and temperament of the child, possibly producing anxiety, among other mental health disorders. This dynamic also sets a child up for a lifetime of disappointment, where warmth, kindness, compassion, respect, support, consistency and a shared sense of purpose found in healthy relationships is traded for more familiar feelings of unpredictability, indifference and cruelty common in narcissistic relationships. In this way, chemistry in adult relationships may be likened to familiarity. For those who originate from families where a caregiver was a narcissist, there may be an energetic pull towards these individuals, where finding one can feel like returning home. It is not unusual for an individual to date and later marry someone with the same characteristics of their narcissistic parent. People tend to crave familiarity, even if it is unhealthy. If someone is in the dating pool long enough, chances are they may come across a narcissist who is likely to keep resurfacing in the same dating pool. Parents who are healthy, able to be attentive towards their children, and who value their children as individuals are more likely to raise children strongly equipped to mercifully avoid narcissists.

Narcissists at Home & Work

Because narcissists are often drawn to positions that wield status and power, narcissists may be disproportionately represented in positions of leadership. Statistically, narcissistic men are thought to make more money than non-narcissistic men. Caring, empathic individuals may also enter into relationships with narcissists simply because they have no roadmap for identifying and protecting themselves from narcissists in the loving families where they grew up. In other words, one may simply not be discerning enough to avoid them.

Drained emotionally, physically, financially and spiritually, the target of a narcissist may experience mental health issues such as depression, Post-Traumatic Stress Disorder and anxiety. Women in relationships with a narcissist may develop a higher threshold for pain tolerance, leading them to err away from self-care or medical treatment.

Health issues may cause the target to appear reactive, stressed, unkempt, forgetful, disheveled and otherwise not credible. Toxic relationships erode not only the mental health, but also the physical health of the target by wearing down the immune system through continuous stress. Financial dependence may also keep individuals in these relationships, particularly women, whom statistics show are sometimes still paid less than men in our society for the same work, which may be due in part to

the fact that women often leave work temporarily or permanently for childcaring responsibilities. Studies also show women are often rated as having lower potential than men and are thus less likely to be promoted than a male counterpart.^{xxviii}

Charming, intelligent, and alluring — although lacking important character traits such as reliability, honesty and integrity — narcissists are often popular with women and may initially seem like the best prospects. Only upon increased familiarity are they discovered to be selfish, exploitative and dishonest. They don't necessarily make enduring partners either, as they do not bond with others in normal and healthy ways. A connection with a narcissist is formed through a trauma bond, which develops through a cycle of physical or emotional abuse followed by positive reinforcement. These cycles of abuse through mistreatment or neglect, followed by intermittently positive periods, can cause a victim to wait for the good times to return. The cycle may repeat multiple times before the victim realizes that events such as violence in their relationship are cyclical and will often return in predictable intervals.^{xxviii} By this time, recovering from these toxic relationships and working through trauma narcissistic individuals may take a lifetime.

It's difficult to believe there are people simply incapable of caring for others, which is what makes the narcissist so successful in taking advantage of others. Most people believe in reciprocity, the expectation that their partner will give back to the relationship, but this is not true of a narcissist who is often only looking to exploit others. When confronted with their selfish behavior, the narcissist will use rage as a tool to control and further exploit a target. There is no quicker way to enrage or be discarded by a narcissist than to try to hold them accountable for their behavior. Those in an intimate relationship with a narcissist will be conditioned not to upset the narcissist, turning any association with a narcissist into a one-sided exploitive relationship.^{xxx} Once sufficiently invested in the relationship, the target will often be amenable to changing their behavior to preserve the relationship. Because the narcissist depletes the victim's emotional and financial resources for their own personal gain, a victim usually comes out of these relationships traumatized and financially strapped.

Long-Term Prospects for the Narcissist

While individuals may be able to change with insight and self-reflection, treatment prospects are somewhat bleak for the narcissist, because narcissistic traits are believed to be stable over time and more resistant to

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change. Attending a few sessions with an inexperienced therapist who can be easily charmed by an individual with a personality disorder will be ineffective. Furthermore, narcissists rarely see their behavior as problematic, as narcissists only stand to gain from their selfish behavior.

^{xxxi} Therefore, cognitive behavioral therapy may be of limited use with narcissists, as narcissists are thought to have limited ability to reflect on their behavior. Their personalities were likely formed in early childhood on an emotional level so understanding their actions on a cognitive level may not be enough to change them. Therapies that access the unconscious may be more helpful in changing these enduring and deep-rooted patterns.^{xxxii} Because personality disorders form in early childhood, early emotional states may need to be accessed to stop or limit repetitive, destructive and negative, albeit often unconscious patterns.

Untreated personality disorders such as narcissism usually have long-term consequences, such as poor financial decision making due to symptoms such as poor impulse control. Narcissists are also more likely to be addicts than the general population; because a narcissist needs external validation, they frequently turn to substances — such as alcohol, drugs or other addictions such as relationships to balance their moods and numb their emotions. Individuals with narcissism also have a higher likelihood of cheating on their partners, not just romantically, but also out of time, energy, resources and opportunities. Personality disorders often coexist with substance use disorders. It's not surprising that narcissists would turn to external sources, as they can't regulate their own self-esteem. However, substance abuse may work to amplify already existing rage and other problematic emotional challenges in narcissistic relationships.

Abuse is complex. People often don't fully understand what happened to them, so they may not be able to accurately explain it to others. Memories encoded in the brain during a traumatic event may also be stored and retrieved differently, causing problems with memory and recall. It's also not uncommon for the good intentions of the target to be projected onto the abuser. Good people eternally hope things will get better and may not fully understand what they are dealing with.

While all relationships entail conflict, in a healthy relationship disagreements can be worked through to resolution. For the narcissist this is almost impossible, as any criticism entails shame that the narcissist deflects at any cost. Narcissists are generally not suited to meet the

emotional demands of empathy, stability, consistency and availability required in close, enduring relationships. Furthermore, because a narcissist is typically not interested in meeting the needs of others that do not suit them, relationships with narcissists are often draining. Narcissists do not communicate or meaningfully invest in their relationships and so may leave when faced with demands they are not interested in meeting. There is often no healthy ending with a narcissist. The narcissist will tend to identify their target as the problem and the relationship will likely dissolve. When the relationship implodes, a PFA may be a helpful tool.

While success is often measured in terms of financial wealth, it can also be measured in an ability to maintain consistent, stable, harmonious and safe relationships. However, in a society that enables and sometimes rewards narcissism, qualities that make the world a more dangerous place such as indifference, inconsistency and unpredictability are instead glorified. Accordingly, narcissists feel entitled to continue their mistreatment of others, especially when they only stand to gain from their selfish and abusive behaviors.

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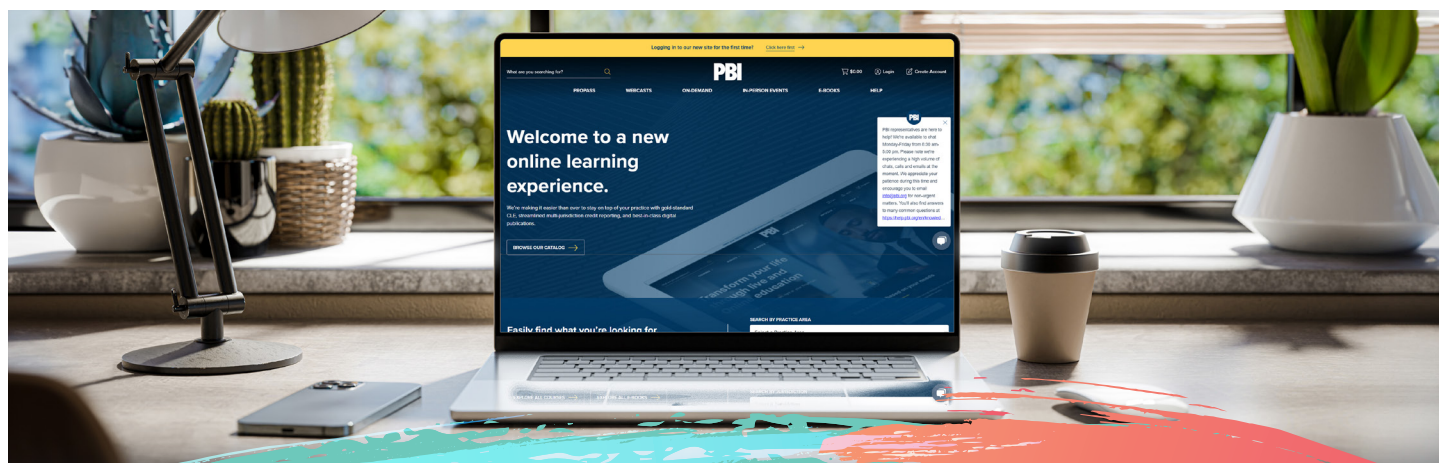
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Biological Truth, Legal Fiction and Children's Best Interests: The Still-Evolving Presumption of Parentage in Pennsylvania

By: Drew Jabour-Gehman

Despite scientific and social advances, the presumption of paternity still operates (at least in some contexts) to preclude the truth about a child's biological parentage from emerging — in ways that might come as a surprise to many. Until very recently, Pennsylvania law recognized the presumption of paternity as follows: a child born to a married woman is presumed to be the husband's child, and the presumption can only be rebutted by evidence of impotency or non-access to the wife on the part of the husband. *B.C. v. C.P.*, 310 A.3d 721, 730 (Pa. 2024). However, in the context of an intact marriage, the presumption was irrebuttable. *Id.*ⁱ The presumption serves two policies: first, and less salient today, to “shield children from the stigma attached in the past to illegitimacy[,]” and second, to preserve the sanctity of the marriage and intact family unit.

And by operation of the related doctrine of paternity by estoppel, there can be a “legal determination that because of a person's conduct (*e.g.*, holding out the child as his own or supporting that child) that person, regardless of biological status will not be permitted to deny parentage, nor will the child's mother who has participated in this conduct be permitted to sue a third party for support, claiming that the third party is the true father.” *S.M.C. v. C.A.W.*, 221 A.3d 1214 (Pa. Super. 2019) (quoting *Fish v. Behers*, 711 A.2d 721, 723 (Pa. 1999)).ⁱⁱ

This April, the Supreme Court decided *Sitler v. Jones*, 334 A.3d 861 (Pa. 2025), in which the Court had the opportunity to redefine, and update, the operation of the presumption of paternity in Pennsylvania jurisprudence — and it did. This article examines the development of the presumption, analyzes the majority and dissenting opinions in *Sitler*, and discusses the need for legislative intervention in this arena.

I. The Presumption in Historical Context

As far back as 1814, the Pennsylvania Supreme Court traced the development of the presumption of legitimacy in the following way:

In old times it seems to have been holden, that a child born of a married woman, whose husband was within the four seas which bounded the kingdom, could not be considered as illegitimate. This was unreasonable.

When the husband has access to his wife, it is right that no evidence, short of absolute impotence of the husband, should bastardize the issue. But where they live at a distance from each other, so that access is very improbable, the legitimacy of the child should be decided upon a consideration of all circumstances. The law was so laid down in *Pendrell v. Pendrell*, ... , in the fifth year of George the second, ... and has ever since been considered as settled.

Com. v. Shepherd, 6 Binn. 283 (Pa. 1814).

Shepherd, the first Pennsylvania decision to use the term “presumption of legitimacy,” was an appeal from a criminal conviction of a defendant (the putative father) for fornication and bastardy. Because there was proof that the mother's husband had left her and was living in New York, the husband's non-access was established, and the presumption was rebutted. The Supreme Court upheld Mr. Shepherd's conviction. Of course, neither of those crimes remains on the books today. Nor do the legal disabilities attendant to the status of being a bastard. Indeed, at common law, a child born out of wedlock was a “filius nullius,” or, son of nobody — such a child could neither inherit nor claim entitlement to support from mother or putative father. See *Rossa ex rel. Rossa v. Workers' Comp. Appeal Bd. (City of Phila.)*, 839 A.2d 256, 262 (Pa. 2003) (Newman, J., dissenting). And of course, beyond the legal disabilities, there was great social stigma surrounding a child born out of wedlock.

Another early case, *Page v. Dennison*, 1 Grant 377 (Pa. 1856), involved a child's right to inherit — there, the child at issue was born only three months after the couple married, and after the mother died, the father declined to recognize the child as his. When the father died, his other children sought partition of his real estate, and the child sought to intervene. The trial court allowed intervention, and the Supreme Court affirmed, sticking to the rule that “if marriage precedes the birth, the presumption of paternity is the same, and it can only be bastardized by proof non-access.” *Id.* at 377. The dissenting justice, offended by the legal fiction of the child's legitimacy, noted that he had “a very strong belief that the evidence offered in this case is of the very kind that is naturally the most

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convincing” such that no “jury would hesitate upon it to pronounce this claimant a bastard[.]” *Id.* at 389.

Not until more than a century after *Page*, in 1978, did the General Assembly declare all children legitimate. Act of Nov. 26, 1978, P.L. 1216, § 1; see 23 Pa.C.S. § 5102(a). Accordingly, courts now call the erstwhile presumption of legitimacy, the presumption of paternity, or more inclusively, the presumption of parentage. See *Sitler v. Jones*, 334 A.3d 861, 879 (Pa. 2025). Notably, and relevant to the Court’s opinion in *Sitler*, in 1961, the General Assembly passed the Uniform Act on Blood Tests (UABT), which provides that “[i]n any matter ... 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 ... shall order the mother, child and alleged father to submit to blood tests.” Act of July 9, 1976, P.L. 586, No. 142, § 2. This is now codified at Section 5104 of Title 23, 23 Pa.C.S. § 5104.

