

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 549 Session of 2011

INTRODUCED BY FONTANA, KASUNIC, TARTAGLIONE, BROWNE, ORIE, YAW, RAFFERTY, FARNESE, KITCHEN, WARD, BOSCOLA, PIPPY, WILLIAMS, EICHELBERGER, LEACH, MENSCH, VANCE, WAUGH, COSTA, HUGHES, BREWSTER, SOLOBAY, WASHINGTON, GREENLEAF, BAKER, STACK, ARGALL, YUDICHAK, WOZNIAK, BLAKE, ALLOWAY, D. WHITE, DINNIMAN, FERLO AND PICCOLA, FEBRUARY 25, 2011

REFERRED TO AGING AND YOUTH, FEBRUARY 25, 2011

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
 2 Consolidated Statutes, further providing for definitions, for
 3 persons required to report suspected child abuse, for
 4 reporting procedure and for immunity from liability;
 5 providing for false reports of child abuse; and further
 6 providing for release of information in confidential reports,
 7 for school employees, for administration, for investigation,
 8 for responsibilities of county agency for child protective
 9 services and for investigation of reports.

10 The General Assembly of the Commonwealth of Pennsylvania
 11 hereby enacts as follows:

12 Section 1. The definitions of "founded report for school
 13 employee" and "indicated report for school employee" in section
 14 6303 of Title 23 of the Pennsylvania Consolidated Statutes are
 15 amended to read:

16 § 6303. Definitions.

17 (a) General rule.--The following words and phrases when used
 18 in this chapter shall have the meanings given to them in this
 19 section unless the context clearly indicates otherwise:

1 * * *

2 "Founded report for school employee." A report under
3 Subchapter C.1 (relating to students in public and private
4 schools) if there has been any judicial adjudication based on a
5 finding that the victim has suffered serious physical injury,
6 serious bodily injury or sexual abuse or exploitation, including
7 the entry of a plea of guilty or nolo contendere or a finding of
8 guilt to a criminal charge involving the same factual
9 circumstances involved in the allegations of the report.

10 * * *

11 "Indicated report for school employee." A report made under
12 Subchapter C.1 (relating to students in public and private
13 schools) if an investigation by the county agency determines
14 that substantial evidence of serious physical injury, serious
15 bodily injury or sexual abuse or exploitation exists based on
16 any of the following:

- 17 (1) Available medical evidence.
- 18 (2) The county agency's investigation.
- 19 (3) An admission of the acts of abuse by the school
20 employee.

21 * * *

22 Section 2. Sections 6311(c), 6313(c) and 6318(a) of Title 23
23 are amended to read:

24 § 6311. Persons required to report suspected child abuse.

25 * * *

26 (c) Staff members of institutions, etc.--Whenever a person
27 is required to report under subsection (b) in the capacity as a
28 member of the staff of a medical or other public or private
29 institution, school, facility or agency, that person shall
30 immediately notify the person in charge of the institution,

1 school, facility or agency or the designated agent of the person
2 in charge. Upon notification, the person in charge or the
3 designated agent, if any, shall assume the responsibility and
4 have the legal obligation to report or cause a report to be made
5 in accordance with section 6313. In the event that the person
6 suspected of child abuse is the person in charge or the
7 designated agent of the person in charge, the staff member
8 reporting shall have the legal obligation to report or cause a
9 report to be made in accordance with section 6313. This chapter
10 does not require more than one report from any such institution,
11 school, facility or agency.

12 * * *

13 § 6313. Reporting procedure.

14 * * *

15 (c) Written reports.--Written reports from persons required
16 to report under section 6311 shall be made to the appropriate
17 county agency in a manner and on forms the department prescribes
18 by regulation. The written reports shall include the following
19 information if available:

20 (1) The names and addresses of the child and the parents
21 or other person responsible for the care of the child if
22 known, and the child's disability status.

23 (2) Where the suspected abuse occurred.

24 (3) The age and sex of the subjects of the report.

25 (4) The nature and extent of the suspected child abuse,
26 including any evidence of prior abuse to the child or
27 siblings of the child.

28 (5) The name and relationship of the person or persons
29 responsible for causing the suspected abuse, if known, and
30 any evidence of prior abuse by that person or persons.

