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# Pennsylvania Family Law Update on Child Custody Modifications, Supervised Visitation, and Kayden's Law

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A recent Pennsylvania Superior Court decision makes clear that a child custody order may not automatically convert supervised custody to unsupervised custody in cases where there is risk of harm or abuse to the child, without renewed judicial review. For parents involved in family law disputes, custody litigation, or a pending custody modification, *Pearson v. Pearson* highlights how Pennsylvania family courts must keep child safety at the center of custody determinations and reassess risk before expanding a parent's custodial rights.

## What is Kayden's Law?

Kayden's Law, formally known as the Keeping Children Safe from Family Violence Act, took effect in Pennsylvania in August 2024. The statute was enacted to ensure that courts give greater weight to child safety in child custody disputes involving allegations of abuse, domestic violence, and other family law concerns. It is named after Kayden Mancuso, a seven-year-old who was tragically killed by her father during unsupervised court-ordered visitation despite a documented history of violence. In response, the law requires courts to give substantial weighted consideration to safety-related custody factors rather than treating safety as just one consideration among many.

Kayden's law made comprehensive changes to the way the courts handle child custody, as it amended several provisions of the Pennsylvania's Child Custody Act. Kayden's Law "now requires the court to give 'substantial weighted consideration' to, *inter alia*, the 'safety of the child[.]'"[1] The safety of the child is defined broadly to include 'the physical, emotional and psychological well-being of the child,' and any '[v]iolent or assaultive behavior committed by a party.'"[2]

The centerpiece of Kayden's Law is the amendment to 23 Pa.C.S. § 5328(a), which now requires courts to give substantial weighted consideration to four specific factors that affect the safety of the child:

1. Which party is more likely to ensure the safety of the child;
2. The present and past abuse committed by a party or member of the party's household, which may include past or current protection from abuse orders where there has been a finding of abuse;
3. The information set forth in § 5329.1(a) relating to consideration of child abuse and involvement with protective services; and
4. Violent or assaultive behavior committed by a party.

Critically, under the amended 23 Pa.C.S. § 5323(e.1), if a court finds by a preponderance of the evidence that there is an ongoing risk of abuse of the child, there is a rebuttable presumption that the court shall only allow supervised physical custody between the child and the party who poses the risk of abuse.

If, after considering the foregoing factors, the court finds either: (1) a history of abuse of the child by a party, (2) a history of abuse of a household member by a party, or (3) a present risk of harm to the child, or (4) a present risk of harm to an abused party an abused party, but decides to award "any form of custody to a party who committed the abuse or *who has a household member who committed the abuse*, the court **shall** include in the custody order:

1. The safety conditions, restrictions or safeguards as reasonably necessary to protect the child or the abused party.
2. The reason for imposing the safety conditions, restrictions or safeguards, including an explanation why the safety conditions, restrictions or safeguards are in the best interest of the child or the abused party.
3. The reasons why unsupervised physical custody is in the best interest of the child if the court finds that past abuse was committed by a party."[3]

Notably, these considerations apply not only to the abuse of the child at the center of the custody dispute by a party,

typically a parent, but also to abuse committed upon or by other members of a party's household. This strengthens protections by requiring courts to consider not only a history of abuse by a party against the child, but to wholistically review the living situation of the child and any abusive behavior occurring within the household.[4]

In addition, if supervised contact is ordered, upon petition of the party a review of the risk of harm and need for continued supervision is required.[5] The courts are given substantial discretion to impose a variety of safety conditions, such as both professional and nonprofessional supervised physical custody, batterer's intervention, limitations on legal custody, and any other safety conditions needed to ensure the safety of the child or a household member.[6]

Moreover, where the court finds the child is at risk for ongoing abuse, the court must "only allow supervised physical custody between the child and the party who poses the risk of abuse."

Kayden's Law also strengthened the court's authority to impose safety conditions when there is a history of abuse or a present risk of harm. If supervised contact is ordered, the Child Custody Act requires a later review of the risk of harm and the need for continued supervision upon petition of a party. Since Kayden's law has been in effect since 2024, we are now seeing how the courts are applying it.

Kayden's Law was further updated by Act of June 30, 2025, P.L. 18, No. 11, effective August 29, 2025, which made additional amendments to § 5328. Complementing Kayden's Law, Pa.R.C.P. No. 1915.3-3, effective July 1, 2025, implements § 5329.1 and requires courts in all custody actions to determine whether any participant has a history of child abuse or involvement with protective services. Courts may now subpoena county agencies to provide witnesses to testify about disclosed child abuse history, adding a procedural mechanism to surface abuse information at every custody proceeding.

