

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 31 Session of 2013

INTRODUCED BY FONTANA, FOLMER, WASHINGTON, ERICKSON, STACK, BREWSTER, FERLO, TEPLITZ, BAKER, RAFFERTY, YUDICHAK, KASUNIC, TARTAGLIONE, WILLIAMS, SMITH, FARNESE, WAUGH, MENSCH, HUGHES, BROWNE, WARD, VANCE, PILEGGI, BOSCOLA, COSTA, ALLOWAY, SCHWANK, DINNIMAN AND BLAKE, MARCH 15, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, OCTOBER 1, 2013

AN ACT

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

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

11 Section 1. The definitions of "founded report," "founded
12 report for school employee," "general protective services,"
13 "indicated report," "indicated report for school employee,"
14 "individual residing in the same home as the child," "near
15 fatality" and "school employee" in section 6303(a) of Title 23
16 of the Pennsylvania Consolidated Statutes are amended and the
17 subsection is amended by adding definitions to read:

18 § 6303. Definitions.

19 (a) General rule.--The following words and phrases when used

1 in this chapter shall have the meanings given to them in this
2 section unless the context clearly indicates otherwise:

3 * * *

4 "Bodily injury." Impairment of physical condition or
5 substantial pain.

6 * * *

7 "Child with a disability." A child:

8 (1) who meets the definition of child with a disability
9 under the Individuals with Disabilities Education Act (Public
10 Law 91-230, 20 U.S.C. § 1400 et seq.);

11 (2) who meets the definition of handicapped person under
12 section 504 of the Rehabilitation Act of 1973 (Public Law 93-
13 112, 29 U.S.C. § 794) and its implementing regulations at 34
14 CFR § 104.3 (relating to definitions);

15 (3) for whom an evaluation is pending under either the
16 Individuals with Disabilities Education Act or the
17 Rehabilitation Act of 1973; or

18 (4) who is not yet eligible for special education and
19 related services as described in section 615(k)(5)(A) of the
20 Individuals with Disabilities Education Act (20 U.S.C. § 1415
21 (k)(5)(A)).

22 * * *

23 "Disability." The term shall have the same meaning as the
24 term is given in section 3 of the Americans with Disabilities
25 Act of 1990 (Public Law 101-336, 42 U.S.C. § 12102(2)).

26 * * *

27 "Founded report." [A child abuse report made pursuant to
28 this chapter if there has been any judicial adjudication based
29 on a finding that a child who is a subject of the report has
30 been abused, including the entry of a plea of guilty or nolo

1 contendere or a finding of guilt to a criminal charge involving
2 the same factual circumstances involved in the allegation of
3 child abuse.] A child abuse report involving a perpetrator that
4 is made pursuant to this chapter, if any of the following
5 applies:

6 (1) There has been a judicial adjudication based on a
7 finding that a child who is a subject of the report has been
8 abused and the adjudication involves the same factual
9 circumstances involved in the allegation of child abuse. The
10 judicial adjudication may include any of the following:

11 (i) The entry of a plea of guilty or nolo
12 contendere.

13 (ii) A finding of guilt to a criminal charge.

14 ~~(iii) A finding of dependency or delinquency under~~ <--
15 ~~42 Pa.C.S. § 6341 (relating to adjudication), if the~~
16 ~~court has entered a finding that a child who is the~~
17 ~~subject of the report has been abused.~~

18 ~~(III) A FINDING OF DEPENDENCY UNDER 42 PA.C.S. §~~ <--
19 ~~6341 (RELATING TO ADJUDICATION) IF THE COURT HAS ENTERED~~
20 ~~A FINDING THAT A CHILD WHO IS THE SUBJECT OF THE REPORT~~
21 ~~HAS BEEN ABUSED.~~

22 ~~(IV) A FINDING OF DELINQUENCY UNDER 42 PA.C.S. §~~
23 ~~6341 IF THE COURT HAS ENTERED A FINDING THAT THE CHILD~~
24 ~~WHO IS THE SUBJECT OF THE REPORT HAS BEEN ABUSED BY THE~~
25 ~~CHILD WHO WAS FOUND TO BE DELINQUENT.~~

26 (2) There has been an acceptance into an accelerated
27 rehabilitative disposition program and the reason for the
28 acceptance involves the same factual circumstances involved
29 in the allegation of child abuse.

30 (3) There has been a consent decree entered in a

1 juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to
2 juvenile matters), the decree involves the same factual
3 circumstances involved in the allegation of child abuse, and
4 the terms and conditions thereof include an acknowledgment,
5 admission or finding that a child who is the subject of the
6 report has been abused by the child who is alleged to be
7 delinquent.

8 (4) A final protection from abuse order has been granted
9 under section 6108 (relating to relief), when the child who
10 is a subject of the report is also one of the individuals
11 protected under the protection from abuse order and:

12 (i) only one individual is charged with the abuse in
13 the protection from abuse action;

14 (ii) only that individual defends against the
15 charge; and

16 (iii) the protection from abuse adjudication finds
17 that the abuse occurred and prohibits further contact
18 between the individual and the child.

