

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2283 Session of  
2005

INTRODUCED BY MACKERETH AND VEON, DECEMBER 5, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 26, 2006

## AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, FURTHER DEFINING "SEXUAL ABUSE OR <—  
3 EXPLOITATION"; FURTHER PROVIDING FOR PERSONS REQUIRED TO  
4 REPORT SUSPECTED CHILD ABUSE, FOR PENALTIES FOR FAILURE TO  
5 REPORT SUSPECTED CHILD ABUSE, FOR INVESTIGATION OF REPORTS  
6 AND FOR INFORMATION ON PROSPECTIVE CHILD-CARE PERSONNEL; and <—  
7 providing for information relating to other persons in  
8 contact with children; AND REQUIRING CRIMINAL HISTORY RECORD <—  
9 AND CHILD ABUSE RECORD INFORMATION FOR CERTAIN PERSONS WHO  
10 RESIDE IN FAMILY DAY-CARE HOMES.

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

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

15 SECTION 1. THE DEFINITION OF "SEXUAL ABUSE OR EXPLOITATION" <—  
16 IN SECTION 6303(A) OF TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED  
17 STATUTES IS AMENDED 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:

1       \* \* \*

2       ["SEXUAL ABUSE OR EXPLOITATION." THE EMPLOYMENT, USE,  
3 PERSUASION, INDUCEMENT, ENTICEMENT OR COERCION OF ANY CHILD TO  
4 ENGAGE IN OR ASSIST ANY OTHER PERSON TO ENGAGE IN ANY SEXUALLY  
5 EXPLICIT CONDUCT OR ANY SIMULATION OF ANY SEXUALLY EXPLICIT  
6 CONDUCT FOR THE PURPOSE OF PRODUCING ANY VISUAL DEPICTION,  
7 INCLUDING PHOTOGRAPHING, VIDEOTAPING, COMPUTER DEPICTING OR  
8 FILMING, OF ANY SEXUALLY EXPLICIT CONDUCT OR THE RAPE, SEXUAL  
9 ASSAULT, INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, AGGRAVATED  
10 INDECENT ASSAULT, MOLESTATION, INCEST, INDECENT EXPOSURE,  
11 PROSTITUTION, STATUTORY SEXUAL ASSAULT OR OTHER FORM OF SEXUAL  
12 EXPLOITATION OF CHILDREN.]

13       "SEXUAL ABUSE OR EXPLOITATION." ANY OF THE FOLLOWING:

14           (1) THE EMPLOYMENT, USE, PERSUASION, INDUCEMENT,  
15       ENTICEMENT OR COERCION OF ANY CHILD TO ENGAGE IN OR ASSIST  
16       ANY OTHER PERSON TO ENGAGE IN ANY SEXUALLY EXPLICIT CONDUCT.

17           (2) THE EMPLOYMENT, USE, PERSUASION, INDUCEMENT,  
18       ENTICEMENT OR COERCION OF ANY CHILD TO ENGAGE IN OR ASSIST  
19       ANY OTHER PERSON TO ENGAGE IN ANY SIMULATION OF ANY SEXUALLY  
20       EXPLICIT CONDUCT FOR THE PURPOSE OF PRODUCING ANY VISUAL  
21       DEPICTION, INCLUDING PHOTOGRAPHING, VIDEOTAPING, COMPUTER  
22       DEPICTING OR FILMING.

23           (3) ANY OF THE FOLLOWING OFFENSES COMMITTED AGAINST A  
24       CHILD:

25           (I) RAPE.

26           (II) SEXUAL ASSAULT.

27           (III) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE.

28           (IV) AGGRAVATED INDECENT ASSAULT.

29           (V) MOLESTATION.

30           (VI) INCEST.

1            (VII) INDECENT EXPOSURE.

2            (VIII) PROSTITUTION.

3            (IX) SEXUAL ABUSE.

4            (X) SEXUAL EXPLOITATION.

