

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 309 Session of
2003

INTRODUCED BY TRUE, PERZEL, THOMAS, DeWEESE, ADOLPH, ALLEN,
BAKER, BALDWIN, BEBKO-JONES, BROWNE, BUNT, CAWLEY, CLYMER,
COY, CREIGHTON, CURRY, FRANKEL, GEIST, GEORGE, GINGRICH,
GOODMAN, HARHAI, HARHART, HENNESSEY, HICKERNELL, KELLER,
KIRKLAND, LAUGHLIN, LEACH, LEDERER, LEH, MELIO, R. MILLER,
MUNDY, NAILOR, O'NEILL, ROHRER, RUBLEY, SCAVELLO, SHANER,
STURLA, SURRA, E. Z. TAYLOR, J. TAYLOR, TIGUE, WATSON, WEBER,
WILT, YOUNGBLOOD, DeLUCA, JAMES, S. MILLER, HARPER, PISTELLA,
ROSS, CRAHALLA, CIVERA, HORSEY, WASHINGTON, TANGRETTI,
SAMUELSON, BLAUM AND SOLOBAY, FEBRUARY 18, 2003

SENATOR ORIE, AGING AND YOUTH, IN SENATE, AS AMENDED,
JUNE 23, 2004

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, ~~providing for foster care; and further~~ <—
3 ~~providing for investigating performance of county agency, for~~
4 ~~annual reports to Governor and General Assembly and for~~
5 ~~reports to department and coroner.~~ FURTHER PROVIDING FOR <—
6 DEFINITIONS, FOR RELEASE OF INFORMATION IN CONFIDENTIAL
7 REPORTS, FOR INVESTIGATING PERFORMANCE OF COUNTY AGENCY, FOR
8 ANNUAL REPORTS TO THE GOVERNOR AND GENERAL ASSEMBLY, FOR
9 SERVICES FOR PREVENTION, INVESTIGATION AND TREATMENT OF CHILD
10 ABUSE AND FOR REPORTS TO DEPARTMENT OF PUBLIC WELFARE AND
11 CORONER.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Title 23 of the Pennsylvania Consolidated~~ <—
15 ~~Statutes is amended by adding a chapter to read:~~

16 CHAPTER 57

17 FOSTER CARE

1 ~~Sec.~~

2 ~~5701. Definitions~~

3 ~~5702. Placement.~~

4 ~~§ 5701. Definitions.~~

5 ~~The following words and phrases when used in this chapter~~
6 ~~shall have the meanings given to them in this section unless the~~
7 ~~context clearly indicates otherwise:~~

8 ~~"Department." The Department of Public Welfare of the~~
9 ~~Commonwealth.~~

10 ~~§ 5702. Placement.~~

11 ~~When the department places a child with foster parents, it~~
12 ~~shall give a preference to individuals who are related to the~~
13 ~~child by consanguinity, affinity or adoption.~~

14 ~~Section 2. Sections 6343, 6347 and 6367 of Title 23 are~~
15 ~~amended by adding subsections to read:~~

16 SECTION 1. SECTION 6303(A) OF TITLE 23 OF THE PENNSYLVANIA <—
17 CONSOLIDATED STATUTES IS AMENDED BY ADDING A DEFINITION TO READ:

18 § 6303. DEFINITIONS.

19 (A) GENERAL RULE.--THE FOLLOWING WORDS AND PHRASES WHEN USED
20 IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
21 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

22 * * *

23 "NEAR FATALITY." AN ACT THAT, AS CERTIFIED BY A PHYSICIAN,
24 PLACES A CHILD IN SERIOUS OR CRITICAL CONDITION.

25 * * *

26 SECTION 2. SECTION 6340(A) OF TITLE 23 IS AMENDED BY ADDING
27 A PARAGRAPH TO READ:

28 § 6340. RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS.