19 ["Founded report for school employee." A report under
20 Subchapter C.1 (relating to students in public and private
21 schools) if there has been any judicial adjudication based on a
22 finding that the victim has suffered serious bodily injury or
23 sexual abuse or exploitation, including the entry of a plea of
24 guilty or nolo contendere or a finding of guilt to a criminal
25 charge involving the same factual circumstances involved in the
26 allegations of the report.]

27 "General protective services." Those services and activities
28 provided by each county agency for [nonabuse] cases requiring
29 protective services, as defined by the [Department of Public
30 Welfare] department in regulations.

1 "Indicated report." [A child abuse report made pursuant to
2 this chapter if an investigation by the county agency or the
3 Department of Public Welfare determines that substantial
4 evidence of the alleged abuse exists based on any of the
5 following:

- 6 (1) Available medical evidence.
- 7 (2) The child protective service investigation.
- 8 (3) An admission of the acts of abuse by the
9 perpetrator.]

10 (1) Subject to paragraphs (2) and (3), a report of child
11 abuse made pursuant to this chapter if an investigation by
12 the department or county agency determines that substantial
13 evidence of the alleged abuse by a perpetrator exists based
14 on any of the following:

- 15 (i) Available medical evidence.
- 16 (ii) The child protective service investigation.
- 17 (iii) An admission of the acts of abuse by the
18 perpetrator.

19 (2) A report may be indicated under paragraph (1)(i) or
20 (ii) for any child in need of child protective services,
21 regardless of the number of alleged perpetrators or the
22 inability to identify the specific perpetrator among two or
23 more alleged perpetrators.

24 (3) A report may be indicated by a county agency under
25 paragraph (1) only upon the approval of the county agency
26 administrator, or designee, and a county agency solicitor.

27 (4) A REPORT MAY BE INDICATED BY THE DEPARTMENT UNDER <--
28 PARAGRAPH (1) ONLY UPON APPROVAL OF THE SECRETARY, OR
29 DESIGNEE, AND LEGAL COUNSEL FOR THE DEPARTMENT.

30 ["Indicated report for school employee." A report made under

1 Subchapter C.1 (relating to students in public and private
2 schools) if an investigation by the county agency determines
3 that substantial evidence of serious bodily injury or sexual
4 abuse or exploitation exists based on any of the following:

- 5 (1) Available medical evidence.
- 6 (2) The county agency's investigation.
- 7 (3) An admission of the acts of abuse by the school
8 employee.

9 "Individual residing in the same home as the child." An
10 individual who is 14 years of age or older and who resides in
11 the same home as the child.]

12 ~~"Mandated reporter." A person required to report suspected <--~~
13 ~~child abuse under section 6311 (relating to persons required to~~
14 ~~report suspected child abuse).~~

15 "MANDATED REPORTER." A PERSON WHO IS REQUIRED BY THIS <--
16 CHAPTER TO MAKE A REPORT OF SUSPECTED CHILD ABUSE.

17 "Near fatality." [An act that, as certified by a physician,
18 places a child in serious or critical condition.] A child's
19 serious or critical condition, as certified by a physician,
20 where that child is a subject of the report of child abuse.

21 * * *

22 "School." A facility providing elementary, secondary or
23 postsecondary educational services. The term includes the
24 following:

- 25 (1) Any school of a school district.
- 26 (2) An area vocational-technical school.
- 27 (3) A joint school.
- 28 (4) An intermediate unit.
- 29 (5) A charter school or regional charter school.
- 30 (6) A cyber charter school.

1 (7) A private school licensed under the act of January
2 28, 1988 (P.L.24, No.11), known as the Private Academic
3 Schools Act.

4 (8) A private school accredited by an accrediting
5 association approved by the State Board of Education.

6 (9) A nonpublic school.

7 (10) A community college which is an institution now or
8 hereafter created pursuant to Article XIX-A of the act of
9 March 10, 1949 (P.L.30, No.14), known as the Public School
10 Code of 1949, or the former act of August 24, 1963 (P.L.1132,
11 No.484), known as the Community College Act of 1963.

12 (11) An independent institution of higher education
13 which is an institution of higher education which is operated
14 not for profit, located in and incorporated or chartered by
15 the Commonwealth, entitled to confer degrees as set forth in
16 24 Pa.C.S. § 6505 (relating to power to confer degrees) and
17 entitled to apply to itself the designation "college" or
18 "university" as provided for by standards and qualifications
19 prescribed by the State Board of Education pursuant to 24
20 Pa.C.S. Ch. 65 (relating to private colleges, universities
21 and seminaries).

22 (12) A State-owned university.

23 (13) A State-related university.

24 (14) A private school licensed under the act of December
25 15, 1986 (P.L.1585, No.174), known as the Private Licensed
26 Schools Act.

27 (15) Hiram G. Andrews Center.

28 (16) A PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION AS <--
29 DEFINED IN SECTION 914.1-A(C) OF THE PUBLIC SCHOOL CODE OF
30 1949.

