

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 322 Session of 2023

INTRODUCED BY STAATS, JOZWIAK, M. MACKENZIE, KAUFFMAN, KINSEY, ROZZI, STRUZZI, MOUL, HEFFLEY, SCHEUREN, STEHR, KEEFER AND ECKER, MARCH 13, 2023

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MARCH 13, 2023

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
 2 Consolidated Statutes, in child protective services, further
 3 providing for disposition and expunction of unfounded reports
 4 and general protective services reports and for disposition
 5 of founded and indicated reports, repealing provisions
 6 relating to expunction of information of perpetrator who was
 7 under 18 years of age when child abuse was committed and
 8 further providing for amendment or expunction of information;
 9 and making editorial changes.

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

12 Section 1. Sections 6337 and 6338(b) and (c) of Title 23 of
 13 the Pennsylvania Consolidated Statutes are amended to read:

14 § 6337. Disposition and expunction of unfounded reports and
 15 general protective services reports.

16 (a) General rule.--When a report of suspected child abuse is
 17 determined by the appropriate county agency to be an unfounded
 18 report, the information concerning that report of suspected
 19 child abuse shall be maintained for a period of [one year] 30
 20 years. Following the expiration of [one year] 30 years after the
 21 date the report was received by the department, the report shall

1 be expunged from the Statewide database, as soon as possible,
2 but no later than 120 days after the [~~one-year~~] 30-year period
3 following the date the report was received by the department,
4 and no information other than that authorized by subsection (b),
5 which shall not include any identifying information on any
6 subject of the report, shall be retained by the department. The
7 expunction shall be mandated and guaranteed by the department.

8 (b) Absence of other determination.--If an investigation of
9 a report of suspected child abuse conducted by the appropriate
10 county agency pursuant to this chapter does not determine within
11 60 days of the date of the initial report of the instance of
12 suspected child abuse that the report is a founded report, an
13 indicated report or an unfounded report, or unless within that
14 same 60-day period court action has been initiated and is
15 responsible for the delay, the report shall be considered to be
16 an unfounded report, and all information identifying the
17 subjects of the report shall be expunged no later than 120 days
18 following the expiration of [~~one year~~] 30 years after the date
19 the report was received by the department. The agency shall
20 advise the department that court action or an arrest has been
21 initiated so that the Statewide database is kept current
22 regarding the status of all legal proceedings and expunction is
23 delayed.

24 (c) Unfounded reports accepted for services.--Information on
25 an unfounded report shall be retained in the Statewide database
26 if the county agency has accepted the family for services and
27 the report of suspected child abuse is clearly identified as an
28 unfounded report. The county agency shall notify the department
29 immediately upon closure of the case, and the report shall be
30 expunged as soon as possible, but no later than 120 days after

1 the [~~one-year~~] 30-year period following the date the family case
2 was closed. [If the subject child of the unfounded report
3 becomes 23 years of age prior to the closure of the family case,
4 the unfounded report shall be expunged when the subject child
5 reaches 23 years of age.]

6 (d) Expunction of valid general protective services
7 reports.--Information concerning valid general protective
8 services reports shall be maintained in the Statewide database
9 as follows:

10 (1) Reports that are assessed by the county agency and
11 are determined to be valid, but are not accepted for
12 services, shall be reported to the department and entered
13 into the Statewide database. The reports shall be maintained
14 for a period of [~~ten~~] 30 years [~~or until the youngest child~~
15 ~~identified in the most recent general protective services~~
16 ~~report attains 23 years of age, whichever occurs first~~].
17 Following the expiration of [~~ten~~] 30 years after the date the
18 report was received by the department [~~or until the youngest~~
19 ~~child identified in the most recent general protective~~
20 ~~services report attains 23 years of age, whichever occurs~~
21 ~~first~~], the report shall be expunged from the Statewide
22 database as soon as possible, but no later than 120 days
23 after the [~~ten-year~~] 30-year period following the date the
24 report was received by the department [~~or the youngest child~~
25 ~~identified in the most recent general protective services~~
26 ~~report attains 23 years of age, whichever occurs first~~].