II. Recent Developments in Presumption/Estoppel Caselaw

Given that background, how, then, are we still grappling with the presumption of paternity in 2025, in an era where there are no legal disabilities attendant to being born out of wedlock, no criminal penalties for fornication and bastardy and the availability of testing to conclusively determine paternity? *Sitler v. Jones*, a 2025 Pennsylvania Supreme Court decision, addressed those questions head on. Before turning to *Sitler*, however, this article will first overview the Pennsylvania Supreme Court’s caselaw regarding the presumption over the past few decades.ⁱⁱⁱ

- *John M. v. Paula T.*, 571 A.2d 1380 (Pa. 1990)
 - Putative father, mother and child all submitted to blood tests, which revealed a greater than 90% chance that putative father was the child’s biological father. The trial court denied putative father’s motion to require husband (the presumptive father) to submit to a blood test in the context of putative father’s custody action with respect to the child. The trial court dismissed the custody complaint, and the Superior Court reversed.
 - Reversing the Superior Court’s holding that the trial court had impermissibly denied testing and dismissed the custody action, the Supreme Court held that the UABT, while it had relaxed the presumption somewhat, still provided no mechanism for a *putative father* to force a *presumptive father* to submit to blood tests.
 - “The right of any person to question paternity is not without limitation, and must be consid-

ered along with the rights of the person whose blood sample is sought.” *Id.* at 1385. The Court emphasized the interest of the intact family from “unwanted intrusions of outsiders” and that the commonwealth “recognizes and seeks to protect this basic and foundational unit of society, the family, by the presumption [of paternity].” *Id.*^{iv}

- *Jones v. Trojak*, 634 A.2d 201 (Pa. 1993)
 - Mother filed a support complaint against putative father, although she was still married to husband/presumptive father at the time of the child’s birth. The trial court ordered blood tests, which showed that presumptive father could not be the biological father, and that there was a 99.9% probability that putative father was the biological father — after which the trial court entered an order establishing putative father’s paternity.
 - The Supreme Court affirmed, holding that the trial court properly ordered the blood tests, and properly established the paternity of putative father. Notably, there was not an estoppel issue, as neither mother nor presumptive father had held the child out as a child of the marriage, and importantly, there was no intact marriage to preserve by applying the presumption. Also, presumptive father was impotent at the time of the child’s conception.
 - *Brinkley v. King*, 701 A.2d 176 (Pa. 1997)
 - Mother had a child while still married to presumptive father, but the two separated upon Mother telling presumptive father that putative father was the father. Putative father visited the child consistently until Mother filed a support complaint against him seeking support for the child. Putative father denied paternity and refused to submit to a blood test. The trial court held that Mother failed to rebut the presumption, and Mother appealed.
 - The Supreme Court noted that the first step is to determine whether the presumption applies or has been rebutted. If it does not, or has not been, then courts must consider whether estoppel applies.
- Nudging the law ever so slightly forward, the Court held that “the presumption of paternity applies in any case where the *policies that underlie the presumption*, ... would be advanced by its application, and in other cases, *it does not apply*.” *Id.* at 181 (emphasis added).^v Because the mother and

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presumptive father had separated before the child was born, among other factors, the court found the presumption inapplicable, but remanded for a hearing on the applicability of estoppel.

- *Strauser v. Stahr*, 726 A.2d 1052 (Pa. 1999) (noting that the presumption is *irrebuttable* where the marriage remains intact and is applicable where marriage remains intact despite periods of marital difficulties overcome by the parties).

- *K.E.M. v. P.C.S.*, 38 A.3d 798 (Pa. 2012) (holding, in the context of a mother's support action against putative father, that the doctrine of paternity by estoppel will only apply where, on a developed record, it can be shown that the doctrine will further the child's best interests).

- *B.C. v. C.P.*, 310 A.3d 721 (Pa. 2024)

- Mother and presumptive father separated the first time, during which mother became pregnant, and then presumptive father moved back in. After the child was born, mother took the child to putative father and told him the child was his, after which putative father began seeing the child regularly. The parties separated a second time, and mother moved in with putative father — which ended when he assaulted her. The parties separated a third time, at which point a custody order was entered granting the mother and presumptive father shared legal and physical custody; putative father was in rehab and did not intervene. However, mother and presumptive father reconciled again and discontinued the divorce action.

- Putative father brought a custody action, and the trial court denied mother and presumptive father's motion to dismiss and ordered genetic testing, finding the presumption inapplicable given the periods of separation. The Superior Court affirmed.

- Noting that the issue whether the presumption had outlived its usefulness had not been properly raised, the Supreme Court reversed, noting: “[t]his Court's decisions, however, have held steadfast that there is a single circumstance under which the presumption of paternity continues to apply, and, indeed, is *irrebuttable* — where there is an intact marriage to preserve.” *Id.* at 735 (emphasis added). With respect to separations, the Court held that “prior temporary separation is a factor to consider in determining whether a marriage is intact at the time of the paternity hearing” but is not dispositive. *Id.* at 737.

- The Court left open the possibility that the Court might revisit the presumption in an appropriate

case, but that overarching issues had not been presented.

III. Majority

In *Sitler*, Alexas Jones (“Mother”), while married to B.J. (“Presumptive Father”), had a child — the two remained married. Steven Sitler (“Putative Father”) sought custody of the child on the basis that he was the Child's biological father. At the hearing on Putative Father's request to compel genetic testing and establish paternity, it was established that Mother was having sex with both Husband and Putative Father at the time of the child's conception. During the pregnancy, Mother told Putative Father she believed he was the child's biological father. Despite initially indicating that he did not want to be involved, Putative Father brought a custody action within a week of the child's birth. Mother and Presumptive Father held the child out as their child in all respects.

The Court of Common Pleas for Columbia/Montour County denied Putative Father's genetic testing request and dismissed his custody complaint on the basis of paternity by estoppel *and* the presumption of paternity. Because the marriage between Mother and Presumptive Father was intact at the time of the action, the presumption was irrebuttable. And with respect to estoppel, the court found that Putative Father had switched positions (initially saying he did not want to be involved), and that Presumptive Father had already bonded with the child. The Superior Court affirmed, in large part on the basis of the Supreme Court's opinion — handed down in 2024 — of *B.C. v. C.P.*, 310 A.3d 721 (Pa. 2024).

The Supreme Court granted allocatur on two questions, the gist of which are whether the time has come to abandon the presumption of paternity. The Supreme Court then reviewed its caselaw on the presumption over the past decades, chronicling the holdings of the cases discussed above.

Putative Father acknowledged that under the then-current doctrine as set forth in *B.C.*, he would lose, as the marriage between mother and Presumptive Father remained intact, rendering the presumption irrebuttable. In considering Putative Father's challenge to the presumption, the Court noted, as the *Brinkley* Court had a quarter century prior, that changes in society had caused some of the presumption's footing to “erode.” Specifically, the majority questioned whether preventing dissolution of marriages even remained a prevailing public policy, given the advent of no-fault divorce in 1980. Also, science has advanced, insofar as blood draws are no longer necessary, and a genetic test using only a swab from a

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putative father is required.

After reviewing several policy arguments for and against the continued vitality of the presumption, the Court summarized the presumption's "lingering justification — keeping families intact — though weakened in the age of no fault divorce, still carries great weight in many circumstances." *Id.* at 873. The Court noted the reality that:

Judicial refusal to order testing appears increasingly unlikely to prevent a marriage from dissolving. In the era of commercial DNA testing, it would be naive to suppose that our courts have the power to prevent the facts from coming to light, or to inoculate marriages against the ensuing consequences.

Id.

The Court formulated a new rule: court-ordered DNA testing to determine parentage, and thus rebut the presumption, by demonstrating via clear and convincing evidence that there is a reasonable possibility he is the father, and that determining parentage by way of the DNA testing is in the child's best interests. Accordingly, the lower courts' judgments were vacated, and upon remand, will need to consider the paternity by estoppel issue.

IV. *Sitler* Concurrence/Dissent

Writing for herself and Justice Mundy, Justice Donohue agreed with the majority that it was time to abandon the notion that the presumption is irrebuttable in the context of an intact marriage. However, the dissent focused on the UATB and would have concluded, more simply, that the "presumption of paternity is rebuttable by scientific evidence." *Id.* at 878.

In the dissent's view, the General Assembly has already made the presumption rebuttable by way of scientific evidence in enacting the UATB, and it was the Court that had ignored that legislative command in *John M.* The majority acknowledged the UATB but focused on the fact that the blood testing it authorizes is outdated, and the General Assembly has not updated the statute to account for DNA testing. The dissent, however, rejoined that notwithstanding that fact, "even if blood testing as contained in Section 5104 does not reflect state of the art testing ... the public policy is unambiguous," noting that "this Court does not have the authority to avoid scientific testing as the threshold mechanism to rebut the presumption." *Id.* at 884.

V. Implications and Considerations

The correctness of the majority vis-à-vis the dissent's view of the effect of the UATB notwithstanding, the Court's interpretation of that legislation, and its evolving presumption of paternity jurisprudences begs the ques-

tion — what could legislative reform in this area look like?

One potential source for a legislative fix — which likely more naturally comports with contemporary sensibilities — is the Uniform Parentage Act, first promulgated by the Uniform Law Commission in 1973, and most recently updated in 2019.^{vi} The UPA has been introduced in Pennsylvania (HB 350), and passed the House June 2025. It is currently under consideration in the Senate.^{vii}

Section 204 of the 2017 UPA (slightly modified in Section 9204 of HB 350) retains the presumption of paternity and parentage by estoppel (and also is expressly gender neutral to account for same-sex couples who also benefit from the presumption) as follows:

- An individual is presumptively a parent of a child if that individual, and the individual who gave birth to the child were married and there is no pending divorce action.
- Additionally, with respect to estoppel, an individual is a parent if that individual held the child out as their own, and resided in the same household as the child or provided support for the child.

Therefore, the UPA, up to this point, is not unlike existing Pennsylvania common law. The major difference emerges in Section 9204(b) — which makes the presumption rebuttable as provided in Chapter 96 "Proceeding to Adjudicate Parentage." In such a proceeding, the UPA makes genetic testing results admissible, and provides specific guidelines for how an objection to genetic testing must proceed. Genetic testing is generally available under the UPA where the party requesting it submits a sworn statement either setting forth facts that there is a reasonable possibility the individual is the genetic parent, or in denying parentage, a reasonable possibility the individual is not the genetic parent. § 9503(a)(1)-(2). However, similar to the *Sitler* rule, the Court may deny a motion for genetic testing after considering the factors described below relating to adjudication of competing claims of parentage.

The UPA specifically provides for the procedure courts must use to determine competing claims of parentage — but similar to the Court's holding in *Sitler*, the child's best interest is paramount. Section 9613 requires courts to consider, *inter alia*, the child's age, the length of time each party parented the child and the harm that might befall the child absent recognition of the requested parent-child relationship. And where genetic testing results are involved, the court must analyze the factual background around the discovery that an individual may not be a genetic parent, and how much time elapsed

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between an individual's discovery that person may not be a genetic parent and the commencement of the proceeding.

In sum, the presumption of paternity has come a long way over the centuries and decades in Pennsylvania, and *Sitler's* approach (even if, as the dissent argues, it did not go far enough), is a step in the right direction. However, comprehensive legislation — like the UPA's approach — fills in the gaps in *Sitler's* analysis and provides a clear roadmap of when genetic testing is available, updating (and rendering obsolete) the UABT. The time has come for the legislature to bring our law of parentage into the 21st century and settle expectations in this area.

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Endnotes

ⁱThe Supreme Court had already made clear that the presumption only applies where there is an intact marriage

to protect. *Glover v. Junior*, 333 A.3d 323 (Pa. 2025).

With respect to parentage by estoppel, the Supreme ⁱⁱCourt had already recognized in *K.E.M. v. P.C.S.*, 38 A.3d 798 (2012), that the doctrine only applies where its application would serve the best interests of the child.

ⁱⁱⁱThroughout, this article uses "putative father" to refer to the alleged biological father, and "presumptive father" as the mother's husband.

^{iv}The Court also cited the then-recent *Michael H. v. Gerald D.* opinion, in which the Supreme Court of the United States held that a putative father has no constitutional right to establish parentage of his biological child and upheld California's statutory presumption of paternity against a constitutional challenge.

^vAlthough this is the Opinion Announcing the Judgment of the Court, the disagreement was over the applicability of estoppel principles, and a majority of justices appear to have signaled support for the core holding. See also *Sitler*, 334 A.3d at 866 n.29 (agreeing).

^{vi}<https://www.uniformlaws.org/committees/community-home?CommunityKey=c4f37d2d-4d20-4be0-8256-22dd73af068f>

^{vii}<http://palegis.us/legislation/bills/2025/hb0350>

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Can You Afford Your First Amendment Rights?

By: Mark Ashton

The business of “sounding off” and speaking “truth to power” is not a new phenomenon in America. A bit of it goes back to 1734 when a jury in New York decided to ignore the judge’s instructions and held that newspaper publisher Peter Zenger would not be held liable for his disparaging publication about royal governor William Cosby.

Back then there were probably fewer than 100 printing presses in all of America. Technology changed, and by the late 19th century every hamlet had a newspaper and some cities supported five. It was an age rife with defamation claims, but there were some guardrails to prevent libel. Someone had to write the defamation, someone had to typeset it. Then it had to be printed and distributed. Each step produced some delay and a chance to “call it back.”

Today, smartphones are our modern printing press and there are 300 million of them in the U.S. alone. As we all know, we can lie in bed, conjure a defamatory thought, log onto the phone and type anything we want. Once we hit SEND, there is really very little we can do to call it back or limit where our thought goes as it is dispersed into the “ether.”

A false statement doesn’t need to be “written” to support a lawsuit by someone who is offended by it and suffers a loss of reputation. But, while words spoken in anger rarely travel far, writings can travel the world in seconds and inflict some very serious damage. They can also create reciprocal damage through a civil wrong (a tort) called “invasion of privacy.”

This summer brought us yet another round of divorce separations among the famous and somewhat famous, where one or both spouses decided that the world needed to know “the truth” about the person they once loved enough to marry.

Regular folk do often underestimate what a defamation case costs to prosecute and defend and how serious the damage issue can be. Realize as well that if you are sued for defamation, chances are you will have very little insurance coverage unless you have some umbrella insurance in addition to the conventional homeowner’s policy.

People also don’t give consideration to the fact that, even today, reputation can affect the ability to earn income. If your spouse works at the local convenience store or repairs autos, your allegations on “X” or Tumblr that your spouse is an “abuser” or a “fraud” probably won’t



change that person’s world — although you can still be sued. But where you throw those kinds of allegations out there and your spouse is a cop, a teacher, a physician or otherwise in a position of public trust, you could find that spouse is terminated from employment. Divorce clients anxious to tell their story often miss the fact that in today’s world their “story” may cross the globe. It may also come back when your kids walk through the door and ask what’s going on, because your allegations are now being discussed on the playground.