1 "School employee." An individual who is employed by a
2 [public or private school, intermediate unit or area vocational-
3 technical] school or who provides a program, activity or service
4 in a school. The term includes an independent contractor that
5 provides a program, activity or service in a school and the
6 employees of the independent contractor that is directly
7 responsible for the care, supervision, guidance or training of
8 the child. [The term excludes an individual who has no direct
9 contact with students.]

10 * * *

11 ~~Section 2. Sections 6311(c) and 6313(c) of Title 23 are~~ <--
12 ~~amended:~~

13 ~~§ 6311. Persons required to report suspected child abuse.~~

14 ~~* * *~~

15 ~~(c) Staff members of institutions, etc. Whenever a person~~
16 ~~is required to report under subsection (b) in the capacity as a~~
17 ~~member of the staff of a medical or other public or private~~
18 ~~institution, school, facility or agency, that person shall~~
19 ~~immediately report or cause a report to be made in accordance~~
20 ~~with section 6313. The person required to report shall also~~
21 ~~notify the person in charge of the institution, school, facility~~
22 ~~or agency or the designated agent of the person in charge. [Upon~~
23 ~~notification, the person in charge or the designated agent, if~~
24 ~~any, shall assume the responsibility and have the legal~~
25 ~~obligation to report or cause a report to be made in accordance~~
26 ~~with section 6313.] This chapter does not require more than one~~
27 ~~report from any such institution, school, facility or agency.~~

28 ~~* * *~~

29 SECTION 2. SECTION 6311 OF TITLE 23 IS AMENDED TO READ: <--

30 § 6311. [PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE.

1 (A) GENERAL RULE.--A PERSON WHO, IN THE COURSE OF
2 EMPLOYMENT, OCCUPATION OR PRACTICE OF A PROFESSION, COMES INTO
3 CONTACT WITH CHILDREN SHALL REPORT OR CAUSE A REPORT TO BE MADE
4 IN ACCORDANCE WITH SECTION 6313 (RELATING TO REPORTING
5 PROCEDURE) WHEN THE PERSON HAS REASONABLE CAUSE TO SUSPECT, ON
6 THE BASIS OF MEDICAL, PROFESSIONAL OR OTHER TRAINING AND
7 EXPERIENCE, THAT A CHILD UNDER THE CARE, SUPERVISION, GUIDANCE
8 OR TRAINING OF THAT PERSON OR OF AN AGENCY, INSTITUTION,
9 ORGANIZATION OR OTHER ENTITY WITH WHICH THAT PERSON IS
10 AFFILIATED IS A VICTIM OF CHILD ABUSE, INCLUDING CHILD ABUSE BY
11 AN INDIVIDUAL WHO IS NOT A PERPETRATOR. EXCEPT WITH RESPECT TO
12 CONFIDENTIAL COMMUNICATIONS MADE TO A MEMBER OF THE CLERGY WHICH
13 ARE PROTECTED UNDER 42 PA.C.S. § 5943 (RELATING TO CONFIDENTIAL
14 COMMUNICATIONS TO CLERGYMEN), AND EXCEPT WITH RESPECT TO
15 CONFIDENTIAL COMMUNICATIONS MADE TO AN ATTORNEY WHICH ARE
16 PROTECTED BY 42 PA.C.S. § 5916 (RELATING TO CONFIDENTIAL
17 COMMUNICATIONS TO ATTORNEY) OR 5928 (RELATING TO CONFIDENTIAL
18 COMMUNICATIONS TO ATTORNEY), THE PRIVILEGED COMMUNICATION
19 BETWEEN ANY PROFESSIONAL PERSON REQUIRED TO REPORT AND THE
20 PATIENT OR CLIENT OF THAT PERSON SHALL NOT APPLY TO SITUATIONS
21 INVOLVING CHILD ABUSE AND SHALL NOT CONSTITUTE GROUNDS FOR
22 FAILURE TO REPORT AS REQUIRED BY THIS CHAPTER.

23 (B) ENUMERATION OF PERSONS REQUIRED TO REPORT.--PERSONS
24 REQUIRED TO REPORT UNDER SUBSECTION (A) INCLUDE, BUT ARE NOT
25 LIMITED TO, ANY LICENSED PHYSICIAN, OSTEOPATH, MEDICAL EXAMINER,
26 CORONER, FUNERAL DIRECTOR, DENTIST, OPTOMETRIST, CHIROPRACTOR,
27 PODIATRIST, INTERN, REGISTERED NURSE, LICENSED PRACTICAL NURSE,
28 HOSPITAL PERSONNEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE
29 OR TREATMENT OF PERSONS, CHRISTIAN SCIENCE PRACTITIONER, MEMBER
30 OF THE CLERGY, SCHOOL ADMINISTRATOR, SCHOOL TEACHER, SCHOOL

1 NURSE, SOCIAL SERVICES WORKER, DAY-CARE CENTER WORKER OR ANY
2 OTHER CHILD-CARE OR FOSTER-CARE WORKER, MENTAL HEALTH
3 PROFESSIONAL, PEACE OFFICER OR LAW ENFORCEMENT OFFICIAL.