29 (A) GENERAL RULE.--REPORTS SPECIFIED IN SECTION 6339
30 (RELATING TO CONFIDENTIALITY OF REPORTS) SHALL ONLY BE MADE

1 AVAILABLE TO:

2 * * *

3 (16) A MEMBER OF A CHILD FATALITY OR NEAR FATALITY
4 REVIEW TEAM UNDER SECTION 6365(D) (RELATING TO SERVICES FOR
5 PREVENTION, INVESTIGATION AND TREATMENT OF CHILD ABUSE),
6 EXCEPT THAT INFORMATION THAT COULD COMPROMISE ANY PENDING
7 CRIMINAL PROCEEDING SHALL NOT BE SHARED WITH MEMBERS OF A
8 CHILD FATALITY OR NEAR FATALITY REVIEW TEAM.

9 * * *

10 SECTION 3. SECTIONS 6343, 6347, 6365 AND 6367 OF TITLE 23
11 ARE AMENDED BY ADDING SUBSECTIONS TO READ:

12 § 6343. Investigating performance of county agency.

13 * * *

14 (c) Department reviews and reports.--

15 (1) The department shall conduct child ~~death~~ FATALITY <—
16 AND NEAR FATALITY reviews and provide written reports on any
17 child ~~death~~ FATALITY OR NEAR FATALITY where child abuse is <—
18 suspected and where a county agency has investigated child
19 abuse or neglect reports related to the child or to other
20 children of either of the child's parents or has provided
21 protective or general protective services involving the child
22 or other children of either of the child's parents. Agency
23 performance, including, but not limited to, the investigation
24 of prior child abuse or neglect reports, assessment of risk,
25 acceptance of the family for services, provision of services,
26 case closure and compliance with this chapter and related
27 regulations, must be analyzed in each review and report. An
28 explanation regarding the nature and extent of the review
29 shall be provided in each report.

30 (2) On and after the effective date of this paragraph,

1 the child death FATALITY OR NEAR FATALITY review and report <—
2 shall be completed no later than six months following the
3 date of the oral report of suspected child abuse to the
4 department. A copy of each child death FATALITY AND NEAR <—
5 FATALITY report shall be maintained in the appropriate
6 Harrisburg office of the department.

7 (3) This section shall not be construed to preclude the
8 department from reviewing and providing a written report on
9 any child death FATALITY OR NEAR FATALITY where child abuse <—
10 is suspected or confirmed and the agency had no prior
11 involvement with the child or the child's family.

12 (4) Within 60 days of receipt of a report under section
13 6367(c)(4)(iv) (relating to reports to department and
14 coroner), the department shall review the findings and
15 recommendations of the report and submit a written response
16 to the county agency. By May 1, the department shall prepare
17 and transmit to the Governor and General Assembly an annual
18 summary of the reports and responses under this paragraph.

19 § 6347. Annual reports to Governor and General Assembly.

20 * * *

21 (c) Reports on child deaths FATALITIES AND NEAR <—
22 FATALITIES.--The department shall prepare and transmit annually
23 to the Governor and to the General Assembly a report on its
24 findings and recommendations regarding its child death FATALITY <—
25 AND NEAR FATALITY reviews and reports conducted under section
26 6343(c) (relating to investigating performance of county
27 agency). The annual report shall include, but not be limited to,
28 the following:

29 (1) A breakdown of child deaths FATALITIES AND NEAR <—
30 FATALITIES reviewed versus those not reviewed and a

discussion explaining the lack of reviews for some child
~~deaths~~ FATALITIES AND NEAR FATALITIES.

<—

(2) The regulatory compliance problems identified in the
course of the child ~~death~~ FATALITY AND NEAR FATALITY reviews
and a discussion outlining the actions taken by the
department and the county agencies.

<—

(3) The practice or decision-making problems identified
in the course of the child ~~death~~ FATALITY AND NEAR FATALITY
reviews and a discussion outlining the actions taken by the
department and the county agencies.

<—

(4) The good practice, effective decision making and
regulatory compliance identified in the course of the child
~~death~~ FATALITY AND NEAR FATALITY reviews.

<—

(5) The numbers of license revocations, provisional
licenses and full licenses given to county agencies reviewed
under section 6343(c).

(6) Recommendations for administrative, regulatory or
statutory change, including improvement of the department's
monitoring and inspection process, necessary to fulfill the
purposes of this chapter.