So, before your client decides to fire up the phone or the tablet to disperse their truth, they should know, it could produce a lawsuit seeking money damages for harm to the affected person’s reputation. In court, they have burden of showing:

1. The statement made about them was false. Understand that your client may be dead certain that what they wrote/said was true, but a jury gets to decide whether their statement was false.
2. The false statement was shared with someone else besides their spouse. It could be their mother-in-law. It could be the millions who follow them on “X.”
3. They either knew the statement to be false when they said it or they put it out there without concern for making certain it was true.
4. Their false statement caused economic harm to the person they wrote or spoke of. Proving “real” damage is often a concern for lawyers who bring these lawsuits, but juries are inclined to award damages when they see malicious statements thrown into the public atmosphere without any real use.

The sum of all this is that in an age when our client’s phone is their printing press, they need to stop, look and listen before they dump their load of invective over the bow of the boat. That can be hard. What they write might even be true. But, their “truth” may not be seen by a

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Be Proactive, Not Panicked: Legal Safeguards for LGBTQ+ Families

By: Rebecca Levin Nayak

On July 24, former Kentucky county clerk, Kim Davis, filed a petition asking the U.S. Supreme Court to review *Ermold v. Davis*. In her petition for certiorari, Davis went further than the narrow issues in her case: she asked the court to revisit *Obergefell v. Hodges* — the 2015 decision that established the freedom to marry for same-sex couples nationwide. This development has raised concern within the LGBTQ+ community and beyond.

Background on the Davis Case

In 2015, Kim Davis, then a county clerk in Kentucky, refused to issue marriage licenses to same-sex couples, openly defying the Supreme Court's ruling in *Obergefell v. Hodges*. A Kentucky court later awarded damages to David Ermold and David Moore for the emotional distress caused by her refusal. Davis has since appealed multiple times and has now lost three times at the Sixth Circuit Court of Appeals. The primary issue before the courts is narrow — whether she can be held personally liable for damages.

Why Concerns About Marriage Equality Persist

Kim Davis' request for the Supreme Court to revisit *Obergefell* has understandably raised concerns about the future of marriage equality. The *Davis* case does not exist in a vacuum: in recent years, resolutions have been introduced in five states seeking to overturn marriage equality, and in his concurrence in *Dobbs*, Justice Thomas explicitly questioned Supreme Court precedents grounded in the doctrine of substantive due process under the 14th Amendment. That body of law protects fundamental rights tied to privacy, autonomy and family life — including access to contraception (*Griswold v. Connecticut*, 1965), interracial marriage (*Loving v. Virginia*, 1967) and marriage equality itself (*Obergefell v. Hodges*, 2015).

Safeguards That Protect Marriage Equality

While the fear surrounding challenges to marriage equality is real, important safeguards are already in place. The Respect for Marriage Act, passed in 2022 following *Dobbs*, repealed the Defense of Marriage Act (DOMA), and requires the federal government to recognize marriages valid where performed. The Respect for Marriage Act also obligates every state to recognize same-sex and interracial marriages performed legally in other states. Beyond legal protections, public opinion polls consistently show that more than 70% of Americans support the freedom to marry.

Protecting Families Beyond Marriage — Be Proactive!

It's important to remember that marriage equality does not automatically guarantee parental equality in every state. For many LGBTQ+ families, additional legal steps are still necessary to ensure full protection.

This is not a moment for alarm, but it is a moment for action. Attorneys should counsel clients to take the following proactive steps:

1) Complete a Confirmatory Adoption: Parentage laws vary widely from state to state. While Pennsylvania recently adopted the doctrine of "parentage by intent," a confirmatory (second-parent) adoption secures the parental rights of nonbiological or nongestational parents through a court order and ensures those rights are recognized nationwide. Confirmatory adoption remains the gold standard: it creates a court order of parentage that must be recognized in every state, providing security that marriage alone cannot always ensure.

2) Support Efforts to Modernize Parentage Laws: Despite having positive case law, Pennsylvania currently

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jury as the truth and they are the folks who decide what is true and what isn't in a courtroom. Whether you are famous or not, defamation law applies to all of us and the best view is to not have it applied to you at all.

Mark Ashton is a retired family lawyer and former chair of the Family Law Section of the PBA. He can be reached at mashton9953@gmail.com.

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has no statutory protection for children born through assisted reproduction. Pennsylvania's HB 350, which passed the Pennsylvania House in June 2025, would modernize parentage laws to make them more equal and inclusive. Clients and attorneys alike can support this bill by contacting their legislators, joining advocacy efforts such as the Pennsylvania Parentage Coalition, submitting letters of support on behalf of professional organizations and educating the public and policymakers about the urgent need for statutory reform.

3) Get Estate Planning in Order: In addition, thoughtful estate planning and, when appropriate, prenuptial or postnuptial agreements can provide families with an added layer of security and peace of mind. Wills, trusts, powers of attorney and health care directives safeguard

client intent, reduce the risk of litigation and provide peace of mind that families will be protected in the event of illness, incapacity or death.

The Bottom Line

The *Davis* petition is a reminder of how important it is to stay vigilant and proactive. As counsel, we play a critical role in ensuring that LGBTQ+ families understand their legal rights and are also fully protected.

Rebecca Levin Nayak is an attorney and shareholder in Hangley Aronchick Segal Pudlin & Schiller's Family Law group. She guides her clients through the complexities of adoption, assisted reproduction and surrogacy to provide legal protections for families. She can be reached at (610)313-1670 and RNayak@hangley.com.

A Day In the Life of a Domestic Violence Attorney

By: Nadège Tandoh

Just like every other attorney, each day begins with addressing priorities in your personal life. Then you are off to the office or directly to court. If you have court, when you return to the office, you will have a flood of emails and voicemails to return. Somewhere in between, you eat lunch, attend meetings and check your court calendar to begin preparing for your upcoming cases. Most litigation attorneys are focused on what has already happened. What sets domestic violence attorneys apart, is that there is often something new that happens because of a violation of a criminal stay away order or a civil protection order.

Once there has been a violation of any criminal stay away order or a civil protection order, everything else in your day is on pause. A violation of a criminal or civil protection order is behavior that increases the likelihood of the offender murdering the victim. Yes, murder! After you read the email or listen to the message informing you of the violation, you will contact your client as fast as possible. This call is not one that is simply crossed off of your to do list. If there is no answer, you will send an email and you will keep calling until you reach your client. Once you reach your client, your priority is to safety plan. Safety planning looks different for everyone. The fewer resources your client has, the fewer safety planning options will be available to your client. If the violation places the client in danger while at home, then you will try to assist with a relocation. Moving to a new apartment requires a security deposit and first and last month's rent. Moving to a new house requires a down payment and sometimes

selling the one you are currently living in first. If the home also belongs to the offender, it is even more difficult. Temporarily staying in a hotel is costly and disruptive to school-aged children. If your client doesn't have thousands of dollars to immediately spend, a new apartment, a new house or a hotel are not an option. Moving in with family or friends is usually not an option because this can put others in danger. The only other option is obtaining a bed in a domestic violence shelter. It is very hard to find space in a domestic violence shelter and the more children you have with you, the harder it is to find space.

Since leaving the home is not always an option, the other safety plan is to ensure the offender cannot get to your client's home. That is only through an arrest for the violation. An arrest does not guarantee an extended prison stay. Sometimes the offender is released in less than 24 hours. You will discuss all of the options you know of to help keep your client safe. Some options are available to your client, and some are not. After you handle that crisis, you will return to the rest of your day. This includes preparing for hearings, drafting pleadings, accepting new cases and closing old cases. Eventually the workday ends, and you return to your personal life.

The next several workdays come and go with some long hearings, some short hearings and some agreements. Then it clicks. You realize, you have not heard from the client who you recently safety planned with. You call just to check in. There is no answer. Then a few days go by. This is not your client's normal behavior. You call again but there is still no answer. This is when the fear

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creeps in. You refrain from checking the news for recent incidents. You push those thoughts out of your mind. You try to drown yourself in work for other cases. But you desperately want to hear back from this client. It doesn't matter if your client returned to the offender. You just want to hear from your client. It doesn't matter if your client no longer wants to pursue the case you spent days preparing. You just need to hear from your client. But you don't. Then the date of the court case arrives, and your client does not show up. You have to tell the court that you do not have communication with your client. Of course, the case is dismissed. You return to the office and close the file. The feeling is still there. You desperately

want to hear from your client one more time just to make sure ... well you know. The biggest fear of the domestic violence attorney is not just to lose a case but to lose a client.

Nadège is the Supervising Protection From Abuse Attorney at Women Against Abuse Legal Center in Philadelphia, Pennsylvania. She represents clients in protection from abuse, custody and support matters. She is the current chair of the Family Law Section of the Philadelphia Bar Association. She also teaches custody law at Temple Beasley School of Law. Her direct contact information is ntandoh@womenagainstabuse.org and 215-686-7082.

Federal/Military Corner

Boot Camp or Babysitting? Navigating Custody for Single Parents and Non-Dependent Children in the Military

By: Mark E. Sullivan and Kris Hilscher

So, your client wants to join the military ... but they're a single parent. Or maybe they're already in and raising grandkids, nieces or a cousin's child while asking, "can I get Tricare for this child?" Before you respond with "sure, let's draft a power of attorney and call it a day," take a breath — and read this.

There's a web of Department of Defense instructions, branch-specific rules and federal statutes that say what can and can't be done. And they're not always friendly to the "it'll work itself out" school of custody planning. Here's how to steer your military and military-adjacent clients through the maze — without getting court-martialed by logic.

When Custody Stops the Clock on Enlistment

Let's start with Jane Doe. She's single, has two kids and just got a call from a recruiter. She's ready to trade diapers for dog tags — but someone told her she'll first have to "give away her kids." While the phrasing is a little dramatic, the core of it is correct.

Across every branch, from the Marines to the Coast Guard, the military has one universal rule: no enlistment for single parents with custody. Not even with a waiver. Not with a wink and a nod. Not even if Grandma's been watching the kids every weekend since birth.

Why? Because the military expects every service-member (SM) to be deployable, reliable and unencumbered. Uncle Sam doesn't want to compete with daycare schedules. The core rule comes from Department of Defense (DoD) Instruction 1304.26, and it's repeated in each branch's recruiting regulations. That means you, dear lawyer, are not going to talk your way around it with a strongly worded cover letter. What your client needs is a court order transferring full, permanent custody to someone else. Not temporary, not shared and definitely not "just until I finish boot camp."

Powers of Attorney: Great for Cars, Bad for Kids

Jane's first instinct might be to use a power of attorney as the "work-around" so she doesn't "lose the baby." Don't fall for this simplistic solution. Military regulations specifically say that a Power of Attorney (POA) won't do. Jane needs a court order that makes someone else the legal and physical custodian, fully and finally. No detours. If the order says "temporary," or even implies that mom can take the kids back after enlistment — guess what? Disqualified.

It doesn't even help to explain in the order that mom is giving up custody "so she can enlist." That'll get her bounced from processing faster than you can say "ineligi-

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ble.” Anything short of a permanent custody transfer will be rejected.

Custody to Whom, Exactly?

But what if dad — “Jack Green,” we’ll call him — happens to be around, and he’s not legally unfit? Guess what? He gets a say. You can’t just sidestep him unless you’ve got facts that show abandonment, abuse, neglect or other behavior that puts him outside the bounds of parental rights. Courts usually frown on cutting a parent out of the picture without a clear and compelling reason.

And if Jack Green, our dad, is willing to give up his custody claim? Great — get a clean, signed consent and draft a proper order.

But be careful. Don’t go fancy with language. Don’t call it “joint” anything. Don’t suggest a shared schedule. Keep it straightforward: full, final, sole custody to someone other than your client.

Let’s Talk Benefits (a/k/a When Custody Has Perks)

Now, flip the scenario. Your military or retired client didn’t just walk into custody — they ran into it. Maybe a daughter fell on hard times, and now Grandpa, a retired colonel, has his grandkids full-time. Naturally, he wants to put them on Tricare and get them base privileges. That sounds reasonable, right?

Enter the rules and regulations, such as AFI 36-3026 and 10 U.S.C. § 1072. These outline the narrow path by which non-biological children—those not born to or adopted by the SM — can qualify for military benefits. They’re technically designated as *legal custody wards*, but let’s just say “kids they’re raising.”

Here’s the “bottom line” for the client: the child must be in the legal custody of the SM by court order for *at least* 12 months, depend on the SM for over half their support, and live with the SM (unless separated for reasons like military deployment or medical care). Oh, and the child cannot be someone else’s military dependent.

Sounds simple, but what if your judge doesn’t love the idea of a “12 months minimum” requirement? Custody is always modifiable under state law, and courts don’t usually want to make promises about the future. So how do we square the circle?

The DFAS Compromise: How to Say “12 Months” Without Saying “Forever”

DFAS, the Defense Finance and Accounting Service (a/k/a, the military’s bean counters) have actually provided a workable answer. After an inquiry by Navy Legal Assistance Attorney Dwain Alexander, DFAS agreed to accept court orders that include the following language:

“The prevailing party shall have custody (or guardianship) of the minor child for a period of not less

than 12 months. This order is subject to further court order and modification should there be a substantial and material change of circumstance affecting the welfare of the minor child.”

Translation: “Yes, we know family law is always changing. But just say you *meant* for the custody to last 12 months, and we’ll count it.” The above will meet the requirements — that’s your golden ticket for getting benefits access in these cases. Not every base or office will take it automatically, but DFAS says they’ll advise compliance as long as the language is used. It might not be as interesting or important as an appellate decision, but it’ll get your client an ID card and a Tricare card.

The Big Picture (and a Reminder to Breathe)

These custody-and-benefits issues can feel like you’re juggling two law libraries: one for the state and one for Uncle Sam and the Pentagon. But with a little prep and the right language, you can guide your client through without getting tied in bureaucratic knots.

Try to remember these quick takeaways:

- No temporary custody.
- No POAs.
- No explanations in orders about military enlistment.
- And yes, there’s a loophole (blessed by DFAS!) to make 12-month custody work in practice.

If you’re ever in doubt — and it’s easy to be — reach out to someone who handles these sorts of things every day, such as a current or former staff judge advocate. A

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current JAG won't give you legal advice, but they should point you in the right direction or confirm whether an order meets their needs. A former JAG or military family law expert should be able to walk alongside you and your client, aiding in getting where you want to go.

Now, go forth, counselor. And may your custody orders be clear, your clients eligible and your judges understanding!