5            \* \* \*

6            SECTION 2. SECTIONS 6311(A) AND 6319 OF TITLE 23 ARE AMENDED  
7 TO READ:

8            § 6311. PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE.

9            (A) GENERAL RULE.--PERSONS WHO, IN THE COURSE OF THEIR  
10 EMPLOYMENT, OCCUPATION OR PRACTICE OF THEIR PROFESSION, COME  
11 INTO CONTACT WITH CHILDREN SHALL REPORT OR CAUSE A REPORT TO BE  
12 MADE IN ACCORDANCE WITH SECTION 6313 (RELATING TO REPORTING  
13 PROCEDURE) WHEN THEY HAVE REASONABLE CAUSE TO SUSPECT, ON THE  
14 BASIS OF THEIR MEDICAL, PROFESSIONAL OR OTHER TRAINING AND  
15 EXPERIENCE, THAT A CHILD [COMING BEFORE THEM IN THEIR  
16 PROFESSIONAL OR OFFICIAL CAPACITY IS AN ABUSED CHILD.] IS A  
17 VICTIM OF CHILD ABUSE, INCLUDING CHILD ABUSE BY A PERSON WHO IS  
18 NOT A PERPETRATOR WITHIN THE MEANING OF SECTION 6303 (RELATING  
19 TO DEFINITIONS), SHALL REPORT OR CAUSE A REPORT TO BE MADE IN  
20 ACCORDANCE WITH SECTION 6313. EXCEPT WITH RESPECT TO  
21 CONFIDENTIAL COMMUNICATIONS MADE TO [AN ORDAINED] A MEMBER OF  
22 THE CLERGY WHICH ARE PROTECTED UNDER 42 PA.C.S. § 5943 (RELATING  
23 TO CONFIDENTIAL COMMUNICATIONS TO CLERGYMEN), AND EXCEPT WITH  
24 RESPECT TO CONFIDENTIAL COMMUNICATIONS MADE TO AN ATTORNEY WHICH  
25 ARE PROTECTED BY 42 PA.C.S. § 5916 (RELATING TO CONFIDENTIAL  
26 COMMUNICATIONS TO ATTORNEY) OR 5928 (RELATING TO CONFIDENTIAL  
27 COMMUNICATIONS TO ATTORNEY), THE PRIVILEGED COMMUNICATION  
28 BETWEEN ANY PROFESSIONAL PERSON REQUIRED TO REPORT AND THE  
29 PATIENT OR CLIENT OF THAT PERSON SHALL NOT APPLY TO SITUATIONS  
30 INVOLVING CHILD ABUSE AND SHALL NOT CONSTITUTE GROUNDS FOR

1 FAILURE TO REPORT AS REQUIRED BY THIS CHAPTER.

2 \* \* \*

3 § 6319. PENALTIES FOR FAILURE TO REPORT OR TO REFER.

4 A PERSON OR OFFICIAL REQUIRED BY THIS CHAPTER TO REPORT A  
5 CASE OF SUSPECTED CHILD ABUSE OR TO MAKE A REFERRAL TO THE  
6 APPROPRIATE AUTHORITIES WHO WILLFULLY FAILS TO DO SO COMMITS A  
7 [SUMMARY OFFENSE] MISDEMEANOR OF THE THIRD DEGREE FOR THE FIRST  
8 VIOLATION AND A MISDEMEANOR OF THE [THIRD] SECOND DEGREE FOR A  
9 SECOND OR SUBSEQUENT VIOLATION.

10 SECTION 3. SECTION 6344(A) AND (C)(1) OF TITLE 23 ARE  
11 AMENDED AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO  
12 READ:

13 § 6344. INFORMATION RELATING TO PROSPECTIVE CHILD-CARE  
14 PERSONNEL.