27 (2) Reports that are assessed by the county agency and
28 accepted for services shall be reported to the department,
29 except as otherwise provided in subsection (f) (2), and
30 entered into the Statewide database. The reports shall be

1 maintained for a period of [ten] 30 years after the closure
2 of services by the county agency [or until the youngest child
3 identified in the most recent general protective services
4 report attains 23 years of age, whichever occurs first].

5 Following the expiration of [ten] 30 years after the closure
6 of services by the county agency [or until the youngest child
7 identified in the most recent general protective services
8 report attains 23 years of age, whichever occurs first], the
9 report shall be expunged from the Statewide database as soon
10 as possible, but no later than 120 days after the [ten-year]
11 30-year period following the closure of services by the
12 county agency [or the youngest child identified in the most
13 recent general protective services report attains 23 years of
14 age, whichever occurs first].

15 (3) The expunction of information on general protective
16 services under this subsection shall be mandated and
17 guaranteed by the department.

18 (e) Expunction of invalid general protective services
19 reports.--When a report alleging the need for general protective
20 services is determined by the appropriate county agency to be an
21 invalid report, the information concerning that report shall be
22 maintained for a period of [one year] 30 years. Following the
23 expiration of [one year] 30 years after the date the report was
24 received by the department, the report shall be expunged as soon
25 as possible, but no later than 120 days after the [one-year] 30-
26 year period following the date the report was received by the
27 department. The expunction shall be mandated and guaranteed by
28 the department.

29 (f) County agency records.--Information concerning
30 protective services reports shall be maintained by a county

1 agency as follows:

2 (1) County agency records of protective services shall
3 be used and maintained in a manner that is consistent with
4 the use and maintenance of information in the Statewide
5 database, as provided under this chapter, except as otherwise
6 provided in paragraph (2). If required under this chapter to
7 amend or expunge information in the Statewide database, the
8 department shall notify the appropriate county agency of the
9 amendment or expungement within ten days. The county agency
10 shall amend or expunge its records in a commensurate manner
11 within ten days of receiving notification from the
12 department.

13 (2) A county agency may maintain information regarding
14 protective services reports that have been expunged in the
15 Statewide database for access by the county agency to assist
16 in future risk and safety assessments and research.

17 § 6338. Disposition of founded and indicated reports.

18 * * *

19 [(b) Expunction of information when child attains 23 years
20 of age.--Except as provided in subsection (c), all information
21 which identifies the subjects of founded and indicated child
22 abuse reports shall be expunged when the subject child reaches
23 the age of 23. The expunction shall be mandated and guaranteed
24 by the department.]

25 (c) Retention of information.--The Statewide database shall
26 indefinitely retain the names of perpetrators of child abuse and
27 school employees who are subjects of unfounded, founded or
28 indicated reports only if the individual's Social Security
29 number or date of birth is known to the department. [The entry
30 in the Statewide database shall not include identifying

1 information regarding other subjects of the report.]

2 Section 2. Section 6338.1 of Title 23 is repealed:

3 [§ 6338.1. Expunction of information of perpetrator who was
4 under 18 years of age when child abuse was committed.

5 (a) General rule.--The name of a perpetrator who is the
6 subject of an indicated report of child abuse and who was under
7 18 years of age when the individual committed child abuse shall
8 be expunged from the Statewide database when the individual
9 reaches 21 years of age or when five years have elapsed since
10 the perpetrator's name was added to the database, whichever is
11 later, if the individual meets all of the following:

12 (1) The individual has not been named as a perpetrator
13 in any subsequent indicated report of child abuse and is not
14 named as an alleged perpetrator in a child abuse report
15 pending investigation.

16 (2) The individual has never been convicted or
17 adjudicated delinquent following a determination by the court
18 that the individual committed an offense under section
19 6344(c) (relating to employees having contact with children;
20 adoptive and foster parents), and no proceeding is pending
21 seeking such conviction or adjudication.