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Your Other Partner

Legislative Update

By: Yvonne Llewellyn Hursh

This article summarizes several domestic relations related bills introduced in the 2025-2026 legislative session of the Pennsylvania General Assembly. Status of each bill is as of Aug. 31, 2025. Both chambers began the current session in January 2025. The full text of the bills, as well as their legislative history, may be found at: <http://www.legis.state.pa.us/cfdocs/legis/home/bills/>.

Newly Enacted Laws

Child Custody Factors

House Bill 378, Printer's No. 1599, was introduced and referred to the House Judiciary Committee on Jan. 28, 2025. The bill amends 23 Pa.C.S. § 5328 to streamline the child custody factors. This bill is based on recommendations made by Joint State Government Commission Task Force on Domestic Relations Law. The bill, as finally enacted, includes a provision for the court to provide all parties with a copy of § 5328. The bill passed the House on May 6, 2025 (202-1), passed the Senate on June 26, 2025 (50-0), and was signed into law by the Governor as the act of June 30, 2025 (P.L.18, No.11).

Protection from Abuse Order Fees

Senate Bill 302, Printer's No. 762, was introduced and referred to the Senate Judiciary Committee on Feb. 25, 2025. The bill redistributes the surcharge filed against a defendant when a protection from abuse order is granted and requires all PFAs to be served by the sheriff or other appropriate law enforcement entity. The bill passed the Senate on June 2, 2025 (50-0), passed the House on June 26, 2025 (202-0), and was signed into law by the Governor as the act of June 30, 2025 (P.L.76, No.23).

Newly Introduced Legislation

Custody

House Bill 1499, Printer's No. 1755, was introduced and referred to the House Judiciary Committee on May 28, 2025. The bill establishes the presumption equal parenting time/shared custody is the preferred custody status for children unless clear and convincing evidence is presented to overcome the presumption. It removes language that assumes the custodial and non-custodial parent model of custody.

House Bill 1699, No. 2087, was introduced and referred to the House Judiciary Committee on July 7, 2025. The bill is designed to streamline custody relocation procedures and details relocation factors for the court to take into consideration in determining if a relocation and modification of a custody order should be approved.

House Bill 1692, Printer's No. 2077, was introduced and referred to the House Labor and Industry Committee on July 1, 2025. The bill adds a new section 402.7 to the Unemployment Compensation Law to address voluntarily



leaving employments because of a domestic violence situation. Under certain circumstances, an individual would be eligible for unemployment compensation despite the voluntary nature of the voluntary termination of employment.

House Bill 1735, Printer's No. 2137, was introduced and referred to the House Health Committee on July 16, 2025. The bill would legalize the adult use of marijuana for both recreational and medical use under the Cannabis Act. Section 226(b) explicitly prohibits the use of the purchase or possession of cannabis as a determining factor in a child custody matter.

Senate Bill 926, Printer's No. 1058, was introduced and referred to the Senate Judiciary Committee on July 17, 2025. The bill amends the custody factors in 23 Pa.C.S. § 5328 to prohibit determining child custody on the sole basis that a party lawfully uses medical marijuana.

Domestic Violence/Protection from Abuse

Senate Bill 741, Printer's No. 802, was introduced and referred to the Senate Judiciary Committee on May 13, 2025. The bill adds a new criminal offense at 18 Pa.C.S. § 2709.2 providing for the offense of unauthorized use of an electronic tracking device.

Families

Senate Bill 906, Printer's No. 1021, was introduced and referred to the Senate Labor and Industry Committee on June 30, 2025. The bill creates the Pennsylvania Family and Medical Leave Act, and addresses birth or adoption or foster care placement of a child, care for family member with a serious medical condition, recovery from personal illness or injury, relief from domestic violence or abusive caregiving situations and protection of a vulnerable adult and military deployments.

Marriage

House Bill 1800, Printer's No. 2214, was introduced and referred to the House Judiciary Committee on Aug. 14, 2025. The bill repeals the definition of marriage as one man, one woman and 23 Pa.C.S. § 1704, which declares that same sex marriages are void in Pennsylvania.

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Support

Senate Bill 774, Printer's No. 831, was introduced and referred to the Senate Judiciary Committee on May 22, 2025. The bill amends the Vehicle Code (Title 75 Pa.C.S.) to provide for financial support for the minor children of a deceased victim of homicide by vehicle of a person driving under the influence.

Bills Currently Under Consideration

Custody

House Bill 414, Printer's No. 390, was introduced and referred to the House Judiciary Committee on Jan. 30, 2025. The bill would add a new Chapter 46 to Title 23 of the Pennsylvania Consolidated Statutes to enact the Uniform Deployed Parents Custody and Visitation Act. The bill passed the House on June 26, 2025 (202-0), and was introduced and referred to the Senate Judiciary Committee June 30, 2025.

House Bill 1412, Printer's No. 2068, was introduced and referred to the House Judiciary Committee May 6, 2025. The bill would amend 23 Pa.C.S. § 5338 relating to modification of an existing child custody order. Generally, an individual requesting child custody modification would be required to show a material change in circumstances since the enactment of the original custody order. Courts would still be able to modify an existing order without a change in circumstances if the court determines that the best interest of the child requires a change. Additionally, for abuse committed subsequent to the entry of the last custody order, the abuse may be considered by the court as a material change in circumstances. The bill passed the House on July 7, 2025 (102-101), and was introduced and referred to the Senate Judiciary Committee the same day.

Senate Bill 665, Printer's No. 688, was introduced and referred to the Senate Community, Economic and Recreational Development Committee April 28, 2025. The bill adds a new Chapter 62 to Title 53 (Municipalities Generally) that creates a one-time grant program for municipalities to develop Safe Exchange Zone Programs that would provide a location near law enforcement or an active public area for the exchange of custody of a child. The bill received second consideration and was re-referred to Appropriations on June 25, 2025.

Domestic Violence/Protection from Abuse

House Bill 274, Printer's No. 1026, was introduced and referred to the House Labor and Industry Committee on Jan. 22, 2025. The bill adds a new section 402.7 to the Unemployment Compensation Law to address voluntarily leaving employment because of a domestic violence situation. Under certain circumstances, an individual would be eligible for unemployment compensation despite the

voluntary nature of the voluntary termination of employment. The bill passed the House on March 19, 2025 (198-4) and was introduced and referred to the Senate Labor and Industry Committee March 21, 2025, and received second consideration on July 17, 2025.

Senate Bill 176, Printer's No. 511, was introduced and referred to the Senate Labor and Industry Committee on Jan. 24, 2025. The bill adds a new section 402.7 to the Unemployment Compensation Law to address voluntarily leaving employment because of a domestic violence situation. Under certain circumstances, an individual would be eligible for unemployment compensation despite the voluntary nature of the voluntary termination of employment. The bill received second consideration and was re-referred to the Senate Appropriations Committee April 2, 2025.

Equitable Distribution

House Bill 97, Printer's No. 80, was introduced and referred to the House Judiciary Committee on Jan. 14, 2025. The bill amends 23 Pa.C.S. § 3502 to add provisions relating to custody of a companion animal to the equitable distribution provisions of the divorce code. The bill received second consideration in the House and was re-committed to Appropriations on July 14, 2025.

Families

House Bill 200, Printer's No. 561, was introduced and referred to the House Labor and Industry Committee on Feb. 12, 2025. The bill creates the Family and Medical Leave Act, and addresses birth or adoption of a child, care for elderly or disabled in the home, recovery of a child from a serious illness, recovery from personal illness or injury, relief from domestic violence or abusive caregiving situations and military deployments. The bill received first consideration and was laid on the table March 8, 2025, removed from the table June 11, 2025, and laid on the table again on July 14, 2025.

Paternity/Parentage

House Bill 350, Printer's No. 1937, was introduced and referred to the House Children and Youth Committee on April 7, 2025. The bill adopts the Uniform Parentage Act as Part IX-A, Chapters 91-99A of Title 23 (relating to Domestic Relations) of the Pennsylvania Consolidated Statutes Act. The bill also amends Title 20 (relating to Decedents, Estates and Fiduciaries) to clarify the definition of "after born" heirs to include a child conceived via artificial reproductive technology. The bill passed the House on June 23, 2025 (112-91), and introduced and referred to the Senate Judiciary Committee on June 24, 2025.

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Legislative Update

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Previously Introduced Bills — Unchanged from Last Update

Adoption

House Bill 536, Printer's No. 529, was introduced and referred to the House Health Committee on Feb. 10, 2025. The bill amends 23 Pa.C.S. §§ 2911 and 2937 to authorize an adoptee who is at least 18 years of age to obtain a noncertified unredacted photocopy of the person's original birth certificate.

Senate Bill 644, Printer's No. 656, was introduced and referred to the Senate Health and Human Services Committee on April 21, 2025. The bill amends the law governing original birth certificates of adoptees. The amendments allow anyone over the age of 18 to obtain a photocopy of their original unredacted birth certificate.

Alimony

House Bill 383, Printer's No. 348, was introduced and referred to the House Judiciary Committee on Jan. 28, 2025. The bill amends 23 Pa.C.S. § 3701 to ban alimony for a party who has been convicted of a personal injury crime against the other party. An exception can be made by the court if it finds awarding alimony would be necessary to prevent manifest injustice.

Senate Bill 385, Printer's No. 342, was introduced and referred to the Senate Judiciary Committee on March 6, 2025. The bill amends 23 Pa.C.S. § 3702 to amend the provisions relating to alimony *pendente lite* to take into consideration a history of harassment or protection from abuse orders in determining whether manifest injustice exists.

Custody

Senate Bill 103, Printer's No. 56, was introduced and referred to the Senate Judiciary Committee on Jan. 22, 2025. The bill amends 23 Pa.C.S. Part VII (Abuse of Family) to provide for notification and involvement of any non-custodial parent in proceedings relating to protection from abuse orders entered against a stepparent of the non-custodial parent's minor child.

House Bill 751, Printer's No. 775, was introduced and referred to the House Judiciary Committee on March 3, 2025. The bill would repeal the portion of the definition of "founded" child abuse report found in 23 Pa.C.S. § 6303 that treats acceptance into an accelerated rehabilitative disposition program (ARD) as a basis for the designation.

Domestic Violence/Protection from Abuse

House Bill 40, Printer's No. 19, was introduced and referred to the House Judiciary Committee on Jan. 10, 2025. The bill amends 23 Pa.C.S. § 6108 to authorize a protection from abuse order to contain a requirement for

the defendant to wear an electronic monitoring device if there is an immediate and present danger of abuse to the plaintiff or minor children.

House Bill 53, Printer's No. 43, was introduced and referred to the House Judiciary Committee on Jan. 14, 2025. The bill amends 23 Pa.C.S. § 6123 to provide for the waiver of fees for corrected or duplicate state documents if a protection from abuse order has been issued, or other delineated proof of abuse is provided.

House Bill 72, Printer's No. 60, was introduced and referred to the House Judiciary Committee on Jan. 14, 2025. The bill amends the Landlord Tenant Act of 1951 to add a new Article V-C, Tenants Rights in Cases of Violence. The bill includes the ability to terminate a lease early without penalties, and to change locks or means of entry, among other rights.

House Bill 104, Printer's No. 83, was introduced and referred to the House Judiciary Committee on Jan. 14, 2025. This bill amends 23 Pa.C.S. § 6108 to authorize a protection from abuse order to contain a requirement for the defendant to wear an electronic monitoring device if the defendant is found to be at substantial risk of violating the final protection from abuse order or committing a crime against the victim punishable by imprisonment.

Senate Bill 123, Printer's No. 73, was introduced and referred to the Senate Judiciary Committee on Jan. 22, 2025. Like House Bill 104, above, this bill also amends 23 Pa.C.S. § 6108 to authorize a protection from abuse order to contain a requirement for the defendant to wear an electronic monitoring device if the defendant is found to be at substantial risk of violating the final protection from abuse order or committing a crime against the victim punishable by imprisonment.

Senate Bill 154, Printer's No. 104, was introduced and referred to the Senate Consumer Protection and Professional Licensure Committee on Jan. 23, 2025. The bill passed the Senate on Feb. 3, 2025 (41-7), and was referred to the House Consumer Protection, Technology and Utilities Committee on Feb. 4, 2025. The bill adds Chapter 14, Responsible Utility Customer Protection. The statute is intended to provide utilities with additional options to collect uncollectible and delinquent accounts while ensuring services remain available for responsible consumers. Victims of domestic abuse are exempt from the provisions of this law.

House Bill 287, Printer's No. 232, was introduced and referred to the House Housing and Community Development Committee on Jan. 23, 2025. The bill amends the Fiscal Code to create and fund the Survivor-Centered, Ac-

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cessible, Fair and Empowering Housing Trust Fund (SAFE). The fund would be used to assist victims and survivors of domestic violence, sexual assault, dating violence, human trafficking and stalking, and their immediate family members in accessing emergency, transitional and permanent housing programs to reduce homelessness and housing instability.

Senate Bill 234, Printer's No. 187, was introduced and referred to the Senate Judiciary Committee on Feb. 4, 2025. The bill amends 23 Pa.C.S. § 6110 to authorize courts of common pleas to adopt local rules that extend the time before which an emergency order of protection from abuse expires.

House Bill 498, Printer's No. 487, was introduced and referred to the House Judiciary Committee on Feb. 5, 2025. The bill amends 23 Pa.C.S. § 6110 to authorize courts of common pleas to adopt local rules that extend the time before which an emergency order of protection from abuse expires.

House Bill 623, Printer's No. 634, was introduced and referred to the House Finance Committee on Feb. 20, 2025. The bill amends § 301 of the Tax Reform Code of 1971 to exclude from taxable compensation retirement benefits distributed prior to actual retirement to a victim of domestic abuse.

Senate Bill 262, Printer's No. 214, was introduced and referred to the Senate Judiciary Committee on Feb. 20, 2025. The bill adds Chapter 62B (Extreme Risk Protection Orders) to Title 42 of the Pennsylvania Consolidated Statutes. Extreme risk orders are similar to protection from abuse orders and are obtainable if the defendant is found to pose a significant risk of causing personal injury to self or others by having a firearm. Conviction of a crime involving domestic violence is a factor that the court may take into consideration.

House Bill 732, Printer's No. 756, was introduced and referred to the House Judiciary Committee on Feb. 25, 2025. The bill amends 23 Pa.C.S. § 6108 to allow victims of domestic abuse the ability to opt out of shared telephone plans with their abusers.

Domestic Violence/Protection from Abuse

House Bill 1419, Printer's No. 1643, was introduced and referred to the House Judiciary Committee on May 7, 2025. The bill amends 23 Pa.C.S. § 6114 to provide for enhanced penalties for repeated findings of contempt for violation of a protection from abuse order.