4 (C) STAFF MEMBERS OF INSTITUTIONS, ETC.--WHENEVER A PERSON
5 IS REQUIRED TO REPORT UNDER SUBSECTION (B) IN THE CAPACITY AS A
6 MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE
7 INSTITUTION, SCHOOL, FACILITY OR AGENCY, THAT PERSON SHALL
8 IMMEDIATELY NOTIFY THE PERSON IN CHARGE OF THE INSTITUTION,
9 SCHOOL, FACILITY OR AGENCY OR THE DESIGNATED AGENT OF THE PERSON
10 IN CHARGE. UPON NOTIFICATION, THE PERSON IN CHARGE OR THE
11 DESIGNATED AGENT, IF ANY, SHALL ASSUME THE RESPONSIBILITY AND
12 HAVE THE LEGAL OBLIGATION TO REPORT OR CAUSE A REPORT TO BE MADE
13 IN ACCORDANCE WITH SECTION 6313. THIS CHAPTER DOES NOT REQUIRE
14 MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION, SCHOOL, FACILITY
15 OR AGENCY.

16 (D) CIVIL ACTION FOR DISCRIMINATION AGAINST PERSON FILING
17 REPORT.--ANY PERSON WHO, UNDER THIS SECTION, IS REQUIRED TO
18 REPORT OR CAUSE A REPORT OF SUSPECTED CHILD ABUSE TO BE MADE AND
19 WHO, IN GOOD FAITH, MAKES OR CAUSES THE REPORT TO BE MADE AND,
20 AS A RESULT THEREOF, IS DISCHARGED FROM HIS EMPLOYMENT OR IN ANY
21 OTHER MANNER IS DISCRIMINATED AGAINST WITH RESPECT TO
22 COMPENSATION, HIRE, TENURE, TERMS, CONDITIONS OR PRIVILEGES OF
23 EMPLOYMENT, MAY COMMENCE AN ACTION IN THE COURT OF COMMON PLEAS
24 OF THE COUNTY IN WHICH THE ALLEGED UNLAWFUL DISCHARGE OR
25 DISCRIMINATION OCCURRED FOR APPROPRIATE RELIEF. IF THE COURT
26 FINDS THAT THE PERSON IS AN INDIVIDUAL WHO, UNDER THIS SECTION,
27 IS REQUIRED TO REPORT OR CAUSE A REPORT OF SUSPECTED CHILD ABUSE
28 TO BE MADE AND WHO, IN GOOD FAITH, MADE OR CAUSED TO BE MADE A
29 REPORT OF SUSPECTED CHILD ABUSE AND, AS A RESULT THEREOF, WAS
30 DISCHARGED OR DISCRIMINATED AGAINST WITH RESPECT TO

1 COMPENSATION, HIRE, TENURE, TERMS, CONDITIONS OR PRIVILEGES OF
2 EMPLOYMENT, IT MAY ISSUE AN ORDER GRANTING APPROPRIATE RELIEF,
3 INCLUDING, BUT NOT LIMITED TO, REINSTATEMENT WITH BACK PAY. THE
4 DEPARTMENT MAY INTERVENE IN ANY ACTION COMMENCED UNDER THIS
5 SUBSECTION.] (RESERVED).

6 SECTION 2.1. TITLE 23 IS AMENDED BY ADDING A SECTION TO
7 READ:

8 § 6311.1. MANDATED REPORTERS.

9 THE FOLLOWING ADULTS SHALL MAKE A REPORT OF SUSPECTED CHILD
10 ABUSE IF THE PERSON HAS REASONABLE CAUSE TO SUSPECT THAT A CHILD
11 IS A VICTIM OF CHILD ABUSE:

12 (1) A PERSON LICENSED OR CERTIFIED TO PRACTICE IN ANY
13 HEALTH-RELATED FIELD UNDER THE JURISDICTION OF THE DEPARTMENT
14 OF STATE.

15 (2) A MEDICAL EXAMINER, CORONER OR FUNERAL DIRECTOR.

16 (3) AN EMPLOYEE OF A HEALTH CARE FACILITY OR PROVIDER
17 LICENSED BY THE DEPARTMENT OF HEALTH ENGAGED IN THE
18 ADMISSION, EXAMINATION, CARE OR TREATMENT OF INDIVIDUALS.

19 (4) A SCHOOL ADMINISTRATOR, TEACHER, NURSE, GUIDANCE
20 COUNSELOR, COACH OR OTHER SCHOOL EMPLOYEE.

21 (5) A CHILD-CARE SERVICES PROVIDER.

22 (6) A CLERGYMAN, PRIEST, RABBI, MINISTER, CHRISTIAN
23 SCIENCE PRACTITIONER, RELIGIOUS HEALER OR SPIRITUAL LEADER OF
24 ANY REGULARLY ESTABLISHED CHURCH OR OTHER RELIGIOUS
25 ORGANIZATION.