~~§ 6367. Reports to department and coroner.~~

<—

~~* * *~~

~~(c) Child death review team and written report.~~

~~(1) If a child dies as a result of suspected child~~
~~abuse, a child death review team shall be convened by the~~
~~county agency in the county where the abuse occurred no later~~
~~than 14 business days from receipt of the oral report to the~~
~~department of the suspected abuse. The team shall consist of~~
~~the following individuals, who must have experience in~~
~~working with children and families:~~

- ~~(i) A staff person from the county agency.~~
- ~~(ii) A member of the advisory committee of the county agency.~~
- ~~(iii) A staff person from the department.~~
- ~~(iv) A representative of a private or public human services agency.~~
- ~~(v) A health care provider.~~
- ~~(vi) A representative of a local school or educational program.~~
- ~~(vii) A representative of law enforcement.~~
- ~~(viii) A lawyer trained in legal representation of children or individual trained as a court appointed special advocate for children.~~

§ 6365. SERVICES FOR PREVENTION, INVESTIGATION AND TREATMENT OF CHILD ABUSE. <—

* * *

(D) CHILD FATALITY AND NEAR FATALITY REVIEW TEAM AND WRITTEN REPORT.--

(1) A CHILD FATALITY OR NEAR FATALITY REVIEW TEAM SHALL BE CONVENED IN CASES WHERE A CHILD DIES OR NEARLY DIES AS A RESULT OF SUBSTANTIATED CHILD ABUSE OR WHEN THE COUNTY AGENCY HAS NOT MADE A STATUS DETERMINATION WITHIN 30 DAYS. THE TEAM SHALL CONVENE NO LATER THAN 31 DAYS FROM THE RECEIPT OF THE ORAL REPORT TO THE DEPARTMENT OF THE SUSPECTED CHILD ABUSE. THE COUNTY AGENCY SHALL CONVENE THE CHILD FATALITY OR NEAR FATALITY REVIEW TEAM IN THE COUNTY WHERE THE ABUSE OCCURRED AND IN ANY COUNTY WHERE THE CHILD RESIDED WITHIN THE 12 MONTHS PRECEDING THE FATALITY OR NEAR FATALITY. THE TEAM SHALL CONSIST OF THE FOLLOWING INDIVIDUALS, WHO MUST HAVE EXPERIENCE IN WORKING WITH CHILDREN AND FAMILIES:

1 (I) A STAFF PERSON FROM THE COUNTY AGENCY.

2 (II) A MEMBER OF THE ADVISORY COMMITTEE OF THE
3 COUNTY AGENCY.

4 (III) A REPRESENTATIVE OF A PRIVATE OR PUBLIC HUMAN
5 SERVICES AGENCY.

6 (IV) A HEALTH CARE PROVIDER.

7 (V) A REPRESENTATIVE OF A LOCAL SCHOOL OR
8 EDUCATIONAL PROGRAM.

9 (VI) A REPRESENTATIVE OF LAW ENFORCEMENT.

10 (VII) A LAWYER TRAINED IN LEGAL REPRESENTATION OF
11 CHILDREN OR INDIVIDUAL TRAINED AS A COURT-APPOINTED
12 SPECIAL ADVOCATE FOR CHILDREN.

13 (VIII) A MENTAL HEALTH SERVICE PROVIDER.

14 (IX) A COUNTY MULTIDISCIPLINARY TEAM COORDINATOR.

15 (X) A CHILDREN'S ADVOCACY CENTER TEAM COORDINATOR,
16 IF PRESENT IN THE COMMUNITY.

17 (2) ~~A member~~ ALL MEMBERS of the team shall assist in <—
18 carrying out the purpose of the team by doing all of the
19 following:

20 (i) Maintaining confidentiality of information under
21 section 6340 (relating to release of information in
22 confidential reports).

23 (ii) Providing and discussing relevant case-specific
24 information from the member's records.

25 (iii) Attending and participating in all meetings
26 and activities as required.

27 (iv) Reviewing and responding to the report under
28 paragraph (4)(iv).

29 (3) The county agency shall appoint an individual to
30 serve as chairman who is not an employee of the county

1 agency.

2 (4) The purposes of the team shall be the following:

3 (i) Review the circumstances of the child's death <—
4 FATALITY OR NEAR FATALITY resulting from suspected OR <—
5 SUBSTANTIATED child abuse.