House Bill 1432, Printer's No. 1668, was introduced and referred to the House Judiciary Committee on May 8, 2025. The bill amends the definition of "abuse" under the

protection from abuse law to include a course of conduct that causes substantial emotional distress.

Equitable Distribution

Senate Bill 94, Printer's No. 49, was introduced and referred to the Senate Finance Committee on Jan. 22, 2025. The bill amends the Taxpayer Relief Act. Enacted in 2006, this statute authorized school districts to levy a tax on earned income and net profits or a tax on personal income for the purpose of funding homestead and farmstead exclusions to reduce school district property taxes. SB 94 would adopt the federal IRS rule that states that distributions from a retirement plan that is rolled over into another qualified retirement plan within 60 days does not trigger income tax.

Marriage

House Bill 733, Printer's No. 757, was introduced and referred to the House Judiciary Committee on Feb. 25, 2025. The bill amends 23 Pa.C.S. § 1503 to authorize any individual associated with a religious organization, who is authorized according to the rules and customs of that religion, to officiate a wedding ceremony legally.

Senate Bill 434, Printer's No. 402, was introduced and referred to the Senate Judiciary Committee on March 17, 2025. The bill repeals 23 Pa.C.S. § 1704, which defines marriage as between one man and one woman.

Pensions

Senate Bill 577, Printer's No. 585, was introduced and referred to the Senate Veterans Affairs and Emergency Preparedness Committee on April 9, 2025. A similar bill was introduced in House Bill 797, Printer's No. 821, which was introduced and referred to the House Local Government Committee on March 3, 2025. Both bills amend the Second Class City Firemen Relief Law (enacted in 1933 and affecting Pittsburgh only). The law provides for a pension benefit for city firefighters, which their surviving spouses are entitled to, until they remarry. The bills repeal the remarriage ban.

Support

House Bill 65, Printer's No. 28, was introduced and referred to the House Health Committee on Jan. 10, 2025. The bill amends 23 Pa.C.S. § 4603 to modernize Pennsylvania's filial responsibility law to only house spouses, children and parents of indigent individuals if certain actions have been taken to hide the indigent person's assets or they refuse to cooperate with Medical Assistance. This bill would apply to long-term services and supports, including nursing home facility and home and community-based services.

House Bill 90, Printer's No. 73, was introduced and

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referred to the Human Services Committee on Jan. 14, 2025. The bill amends the Human Services Code to require that in cases where medical assistance or other support is sought for the child through the Department of Human Services, to require the cooperation of all applicants and recipients to secure support from the noncustodial parents.

House Bill 571, Printer's 514, introduced and referred to the House Judiciary Committee on Feb. 5, 2025. The bill amends 23 Pa.C.S. § 3702 to prohibit the court from basing an alimony *pendente lite* award solely on presumptive guidelines, and it will require that any alimony *pendente lite* award be based upon a finding that the petitioning spouse's income is insufficient to provide for his or her needs including the costs of the divorce action.

Senate Bill 261, Printer's No. 209, was introduced and referred to the Senate Health and Human Services Committee on Feb. 20, 2025. The bill adds § 217 of the Human Service Code to require persons living with and exercising parental control over a minor child who has an absent parent, or a putative or identified parent of a child to cooperate with the department of human services in establishing the paternity of the child and assisting in a child support order in order to be eligible to participate in the Supplemental Nutrition Assistance program (food stamps).

House Bill 1182, Printer's No. 1323, was introduced and referred to the House Children and Youth Committee on April 9, 2025. The bill adds 23 Pa.C.S. § 4328 to provide for a biological mother to petition for support from a biological father of an unborn child.

Senate Bill 630, Printer's No. 623, was introduced and referred to the Senate Judiciary Committee on April 11, 2025. The bill amends 23 Pa.C.S. § 4603 to provide the

adult child of an indigent person is not liable for the support of the indigent person if the indigent person has not had contact with the child for a period of 10 years prior to the need for support.

Visitation

House Bill 714, Printer's No. 733, was introduced and referred to the House Judiciary Committee on Feb. 24, 2025. The bill adds 23 Pa.C.S. § 5325.1 to provide for sibling visitation.

Other — Name Changes

Senate Bill 448, Printer's No. 411, was introduced and referred to the Senate Judiciary Committee on March 17, 2025. The bill adds an administrative process as a method of changing a person's name.

Other - Stalking

House Bill 407, Printer's No. 1295, was introduced and referred to the House Judiciary Committee on Jan. 29, 2025. The bill amends 18 Pa.C.S. § 2709.1 to further define the offense of stalking and to prohibit most private citizens from using unauthorized tracking devices, programs or applications and regulates their use by parents, guardians, or caregivers of minors. The bill passed the House on April 8, 2025 (201-2) and was introduced and referred to the Senate Judiciary Committee on April 9, 2025.

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Pennsylvania Bar Association

COMMITTEE/SECTION DAY

Nov. 20, 2025

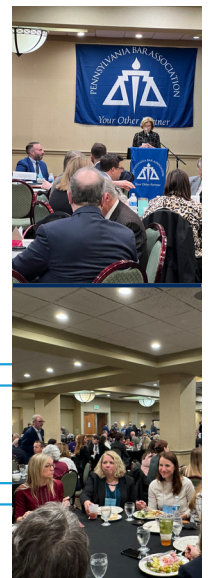
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Rules Updates

By: Andrew D. Taylor and Jonathan T. Hoffman

On Aug. 11, 2025, the Pennsylvania Supreme Court adopted amendments to the Rules of Civil Procedure, as recommended by the Domestic Relations Procedural Rules Committee (DRPRC). These amendments are effective Jan. 1, 2026.

Possibly the most noteworthy change is that the support amounts will be adjusted. Pennsylvania's support guidelines are subject to review every four years by the DRPRC. These amendments include updated guideline figures at Pa.R.Civ.P. 1910.16-3 as part of the quadrennial support guidelines review. The guidelines' schedule is being updated based on more current data on price levels and the Federal Poverty Guidelines. As with previous reviews, the DRPRC was assisted in its review by Jane Venohr, Ph.D., an economist with the Center for Policy Research.

Another change is that a support litigant's incarceration will now be treated as an involuntary reduction in income, even when the incarceration is due to enforcement purposes or a criminal offense in which the party's dependent child or the obligee was the victim. Pa.R.Civ.P. 1910.16-2 is being amended to add "incarceration" to subdivision (d)(2)(i) (Involuntary Income Reduction) and to rescind subdivision (d)(2)(ii) containing the "exception[s]." The comment to this Rule is being revised to add: "Concerning subdivision (d)(2)(i) and the inclusion of 'incarceration,' see 45 C.F.R. § 302.56(c)(3) ('[I]ncarceration may not be treated as voluntary unemployment in establishing or modifying support orders.')."

The other major change deals with the issue of hypothetical child care expenses. In 2022, Pa.R.Civ.P. 1910.16-2(d)(4) and Pa.R.Civ.P. 1910.16-6(a) were amended to permit the consideration and allocation of hypothetical child care expenses when an earning capacity is determined. This latest round of amendments further clarifies the rules and their application. The following passage is being added to the Comment to Pa.R.Civ.P. 1910.16-2(d)(4):

Concerning subdivision (d)(4)(ii)(A), the trier-of-fact shall consider an unemployed or underemployed parent's child care responsibilities and expenses when determining that parent's earning capacity. The trier-of-fact should consider whether child care is available and appropriate considering the child's needs. Assuming child care is available and appropriate, the trier-of-fact should next consider the child care

expenses that the parent would actually pay if employed. This excludes child care provided at no cost to the parent by a family member or other responsible person. Additionally, any portion of a child care expense that would be eligible for subsidization by a third party or through a government program should not be included. If the unallocated hypothetical child care expenses are equal to or exceed the parent's earning capacity, then no income should be imputed for that parent, e.g., earning capacity is \$0.00. If the unallocated hypothetical child care expenses are less than the parent's earning capacity, then the hypothetical child care expenses that would be actually paid by the parent, if employed, may be allocated pursuant to Pa.R.Civ.P. 1910.16-6(a)(1)(ii).

There are other changes in the amendments, but the above examples are the most substantive. The entire text of the amendments can be found at: <file:///C:/Users/andre/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/49U4RQZW/3%20of%202025%20-%20rule%20text.pdf>.

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Andrew D. Taylor is a partner with the Blue Bell, Montgomery County, firm of Shemtob Draganosky Taylor Stein PC. Drew's practice spans all areas of family law, including divorce, custody, child and spousal support, and protection from abuse actions. Drew regularly argues family law appeals before the Pennsylvania Superior Court and has argued before the Pennsylvania Supreme Court. Drew is active with the Montgomery Bar Association where he previously served as the Family Law Section chair. Drew is also active with the Pennsylvania Bar Association Family Law Section where he currently serves as co-chair of the Rules Committee. Drew can be reached at ataylor@shemtoblaw.com or 215-542-2108.

Reasonable Minds May Differ

By Erin Downing

After reading Robert D. Weinberg's article, "Temporary Alimony: The Impediment to Arbitration in Family Law Cases" in the *Pennsylvania Family Lawyer* Spring 2025 edition,¹ I felt compelled to respond. The article writes that "there are certain systemic aspects of the Divorce Code that may impose barriers to the utility of the Arbitration Act. ... The principal barrier is the interplay between temporary alimony (spousal support/APL) and the one-year waiting period under the Divorce Code that prohibits a matter from moving forward in the absence of both parties' agreement." The article's conclusion is that the inherent tension between the Divorce Code's goals of promoting settlement of differences between spouses and effectuating justice between parties will inhibit voluntary use of the arbitration process. He proposes that the legislature consider promoting its goal of effectuating economic justice and speedily resolving divorce matters (including by way of the Arbitration Act) by requiring a spouse receiving APL to consent to the entry of a divorce decree after 90 days and upon the resolution of all economic issues.

While I agree with the author that under the present state of the law, an obligee may seek to prolong the divorce process to maximize their temporary alimony award, I disagree that the objective of maximizing one's economic award should inhibit willing parties from proceeding to binding arbitration. Instead, I believe that because the arbitrator is required under the Uniform Family Law Arbitration Act (UFLAA) to apply the substantive law regarding equitable distribution, alimony and support, and because the arbitration process can proceed much more expediently and cost-efficiently than the traditional litigation process, both parties are incentivized to submit their divorce matter to binding arbitration in order to conserve fees and maximize their overall economic result.

When parties submit their divorce matter to binding arbitration, they take advantage of the opportunity to select a qualified decision-maker who will adjudicate their claims with due process in a confidential forum. They can also agree to consolidate issues that may typically be handled by different hearing officers or at least travel separate paths through family court, including equitable distribution, alimony, counsel fees and spousal support/APL. The arbitration award is typically issued within thirty days of the hearing. Further, because the arbitrator will set deadlines for the exchange of information and the date of the hearing with input from the attorneys, the parties

and any experts, the matter is more likely to conclude within 4-6 months. This timeline is much more expedient than the parties could expect to achieve with traditional litigation. The parties can also request a settlement conference with the arbitrator, which will help to narrow and sometimes resolve all of the issues. By having input as to the process, parties generally feel empowered and more satisfied with the process and their role in it.

As to the article's premise that an obligee receiving support/APL will not choose to submit to a process that will expedite the resolution of the economic claims, I strongly disagree. The arbitrator not only has the power but also the obligation to effectuate economic justice between the parties, by, among other things, awarding reasonable alimony *pendente lite* and alimony based on all of the relevant factors under 23 Pa.C.S.A. Sections 3701 and 3702. See, e.g., 42 Pa.C.S.A. Section 7374(b) (in determining the merits of a family law dispute, an arbitrator shall apply the law of this commonwealth, including its choice of law rules). These provisions allow the arbitrator, among other things, to award alimony *pendente lite* and alimony, and to allow or deny credit in the final economic award for the term or amount of alimony *pendente lite* received by a party. The arbitrator will apply the law and may apply any local policies, as requested by the parties, in determining the overall length of any alimony *pendente lite*/alimony award. Thus, if the obligee agrees to arbitration and then delays the process to receive more APL/spousal, the termination of the APL can/should still be considered in determining the overall economic award, resulting in possibly no alimony or a shorter term of alimony or a different split of the assets if there was a significant overpayment. In addition, if an obligee is delaying the arbitration process to prolong the award of alimony *pendente lite*, the arbitrator may consider this delay in awarding counsel fees and costs related to the delay in the final arbitration award. See, e.g., 42 Pa.C.S.A. Section 7838(c)(15) (the arbitrator may impose a sanction on a party for bad faith or misconduct during the arbitration according to standards governing imposition of a sanction for litigant misconduct in a family law proceeding). Consequently, the amount and term of temporary alimony in an arbitration proceeding should be no different than if the matter were adjudicated in traditional litigation. The only difference with arbitration is that the result is achieved much more expediently and cost-efficiently. In weighing the pros and cons of voluntary, binding arbitration, the

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existence of a temporary alimony award should not be perceived by either party as an impediment or an incentive to choose that process.

On the other hand, I agree with the article, that the law should be changed to require a recipient of APL to file their consent and to proceed with the divorce process. We have all had the tough conversation with a client, yes, you will have to continue to pay her/him until the divorce is finalized. The other, maybe not so tough is, yes, the only financial gem in this otherwise void of any asset marriage is the stream of support. So, the longer this divorce drags out, the longer you get paid.

There is a push and pull with the legislative public policy of let's wait 90 days even when the parties want this divorce because maybe, just maybe, there may be a reconciliation. While this can happen, this is really like watching the movie *The Titanic* and hoping it doesn't sink.

Trying to balance the tension between the settlement of economic claims/resolution and economic justice can be challenging. And, the year waiting period to establish grounds for the divorce can only incentivize a dilatory obligee to not agree to move forward with the divorce.

The idea of placing the onus on the obligee, whether or not they filed the divorce action, to move the divorce forward makes sense. The author suggests, "The fix is simple. If a spouse requests APL, then that spouse should be required to cooperate with moving the divorce forward, including giving his or her consent to the entry of a divorce decree after 90 days and upon the resolution of all economic issues." The obligee should have skin in the game, but there is no affirmative obligation for the obligee to proceed under the current law.