1 (6) Family composition.

2 (7) The source of the report.

3 (8) The person making the report and where that person
4 can be reached.

5 (9) The actions taken by the reporting source, including
6 the taking of photographs and X-rays, removal or keeping of
7 the child or notifying the medical examiner or coroner.

8 (10) Any other information which the department may
9 require by regulation.

10 * * *

11 § 6318. Immunity from liability.

12 (a) General rule.--A person, hospital, institution, school,
13 facility, agency or agency employee that participates in good
14 faith in the making of a report, whether required or not,
15 cooperating with an investigation, including providing
16 information to a child fatality or near fatality review team,
17 testifying in a proceeding arising out of an instance of
18 suspected child abuse, the taking of photographs or the removal
19 or keeping of a child pursuant to section 6315 (relating to
20 taking child into protective custody), and any official or
21 employee of a county agency who refers a report of suspected
22 abuse to law enforcement authorities or provides services under
23 this chapter, shall have immunity from civil and criminal
24 liability that might otherwise result by reason of those actions
25 except as provided under section 6320 (relating to false reports
26 of child abuse).

27 * * *

28 Section 3. Title 23 is amended by adding a section to read:

29 § 6320. False reports of child abuse.

30 A person who knowingly or intentionally makes a report of

1 child abuse under this chapter that the person knows is false
2 commits a misdemeanor of the second degree.

3 Section 4. Section 6340(a) of Title 23 is amended by adding
4 subsections to read:

5 § 6340. Release of information in confidential reports.

6 (a) General rule.--Reports specified in section 6339
7 (relating to confidentiality of reports) shall only be made
8 available to:

9 * * *

10 (18) The employer of a child-care service employee,
11 service provider, administrator or school employee who has
12 been determined to be the perpetrator of a founded report or
13 an indicated report after final administrative determination
14 by the department. Information permitted to be released to an
15 employer under this paragraph shall be limited to facts
16 related to the employee's suitability in the workplace and to
17 the protection of the health, safety and welfare of the
18 children in the employee's workplace.

19 (19) The Secretary of Education or designee. Information
20 under this paragraph shall be limited to facts related to an
21 employee's suitability in the workplace and to the protection
22 of the health, safety and welfare of the children in the
23 employee's workplace.

24 * * *

25 Section 5. Sections 6352(a), 6353, 6353.1 and 6362(c) of
26 Title 23 are amended by adding subsections to read:

27 § 6352. School employees.

28 (a) Requirement.--

29 (1) Except as provided in paragraph (2), a school
30 employee who has reasonable cause to suspect, on the basis of

1 professional or other training and experience, that a student
2 coming before the school employee in the employee's
3 professional or official capacity is a victim of serious
4 physical injury, serious bodily injury or sexual abuse or
5 sexual exploitation by a school employee shall immediately
6 contact the administrator. The administrator shall
7 immediately make a report under 6353(a) (relating to
8 administration).

9 (2) If the school employee accused of injuring,
10 seriously injuring or sexually abusing or exploiting a
11 student is the administrator, the school employee who has
12 reasonable cause to suspect, on the basis of professional or
13 other training and experience, that a student coming before
14 the school employee in the employee's professional or
15 official capacity is a victim of serious physical injury,
16 serious bodily injury or sexual abuse or sexual exploitation
17 shall immediately report to law enforcement officials [and],
18 the district attorney and the appropriate county agency under
19 section 6353(a) [(relating to administration)].

20 (3) If an administrator is the school employee who
21 suspects injury or abuse, the administrator shall make a
22 report under section 6353(a).

23 [(3)] (4) The school employee may not reveal the
24 existence or content of the report to any other person.

25 * * *

26 § 6353. Administration.

27 (a) Requirement.--An administrator and a school employee
28 governed by section 6352(a) [(2)] (relating to school employees)
29 shall report immediately to law enforcement officials [and],
30 the appropriate district attorney and the appropriate county agency

1 any report of serious physical injury, serious bodily injury or
2 sexual abuse or sexual exploitation alleged to have been
3 committed by a school employee against a student.

4 (b) Report.--A report under subsection (a) shall include the
5 following information:

6 (1) Name, age, address [and], school and disability
7 status of the student.