26 (7) AN INDIVIDUAL PAID OR UNPAID, WHO, ON THE BASIS OF
27 THE INDIVIDUAL'S ROLE AS AN INTEGRAL PART OF A REGULARLY
28 SCHEDULED PROGRAM, ACTIVITY OR SERVICE, ACCEPTS
29 RESPONSIBILITY FOR A CHILD.

30 (8) A SOCIAL SERVICES WORKER.

- 1 (9) A PEACE OFFICER OR LAW ENFORCEMENT OFFICIAL.
2 (10) AN EMERGENCY MEDICAL SERVICES PROVIDER CERTIFIED BY
3 THE DEPARTMENT OF HEALTH.
4 (11) AN INDIVIDUAL SUPERVISED OR MANAGED BY A PERSON
5 LISTED UNDER PARAGRAPH (1), (2), (3), (4), (5), (6), (7),
6 (8), (9) OR (10), WHO HAS DIRECT CONTACT WITH CHILDREN IN THE
7 COURSE OF EMPLOYMENT.
8 (12) AN INDEPENDENT CONTRACTOR.

9 SECTION 2.2. SECTION 6313 OF TITLE 23 IS AMENDED TO READ:

10 § 6313. Reporting procedure.

11 * * *

<--

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

17 ~~(1) The [names and addresses of the child and the~~
18 ~~parents or other person responsible for the care of the child~~
19 ~~if known.] name, age, gender, address, school and status of~~
20 ~~the child with a disability.~~

21 ~~(1.1) The name and address of the child's parent or~~
22 ~~guardian.~~

23 ~~(2) Where the suspected abuse occurred and the nature of~~
24 ~~the alleged offense.~~

25 ~~[(3) The age and sex of the subjects of the report.]~~

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

29 ~~(5) The name [and relationship], relationship, home~~
30 ~~address and work address of the person or persons responsible~~

1 ~~for causing the suspected abuse, if known, and any evidence~~
2 ~~of prior abuse by that person or persons.~~

3 ~~(6) Family composition.~~

4 ~~(7) The source of the report.~~

5 ~~(8) The person making the report and where that person~~
6 ~~can be reached.~~

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

10 ~~(9.1) Any specific comments or observations that are~~
11 ~~directly related to the alleged incident and the individuals~~
12 ~~involved.~~

13 ~~(10) Any other information which the department may~~
14 ~~require by regulation.~~

15 * * *

16 [(A) GENERAL RULE.--REPORTS FROM PERSONS REQUIRED TO REPORT <--
17 UNDER SECTION 6311 (RELATING TO PERSONS REQUIRED TO REPORT
18 SUSPECTED CHILD ABUSE) SHALL BE MADE IMMEDIATELY BY TELEPHONE
19 AND IN WRITING WITHIN 48 HOURS AFTER THE ORAL REPORT.

20 (B) ORAL REPORTS.--ORAL REPORTS SHALL BE MADE TO THE
21 DEPARTMENT PURSUANT TO SUBCHAPTER C (RELATING TO POWERS AND
22 DUTIES OF DEPARTMENT) AND MAY BE MADE TO THE APPROPRIATE COUNTY
23 AGENCY. WHEN ORAL REPORTS OF SUSPECTED CHILD ABUSE ARE INITIALLY
24 RECEIVED AT THE COUNTY AGENCY, THE PROTECTIVE SERVICES STAFF
25 SHALL, AFTER SEEING TO THE IMMEDIATE SAFETY OF THE CHILD AND
26 OTHER CHILDREN IN THE HOME, IMMEDIATELY NOTIFY THE DEPARTMENT OF
27 THE RECEIPT OF THE REPORT, WHICH IS TO BE HELD IN THE PENDING
28 COMPLAINT FILE AS PROVIDED IN SUBCHAPTER C. THE INITIAL CHILD
29 ABUSE REPORT SUMMARY SHALL BE SUPPLEMENTED WITH A WRITTEN REPORT
30 WHEN A DETERMINATION IS MADE AS TO WHETHER A REPORT OF SUSPECTED

1 CHILD ABUSE IS A FOUNDED REPORT, AN UNFOUNDED REPORT OR AN
2 INDICATED REPORT.

3 (C) WRITTEN REPORTS.--WRITTEN REPORTS FROM PERSONS REQUIRED
4 TO REPORT UNDER SECTION 6311 SHALL BE MADE TO THE APPROPRIATE
5 COUNTY AGENCY IN A MANNER AND ON FORMS THE DEPARTMENT PRESCRIBES
6 BY REGULATION. THE WRITTEN REPORTS SHALL INCLUDE THE FOLLOWING
7 INFORMATION IF AVAILABLE:

8 (1) THE NAMES AND ADDRESSES OF THE CHILD AND THE PARENTS
9 OR OTHER PERSON RESPONSIBLE FOR THE CARE OF THE CHILD IF
10 KNOWN.

11 (2) WHERE THE SUSPECTED ABUSE OCCURRED.