15 (A) APPLICABILITY.--THIS SECTION APPLIES TO ALL PROSPECTIVE  
16 EMPLOYEES OF CHILD-CARE SERVICES, PROSPECTIVE FOSTER PARENTS,  
17 PROSPECTIVE ADOPTIVE PARENTS, PROSPECTIVE SELF-EMPLOYED FAMILY  
18 DAY-CARE PROVIDERS AND OTHER PERSONS SEEKING TO PROVIDE CHILD-  
19 CARE SERVICES UNDER CONTRACT WITH A CHILD-CARE FACILITY OR  
20 PROGRAM. THIS SECTION ALSO APPLIES TO INDIVIDUALS 14 YEARS OF  
21 AGE OR OLDER WHO RESIDE IN THE HOME OF A PROSPECTIVE FOSTER  
22 PARENT FOR AT LEAST 30 DAYS IN A CALENDAR YEAR OR WHO RESIDE IN  
23 THE HOME OF A PROSPECTIVE ADOPTIVE PARENT FOR AT LEAST 30 DAYS  
24 IN A CALENDAR YEAR. THIS SECTION DOES NOT APPLY TO  
25 ADMINISTRATIVE OR OTHER SUPPORT PERSONNEL UNLESS THEIR DUTIES  
26 WILL INVOLVE DIRECT CONTACT WITH CHILDREN.

27 \* \* \*

28 (C) GROUNDS FOR DENYING EMPLOYMENT.--

29 (1) IN NO CASE SHALL AN ADMINISTRATOR HIRE AN APPLICANT  
30 WHERE THE DEPARTMENT HAS VERIFIED THAT THE APPLICANT IS NAMED

1 IN THE CENTRAL REGISTER AS THE PERPETRATOR OF A FOUNDED  
2 REPORT OF CHILD ABUSE COMMITTED WITHIN THE FIVE-YEAR PERIOD  
3 IMMEDIATELY PRECEDING VERIFICATION PURSUANT TO THIS  
4 SECTION[.] OR IS NAMED IN THE CENTRAL REGISTER AS THE  
5 PERPETRATOR OF A FOUNDED REPORT FOR A SCHOOL EMPLOYEE  
6 COMMITTED WITHIN THE FIVE-YEAR PERIOD IMMEDIATELY PRECEDING  
7 VERIFICATION PURSUANT TO THIS SECTION.

8 \* \* \*

9 (O) USE OF INFORMATION.--A FOSTER FAMILY CARE AGENCY MAY NOT  
10 APPROVE A PROSPECTIVE FOSTER PARENT IF THE PROSPECTIVE FOSTER  
11 PARENT OR AN INDIVIDUAL 14 YEARS OF AGE OR OLDER WHO RESIDES FOR  
12 AT LEAST 30 DAYS IN A CALENDAR YEAR WITH THE PROSPECTIVE FOSTER  
13 PARENT MEETS EITHER OF THE FOLLOWING:

14 (1) IS NAMED IN THE CENTRAL REGISTER AS THE PERPETRATOR  
15 OF A FOUNDED REPORT OF CHILD ABUSE COMMITTED WITHIN THE FIVE-  
16 YEAR PERIOD IMMEDIATELY PRECEDING VERIFICATION PURSUANT TO  
17 THIS SECTION OR IS NAMED IN THE CENTRAL REGISTER AS THE  
18 PERPETRATOR OF A FOUNDED REPORT FOR A SCHOOL EMPLOYEE  
19 COMMITTED WITHIN THE FIVE-YEAR PERIOD IMMEDIATELY PRECEDING  
20 VERIFICATION PURSUANT TO THIS SECTION.

21 (2) HAS BEEN FOUND GUILTY OF AN OFFENSE LISTED IN  
22 SUBSECTION (C)(2).

