

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 169 Session of 2021

INTRODUCED BY DeLUCA, HOWARD, HILL-EVANS, BOBACK, CIRESI, JAMES, LONGIETTI, PASHINSKI, FREEMAN AND WEBSTER, JANUARY 14, 2021

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 14, 2021

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
 2 Consolidated Statutes, in support of the indigent, further
 3 providing for definitions and for relatives' liability and
 4 procedure.

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

7 Section 1. Sections 4602 and 4603 of Title 23 of the
 8 Pennsylvania Consolidated Statutes are amended to read:

9 § 4602. Definitions.

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

13 "Court." A court of common pleas and the Philadelphia
 14 Municipal Court.

15 "Department." The Department of [Public Welfare] Human
 16 Services of the Commonwealth.

17 § 4603. Relatives' liability; procedure.

18 (a) Liability.--

19 (1) [Except as set forth in paragraph (2), all] All of

1 the following individuals have the responsibility to care for
2 and maintain or financially assist an indigent person,
3 regardless of whether the indigent person is a public charge:

4 (i) The spouse of the indigent person.

5 (ii) A child of the indigent person.

6 (iii) A parent of the indigent person.

7 (2) Paragraph (1) [does not apply in any of] shall only
8 apply in the following cases:

9 [(i) If an individual does not have sufficient
10 financial ability to support the indigent person.

11 (ii) A child shall not be liable for the support of
12 a parent who abandoned the child and persisted in the
13 abandonment for a period of ten years during the child's
14 minority.]

15 (i.1) In the case of an indigent individual who has
16 applied for or is receiving medical assistance for long-
17 term services and supports, including nursing facility
18 and home and community-based services, when an individual
19 under paragraph (1) has received or transferred any of
20 the following owned by an indigent individual or spouse
21 of an indigent individual for less than fair market value
22 within five years of the date the indigent individual
23 applies for or receives long-term services and supports:

24 (A) An asset.

25 (B) A resource, as defined in 55 Pa. Code §
26 178.2 (relating to definitions).

27 (C) Income.

28 (D) Real or personal property.

29 (i.2) In the case of an indigent individual who has
30 applied for or is receiving medical assistance for long-

1 term services and supports, including nursing facility
2 and home and community-based services, when an individual
3 under paragraph (1) does not cooperate with the
4 department, a nursing facility, a provider or other
5 person in the medical assistance eligibility process for
6 an indigent individual.

7 (3) Paragraph (1) does not apply to an individual who
8 has received or transferred an asset, resource, income or
9 real property or personal property under 42 U.S.C. § 1396p(c)
10 (2)(C) (relating to liens, adjustments and recoveries, and
11 transfers of assets) or 55 Pa. Code § 178.104(e)(3) (relating
12 to disposition of assets and fair consideration provisions
13 for transfers on or after July 30, 1994).

14 (b) Amount.--

15 (1) Except as set forth in paragraph (2), the amount of
16 liability shall be set by the court in the judicial district
17 in which the indigent person resides.

18 (2) For medical assistance for [the aged other than
19 public nursing home care,] long-term services and supports,
20 including nursing home facility and home and community-based
21 services, as provided in section 401 of the act of June 13,
22 1967 (P.L.31, No.21), known as the [Public Welfare] Human
23 Services Code, the following apply:

24 (i) Except as set forth in subparagraph (ii), the
25 amount of liability shall, during any 12-month period, be
26 the lesser of:

27 (A) six times the excess of the liable
28 individual's average monthly income over the amount
29 required for the reasonable support of the liable
30 individual and other persons dependent upon the

1 liable individual; or

2 (B) the cost of the medical assistance for [the
3 aged] long-term services and supports, including
4 nursing home facility and home and community-based
5 services.

6 (ii) The department may, by reasonable regulations,
7 adjust the liability under subparagraph (i), including
8 complete elimination of the liability, at a cost to the
9 Commonwealth not exceeding those funds certified by the
10 Secretary of the Budget as available for this purpose.

11 (c) Procedure.--A court has jurisdiction in a case under
12 this section upon petition of:

13 (1) an indigent person; or

14 (2) any other person or public body or public agency
15 having any interest in the care, maintenance or assistance of
16 such indigent person.

17 (d) Contempt.--

18 (1) If an individual liable for support under this
19 section fails to comply with an order under this section, the
20 court shall schedule a contempt hearing. At the hearing, if
21 the court determines that the individual liable for support
22 has intentionally failed to comply with the order, the court
23 may hold the individual in contempt of court and may sentence
24 the individual to up to six months' imprisonment.

25 (2) This subsection applies regardless of whether the
26 indigent person is confined in a public institution.

27 Section 2. This act shall take effect immediately.