Instead, under a 1981 trial court decision, the plaintiff in a divorce action who receives alimony *pendente lite* may be required to file their affidavit of consent or risk dismissal of the divorce action. See *Rueckert v. Rueckert*, 20 Pa. D. & C.3d 1911, 195 (Allegheny Ct. Com. Pl. 1981). Plaintiff refused to file the affidavit of consent, and the (then) three-year separation had not been met. Husband filed a petition requesting various forms of relief, including dismissal of the divorce action and that the court vacate the APL order. The trial court ruled that, "plaintiff should not be permitted the benefits of a law whose spirit she is defying. Accordingly, in the event plaintiff has not filed her affidavit of consent within 20 days, this court must dismiss her action and vacate its order for alimony *pendente lite*." *Id.* at 197. See also, *Teribery v. Teribery*, 516 A.3d 33, 35 (Pa. Super. 1986) (Superior Court panel in *Hoffman v. Hoffman*, 504 A.2d 356, 358 (Pa. Super. 1986)

"noted in dictum" that the wife couldn't withhold her consent to the divorce while maintaining the APL claim). While these cases provide support for the dismissal of a divorce action in some cases, there is no brightline rule requiring the alimony *pendente lite* recipient to proceed with the divorce by filing their consent. Thus, if the APL recipient refuses to file their consent, the APL obligor has no choice but to wait one year from the date of final separation before moving the case forward without the other party's consent.

The time stall in the resolution of economic issues can exacerbate the costs in the case. Among other reasons, the costs of conducting discovery and updating values for an initial conference, settlement conference and hearing before the court can be monumental in both time and money.

This is where the Family Law Arbitration Act (FLAA) comes in. As Mr. Weinberg stated, arbitration helps resolve family law cases, "in an efficient, effective, humane manner that will, if utilized, help reduce the backlog of divorce and custody cases in the legal system — and save families agony and money." Even though they must wait the 90 days from the date of service of the complaint before filing their consents, parties can still get started with the process of achieving economic resolution as soon as they are ready to do so, and even before a divorce complaint is filed. Because the final arbitration award is binding with no opportunity for a substantive appeal, the parties generally cooperate to request entry of the decree at the soonest possible time. They can also agree to maintain the privacy of the award, since the UFLAA allows the parties to file the award under seal. See 42 Pa.C.S.A. Section 7391 (on motion of a party, the court shall order that a document or part of the arbitration record be sealed or redacted to prevent public disclosure of all or part of the record or award).

In conclusion, as opposed to being a roadblock, arbitration is really another route to resolution. The point of arbitration is for the parties to expedite their resolution in a private forum; there would be no need for the obligee to prolong the APL or spousal support award in this context because the goal is an expedient resolution to maximize the assets/support they will receive. The longer the delay, the more it will cost for a less favorable overall outcome.

For example, if the local practice is that no conference can be scheduled until grounds for divorce are approved, then moving the case to arbitration is an improvement over local practice. If there is a conference despite the lack of grounds, like in some counties, then arbitration is

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Dispense With Traditional Norms as the Family Structure Continues to Change

By Julie A. Auerbach and Kristine L. Calalang

In 2022, the U.S. had an estimated 4.5 million parents with disabilities (<https://heller.brandeis.edu/parents-with-disabilities/data-hub/parenting-center-dash-board.html>). Family law practitioners need to ensure they are mindful of the rights of parents and prospective parents with disabilities and the bias that many who have disabilities face.

Parents with disabilities are protected under the Americans with Disabilities Act ("ADA;" <https://www.ada.gov/law-and-regs/ada/>). The ADA defines disability as a "physical or mental impairment that substantially limits a major life activity, or a record of such an impairment, or being regarded as having such impairment." The ADA provides protections from discrimination for individuals with disabilities. Practitioners should keep in mind that Title II of the ADA, the state child welfare agencies and the court systems are prohibited from discriminating against individuals with disabilities. Under this Title, individuals with disabilities must be given equal access and equal opportunity to participate in and benefit from services/programs/activities provided by a government agency and providers contracted by the government. The courts and welfare agencies must also provide reasonable modifications for individuals with disabilities to their policies, practices and procedures when necessary to avoid dis-



crimination. They must also provide effective communication with individuals with disabilities (including providing communication support and assistance to parents with disabilities).

In addition, practitioners should be mindful that the definition of disability is different under the Social Security Act (SSA). For instance, for adults, the SSA defines disability as "the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." For children under age 18, the SSA considers they have a disability if they have "a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or

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still an improvement because you can get in more quickly with the arbitrator to set deadlines and schedule interim issues. Either way, you are moving up the deadlines for the resolution of the case and the termination of APL/spousal support.

I will go out on a limb and say maybe the "fix" is arbitration. The parties who participate in arbitration in good faith are not necessarily the ones who will weaponize an APL or spousal support obligation. The desire to participate in a process that reduces stress by reaching a time- and cost-effective resolution may not be for everyone, but certainly should appeal to the spouse who wants to maximize their overall economic result in a confidential

way while avoiding the costs and delays of traditional litigation.

Erin is a part-time mediator and arbitrator with the Center For Family Resolution in West Chester, PA. She can be reached at Erin@centerforfamilyresolution.com or (484) 886-4600.

Endnotes

¹Pennsylvania Bar Association Family Law Section *Pennsylvania Family Lawyer* Spring 2025, at pp.6-7

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can be expected to last for a continuous period of not less than 12 months.”

It is also important for practitioners to consider federal civil rights laws, including Section 504 of the Rehabilitation Act of 1973 (<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973>). This Section provides protection against discrimination for individuals with disabilities with regard to programs and activities that receive federal financial assistance.

Additionally, practitioners should consider the resolutions and guidelines set forth by the American Psychological Association (APA) that seek to ensure the fair and equitable treatment of parents and prospective parents with disabilities. For instance, the APA set forth a resolution in Feb. 2024 that states, “it is imperative for psychologists to proactively acknowledge the pivotal role of psychology in advocating for fair and equitable treatment of parents with disabilities, while providing the necessary supports and resources they require (<https://www.apa.org/about/policy/parents-disabilities.pdf>).”

In 2022, the APA set forth its Guidelines for Assessment and Intervention with Persons with Disabilities (<https://www.apa.org/about/policy/guidelines-assessment-intervention-disabilities.pdf>), which provide valuable guidance that is helpful for family law practitioners to consider, including directing one to (enumerated below to correspond with the guidelines):

- 1) Ensure full understanding of the definition of disability
- 2) “Examine their beliefs and emotional reactions toward various disabilities, determine how these might influence their work, and strive to change ableist practices”
- 3) “Increase their knowledge and skills about working with individuals with disabilities through training, supervision, education, and expert consultation;” To ensure best practice, family law practitioners must strive to fully understand their client’s needs and seek to increase their knowledge about their clients and clients’ family members with disabilities. Practitioners should keep in mind that “parents with psychiatric disabilities face unique discrimination that often leads to child welfare system interactions” (see “Experiences of Parents with Psychiatric Disabilities Who Are Involved with the Child Welfare System: Perspectives of Parents and Legal Services Staff” (<https://heller.brandeis.edu/parents-with-disabilities/pdfs/child-welfare-family-law-rights/experiences-of-parents-w-psychiatric-disabilities-w-cws-involvement>).

[pdf](#)).

- 4) Ensure one has knowledge about the federal and state laws that support and protect the rights of individuals with disabilities
- 5) “Provide barrier-free physical and communication environments in which clients with disabilities access psychological services;” Family law practitioners need to ensure they have proper communication with their clients and use assistance with communication (including interpreters) when needed in order to be in line with their duty to ensure reasonable communication under Pennsylvania Rule of Professional Conduct 1.4 (<https://www.padisciplinaryboard.org/for-attorneys/rules/rule/3/the-rules-of-professional-conduct>). Additional guidance under the ADA for effective communication can also be found at <https://www.ada.gov/resources/effective-communication/>.
- 6) “Use appropriate language and respectful behavior toward individuals with disabilities;” Family law practitioners can seek guidance from the City of Philadelphia’s Inclusive Language Guide (<https://www.phila.gov/media/20250717122104/Inclusive-Language-Guide-2024.pdf>), which provides guidance in using respectful language including advising one should, for example: a) aim to use the words “disabled people” or “people with disabilities;” b) refrain from identifying people as “the disabled;” c) avoid using ableist language such as “dumb,” “lame” and “blind-drunk;” d) aim to describe the person’s abilities and any support they may need instead of using words such as “high functioning” or “low functioning” (e.g., preferable language examples are: “She is able to communicate verbally and do most things with little to no support,” or “She will need support traveling up the stairs;”); e) aim to use the term “wheelchair user” versus referring to someone as “confined to a wheelchair” or “wheelchair bound;” and f) aim to use the term “accessible parking” versus “handicapped parking.”
- 7) “Recognize the intersectional identities of persons with disabilities”
- 8) “Strive to understand the different factors affecting the experience of disability at different developmental stages”
- 9) “Recognize the strengths and challenges of families of individuals with disabilities”
- 10) “Recognize that people with disabilities are at increased risk for abuse and appropriately address abuse-related situations”
- 11) “Learn about the opportunities and challenges

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Diversity Spotlight

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presented by assistive technology”

12-18) Strive to consider how disability affects and impacts psychological assessments and results of these assessments 19-23) Identify one’s own “readiness to address their clients’ disability-related concerns” and address the best therapeutic approaches to therapy (without assumptions) while ensuring collaboration with other professionals when needed and promoting healthy behaviors of clients

Finally, family law practitioners should be mindful of the individual needs of their clients and ensure they share resources to support parents and prospective parents with disabilities. Some resources to consider sharing are:

- 1) National Disability Rights Network, see <https://www.ndrn.org/about/ndrn-member-agencies/>
- 2) For filing a complaint under the ADA, see <https://www.ada.gov/file-a-complaint/>
- 3) For filing a civil rights complaint, see <https://www.hhs.gov/civil-rights/filing-a-complaint/complaint-process/index.html>
- 4) For information about service animals, see <https://www.ada.gov/topics/service-animals/>
- 5) Parent to Parent of Pennsylvania <https://www.parenttoparent.org/>

parenttoparent.org/

6) Pennsylvania Link to Aging and Disability Resources <https://www.pa.gov/agencies/aging/local-resources/pa-link-to-aging-and-disability-resources>

7) Disabled Parenting Project, see <https://disabled-parenting.com/>

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Future Meetings

Jan. 16-18, 2026

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July 9-12, 2026

PBA Family Law Section Summer Meeting

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Jan. 15-17, 2027

PBA Family Law Section Winter Meeting

Omni William Penn Hotel, Pittsburgh, PA

July 8-11, 2027

PBA Family Law Section Summer Meeting

Hamilton Princess, Hamilton, Bermuda

Jan. 14, 2028

PBA Family Law Section Winter Meeting

The Hotel Hershey, Hershey, PA

July 13-16, 2028

PBA Family Law Section Summer Meeting

Marriott Montréal Château Champlain, Montréal, Canada

Custody Supervision at the Crossroads of Risk and Access

Hillberry v. Hillberry,
No. 972 WDA 2024 (Pa. Super. 2025)
By Chelsea Watt

Synopsis

The Pennsylvania Superior Court considered whether a trial court erred in approving new custody supervisors for Father, whose visitation with minor child K.H. (Child) is supervised due to a history of serious mental health issues, including concerns related to sexual impropriety. The Superior Court, in a nonprecedential decision, affirmed the trial court's decision, holding that the lower court had acted within its discretion after conducting an extensive evidentiary hearing and imposing additional safeguards for the custody supervisors.

Facts

Mother and Father share a 5-year-old daughter, K.H., and have been involved in ongoing custody litigation. Since 2021, Father's custody time has been supervised. In 2023, Father petitioned to modify custody, and the trial court issued a custody order and opinion determining that it was "not ready to allow for unsupervised visitation between Father and the [C]hild" due to Father's history of serious mental health issues including sexual impropriety and a troubling sexual statement regarding the Child. The court previously approved a set of supervisors for Father's custodial time and left open the possibility of adding additional individuals that were to be approved by motion.

In early 2024, Father filed a motion requesting that his parents, brother and sister-in-law be added as supervisors for his custodial time. Mother opposed the motion, asserting that the proposed supervisors had previously dismissed the risk that Father posed to the Child. The trial court held an evidentiary hearing, during which all proposed supervisors testified. On May 24, 2024, the court granted Father's motion to add the proposed supervisors. The trial court approved the supervisors under certain conditions: at no time were the supervisors permitted to allow Father to be alone with the Child, they were required to sign affidavits stating they understood their supervision obligations, and they were subject to contempt for any failure to comply with the court's orders. On July 12, 2024, in accordance with that earlier ruling, the Greene County Court of Common Pleas issued an order adjusting the parties' custody, from which order Mother appeals.

Issue

Whether the trial court abused its discretion by designating individuals as custody supervisors over Mother's underlying concerns about the supervisors and her views regarding the Child's safety.

Holding

The Superior Court upheld the trial court's decision, concluding that the lower court did not abuse its discretion in approving Father's proposed custody supervisors. The Superior Court emphasized that the trial court had conducted a full evidentiary hearing, during which all proposed supervisors testified under oath that they had read and understood the custody order and were willing to comply with the court's supervision requirements. Although some of the proposed supervisors expressed personal doubt about whether Father posed a risk to the Child, they each confirmed that they would strictly follow the court's directives, including maintaining constant visual supervision, not allowing Father to go alone with the Child and prioritizing the Child's safety. To address concerns about compliance with its orders, the trial court required that the individuals supervise in pairs, ensuring that no individual supervisor would permit Father to circumvent the court's restrictions. The supervisors also had to sign affidavits acknowledging their responsibilities and consequences of contempt. The Superior Court held that these measures were sufficient to protect the Child. In light of the imposed safeguards and the record developed at the hearing, the appellate court found the trial court's conclusions to be reasonable and fully supported by the evidence.

Impressions

This decision illustrates how Pennsylvania courts manage the tension between protecting a child's safety and ensuring that a parent has a meaningful opportunity to exercise their custodial rights, even when custodial time is supervised. The Superior Court made clear that the personal beliefs of proposed custody supervisors about whether supervision is necessary are not dispositive and what matters instead is their willingness and ability to follow the court's orders. The trial court here appropriately employed procedural safeguards including joint supervision requirements to hold the custody supervisors accountable and ensure their compliance. For family law attorneys, *Hillberry* reinforces the idea that trial courts have broad discretion in managing custody supervision logistics (at least pre-Kayden's Law)

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Courts Have the Final Say: Accepting and Rejecting a Parenting Coordinator's Recommendation

Morris v. Morris,
2190 and 2191 EDA 2024 (Mar. 14, 2025) (Pa. Super)
By Tara L. Hutchinson

Summary

The Pennsylvania Superior Court, in a non-presidential decision, upheld two orders sustaining the mother's objections to the recommendations of the parenting coordinator, which amended the custody order.