23 (P) USE OF INFORMATION.--A PROSPECTIVE ADOPTIVE PARENT MAY  
24 NOT BE APPROVED IF THE PROSPECTIVE ADOPTIVE PARENT OR AN  
25 INDIVIDUAL 14 YEARS OF AGE OR OLDER WHO RESIDES FOR AT LEAST 30  
26 DAYS IN A CALENDAR YEAR WITH THE PROSPECTIVE ADOPTIVE PARENT  
27 MEETS EITHER OF THE FOLLOWING:

28 (1) IS NAMED IN THE CENTRAL REGISTER AS THE PERPETRATOR  
29 OF A FOUNDED REPORT OF CHILD ABUSE COMMITTED WITHIN THE FIVE-  
30 YEAR PERIOD IMMEDIATELY PRECEDING VERIFICATION PURSUANT TO

1     THIS SECTION OR IS NAMED IN THE CENTRAL REGISTER AS THE  
2     PERPETRATOR OF A FOUNDED REPORT FOR A SCHOOL EMPLOYEE  
3     COMMITTED WITHIN THE FIVE-YEAR PERIOD IMMEDIATELY PRECEDING  
4     VERIFICATION PURSUANT TO THIS SECTION.

5         (2) HAS BEEN FOUND GUILTY OF AN OFFENSE LISTED IN  
6     SUBSECTION (C)(2).

7     SECTION 4. TITLE 23 IS AMENDED BY ADDING SECTIONS TO READ:

8     § 6344.1. INFORMATION RELATING TO FAMILY DAY-CARE HOME  
9         RESIDENTS.

10     (A) GENERAL RULE.--IN ADDITION TO THE REQUIREMENTS OF  
11     SECTION 6344 (RELATING TO INFORMATION RELATING TO PROSPECTIVE  
12     CHILD-CARE PERSONNEL), AN INDIVIDUAL WHO APPLIES TO THE  
13     DEPARTMENT OF PUBLIC WELFARE FOR A REGISTRATION CERTIFICATE TO  
14     OPERATE A FAMILY DAY-CARE HOME SHALL INCLUDE CRIMINAL HISTORY  
15     RECORD AND CHILD ABUSE RECORD INFORMATION REQUIRED UNDER SECTION  
16     6344(B) FOR EVERY INDIVIDUAL 18 YEARS OF AGE OR OLDER WHO  
17     RESIDES IN THE HOME FOR AT LEAST 30 DAYS IN A CALENDAR YEAR.

18     (B) REQUIRED INFORMATION.--CHILD ABUSE RECORD INFORMATION  
19     REQUIRED UNDER SUBSECTION (A) SHALL INCLUDE CERTIFICATION BY THE  
20     DEPARTMENT OF PUBLIC WELFARE AS TO WHETHER THE APPLICANT IS  
21     NAMED IN THE CENTRAL REGISTER AS THE PERPETRATOR OF A FOUNDED  
22     REPORT OF CHILD ABUSE, INDICATED REPORT OF CHILD ABUSE, FOUNDED  
23     REPORT FOR SCHOOL EMPLOYEE OR INDICATED REPORT FOR SCHOOL  
24     EMPLOYEE AS DEFINED IN SECTION 6303 (RELATING TO DEFINITIONS).

25     (C) EFFECT ON REGISTRATION.--THE DEPARTMENT SHALL REFUSE TO  
26     ISSUE OR RENEW A REGISTRATION CERTIFICATE OR SHALL REVOKE A  
27     REGISTRATION CERTIFICATE IF THE FAMILY DAY-CARE HOME PROVIDER OR  
28     INDIVIDUAL 18 YEARS OF AGE OR OLDER WHO HAS RESIDED IN THE HOME  
29     FOR AT LEAST 30 DAYS IN A CALENDAR YEAR:

30         (1) IS NAMED IN THE CENTRAL REGISTER ON CHILD ABUSE

1 ESTABLISHED UNDER CHAPTER 63 (RELATING TO CHILD PROTECTIVE  
2 SERVICES) AS THE PERPETRATOR OF A FOUNDED REPORT OF CHILD  
3 ABUSE COMMITTED WITHIN THE IMMEDIATELY PRECEDING FIVE-YEAR  
4 PERIOD; OR

5 (2) HAS BEEN CONVICTED OF AN OFFENSE ENUMERATED IN  
6 SECTION 6344(C).

7 (D) REGULATIONS.--THE DEPARTMENT OF PUBLIC WELFARE SHALL  
8 PROMULGATE REGULATIONS TO ADMINISTER THIS SECTION.

