
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2808 Session of
2020

INTRODUCED BY TOOHL, PICKETT, McNEILL, MILLARD, MIHALEK, ROZZI,
READSHAW, STEPHENS, BOBACK, HOWARD, HILL-EVANS, OWLETT,
CIRESI AND MOUL, AUGUST 21, 2020

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, AUGUST 21, 2020

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for amendment or expunction of information and for
4 investigation of reports.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Sections 6341(a)(2) and (3), (b), (c), (c.2),
8 (c.3), (d) and (g) and 6368(f)(6) and (7) of Title 23 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 6341. Amendment or expunction of information.

11 (a) General rule.--Notwithstanding section 6338.1 (relating
12 to expunction of information of perpetrator who was under 18
13 years of age when child abuse was committed):

14 * * *

15 (2) Any person named as a perpetrator, and any school
16 employee named, in an indicated report of child abuse may,
17 within 90 days of being notified of the status of the report,
18 [request an administrative review by, or] appeal and request

1 a hearing before[, the secretary] a judge of the court of
2 common pleas in the county which entered the indicated report
3 of child abuse to amend or expunge an indicated report on the
4 grounds that it is inaccurate or it is being maintained in a
5 manner inconsistent with this chapter. [The request shall be
6 in writing in a manner prescribed by the department.]

7 (3) Within 60 days of a request under paragraph (1) [or
8 a request for administrative review under paragraph (2)], the
9 department shall send notice of the secretary's decision.

10 (b) Review of grant of request.--If the secretary grants the
11 request under subsection [(a)(2)] (a)(1), the Statewide
12 database, appropriate county agency, appropriate law enforcement
13 officials and all subjects shall be so advised of the decision.
14 The county agency and any subject have 90 days in which to file
15 an [administrative] appeal with the [secretary] court of common
16 pleas in the county which determined the indicated report of
17 child abuse. [If an administrative appeal is received, the
18 secretary or his designated agent shall schedule a hearing
19 pursuant to Article IV of the act of June 13, 1967 (P.L.31,
20 No.21), known as the Public Welfare Code, attending departmental
21 regulations.] If no [administrative] appeal is received within
22 the designated time period, the Statewide database shall comply
23 with the decision of the secretary and advise the county agency
24 to amend or expunge the information in their records so that the
25 records are consistent at both the State and local levels.

26 (c) Review of refusal of request.--Subject to subsection
27 (c.1), if the secretary refuses a request under subsection (a)
28 (1) [or a request for administrative review under subsection (a)
29 (2)], or does not act within the prescribed time under
30 subsection (a)(3), the perpetrator or school employee shall have

1 the right to appeal and request a hearing before [the secretary]
2 a judge of the court of common pleas in the county which entered
3 the indicated report of child abuse to amend or expunge an
4 indicated report on the grounds that it is inaccurate or it is
5 being maintained in a manner inconsistent with this chapter. The
6 request for hearing must be made within 90 days of notice of the
7 decision or the expiration of the time period under subsection
8 (a) (3). 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 (c.2) Hearing.--A person making an appeal under subsection
15 (a) (2) or (c) shall have the right to a timely hearing to
16 determine the merits of the appeal. A hearing shall be scheduled
17 according to the following procedures:

18 (1) Within [ten] 30 days of receipt of an appeal
19 pursuant to this section, the [department] court of common
20 pleas in the county which entered the indicated report of
21 child abuse shall schedule a hearing on the merits of the
22 appeal.

23 (2) The [department] court of common pleas in the county
24 which entered the indicated report of child abuse shall make
25 reasonable efforts to coordinate the hearing date with both
26 the appellee and appellant.

27 (3) After reasonable efforts required by paragraph (2)
28 have been made, the [department] court of common pleas in the
29 county which entered the indicated report of child abuse
30 shall [enter] file a scheduling order, and proceedings before

1 the [Bureau of Hearings and Appeals] court shall commence
2 within 90 days of the date the scheduling order is [entered]
3 filed, unless all parties have agreed to a continuance.
4 Proceedings and hearings shall be scheduled to be heard on
5 consecutive days whenever possible, but if not on consecutive
6 days, then the proceeding or hearing shall be concluded not
7 later than 30 days from commencement.

8 (4) The [department or] county agency shall provide a
9 person making an appeal with evidence gathered during the
10 child abuse investigation within its possession that is
11 relevant to the child abuse determination, subject to
12 sections 6339 (relating to confidentiality of reports) and
13 6340 (relating to release of information in confidential
14 reports).

15 (5) The [department or] county agency shall bear the
16 burden of proving by substantial evidence that the report
17 should remain categorized as an indicated report.

18 (c.3) Prompt decision.--The [administrative law judge's or
19 hearing officer's] decision by a judge of the court of common
20 pleas in a hearing under subsection (c.2) shall be entered,
21 filed and served upon the parties within 45 days of the date
22 upon which the proceeding or hearing is concluded unless, within
23 that time, the [tribunal] judge extends the date for the
24 decision by order entered of record showing good cause for the
25 extension. In no event shall an extension delay the entry of the
26 decision more than 60 days after the conclusion of the
27 proceeding or hearing.

28 * * *

29 (d) Stay of proceedings.--Any [administrative] appeal
30 proceeding pursuant to subsection (b) shall be automatically

1 stayed upon notice to the [department] court by either of the
2 parties when there is a pending criminal proceeding or a
3 dependency or delinquency proceeding pursuant to 42 Pa.C.S. Ch.
4 63 (relating to juvenile matters), including any appeal thereof,
5 involving the same factual circumstances as the [administrative]
6 appeal under subsection (b).

7 * * *

8 (g) Reconsideration and appeal.--Parties to a proceeding or
9 hearing held under subsection (c.2) have 15 calendar days from
10 the mailing date of the final order [of the Bureau of Hearings
11 and Appeals] to request [the secretary] a judge of the court of
12 common pleas in the county of jurisdiction to reconsider the
13 decision. Parties to a proceeding or hearing held under this
14 section have 30 calendar days from the mailing date of the final
15 order of [the Bureau of Hearings and Appeals] a judge of the
16 court of common pleas in the county of jurisdiction to perfect
17 an appeal to Commonwealth Court. The filing for reconsideration
18 shall not toll the 30 days provided.

19 § 6368. Investigation of reports.

20 * * *

21 (f) Final determination.--Immediately upon conclusion of the
22 child abuse investigation, the county agency shall provide the
23 results of its investigation to the department in a manner
24 prescribed by the department. Within three business days of
25 receipt of the results of the investigation from the county
26 agency, the department shall send notice of the final
27 determination to the subjects of the report, other than the
28 abused child. The determination shall include the following
29 information:

30 * * *

1 (6) The perpetrator's right to file an appeal of an
2 indicated finding of abuse pursuant to section 6341 (relating
3 to amendment or expunction of information) before a judge of
4 the court of common pleas in the county which entered the
5 indicated report of child abuse within 90 days of the date of
6 notice.

7 (7) The perpetrator's right to a fair hearing before a
8 judge of the court of common pleas in the county which
9 entered the indicated report of child abuse on the merits on
10 an appeal of an indicated report filed pursuant to section
11 6341.

12 * * *

13 Section 2. This act shall take effect in 60 days.