12 (3) THE AGE AND SEX OF THE SUBJECTS OF THE REPORT.

13 (4) THE NATURE AND EXTENT OF THE SUSPECTED CHILD ABUSE,
14 INCLUDING ANY EVIDENCE OF PRIOR ABUSE TO THE CHILD OR
15 SIBLINGS OF THE CHILD.

16 (5) THE NAME AND RELATIONSHIP OF THE PERSON OR PERSONS
17 RESPONSIBLE FOR CAUSING THE SUSPECTED ABUSE, IF KNOWN, AND
18 ANY EVIDENCE OF PRIOR ABUSE BY THAT PERSON OR PERSONS.

19 (6) FAMILY COMPOSITION.

20 (7) THE SOURCE OF THE REPORT.

21 (8) THE PERSON MAKING THE REPORT AND WHERE THAT PERSON
22 CAN BE REACHED.

23 (9) THE ACTIONS TAKEN BY THE REPORTING SOURCE, INCLUDING
24 THE TAKING OF PHOTOGRAPHS AND X-RAYS, REMOVAL OR KEEPING OF
25 THE CHILD OR NOTIFYING THE MEDICAL EXAMINER OR CORONER.

26 (10) ANY OTHER INFORMATION WHICH THE DEPARTMENT MAY
27 REQUIRE BY REGULATION.

28 (D) FAILURE TO CONFIRM ORAL REPORT.--THE FAILURE OF A PERSON
29 REPORTING CASES OF SUSPECTED CHILD ABUSE TO CONFIRM AN ORAL
30 REPORT IN WRITING WITHIN 48 HOURS SHALL NOT RELIEVE THE COUNTY

1 AGENCY FROM ANY DUTIES PRESCRIBED BY THIS CHAPTER. IN SUCH
2 EVENT, THE COUNTY AGENCY SHALL PROCEED AS IF A WRITTEN REPORT
3 WERE ACTUALLY MADE.]

4 (A) REPORT BY MANDATED REPORTER.--

5 (1) A MANDATED REPORTER SHALL IMMEDIATELY MAKE AN ORAL
6 OR WRITTEN REPORT, WHICH MAY BE SUBMITTED ELECTRONICALLY, OF
7 SUSPECTED CHILD ABUSE TO THE DEPARTMENT.

8 (2) A MANDATED REPORTER MAKING AN ORAL REPORT UNDER
9 PARAGRAPH (1) OF SUSPECTED CHILD ABUSE SHALL ALSO MAKE A
10 WRITTEN REPORT, WHICH MAY BE SUBMITTED ELECTRONICALLY, WITHIN
11 48 HOURS TO THE DEPARTMENT OR COUNTY AGENCY ASSIGNED TO THE
12 CASE IN A MANNER AND FORMAT PRESCRIBED BY THE DEPARTMENT.

13 (3) THE FAILURE OF THE MANDATED REPORTER TO FILE THE
14 REPORT UNDER PARAGRAPH (2) SHALL NOT RELIEVE THE COUNTY
15 AGENCY FROM ANY DUTY UNDER THIS CHAPTER, AND THE COUNTY
16 AGENCY SHALL PROCEED AS THOUGH THE MANDATED REPORTER COMPLIED
17 WITH PARAGRAPH (2).

18 (4) A MANDATED REPORTER MAKING A REPORT SHALL NOTIFY THE
19 PERSON IN CHARGE OF THE INSTITUTION, SCHOOL, FACILITY OR
20 AGENCY OR THE DESIGNATED AGENT OF THE PERSON IN CHARGE.

21 (B) CONTENTS OF REPORT.--A WRITTEN REPORT OF SUSPECTED CHILD
22 ABUSE, WHICH MAY BE SUBMITTED ELECTRONICALLY, SHALL INCLUDE THE
23 FOLLOWING INFORMATION, IF KNOWN:

24 (1) THE NAMES AND ADDRESSES OF THE CHILD, THE CHILD'S
25 PARENTS AND ANY OTHER PERSON RESPONSIBLE FOR THE CHILD'S
26 WELFARE.

27 (2) WHERE THE SUSPECTED ABUSE OCCURRED.

28 (3) THE AGE AND SEX OF EACH SUBJECT OF THE REPORT.

29 (4) THE NATURE AND EXTENT OF THE SUSPECTED CHILD ABUSE,
30 INCLUDING ANY EVIDENCE OF PRIOR ABUSE TO THE CHILD OR ANY

1 SIBLING OF THE CHILD.

2 (5) THE NAME AND RELATIONSHIP OF EACH INDIVIDUAL
3 RESPONSIBLE FOR CAUSING THE SUSPECTED ABUSE AND ANY EVIDENCE
4 OF PRIOR ABUSE BY EACH INDIVIDUAL.

5 (6) FAMILY COMPOSITION.

6 (7) THE SOURCE OF THE REPORT.

7 (8) THE PERSON MAKING THE REPORT AND WHERE THAT PERSON
8 CAN BE REACHED.