## How Are Courts Applying Kayden's Law?

### *What is Substantial Weighted Consideration?*

Recent case law regarding the application of Kayden's law has focused on whether trial courts are giving the four safety factors the elevated weight the statute requires. For example, in *Cerroni v. Cerroni,* the trial court had expressly assigned only "moderate" weight to the safety factors and "little" weight to the abuse factors.[7] The Superior Court held this was a misapplication of Kayden's Law as to the safety factor, which the trial court had found weighed in favor of one party.[8] The court remanded with instructions to reweigh, noting that if the reweighing shifts the balance, the custody order must be modified accordingly.[9] The court drew an important distinction, however, finding that where the safety factors were found to be neutral, or not favoring either party, failing to give them substantial weight did not affect the outcome.[10]

By contrast, in *Sposato v. Sposato*, the Superior Court affirmed a trial court's order where the court had conducted a thorough written analysis of all § 5328(a) factors, including giving substantial weighted consideration to the Kayden's Law factors, and ultimately found no credible evidence of abuse supported the allegations.[11] Similarly, in *M. E. P. v. M. C. D.*, the court affirmed where the trial court on the record explained its findings on each factor and found no evidence that the child was unsafe.[12]

### *How Does the Rebuttable Presumption Operate?*

In *L.W. v. C.H.*, the trial court strictly applied the rebuttable presumption under § 5323(e.1).[13] Based on its crediting of the mother's testimony regarding the father's history of domestic violence, the trial court found the presumption applied and granted only supervised physical custody to the father, over the custody evaluator's recommendation of no visitation at all.[14] The Superior Court affirmed the decision.[15]

In *Schanz v. Hunley*, the Superior Court clarified an important limit on the rebuttable presumption: § 5323(e.1) does not mandate a finding of ongoing risk of abuse to order supervised custody.[16] The court explained that even where a trial court does not find an ongoing risk of abuse, it can still order professional supervised physical custody based on its evaluation of the § 5328 custody factors.[17]

In *Siders v. Critchlow*, the trial court complied with Kayden's Law by limiting the father to only supervised partial physical custody given concerns for the child's safety as part of its best-interests analysis under the statutory custody factors.[18] The Superior Court affirmed, finding the trial court had adequately explained its compliance with the law's substance.[19]

### *Is Automatic Modification Allowed?*

In *Pearson*, the Superior Court reviewed a trial court order awarding the parties shared legal custody and the father supervised physical custody of their minor child.[20] The order required the father to complete anger management and therapy before he could exercise unsupervised custody.[21] Once those conditions were satisfied, the order automatically converted his custody to unsupervised partial physical custody.[22]

On appeal, the mother argued that the trial court could not authorize that future change in custody without first conducting an independent review of the custody factors at the time the change would take effect.[23] In other words, the issue was whether a court may permit supervised custody to become unsupervised automatically based solely on a parent's completion of specified conditions.

The Superior Court rejected that approach.[24] It explained that the requirement to consider the custody factors in 23 Pa.C.S. § 5328(a) applies not only to an initial custody award, but also to later changes in custody.[25] The court further emphasized that, under Kayden's Law, trial courts must give "***substantial weighted consideration***" to the factors that affect child safety.[26]

For that reason, the court held that a custody order may not provide for a future modification of custody without further court involvement.[27] The portions of the order that allowed custody to change automatically at a later date violated sections 5323(a), 5328(a), and 5338(a) of the Child Custody Act.[28]

The court also made clear what must happen before the father's supervised custody could be terminated. The father must file a petition for review, and the trial court must conduct a hearing to evaluate the risk of harm to the child and whether continued supervision remains necessary.[8][9]

In sum, *Pearson* confirms that Kayden's Law is already reshaping how Pennsylvania courts approach custody modifications involving safety concerns. Trial courts may not allow future changes from supervised to unsupervised custody to occur automatically based only on a parent's completion of counseling, treatment, or similar conditions. Instead, any such change requires renewed judicial review, consideration of the statutory custody factors, and a current assessment of the risk of harm.

## How Does Kayden's Law Affect Your Custody Rights?

For parents, grandparents, and other parties involved in child custody litigation, the practical takeaway is straightforward: when child safety is at issue, expanded custody requires a new court review – not an automatic transition.

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*Leech Tishman's **Family Law** Practice Group regularly assists families facing custody disputes, supervised visitation issues, or petitions to modify custody. For more information about how this decision may affect your family law matter, please contact **Gregory F. Suher** and **Bridget M. Synan**, attorneys in Leech Tishman's **Family Law** Practice.*

[1] Velasquez v. Miranda, 321 A.3d 876, 886, fn 6 (Pa. 2024) (quoting 23 Pa.C.S. §§ 5322(a), 5328(a)).
[2] Id.
[3] 23 Pa.C.S.A. § 5323(e)(1) (emphasis added).
[4] See id.
[5] 23 Pa.C.S.A. § 5323(e)(2).
[6] Id.
[7] 350 A.3d 180 (Table), 2025 WL 3002896 (Pa. Super. Ct. Oct. 27, 2025), at *5.
[8] Id.
[9] Id.
[10] Id.
[11] 350 A.3d 147 (Table), 2025 WL 2887174 (Pa. Super. Ct. Oct. 10, 2025), at *18.
[12] 352 A.3d 1003 (Table), 2025 WL 3722791 (Pa. Super. Ct. Dec. 23, 2025), at *4.
[13] 354 A.3d 505 (Table), 2026 WL 125792 (Pa. Super. Ct. Jan. 16, 2026).
[14] Id.
[15] Id. at 505-06.
[16] 2026 WL 1031365 (Pa. Super. Ct. April 16, 2026).
[17] Id., at *7.
[18] 346 A.3d 369 (Table), 2025 WL 2423222 (Pa. Super. Ct. Aug. 21, 2025).
[19] Id., at *13.
[20] 353 A.3d 816 (Pa. Super. Ct. 2026)
[21] Id. at 818.
[22] Id. at 821.
[23] Id.
[24] Id. at 822.
[25] Id.
[26] Id. at 823 (emphasis original).
[27] Id. at 824.
[28] Id.