22 (3) The child abuse which resulted in the inclusion of
23 the perpetrator's name in the database did not involve the
24 use of a deadly weapon, as defined under 18 Pa.C.S. § 2301
25 (relating to definitions).

26 (b) Mandated expunction.--If the perpetrator meets all of
27 the requirements under subsection (a), the expunction shall be
28 mandated and guaranteed by the department.

29 (c) Nonapplicability.--The provisions of this section shall
30 not apply to any of the following cases:

1 (1) A perpetrator who is the subject of a founded report
2 of child abuse.

3 (2) A sexually violent delinquent child, as defined in
4 42 Pa.C.S. § 9799.12 (relating to definitions), who meets all
5 of the following:

6 (i) Is required to register under 42 Pa.C.S. Ch. 97
7 Subch. H (relating to registration of sexual offenders).

8 (ii) Was found delinquent as a result of the same
9 acts which resulted in the sexually violent delinquent
10 child being named a perpetrator of child abuse.

11 (3) A juvenile offender, as defined in 42 Pa.C.S. §
12 9799.12, who meets all of the following:

13 (i) Is required to register under 42 Pa.C.S. Ch. 97
14 Subch. H as a result of an adjudication of delinquency
15 for the same acts which resulted in the juvenile offender
16 being named a perpetrator of child abuse.

17 (ii) Has not been removed from the Statewide
18 Registry of Sexual Offenders pursuant to 42 Pa.C.S. §
19 9799.17 (relating to termination of period of
20 registration for juvenile offenders).

21 (4) An individual who:

22 (i) Is required to register under 42 Pa.C.S. Ch. 97
23 Subch. H or I (relating to continued registration of
24 sexual offenders) as a result of a criminal conviction
25 for the same acts which resulted in the sexual offender
26 being named a perpetrator of child abuse.

27 (ii) Has not completed the period of registration
28 required under 42 Pa.C.S. Subch. H or I.]

29 Section 3. Sections 6340(d), 6341 heading, (a), (b), (c),
30 (e) and (f), 6368(f)(6) and 6381(a) of Title 23 are amended to

1 read:

2 § 6340. Release of information in confidential reports.

3 * * *

4 (d) Exclusion of information.--Except as provided under
5 section 6341(c.2)(4) (relating to amendment [or expunction] of
6 information), information maintained in the Statewide database
7 obtained from an investigating agency in relation to an appeal
8 request shall not be released to any person except a department
9 official. Information in the Statewide database or a
10 confidential report provided under section 6341(c.2)(4) shall be
11 subject to subsection (c).

12 § 6341. Amendment [or expunction] of information.

13 (a) General rule.--Notwithstanding [section 6338.1 (relating
14 to expunction of information of perpetrator who was under 18
15 years of age when child abuse was committed)] the provisions of
16 this chapter:

17 (1) At any time, the secretary may amend [or expunge]
18 any record in the Statewide database under this chapter upon
19 good cause shown and notice to the appropriate subjects of
20 the report. The request shall be in writing in a manner
21 prescribed by the department. For purposes of this paragraph,
22 good cause shall include, but is not limited to, [the
23 following:

24 (i) Newly] newly discovered evidence that an
25 indicated report of child abuse is inaccurate or is being
26 maintained in a manner inconsistent with this chapter.

27 [(ii) A determination that the perpetrator in an
28 indicated report of abuse no longer represents a risk of
29 child abuse and that no significant public purpose would
30 be served by the continued listing of the person as a

1 perpetrator in the Statewide database.]

2 (2) Any person named as a perpetrator, and any school
3 employee named, in an indicated report of child abuse may,
4 within 90 days of being notified of the status of the report,
5 request an administrative review by, or appeal and request a
6 hearing before, the secretary to amend [or expunge] an
7 indicated report on the grounds that it is inaccurate or it
8 is being maintained in a manner inconsistent with this
9 chapter. The request shall be in writing in a manner
10 prescribed by the department.

