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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1338 Session of  
2015

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INTRODUCED BY SNYDER, BISHOP, McNEILL, THOMAS, YOUNGBLOOD,  
COHEN, MATZIE, DeLUCA, GIBBONS, MURT, DONATUCCI, ROZZI,  
BROWNLEE, PASHINSKI, KORTZ AND BIZZARRO, JUNE 16, 2015

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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 16, 2015

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in mediation, further providing for  
3 mediation programs and for fees and costs; and in child  
4 custody, further providing for parenting plan.

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

7 Section 1. Sections 3901 and 3902 of Title 23 of the  
8 Pennsylvania Consolidated Statutes are amended to read:

9 § 3901. Mediation programs.

10 (a) Establishment.--A court [may] shall establish a  
11 mediation program for actions brought under this part or Chapter  
12 53 (relating to custody).

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

1 [(c) Local rules.--

2 (1) The court shall adopt local rules for the  
3 administration of the mediation program to include rules  
4 regarding qualifications of mediators, confidentiality and  
5 any other matter deemed appropriate by the court.

6 (2) The court shall not order an orientation session or  
7 mediation in a case where either party or child of either  
8 party is or has been a subject of domestic violence or child  
9 abuse at any time during the pendency of an action under this  
10 part or within 24 months preceding the filing of any action  
11 under this part.]

12 (d) [Model guidelines] Regulations established.--

13 (1) The Supreme Court shall [develop model guidelines  
14 for implementation of this section] adopt rules for the  
15 administration of the mediation program, including rules  
16 regarding qualifications of mediators, confidentiality and  
17 any other matters deemed appropriate by the Supreme Court  
18 and shall consult with experts on mediation and domestic  
19 violence in this Commonwealth in the development thereof. The  
20 effective date of this chapter shall not be delayed by virtue  
21 of this subsection.

22 (2) The Supreme Court shall establish a premediation  
23 screening procedure to identify factors that may adversely  
24 affect the safety of a party, ability of a party to  
25 competently participate in mediation or the capacity of a  
26 party to voluntarily consent to a proposed agreement offered  
27 as a result of the mediation. The factors shall include:

28 (i) Domestic violence.

29 (ii) Child abuse.

30 (iii) Neglect of a minor child.

1           (iv) Acts or threats of coercion or duress.

2           (v) Abuse of alcohol or of a controlled substance,  
3           as defined in the act of April 14, 1972 (P.L.233, No.64),  
4           known as the Controlled Substance, Drug, Device and  
5           Cosmetic Act.

6           (vi) Mental illness.

7           (3) The court may not order an orientation session or  
8           mediation in a case if either party or child of either party  
9           is or has been a subject of domestic violence or child abuse  
10           at any time during the pendency of an action under this part  
11           or within 24 months preceding the filing of any action under  
12           this part. Nothing in this chapter shall be construed to  
13           prohibit the court from requiring mediation if the court  
14           finds that any of the other factors under paragraph (2) are  
15           present, except that, if the court makes a finding, the court  
16           may choose not to order mediation under this chapter.

17           (e) Results of mediation.--

18           (1) If the parties are unable to reach an agreement  
19           through the mediation program, the mediator may submit a  
20           recommendation to the court as to the custody of any minor  
21           child, relative to the best interests of the child. Before  
22           submitting the recommendation to the court, the mediator must  
23           first provide each party and the party's representatives,  
24           including attorneys, counsel or guardians ad litem for a  
25           minor child, with a written copy of the recommendations. The  
26           court shall verify at the hearing that each party and the  
27           party's representatives have received the recommendations in  
28           writing.

29           (2) In addition to the recommendation under paragraph  
30           (1), the mediator may recommend that the court order a mental

1 examination of any party involved as established by  
2 regulation.

3 (3) Notwithstanding paragraphs (1) and (2), a mediator  
4 may not reveal any information any party disclosed during  
5 mediation sessions, except that a mediator may communicate  
6 credible information received relative to the criteria under  
7 subsection (d)(2).

8 § 3902. Fees and costs.

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

13 (b) Assessment of additional costs.--[The court may assess  
14 additional costs of mediation on either party.] Mediation  
15 services authorized under this chapter shall be assessed at an  
16 hourly cost that is reasonable with regard to each party's  
17 financial circumstances on a uniform sliding scale as  
18 established by the Supreme Court. If one party's ability to pay  
19 for the services significantly exceeds that of the other party,  
20 the court may order that party to pay for some or all expenses  
21 of the other party. The Commonwealth may not provide or  
22 supplement payment for mediation services, except that:

23 (1) The Supreme Court may allocate a portion of the  
24 Supreme Court's budget for administrative costs associated  
25 with establishing and implementing mediation programs.

26 (2) The use of a gift or donation to the Commonwealth to  
27 fund mediation services or programs shall not be considered a  
28 violation of this subsection.

29 Section 2. Section 5331(a) of Title 23 is amended and the  
30 section is amended by adding a subsection to read:

1 § 5331. Parenting plan.

2 (a) Purpose.--In a contested custody proceeding, the court  
3 [may] shall require the parties to submit parenting plans for  
4 the care and custody of the child to aid the court in resolving  
5 the custody dispute. A parenting plan and the position of a  
6 party as set forth in that parenting plan shall not be  
7 admissible as evidence by another party.

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9 (d) Results.--If each party involved in a contested custody  
10 proceeding is unable to agree upon a parenting plan under this  
11 chapter, the court shall order each party to attend mediation  
12 pursuant to Chapter 39 (relating to mediation) unless otherwise  
13 prohibited by statute or regulation.

14 Section 3. This act shall take effect in 60 days.