8 (2) Name and address of the student's parent or
9 guardian.

10 (3) Name and address of the administrator.

11 (4) Name, work and home address of the school employee.

12 (5) Nature of the alleged offense.

13 (6) Any specific comments or observations that are
14 directly related to the alleged incident and the individuals
15 involved.

16 (c) Immunity.--An administrator or school employee who makes
17 a report under subsection (a) shall be immune from civil or
18 criminal liability arising out of the report.

19 (d) Criminal penalty.--An administrator or school employee
20 who willfully violates subsection (a) commits a misdemeanor of
21 the third degree.

22 § 6353.1. Investigation.

23 (a) General rule.--Upon receipt of a report under section
24 6353 (relating to administration), an investigation shall be
25 conducted by law enforcement officials, in cooperation with the
26 district attorney[, and a determination made as to] and the
27 appropriate county agency. Law enforcement officials, in
28 cooperation with the district attorney shall determine what
29 criminal charges, if any, will be filed against the school
30 employee.

1 (b) [Referral to] Coordination with county agency.--

2 (1) [If local law enforcement officials have reasonable
3 cause to suspect on the basis of initial review that there is
4 evidence of serious bodily injury, sexual abuse or sexual
5 exploitation committed by a school employee against a
6 student, local law enforcement officials shall notify the
7 county agency in the county where the alleged abuse or injury
8 occurred for the purpose of the agency conducting an
9 investigation of the alleged abuse or injury.] (Reserved).

10 (2) To the fullest extent possible, law enforcement
11 officials and the county agency shall coordinate their
12 respective investigations. In respect to interviews with the
13 student, law enforcement officials and the county agency
14 shall conduct joint interviews. In respect to interviews with
15 the school employee, law enforcement officials shall be given
16 an opportunity to interview the school employee prior to the
17 employee having any contact with the county agency.

18 (3) The county agency and law enforcement officials have
19 the authority to arrange for photographs, medical tests or X-
20 rays of a student alleged to have been abused or injured by a
21 school employee. The county agency and law enforcement
22 officials shall coordinate their efforts in this regard and,
23 to the fullest extent possible, avoid the duplication of any
24 photographs, medical tests or X-rays.

25 (4) Law enforcement officials and the county agency
26 shall advise each other of the status and findings of their
27 respective investigations on an ongoing basis.

28 § 6362. Responsibilities of county agency for child protective
29 services.

30 * * *

1 (c) Action by agencies for abuse by agents or employees.--
2 Where suspected child abuse has occurred and an employee or
3 agent of the department or the county agency or a private or
4 public institution or school is a subject of the report, the
5 department, agency [or], institution or school shall be informed
6 of the investigation so that it may take appropriate action.
7 When the suspected abuse concerns a child with a disability, the
8 county agency shall additionally inform the State protection and
9 advocacy system of the investigation and the substance of the
10 complaint.

11 * * *

12 Section 6. Section 6368 of Title 23 is amended by adding
13 subsections to read:

14 § 6368. Investigation of reports.

15 * * *

16 (e) Notice of founded or indicated report to certain
17 employers.--Where the county agency determines that a complaint
18 of suspected abuse is a founded or indicated report after final
19 administrative determination by the department, involving a
20 perpetrator who is a child-care service employee, service
21 provider, administrator or school employee, the county agency
22 shall notify the employer, if the identity of the employer is
23 known to the county agency, in writing of the information which
24 may be disclosed under section 6340(a)(17) (relating to release
25 of information in confidential reports).

26 (f) Notice of founded or indicated report to Secretary of
27 Education.--Where the county agency determines that a complaint
28 of suspected abuse is a founded report or an indicated report
29 after final administrative determination by the department,
30 involving a perpetrator who is a charter or cyber charter school

1 staff member or is certified as a teacher, educational
2 specialist or an administrator in this Commonwealth as defined
3 in the act of December 12, 1973 (P.L.397, No.141), known as the
4 Professional Educator Discipline Act, the county agency shall
5 notify the Secretary of Education or designee in writing of the
6 information which may be disclosed under section 6340(a)(18).

7 Section 7. This act shall take effect in 180 days.