9 ~~§ 6344.1~~ 6344.2. Information relating to other persons having <—  
10 contact with children.

11 (a) Applicability.--This section applies to prospective  
12 employees applying to engage in occupations with a significant  
13 likelihood of regular contact with children, in the form of  
14 care, guidance, supervision or training. Such persons may  
15 include, but are not limited to, social service workers,  
16 hospital personnel, mental health professionals, members of the  
17 clergy, counselors, librarians and doctors.

18 (b) Investigation.--Employers, administrators or supervisors  
19 shall require an applicant to submit to all requirements set  
20 forth in section 6344(b) (relating to information relating to  
21 prospective child-care personnel). AN EMPLOYER, ADMINISTRATOR, <—  
22 SUPERVISOR OR OTHER PERSON RESPONSIBLE FOR EMPLOYMENT DECISIONS  
23 REGARDING AN APPLICABLE PROSPECTIVE EMPLOYEE UNDER THIS SECTION  
24 WHO WILLFULLY FAILS TO REQUIRE THE SUBMISSIONS BEFORE HIRING  
25 THAT PERSON COMMITS A MISDEMEANOR OF THE THIRD DEGREE.

26 (c) Grounds for denial.--Each applicant shall be subject to  
27 the requirements of section 6344(c).

28 (D) DEPARTMENTAL TREATMENT OF INFORMATION.--ANY INFORMATION <—  
29 PROVIDED AND COMPILED UNDER THIS SECTION BY THE DEPARTMENT SHALL  
30 BE CONFIDENTIAL AND SHALL NOT BE SUBJECT TO THE ACT OF JUNE 21,

1 1957 (P.L.390, NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW.  
2 THIS INFORMATION SHALL NOT BE RELEASED EXCEPT AS PERMITTED BY  
3 THE DEPARTMENT THROUGH REGULATION. THE DEPARTMENT MAY CHARGE A  
4 FEE TO CONDUCT A CERTIFICATION AS REQUIRED BY SECTION 6344(B)(2)  
5 IN ACCORD WITH THE PROVISIONS OF SECTION 6344(H). THE DEPARTMENT  
6 SHALL PROMULGATE REGULATIONS NECESSARY TO CARRY OUT THIS  
7 SUBSECTION.

8 ~~Section 2. This act shall take effect in 60 days.~~ <—

9 SECTION 5. SECTION 6368(D) OF TITLE 23 IS AMENDED TO READ: <—

10 § 6368. INVESTIGATION OF REPORTS.

11 \* \* \*

12 (D) REFERRAL FOR INVESTIGATION.--IF THE COMPLAINT OF  
13 SUSPECTED ABUSE IS DETERMINED TO BE ONE WHICH CANNOT BE  
14 INVESTIGATED UNDER THIS CHAPTER BECAUSE THE PERSON ACCUSED OF  
15 THE ABUSE IS NOT A PERPETRATOR WITHIN THE MEANING OF SECTION  
16 6303 (RELATING TO DEFINITIONS), BUT DOES SUGGEST THE NEED FOR  
17 INVESTIGATION, THE COUNTY AGENCY SHALL IMMEDIATELY TRANSMIT THE  
18 INFORMATION TO THE APPROPRIATE AUTHORITIES[.], INCLUDING THE  
19 DISTRICT ATTORNEY, THE DISTRICT ATTORNEY'S DESIGNEE OR OTHER LAW  
20 ENFORCEMENT OFFICIAL, IN ACCORDANCE WITH THE COUNTY PROTOCOLS  
21 FOR INVESTIGATIVE TEAMS REQUIRED BY SECTION 6365(C) (RELATING TO  
22 SERVICES FOR PREVENTION, INVESTIGATION AND TREATMENT OF CHILD  
23 ABUSE).

24 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

25 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

26 (2) THE ADDITION OF 23 PA.C.S. § 6344.2 SHALL TAKE  
27 EFFECT IN 60 DAYS.

28 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 180  
29 DAYS.