6 (ii) Review the delivery of services to the abused
7 child and the child's family provided by the county
8 agency in the county OR COUNTIES where the child and <—
9 family have resided WITHIN THE 12 MONTHS PRECEDING THE <—
10 FATALITY OR NEAR FATALITY and services provided to the
11 child and the child's family by other public and private
12 community agencies or professionals. This subparagraph
13 includes law enforcement, mental health services,
14 programs for children with special needs, drug and
15 alcohol programs, local schools and health care
16 providers.

17 (iii) Review the county agency's compliance with
18 statutes and regulations and with relevant policies and
19 procedures of the county agency.

20 (iv) Submit, within 90 days of convening, a written
21 report on its review to the department and designated
22 county officials under section 6340(a)(11). The report
23 shall be made available, upon request, to other
24 individuals to whom confidential reports can MAY be <—
25 released, as specified by section 6340. The report AND <—
26 THE DEPARTMENT'S RESPONSE shall be made available to the
27 public only if identifying information is removed from
28 the contents of the report. The report shall include:

29 (A) Deficiencies in:

30 (I) Compliance with statutes and

1 regulations.

2 (II) Services to children and families.

3 (B) Recommendations for changes at the State and
4 local level on all of the following:

5 (I) Reducing the likelihood of future child
6 ~~deaths~~ FATALITIES AND NEAR FATALITIES directly <—
7 related to child abuse and neglect.

8 (II) Monitoring and inspection of county
9 agencies.

10 (III) Collaboration of community agencies
11 and service providers to prevent child abuse and
12 neglect.

13 § 6367. REPORTS TO DEPARTMENT AND CORONER. <—

14 * * *

15 (C) REPORTS OF CHILD DEATH.--IN ADDITION TO THE CHILD ABUSE
16 REPORT REQUIRED UNDER SUBSECTION (A), A COUNTY AGENCY SHALL
17 IMMEDIATELY PROVIDE INFORMATION TO THE DEPARTMENT REGARDING ITS
18 INVOLVEMENT WITH THE CHILD AND WITH EITHER OF THE CHILD'S
19 PARENTS WHEN A CHILD DIES AND CHILD ABUSE IS SUSPECTED. THE
20 COUNTY AGENCY SHALL INFORM THE DEPARTMENT OF ANY HISTORY OF
21 PROTECTIVE OR GENERAL PROTECTIVE SERVICES PROVIDED TO THE CHILD
22 OR TO OTHER CHILDREN OF EITHER OF THE CHILD'S PARENTS BY THE
23 COUNTY AGENCY UNDER THIS CHAPTER OR BY COURT ORDER AND SHALL
24 INFORM THE DEPARTMENT IF THE CHILD WAS IN THE AGENCY'S CUSTODY
25 AT THE TIME OF THE CHILD'S DEATH. THE COUNTY AGENCY SHALL
26 PROVIDE THIS INFORMATION IN WRITING WITHIN 48 HOURS OF THE ORAL
27 REPORT ON FORMS PROVIDED BY THE DEPARTMENT.

28 Section 3 4. The Department of Public Welfare shall <—
29 promulgate regulations necessary for ~~implementing~~ <—

30 ~~(1) the addition of 23 Pa.C.S. Ch. 57; and~~

1 ~~(2) the amendment of 23 Pa.C.S. §§ 6343, 6347 and 6367.~~
2 IMPLEMENTING THE AMENDMENT OF 23 PA.C.S. §§ 6303(A), 6340(A), <—
3 6343, 6347, 6365 AND 6367.
4 Section 4 5. This act shall take effect as follows: <—
5 ~~(1) The following provisions shall take effect in 60~~ <—
6 ~~days:~~
7 ~~(i) The addition of 23 Pa.C.S. Ch. 57.~~
8 ~~(ii) Section 3(1) of this act.~~
9 ~~(2)~~ (1) The following provisions shall take effect in <—
10 one year:
11 (i) The addition of 23 Pa.C.S. § 6343(c)(4).
12 (ii) The addition of 23 Pa.C.S. § 6347(c).
13 ~~(3)~~ (2) This section and section 3~~(2)~~ 4 of this act <—
14 shall take effect immediately.
15 ~~(4)~~ (3) The remainder of this act shall take effect in <—
16 six months.