11 (3) Within 60 days of a request under paragraph (1) or a
12 request for administrative review under paragraph (2), the
13 department shall send notice of the secretary's decision.

14 (b) Review of grant of request.--If the secretary grants the
15 request under subsection (a) (2), the Statewide database,
16 appropriate county agency, appropriate law enforcement officials
17 and all subjects shall be so advised of the decision. The county
18 agency and any subject have 90 days in which to file an
19 administrative appeal with the secretary. If an administrative
20 appeal is received, the secretary or his designated agent shall
21 schedule a hearing pursuant to Article IV of the act of June 13,
22 1967 (P.L.31, No.21), known as the Public Welfare Code,
23 attending departmental regulations. If no administrative appeal
24 is received within the designated time period, the Statewide
25 database shall comply with the decision of the secretary and
26 advise the county agency to amend [or expunge] the information
27 in their records so that the records are consistent at both the
28 State and local levels.

29 (c) Review of refusal of request.--Subject to subsection
30 (c.1), if the secretary refuses a request under subsection (a)

1 (1) or a request for administrative review under subsection (a)
2 (2), or does not act within the prescribed time, the perpetrator
3 or school employee shall have the right to appeal and request a
4 hearing before the secretary to amend [or expunge] an indicated
5 report on the grounds that it is inaccurate or it is being
6 maintained in a manner inconsistent with this chapter. The
7 request for hearing must be made within 90 days of notice of the
8 decision. The appropriate county agency and appropriate law
9 enforcement officials shall be given notice of the hearing. The
10 burden of proof in the hearing shall be on the appropriate
11 county agency. The department shall assist the county agency as
12 necessary.

13 * * *

14 (e) Order.--The secretary or designated agent may make any
15 appropriate order respecting the amendment [or expunction] of
16 such records to make them accurate or consistent with the
17 requirements of this chapter.

18 (f) Notice of expunction.--Written notice of an expunction
19 of any child abuse record made pursuant to the provisions of
20 this chapter shall be served upon the subject of the record who
21 was responsible for the abuse or injury and the appropriate
22 county agency. Except as provided in this subsection, the county
23 agency, upon receipt of the notice, shall take appropriate,
24 similar action in regard to the local child abuse records and
25 inform, for the same purpose, the appropriate coroner if that
26 officer has received reports pursuant to section 6367 (relating
27 to reports to department and coroner). Whenever the county
28 agency investigation reveals, within 60 days of receipt of the
29 report of suspected child abuse, that the report is unfounded
30 but that the subjects need services provided or arranged by the

1 county agency, the county agency shall retain those records and
2 shall specifically identify that the report was an unfounded
3 report of suspected child abuse. An unfounded report regarding
4 subjects who receive services shall be expunged no later than
5 120 days following the expiration of [one year] 30 years after
6 the termination or completion of services provided or arranged
7 by the county agency.

8 * * *

9 § 6368. Investigation of reports.

10 * * *

11 (f) Final determination.--Immediately upon conclusion of the
12 child abuse investigation, the county agency shall provide the
13 results of its investigation to the department in a manner
14 prescribed by the department. Within three business days of
15 receipt of the results of the investigation from the county
16 agency, the department shall send notice of the final
17 determination to the subjects of the report, other than the
18 abused child. The determination shall include the following
19 information:

20 * * *

21 (6) The perpetrator's right to file an appeal of an
22 indicated finding of abuse pursuant to section 6341 (relating
23 to amendment [or expunction] of information) within 90 days
24 of the date of notice.

25 * * *

26 § 6381. Evidence in court proceedings.

27 (a) General rule.--In addition to the rules of evidence
28 provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters),
29 the rules of evidence in this section shall govern in child
30 abuse proceedings in court or in any department administrative

1 hearing pursuant to section 6341 (relating to amendment [or
2 expunction] of information).

3 * * *

4 Section 4. This act shall take effect in 60 days.