

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 550 Session of 2011

INTRODUCED BY ERICKSON, FONTANA AND WOZNIAK, 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, in child protective services, further
3 providing for definitions, for immunity from liability, for
4 complaint files and for amendment or expunction of
5 information.

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

8 Section 1. Section 6303(a) of Title 23 of the Pennsylvania
9 Consolidated Statutes is amended by adding definitions to read:

10 § 6303. Definitions.

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

14 * * *

15 "Detention facility." A privately or publicly owned and
16 operated facility that is designated by the court and approved
17 by the Department of Public Welfare to detain a juvenile
18 temporarily.

19 "Detention facility employee." An individual employed by a
20 detention facility. The term includes an independent contractor

1 and employees.

2 * * *

3 "Private residential rehabilitative institution." The term
4 shall have the same meaning as given to it in section 914.1-A(c)
5 of the act of March 10, 1949 (P.L.30, No.14), known as the
6 Public School Code of 1949.

7 "Private residential rehabilitative institution employee."

8 An individual employed by a private residential rehabilitative
9 institution. The term includes an independent contractor and
10 employees.

11 * * *

12 "School." A public or private school, intermediate unit or
13 area vocational-technical school.

14 * * *

15 Section 2. Section 6318 of Title 23 is amended by adding a
16 subsection to read:

17 § 6318. Immunity from liability.

18 * * *

19 (c) False reports.--Any person who intentionally makes a
20 false report of suspected child abuse against a school, private
21 residential rehabilitative institution, detention facility,
22 school employee, private residential rehabilitative institution
23 employee or detention facility employee commits a misdemeanor of
24 the third degree.

25 Section 3. Section 6331(2) of Title 23 is amended to read:

26 § 6331. Establishment of pending complaint file, Statewide
27 central register and file of unfounded reports.

28 There shall be established in the department:

29 * * *

30 (2) A Statewide central register of child abuse which

1 shall consist of founded and indicated reports[.] and which
2 contains the following subfiles that shall be retained
3 indefinitely:

4 (i) A subfile of the names of perpetrators of
5 indicated and founded reports of child abuse if the
6 individual's Social Security number or date of birth is
7 known to the department.

8 (ii) A subfile of the names of the persons who made
9 an intentionally false report of suspected child abuse
10 under section 6318(c) (relating to immunity from
11 liability), including the name of the subject child,
12 which shall only be made available to law enforcement,
13 the department or the county agency investigating new
14 allegations of suspected child abuse at a school, a
15 private residential rehabilitative institution or a
16 detention facility to determine the existence of a
17 pattern of false reports of suspected child abuse on
18 behalf of any one person or subject child.

19 * * *

20 Section 4. Section 6341(a)(2), (c) and (f) of Title 23 are
21 amended and the section is amended by adding a subsection to
22 read:

23 § 6341. Amendment or expunction of information.

24 (a) General rule.--At any time:

25 * * *

26 (2) Any person named as a perpetrator, and any school
27 employee, private residential rehabilitative institution
28 employee or detention facility employee named, in an
29 indicated report of child abuse may, within 45 days of being
30 notified of the status of the report, request the secretary

1 to amend or expunge an indicated report on the grounds that
2 it is inaccurate or it is being maintained in a manner
3 inconsistent with this chapter.

4 * * *

5 (c) Review of refusal of request.--If the secretary refuses
6 the request under subsection (a)(2) or does not act within a
7 reasonable time, but in no event later than 30 days after
8 receipt of the request, the perpetrator [or], school employee,
9 private residential rehabilitative institution employee or
10 detention facility employee shall have the right to a hearing
11 before the secretary or a designated agent of the secretary to
12 determine whether the summary of the indicated report in the
13 Statewide central register should be amended or expunged on the
14 grounds that it is inaccurate or that it is being maintained in
15 a manner inconsistent with this chapter. The perpetrator [or],
16 school employee, private residential rehabilitative institution
17 employee or detention facility employee shall have 45 days from
18 the date of the letter giving notice of the decision to deny the
19 request in which to request a hearing. The appropriate county
20 agency and appropriate law enforcement officials shall be given
21 notice of the hearing. The burden of proof in the hearing shall
22 be on the appropriate county agency. The department shall assist
23 the county agency as necessary.

24 (c.1) Appeals from refusal of request.--

25 (1) A school employee, private residential
26 rehabilitative institution employee or detention facility
27 employee who is named in an indicated report of suspected
28 child abuse and who, under subsection (c), files an appeal,
29 shall be entitled to an initial hearing and ruling on the
30 matter within 45 days of the date the appeal was received by

1 the secretary. If a ruling on the matter is not issued within
2 45 days, the report shall be marked unfounded and expunction
3 shall be granted in accordance with the terms of this
4 chapter.

5 (2) The initial hearing shall be conducted before the
6 secretary or the designated agent of the secretary for the
7 purpose of determining whether credible and substantial
8 evidence exists to support the determination made by the
9 department or the county agency. All evidence gathered by the
10 department or county agency as part of its investigation
11 leading to a determination shall be disclosed to the
12 appellant employee sufficiently in advance of the hearing so
13 as to make the disclosure meaningful and shall be subject to
14 cross-examination at the hearing. If the secretary or
15 designee concludes that insufficient evidence exists to
16 support the determination, the report shall be marked
17 unfounded and expunction shall be granted in accordance with
18 the terms of this chapter. If the secretary or designee
19 concludes that sufficient evidence has been presented, the
20 matter shall be scheduled for a full hearing on the merits.
21 If a full hearing is necessary and the appellant is a private
22 residential rehabilitative institution employee or detention
23 facility employee, the secretary or designee shall also
24 determine whether the appellant shall continue to work with
25 children and under what, if any, restrictions shall be
26 imposed based on the nature and extent of the evidence
27 presented. Restrictions may only be imposed if, based on
28 evidence presented, the appellant presents a danger to the
29 subject child or other minors under his or her care.

30 (3) The department or county agency shall bear the

1 burden of proof at any hearing conducted before the secretary
2 or designee.

3 * * *

4 (f) Notice of expunction.--Written notice of an expunction
5 of any child abuse record made pursuant to the provisions of
6 this chapter shall be served upon the subject of the record who
7 was responsible for the abuse or injury and the appropriate
8 county agency. Except as provided in this subsection, the county
9 agency, upon receipt of the notice, shall take appropriate,
10 similar action in regard to the local child abuse and school
11 employee, private residential rehabilitative institution
12 employee or detention facility employee records and inform, for
13 the same purpose, the appropriate coroner if that officer has
14 received reports pursuant to section 6367 (relating to reports
15 to department and coroner). Whenever the county agency
16 investigation reveals, within 60 days of receipt of the report
17 of suspected child abuse, that the report is unfounded but that
18 the subjects need services provided or arranged by the county
19 agency, the county agency shall retain those records and shall
20 specifically identify that the report was an unfounded report of
21 suspected child abuse. An unfounded report regarding subjects
22 who receive services shall be expunged no later than 120 days
23 following the expiration of one year after the termination or
24 completion of services provided or arranged by the county
25 agency.

26 Section 5. This act shall take effect in 60 days.