Facts

Mother and father are divorced parents of three children. Following father's complaint in custody, the trial court entered an order for shared physical and legal custody, along with provisions for birthday parties and the right of first refusal for overnight care. The provision for birthday parties held that they shall be "shared between the parties, alternating the right to plan the party and the obligation to pay every other year." The provision for the right of first refusal stated that if the custodial parent is unavailable for one overnight or greater, the noncustodial parent must have the right of first refusal before the child spends the night with a third party. Separate from this provision, the order provided that both sets of grandparents are entitled to up to five overnights with the children each year, with notice to be provided in advance to the other parent.

The parties disagreed about how to interpret both of these provisions, and accordingly, the court appointed a parenting coordinator. The parenting coordinator issued a recommendation that stated if father allowed the grand-

parents to care for the youngest child while he traveled with the other children without first offering mother the option to care for the youngest child, it would not count as one of the five grandparents' overnights per year. On the issue of the birthday parties, the parenting coordinator recommended that father be responsible for all of the children's birthday parties in 2024 as mother was responsible for all of the birthday parties in 2023.

Mother filed objections to both recommendations and the court conducted a hearing on the matter. Following that hearing, the court sustained mother's objections to both recommendations, and clarified both provisions in a new custody order. The order now specified that if a parent is unavailable or in a different location from at least one child overnight, the custodial parent shall first provide the other with a right of first refusal before utilizing a third party. The court further clarified that anyone other than father and mother were considered third parties. For the birthday parties, the court divided responsibility where mother would plan parties for two children in even years and father would plan a party for one child in even years. This arrangement would reverse in odd years. Father subsequently appealed both orders.

Issues

In both appeals, father raised the following issues:

- Whether the trial court erred in ordering substantive modifications to the custody schedule without a pending modification when the only matter before the court was mother's objections to the recommendation of the parenting coordinator.
- Whether the trial court erred in sustaining mother's

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and affirms that trial courts are not required to engage in a full statutory best interest analysis when addressing narrow issues like the one presented in this case. The case also underscores the importance of creating detailed and enforceable supervision protocols when significant safety concerns are present. Overall, this decision serves as a useful example of how courts can structure custody supervision arrangements in a way that they are both

protective and practical.

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Courts Have the Final Say: Accepting and Rejecting a Parenting Coordinator's Recommendation

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objections as the parenting coordinator's decision was within the scope of her authority.

Holding

The Superior Court rejected both of father's arguments. Regarding the recommendation of the parenting coordinator, the court held that the trial court did not exceed its authority in rejecting the parenting coordinator's recommendation. The recommendation is only an interim order, with the trial court ultimately determining whether to accept it. For the right of first refusal provision, the court found that the trial court did not change the custody award, but rather added language to clarify when the right of first refusal must be offered. This language did not alter rights, nor did it change obligations for when to offer the right of first refusal. Rather, it provided language to resolve potential disputes in the future. For the birthday provisions, the court again found that the trial court did not modify custody but instead clarified the rights and responsibilities that existed in the original order by specifying the names of the children and designating which years each parent would be responsible for planning the party. Rather than alter anybody's rights, the trial court added clarity to a provision that previously caused a disagreement.

The Superior Court also rejected father's claim that he was not provided with appropriate notice that the terms of the custody order could be amended. The court found that so long as a party is adequately advised that custody will be at issue in a given proceeding, a court may entertain the request to permanently modify a custody order after a hearing. Here, father was aware that the parties could not resolve their disputes regarding the right of first refusal and birthday parties and that the parenting coordinator would make recommendations to the court on how to resolve the issues. Father was also aware of mother's objections and appeared at the hearing. Accordingly, the Superior Court found that father had appropriate notice, and the trial court was within its

authority to alter the language in the custody order.

Comments and Impressions

This case clarifies whether the court can reject a parenting coordinator's recommendation and what type of notice parties must have before a court can alter language in the custody order. While parenting coordinators are a valuable resource, the trial court is not required to accept their recommendations; parties are permitted to object to the recommendation, and the court will conduct further proceedings to determine how to handle the matter. Even when neither party objects, the trial court is not obligated to accept the parenting coordinator's recommendation. This case clarifies that a recommendation is just that, and the court can ultimately make a different decision.

This case also clarifies the proper notice that parties are to receive before a court can alter the language in a custody order. While the usual procedure is to file a formal petition for modification, this is not required by the statute. Father was already aware that the parenting coordinator made a recommendation, mother objected to it, and the trial court had to ultimately resolve the dispute. Especially when the altered language did not change custody rights, the Superior Court found that he was on adequate notice that language in the order could ultimately change.

For practitioners, this case highlights the importance of remembering that recommendations are not the same thing as final orders and the trial court still has to accept the recommendations. It also highlights the importance of knowing how to properly notify a party of a potential modification to the custody order.

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Civil Contempt or Criminal Punishment? The Procedural Implications of Mandatory Incarceration

Fetzer v. Fetzer,
336 A.3d 1058 (Pa. Super. 2025)
By Colin B.A. Borneman

Facts

The parties, Melanie Fetzer, hereinafter “Mother” and Jonathan M. Fetzer, hereinafter “Father,” are parents to two minor children, N.M.F. (born Sept. 2007) and A.V.F. (born June 2009), referred to collectively as “the children.” The parties were married and subsequently divorced in 2018. The parties engaged in significant litigation, including petitions for modification of custody and relocation.

In Sept. of 2022, the trial court issued an order which provided, *inter alia*, that: “[n]one of the parties shall alienate or permit an attempt by anyone else to alienate the children from the other parties ... and shall not make any remarks disparaging the other party in front of the children.” Custody Order dated Sept. 6, 2022.

On May 29, 2024, Mother filed an emergency petition for contempt, alleging that Father had violated the above provision of the order of the court on numerous occasions between Sept. of 2022 and May of 2024. Argument was heard for both sides. Due to the evidence presented in the form of text messages from Father to the children, Father was found in contempt and sanctions were imposed, namely a seven-day mandatory prison sentence. Although the court reconsidered and released Father after two days of incarceration, Father appealed the order finding him in contempt for a variety of reasons. However, the court chose only to address Father’s argument regarding the permissibility of his incarceration under the Pennsylvania Rules of Civil and Criminal Procedure.

Issue

Can a civil court impose a mandatory prison sentence without release condition in a civil contempt matter?

Holding

No, the court cannot impose a mandatory prison sentence without release condition in a civil contempt matter. The Superior Court’s standard of review over findings of contempt by the trial court is “extremely narrow” and the Court will reverse only upon a showing of abuse of discretion. A trial court abuses its discretion if it misapplies the law or exercises its discretion in a manner lacking reason.

Pursuant to the Pennsylvania Rules of Civil Proce-

dure, there is no distinction between criminal and civil contempt; however, the determination of which Rules of Procedure apply lies in the court’s dominant purpose in using the contempt power. Broadly, the purpose for a criminal contempt is to punish the violation of a court order, while the purpose for a civil contempt is to coerce compliance with the order. The dominant purpose is expressed in the sanction imposed. The difference between criminal and civil contempt is that under a civil contempt finding, the contemnor can purge themselves of contempt by complying with the court’s directive. In the case at bar, Father had no method whereby he could purge himself and ensure his release from prison. It is imperative that the litigant adjudged to be in civil contempt “holds the keys to the jailhouse door.” *Diamond v. Diamond*, 715 A.2d 1190 (Pa. Super. 1998). Due to the way in which the trial court framed the order, it was designed to punish Father for his past conduct and was not calculated to address his ongoing defiance. Therefore, the sanction imposed and the proceeding thereon were criminal in nature and necessarily should then have followed the rules of Criminal Procedure, as opposed to the rules of Civil Procedure. The trial court did not afford Father the procedural safeguards due to a criminal contemnor, as the court effectively denied Father assistance of counsel at the initial hearing. Father had requested a continuance at the initial hearing to allow his attorney to prepare, but was denied. The court then granted a continuance after the parties appeared in person. Most critically, the trial court applied the standards of proof applicable to civil contempt proceedings, as opposed to those that govern indirect criminal contempt. Due to these procedural and legal errors, the Superior Court held that the trial court abused its discretion and misapplied the law, resulting in the Superior Court vacating the trial court’s order and remanding for further proceedings consistent with that opinion.

Comments & Impressions

This case contained an unusual issue for the state of Pennsylvania. Although the court sees contempt issues on a frequent basis, the imposition of a mandatory prison sentence for civil contempt is uncommon, because it is improper without a purge condition. Although the trial court found that Father was in civil contempt of the previous order, the imposition of the prison sentence without

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Virtually Together: PFAs and Intimacy in the Digital Age

Seng v. Stone,
1214 EDA 2024 (Pa. Super. 2025)
By Phoebe Tuite

Introduction

Intimate partnerships are a type of relationship that qualifies for a PFA, yet determining what constitutes an intimate partnership is no easy task. Studies have identified conditions that must be met for intimacy to occur, including reciprocal trust, emotional closeness and self-disclosure. But literature on the subject does not consistently incorporate physicality as a necessary condition for intimacy to occur. So, is it possible to be in an intimate partnership with someone you have never met? In a recent case, *Seng v. Stone*, a family court answered this question in the affirmative.

Summary

Seng v. Stone is arguably the first PFA case in Pennsylvania with parties who never met in person. In this case, the ex-girlfriend filed a PFA petition after two years of online harassment by her ex-boyfriend. The parties dated virtually for only a month. The PFA was granted by the family court in Delaware County and then affirmed on appeal in a nonprecedential Superior Court decision.

Facts and Procedural History

The ex-girlfriend was the host of a true crime podcast on YouTube when she met her now-ex-boyfriend online in March of 2022. She testified that the parties spoke romantically and sexually and had plans to meet in person. But those plans never came to fruition. The ex-boyfriend had started exhibiting anger and controlling behaviors so, before the parties could meet, she ended the relation-

ship.

When the ex-girlfriend ended the parties' relationship, the ex-boyfriend responded with a countdown emoji and an image of a bomb, threatening to "F-up [her] life." Following the breakup, the ex-boyfriend became increasingly abusive, threatening and harassing. He began to cyberstalk the ex-girlfriend, regularly posting manipulated photos and videos of her and commenting on her posts to kill herself and that he wished he could kill her. Despite repeated requests to stop, the ex-boyfriend continued this terrorizing behavior for two years after the parties broke up.

The family court held a hearing during which the ex-boyfriend admitted to creating the digital image depicting the ex-girlfriend, posting videos using that image and deliberately making the image "immediately reproducible" so his followers could easily use and manipulate it. The ex-girlfriend noted that these posts included inappropriate manipulated images of her performing sexual acts. She further testified that although the ex-boyfriend's account was removed from YouTube, he continued to post about her through his followers and by creating new channels.

At the end of the hearing, the family court found that the ex-boyfriend created the digital image of the ex-girlfriend and posted it multiple times for the purpose of threatening, embarrassing and harassing her. The ex-boyfriend had engaged in a deliberate pattern of harassing and abusive behavior intending to harm and threaten the ex-girlfriend, which could have led to violence and bodily injury. Following the hearing, the family court entered a final PFA order for the maximum three years. The ex-boy-

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Civil Contempt or Criminal Punishment? The Procedural Implications of Mandatory Incarceration

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a purge condition took things past the civil realm and into the territory of criminal law. This distinction is important to note, not only for practitioners, but also for the judiciary, to stay vigilant in ensuring that the proper rules of procedure are followed in each proceeding.

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Virtually Together: PFAs and Intimacy in the Digital Age

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friend filed a timely notice of appeal.

Holding

The ex-boyfriend presented four claims on appeal: (1) the PFA was granted because of materially misrepresented facts by the ex-girlfriend; the family court erred in (2) determining that the parties had the type of relationship that qualifies for a PFA and (3) granting the PFA to ineligible parties; and (4) the ex-boyfriend's due process rights were infringed upon. The Superior Court affirmed, finding that the ex-boyfriend's failure to file the court-ordered concise statement waived his claims on the merits.

Comments and Impressions

Although the Superior Court did not address the ex-boyfriend's claims on their merits, the nature of the parties' relationship raises interesting questions about the scope of protection a PFA order can offer a plaintiff whose relationship only existed in the virtual sphere.

Under the PFA statute, abuse is defined as "the occurrence of one or more of the following acts" between sexual or intimate partners, including "placing another in reasonable fear of imminent serious bodily injury" or "knowingly engaging in a course of conduct or repeatedly committing acts toward another person ... under circumstances which place the person in reasonable fear of bodily injury." While the PFA statute defines abuse, it does not define "intimate partner," leaving it to the courts to determine what constitutes an intimate partnership.

Pennsylvania courts have frequently looked to legislative intent to determine whether parties had a relationship that rises to the level of an intimate partnership. The legislature has stated that chosen romantic relationships are among the type intended to qualify for the protec-

tions of a PFA order. In *Evans v. Braun*, the Superior Court held that a relationship consisting of two dates, to which the parties mutually consented, was an intimate partnership for the purpose of a PFA. *Evans v. Braun*, 12 A.3d 395 (Pa. Super. 2010). A short-lived intimate partnership is nonetheless an intimate partnership.

In this case, the parties dated online for a month, during which they spoke romantically and sexually and made plans to meet in person. Even though the parties never met in person, the family court found that this conduct constituted an intimate partnership. With the surplus of available technology designed specifically to connect people from a distance, including social media, video-calling apps and even smart pillows that transmit a couple's heartbeats to each other in real time, it is not difficult to imagine that the parties' virtual relationship was as much of an intimate partnership as that of a couple who went on two dates in person.

The intimate partnership distinction gets far muddier if the defendant in a PFA action is an AI partner, for example. With AI relationships as the next frontier of online dating, it is only a matter of time before courts consider whether an AI partner is capable of consent and intimacy. For now, however, fully virtual relationships can be considered intimate partnerships for PFA purposes.

Phoebe Tuite is a second-year law student at Villanova University Charles Widger School of Law. This summer, she externed for Momjian Anderer LLC. Phoebe is interested in family law and general civil litigation. She can be reached at ptuite@law.villanova.edu.