9 (9) THE ACTIONS TAKEN BY THE PERSON MAKING THE REPORT,
10 INCLUDING THOSE ACTIONS TAKEN UNDER SECTION 6314 (RELATING TO
11 PHOTOGRAPHS, MEDICAL TESTS AND X-RAYS OF CHILD SUBJECT TO
12 REPORT), 6315 (RELATING TO TAKING CHILD INTO PROTECTIVE
13 CUSTODY), 6316 (RELATING TO ADMISSION TO PRIVATE AND PUBLIC
14 HOSPITALS) OR 6317 (RELATING TO MANDATORY REPORTING AND
15 POSTMORTEM INVESTIGATION OF DEATHS).

16 (10) ANY OTHER INFORMATION REQUIRED BY FEDERAL LAW OR
17 REGULATION.

18 (11) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES
19 BY REGULATION.

20 Section 3. Subchapter C.1 of Chapter 63 of Title 23 is
21 repealed:

22 [SUBCHAPTER C.1

23 STUDENTS IN PUBLIC AND PRIVATE SCHOOLS

24 Sec.

25 6351. Definitions.

26 6352. School employees.

27 6353. Administration.

28 6353.1. Investigation.

29 6353.2. Responsibilities of county agency.

30 6353.3. Information in Statewide central register.

1 6353.4. Other provisions.

2 § 6351. Definitions.

3 The following words and phrases when used in this subchapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Administrator." The person responsible for the
7 administration of a public or private school, intermediate unit
8 or area vocational-technical school. The term includes an
9 independent contractor.

10 § 6352. School employees.

11 (a) Requirement.--

12 (1) Except as provided in paragraph (2), a school
13 employee who has reasonable cause to suspect, on the basis of
14 professional or other training and experience, that a student
15 coming before the school employee in the employee's
16 professional or official capacity is a victim of serious
17 bodily injury or sexual abuse or sexual exploitation by a
18 school employee shall immediately contact the administrator.

19 (2) If the school employee accused of seriously injuring
20 or sexually abusing or exploiting a student is the
21 administrator, the school employee who has reasonable cause
22 to suspect, on the basis of professional or other training
23 and experience, that a student coming before the school
24 employee in the employee's professional or official capacity
25 is a victim of serious bodily injury or sexual abuse or
26 sexual exploitation shall immediately report to law
27 enforcement officials and the district attorney under section
28 6353(a) (relating to administration). If an administrator is
29 the school employee who suspects injury or abuse, the
30 administrator shall make a report under section 6353(a).

1 (3) The school employee may not reveal the existence or
2 content of the report to any other person.

3 (b) Immunity.--A school employee who refers a report under
4 subsection (a) shall be immune from civil and criminal liability
5 arising out of the report.

6 (c) Criminal penalty.--

7 (1) A school employee who willfully violates subsection
8 (a) commits a summary offense.

9 (2) A school employee who, after being sentenced under
10 paragraph (1), violates subsection (a) commits a misdemeanor
11 of the third degree.

12 § 6353. Administration.

13 (a) Requirement.--An administrator and a school employee
14 governed by section 6352(a)(2) (relating to school employees)
15 shall report immediately to law enforcement officials and the
16 appropriate district attorney any report of serious bodily
17 injury or sexual abuse or sexual exploitation alleged to have
18 been committed by a school employee against a student.

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

21 (1) Name, age, address and school of the student.

22 (2) Name and address of the student's parent or
23 guardian.

24 (3) Name and address of the administrator.

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

26 (5) Nature of the alleged offense.

27 (6) Any specific comments or observations that are
28 directly related to the alleged incident and the individuals
29 involved.

30 (c) Immunity.--An administrator who makes a report under

1 subsection (a) shall be immune from civil or criminal liability
2 arising out of the report.

3 (d) Criminal penalty.--An administrator who willfully
4 violates subsection (a) commits a misdemeanor of the third
5 degree.

6 § 6353.1. Investigation.

7 (a) General rule.--Upon receipt of a report under section
8 6353 (relating to administration), an investigation shall be
9 conducted by law enforcement officials, in cooperation with the
10 district attorney, and a determination made as to what criminal
11 charges, if any, will be filed against the school employee.

12 (b) Referral to county agency.--

13 (1) If local law enforcement officials have reasonable
14 cause to suspect on the basis of initial review that there is
15 evidence of serious bodily injury, sexual abuse or sexual
16 exploitation committed by a school employee against a
17 student, local law enforcement officials shall notify the
18 county agency in the county where the alleged abuse or injury
19 occurred for the purpose of the agency conducting an
20 investigation of the alleged abuse or injury.

21 (2) To the fullest extent possible, law enforcement
22 officials and the county agency shall coordinate their
23 respective investigations. In respect to interviews with the
24 student, law enforcement officials and the county agency
25 shall conduct joint interviews. In respect to interviews with
26 the school employee, law enforcement officials shall be given
27 an opportunity to interview the school employee prior to the
28 employee having any contact with the county agency.