The Clock Starts with Knowledge, Not DNA: Termination of a Father's Parental Rights

In Re: C.E.D.H.,
338 A.3d 1010 (Pa. Super. 2025)
By Keerthana B. Rao

Synopsis

The Pennsylvania Superior Court reversed the Orphans' Court's denial of Adoptive Parents' petition to involuntarily terminate the Father's parental rights pursuant to the Adoption Act. The Court held that the statutory six-month period begins when a parent knows or should

know of possible paternity — not when DNA results confirm it — and that a child, through counsel, may pursue termination grounds even if the petitioner concedes them. The decision reinforces both the importance of timely parental action and the independent legal voice of children in termination and adoption proceedings.

Facts and Procedural History

C.E.D.H. (the Child) was born on March 2, 2023. His biological mother, A.C. (Mother), determined during

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The Clock Starts with Knowledge, Not DNA: Termination of a Father's Parental Rights

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her pregnancy that she could not care for the Child and arranged for his adoption by family members, N.D.H. and N.A.H. (Adoptive Parents), the latter being the Mother's niece. Mother signed a voluntary consent to relinquish her parental rights, and physical custody of the Child was transferred to Adoptive Parents on March 13, 2023, when he was 11 days old. The Child has resided with them since.

At the time of his placement with Adoptive Parents, the identity of the biological father was unknown to the Adoptive Parents. Mother informed W.C.M. (Father) of the pregnancy in April or May of 2022 while she was incarcerated and he was living in Williamsport, Pennsylvania. Father doubted his paternity due to his age and his belief that Mother had other sexual relationships during the time of conception. Father took no further steps to confirm paternity during the pregnancy and had limited contact with Mother. His only inquiry about her came in late 2022 when he contacted Mother's sister. He did not inquire about the pregnancy.

In July or Aug. 2023, while Father was in a rehabilitation facility for substance abuse, Mother contacted Father to advise him of the adoption of the Child and inform him that he might be the Child's father. Father decided to take a paternity test. He subsequently filed a paternity complaint on Aug. 7, 2023, and DNA testing confirmed his paternity with a 99.999999% probability. An Orphan's Court Order formally acknowledged his paternity on Sept. 13, 2023.

Adoptive Parents then petitioned to involuntarily terminate Father's parental rights on Oct. 18, 2023, pursuant to 23 Pa. C.S.A. § 2511(a)(1) and (6). During this time, Father remained in residential treatment and a halfway house until Jan. 1, 2024. Father filed a custody complaint on Feb. 9, 2024. Prior to this filing, he did not request custody or visitation during this period even though he was aware of the Child's paternity, nor did he provide financial support or send cards or gifts to the Child. Father testified he believed such contact had to be court initiated.

A termination of parental rights hearing was held on February 9, 2024. The Trial (Orphans') Court received testimony from Adoptive Parents, Father and Father's sister. Following post-hearing briefing by the parties and the Guardian Ad Litem (GAL), the trial court denied the

termination petition on May 15, 2024. The Child timely appealed the denial.

Issues on Appeal

Whether the trial court erred as a matter of law in declining to consider termination under 23 Pa. C.S. § 2511(a)(1) based on Adoptive Parents' post-hearing concession.

Whether the trial court abused its discretion in finding that termination under 23 Pa. C.S. § 2511(a)(1) was not warranted due to the short duration — less than six months — between confirmation of paternity and the filing of the termination petition.

Holding

The Superior Court held that the Child, through court-appointed counsel, could independently pursue and appeal the denial of involuntary termination under 23 Pa. C.S.A. § 2511(a)(1) and that the "orphans' court erred by not considering termination under Section 2511(a)(1) based on Adoptive Parents' concession." Although the Adoptive Parents conceded to the court in their post-hearing brief that they were not pursuing termination under subsection (a)(1), both the Child's court-appointed counsel and the GAL argued in post-hearing filings that Father's rights should be terminated under subsection (a)(1). The Superior Court held that although a child in a contested involuntary termination proceeding does not have standing to initiate the petition, a child does have independent and protected legal interests once termination proceedings have started. A child's counsel must advocate for the child's legal interests, "which may diverge from the interests of other parties to the proceedings." The trial court erred by treating the Adoptive Parents' post-hearing brief concession of subsection 2511(a)(1) as barring it from considering the arguments made by the Child and the GAL under that same ground. The Court clarified that the concession of a legal argument by the Adoptive Parents was not "binding on the Child, who had separate representation and an independent interest in the proceeding."

The Superior Court further held that even if the trial court considered the merits of Section 2511(a)(1), it erred by concluding that Father could not have been found to have abandoned his parental duties because fewer than six months had passed between his receipt of

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The Clock Starts with Knowledge, Not DNA: Termination of a Father's Parental Rights

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paternity results of the Child (Sept. 2023) and the filing of the termination petition (Oct. 2023). The Court clarified that under established case law, the relevant six-month period under Section 2511(a)(1) begins not when paternity is confirmed through genetic testing, but when “a father knows or should know of the child’s existence” and possible parentage. In this case, Father admitted knowing of Mother’s pregnancy as early as April or May 2022 and acknowledged the possibility that he was the father. Although the accuracy of Father’s testimony of Mother informing him in April or May 2022 was questionable given the Child’s March 2, 2023 birthday, the Father “clearly testified multiple times that he was aware of Mother’s pregnancy before the Child was born ... [and] indicated that he was aware that he could be the Child’s father.” Given that the Father should have reasonably known by May or June of 2022 that he could possibly be the father of the Child, the Court determined that he failed to take any steps to determine paternity, support the Child or initiate custody or visitation during the six months preceding the petition in Oct. 2023. The Court found this failure amounted to a refusal or failure to perform parental duties under Section 2511(a)(1). The Court then engaged in three lines of inquiry: (1) the parent’s explanation for the failure; (2) post-abandonment contacts with the Child; and (3) effect of termination on the Child under § 2511(b). Here, the Father claimed he believed that he was not permitted to contact the Child or Adoptive Parents except through court action. However, he failed to initiate any communication through the court. He was also allowed to communicate with others while in the rehabilitation facility but failed to try to initiate contact with the Child. The “only action Father took during the six-month period was to file a paternity complaint.” For the second line of inquiry, “Father admitted that he had done nothing to try to see the Child and had never met him.” For the third line of inquiry related to consideration of the effect of termination on the Child, the record reflects that the Child has “never met, interacted with or even received a card from Father.” The Court found that no bond existed between

Father and the Child under Section 2511(b) because the Child had never met Father and had fully integrated with the Adoptive Parents’ family. Therefore, termination was also in the Child’s best interests.

The Superior Court reversed the trial court order and remanded for an entry of an order terminating Father’s parental rights.

Impressions

This decision is a meaningful affirmation of children’s rights in involuntary termination proceedings. The Superior Court made clear that once a child is appointed counsel under 23 Pa. C.S.A. § 2313(a), that child is not just a subject of litigation but is an active party with an independent legal interest — even if other parties in the proceedings concede a point that the child does not agree with. The Superior Court’s reversal of the trial court’s decision sends a message that children are entitled to advocacy, and their legal rights must be heard on their own terms. Another key point of this case was the Court’s rejection of the idea that the six-month statutory period in Section 2511(a)(1) begins only upon the receipt of genetic confirmation of paternity. As the Court observed, a parent cannot simply wait for genetic proof while not taking steps to investigate paternity, provide support or express interest. The legal obligation to act begins when a parent knows or should know that a child exists and that they might be the parent. To hold another standard would reward willful ignorance and harm children by extending uncertainty in their formative months. Overall, this decision affirms that children are not passive subjects in termination proceedings; their rights are not secondary to adult choices.

Keerthana B. Rao is a rising third-year law student at Drexel University’s Thomas R. Kline School of Law located in Philadelphia, Pennsylvania. She was a 2025 summer associate at the Philadelphia office of Cordell & Cordell PC, where she will continue working with the firm through the school year. She can be reached at kr3297@drexel.edu.

Bar Review

By Adam H. Tanker

Congratulations to **Julie R. Colton**, of Obermayer Rebmann Maxwell & Hippel LLP for being reelected chair of the Family Law Section of the Allegheny County Bar Association.

Congratulations to **Megan A. DelVecchio** of Pollock Begg in Allegheny County on the birth of her son, Leo Robert DelVecchio, born July 4, 2025, and weighing in at 7lbs. 14oz.



Congratulations to **Erin E. Patton** and **Melissa A. Iacobucci**, who founded the law firm Patton & Iacobucci Family Law PLLC in Chester County.

Congratulations to Hayley N. Purcell Sinkler of Obermayer Rebmann Maxwell & Hippel LLP in Bucks County on the birth of her son, James Christopher Sinkler, born August 11, 2025, and weighing in at 9lbs. 6oz.



Congratulations to **Tiffany A. Shoemaker** of Shoemaker Family Law LLC in Chester County for being elected to a three-year term on the Pennsylvania Bar Association Family Law Section Council.

Congratulations to **Jennifer A. Brandt** of Cozen O'Connor in Philadelphia who was elected chair of the American Bar Association Family Law Section.

Adam H. Tanker, an attorney at Obermayer Rebmann Maxwell & Hippel, focuses his practice on all aspects of family law matters, including alimony/spousal support, divorce, equitable distribution, marital agreements, child support and child custody. He is a former deputy district attorney for the Bucks County, Pennsylvania, District Attorney's office, where he served as chief of the Asset Forfeiture Unit and was assigned to the office's gangs, guns, and drug unit. He also acted as the office's community liaison for gang violence. After graduating from George Washington with a degree in criminal justice, Mr. Tanker went on to earn his juris doctor from Widener University School of Law, where he was a member of the Trial Advocacy Team. His email address is adam.tanker@obermayer.com and his phone number is 215-606-0754.



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Get to Know a Member: Erin Elizabeth Patton

1. Full name?

Erin Elizabeth Patton

2. What inspired you to pursue a career in family law?

As cheesy as it sounds, I chose family law because I wanted to help people going through difficult times in life. Family law clients are generally good people going through tough times and I like being someone to help make the tough times a bit more manageable.

3. How long have you been practicing law, and where has your career taken you so far?

I have been practicing for 10 years. While in law school, I interned for Judge Platt and the Chester County Master's Unit. Since being admitted to practice law, I have practiced family law exclusively. I started as an associate for a well-respected solo practitioner before moving on to a boutique family law firm in Chester County. This year, my colleague Melissa Iacobucci and I decided to open our own firm, Patton & Iacobucci Family Law.

4. Why did you choose to establish your practice in Chester County?

Chester County is home; I have lived here my entire life. Since I was lucky enough to clerk for Judge Platt and the Chester County Master's Unit during law school, I decided not to leave.

5. Who has been the biggest influence or mentor in your career?

Shelly Grossman. She has mentored me since we met when I was her intern at the Master's Unit. After she left the county, I was blessed with the opportunity to work for Shelly prior to starting my own firm. While I miss having her down the hall from me, she continues to answer my (at least weekly) phone calls with questions on various topics and legal strategies. I consider Shelly not only a great mentor (she is an invaluable resource who knows the law better than most), but also a good friend.

6. What do you find most rewarding about working in family law?

Making a difference in the daily lives of my clients and their children.

7. What's the most challenging part of being a family lawyer — and how do you handle it?

The most challenging thing is taking on the stress of others. I try to remind myself that I am not a magician and I



Erin Elizabeth Patton

can't fix all of the problems all of the time.

8. What are your biggest “pet peeves” in family law practice?

Honestly, the lack of civility from other attorneys. While it is not common and I generally find that most attorneys are courteous and easy to work with, contentious cases are much more difficult when there is a lack of civility between counsel.

9. What's one lesson you've learned from your clients that's stuck with you?

Listening often matters just as much as advice. Most people value being heard as much as being helped and need validation and compassion in addition to legal strategy.

10. If you weren't a lawyer, what other career could you see yourself in?

I think I'd enjoy being an English or History teacher. I have a love of learning and passing knowledge on to others. Plus, having summers off to spend with my kids would be a dream.

11. What do you enjoy most about living and working in Chester County?

What don't I enjoy about living and working in Chester County? As far as living goes, Chester County is beautiful (a great mix of small towns and rural areas), close enough to drive to both the beach in the spring and summer or to the mountains in the fall and winter, and, most of all, my family lives here. As for working in Chester County, I

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think the Chester County Family Law bar is close-knit and a great group to work with collaboratively as opposing counsel or, in some cases, as co-counsel.

12. What's your favorite local restaurant or hidden gem in Chester County?

Anyone who knows me knows my love for Carlino's. I have never ordered something that I didn't enjoy and am physically unable to walk by without stopping in for at least a coffee! You will likely find their gelato in my office freezer in the summer and their old-fashioned chicken soup in my refrigerator during the winter months.

13. Describe your idea of a perfect vacation. Where are you going, and what are you doing?

My perfect vacation would be to an island in the Caribbean with my husband and daughters, ideally at an all-inclusive that makes a great margarita!

14. What book has had the biggest impact on you — professionally or personally?

The Little Prince.

15. If you could rewatch one TV series from start to finish, what would it be and why?

The Office. I have rewatched more times than I can count and laugh at every single episode.

16. What movie do you never get tired of watching?

My Cousin Vinny!

17. Do you have a favorite quote, mantra, or piece of advice you live by?

Don't sweat the small stuff – life is too short.

18. Tell us one thing about yourself that might surprise people.

I am not very artistic, but I love scrapbooking.

19. What was your very first job?

In my teens I took horseback riding lessons and rode competitively at a local farm. My first job was giving pony rides to children at fairs and cleaning horse stalls in exchange for extra riding lessons.

20. What's one skill or hobby you wish you had more time to develop?

Horseback riding

21. What's your go-to comfort food?

Grilled cheese and tomato soup.

22. If Hollywood made a movie about your life, who would you want to play you?

Scarlet Johanson.

23. How would you describe yourself in three words?

Empathetic, passionate and detail oriented.

24. What's one cause or community effort you're passionate about outside of work?

Helping those less fortunate in various ways. My mom has volunteered at the City Gate Mission in Coatesville where she cooks for the homeless on a monthly basis for as long as I can remember; I enjoy going with her to help cook and serve when I am able. I have also volunteered to provide pro bono legal services through the Access to Justice Program at the Chester County Bar Association for as long as I have practiced.

25. When you're not practicing law, how do you like to spend your time?

I like to spend as much time as I can making memories with my daughters. Time flies and I never want to look back and I never want to look back and have regrets.