29 (3) The county agency and law enforcement officials have
30 the authority to arrange for photographs, medical tests or X-

1 rays of a student alleged to have been abused or injured by a
2 school employee. The county agency and law enforcement
3 officials shall coordinate their efforts in this regard and,
4 to the fullest extent possible, avoid the duplication of any
5 photographs, medical tests or X-rays.

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

9 § 6353.2. Responsibilities of county agency.

10 (a) Information for the pending complaint file.--Immediately
11 after receiving a report under section 6353.1 (relating to
12 investigation), the county agency shall notify the department of
13 the receipt of the report, which is to be filed in the pending
14 complaint file as provided in section 6331(1) (relating to
15 establishment of pending complaint file, Statewide central
16 register and file of unfounded reports). The oral report shall
17 include the following information:

18 (1) The name and address of the student and the
19 student's parent or guardian.

20 (2) Where the suspected abuse or injury occurred.

21 (3) The age and sex of the student.

22 (4) The nature and extent of the suspected abuse or
23 injury.

24 (5) The name and home address of the school employee
25 alleged to have committed the abuse or injury.

26 (6) The relationship of the student to the school
27 employee alleged to have committed the abuse or injury.

28 (7) The source of the report to the county agency.

29 (8) The actions taken by the county agency, law
30 enforcement officials, parents, guardians, school officials

1 or other persons, including the taking of photographs,
2 medical tests and X-rays.

3 (b) Investigation of reports.--Upon receipt of a report
4 under section 6353.1, the county agency shall commence, within
5 the time frames established in department regulations, an
6 investigation of the nature, extent and cause of any alleged
7 abuse or injury enumerated in the report. The county agency
8 shall coordinate its investigation to the fullest extent
9 possible with law enforcement officials as provided in section
10 6353.1(b).

11 (c) Completion of investigation.--The investigation by the
12 county agency to determine whether the report is an indicated
13 report for school employee or an unfounded report shall be
14 completed within 60 days.

15 (d) Notice to subject of a report.--Prior to interviewing a
16 subject of the report, the county agency shall orally notify the
17 subject of the report of the existence of the report and the
18 subject's rights under this chapter in regard to amendment or
19 expungement. Within 72 hours following oral notification to the
20 subject, the county agency shall give written notice to the
21 subject. The notice may be reasonably delayed if notification is
22 likely to threaten the safety of the student or the county
23 agency worker, to cause the school employee to abscond or to
24 significantly interfere with the conduct of a criminal
25 investigation.

26 (e) Reliance on factual investigation.--The county agency
27 may rely on a factual investigation of substantially the same
28 allegations by a law enforcement officials to support the
29 agency's finding. This reliance shall not relieve the county
30 agency of its responsibilities relating to the investigation of

1 reports under this subchapter.

2 (f) Notice to the department of the county agency's
3 determination.--As soon as the county agency has completed its
4 investigation, the county agency shall advise the department and
5 law enforcement officials of its determination of the report as
6 an indicated report for school employee or an unfounded report.
7 Supplemental reports shall be made at regular intervals
8 thereafter in a manner and form the department prescribes by
9 regulation to the end that the department is kept fully informed
10 and up-to-date concerning the status of the report.

11 § 6353.3. Information in Statewide central register.

12 The Statewide central register established under section 6331
13 (relating to establishment of pending complaint file, Statewide
14 central register and file of unfounded reports) shall retain
15 only the following information relating to reports of abuse or
16 injury of a student by a school employee which have been
17 determined to be a founded report for school employee or an
18 indicated report for school employee:

19 (1) The names, Social Security numbers, age and sex of
20 the subjects of the report.

21 (2) The home address of the subjects of the report.

22 (3) The date and the nature and extent of the alleged
23 abuse or injury.

24 (4) The county and state where the abuse or injury
25 occurred.

26 (5) Factors contributing to the abuse or injury.

27 (6) The source of the report.

28 (7) Whether the report is a founded or indicated report.

29 (8) Information obtained by the department in relation
30 to the school employee's request to release, amend or expunge

1 information retained by the department or the county agency.

2 (9) The progress of any legal proceedings brought on the
3 basis of the report.

4 (10) Whether a criminal investigation has been
5 undertaken and the result of the investigation and of any
6 criminal prosecution.

7 § 6353.4. Other provisions.

8 The following provisions shall apply to the release and
9 retention of information by the department and the county agency
10 concerning reports of abuse or injury committed by a school
11 employee as provided by this subchapter:

12 Section 6336(b) and (c) (relating to information in Statewide
13 central register).

14 Section 6337 (relating to disposition of unfounded reports).

15 Section 6338(a) and (b) (relating to disposition of founded
16 and indicated reports).

17 Section 6339 (relating to confidentiality of reports).

18 Section 6340 (relating to release of information in
19 confidential reports).

20 Section 6341(a) through (f) (relating to amendment or
21 expunction of information).

22 Section 6342 (relating to studies of data in records).]

23 Section 4. This act shall take effect ~~in 60 days~~ JANUARY 1, <--
24 2014.