

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 21 Session of 2013

INTRODUCED BY WARD, BLAKE, SCARNATI, PILEGGI, WASHINGTON, STACK, TEPLITZ, ERICKSON, BREWSTER, FONTANA, BAKER, RAFFERTY, YUDICHAK, VULAKOVICH, KASUNIC, TARTAGLIONE, WILLIAMS, SMITH, WAUGH, FARNESE, BROWNE, SOLOBAY, HUGHES, COSTA, ALLOWAY, SCHWANK AND BOSCOLA, 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 provisions and responsibilities for
3 reporting suspected child abuse, further providing for
4 definitions and for persons required to report suspected
5 child abuse; providing for privileged communications; further
6 providing for persons permitted to report suspected child
7 abuse, for reporting procedure, for documentary evidence on a
8 child subject to report and for taking child into protective
9 custody; and, in organization and responsibilities of child
10 protective service, repealing provisions relating to taking
11 child into protective custody.

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

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

16 § 6303. Definitions.

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

20 \* \* \*

1 "ADULT." AN INDIVIDUAL 18 YEARS OF AGE OR OLDER.

2 \* \* \*

3 "Direct contact with children." The care, supervision,  
4 guidance or control of children, or routine interaction with  
5 children.

6 \* \* \*

7 "Independent contractor." An individual who provides a  
8 program, activity or service to an agency, institution,  
9 organization or other entity, including a school or regularly  
10 established religious organization, that is responsible for the  
11 care, supervision, guidance or control of children. The term  
12 does not include an individual who has no direct contact with  
13 children.

14 \* \* \*

15 "Mandated reporter." A person who is required by this  
16 chapter to make a report of suspected child abuse.

17 \* \* \*

18 "Program, activity or service." A public or private  
19 educational, athletic or other pursuit in which children  
20 participate. The term includes, but is not limited to, the  
21 following:

- 22 (1) A youth camp or program.
- 23 (2) A recreational camp or program.
- 24 (3) A sports or athletic program.
- 25 (4) An outreach program.
- 26 (5) An enrichment program.
- 27 (6) A troop, club or similar organization.

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.]

6 (a) Mandated reporters.--The following adults shall make a  
7 report of suspected child abuse, subject to subsection (b), if  
8 the person has reasonable cause to suspect that a child is a  
9 victim of child abuse:

10 (1) A person licensed or certified to practice in any  
11 health-related field under the jurisdiction of the Department  
12 of State.

13 (2) A medical examiner, coroner or funeral director.

14 (3) An employee of a health care facility or provider  
15 licensed by the Department of Health engaged in the  
16 admission, examination, care or treatment of individuals.

17 (4) A school administrator, teacher, nurse, guidance  
18 counselor, coach or other school employee.

19 (5) A child-care services provider.

20 (6) A clergyman, priest, rabbi, minister, Christian  
21 Science practitioner, religious healer or spiritual leader of  
22 any regularly established church or other religious  
23 organization.

24 (7) An individual paid or unpaid, who, on the basis of  
25 the individual's role as an integral part of a regularly  
26 scheduled program, activity or service, accepts  
27 responsibility for a child.

28 (8) A social services worker.

29 (9) A peace officer or law enforcement official.

30 (10) An emergency medical services provider certified by

1 the Department of Health.

2 (11) An individual supervised or managed by a person  
3 listed under paragraph (1), (2), (3), (4), (5), (6), (7),  
4 (8), (9) or (10), who has direct contact with children in the  
5 course of employment.

6 (12) An independent contractor.

7 (b) Basis to report.--

8 (1) Any of the following circumstances shall require a  
9 mandated reporter under subsection (a), with reasonable cause  
10 to suspect that a child is a victim of child abuse, to make a  
11 report in accordance with section 6313 (relating to reporting  
12 procedure):

13 (i) The mandated reporter comes into contact with  
14 the child in the course of employment, occupation and  
15 practice of a profession or through a regularly scheduled  
16 program, activity or service.

17 (ii) The mandated reporter is directly responsible  
18 for the care, supervision, guidance or training of the  
19 child, or is affiliated with an agency, institution,  
20 organization, school, regularly established church or  
21 religious organization or other entity that is directly  
22 responsible for the care, supervision, guidance or  
23 training of the child.

24 (iii) A person makes a specific disclosure to the  
25 mandated reporter that an identifiable child is the  
26 victim of child abuse.

27 (iv) An individual 14 years of age or older makes a  
28 specific disclosure to the mandated reporter that the  
29 individual has committed child abuse.

30 (2) Nothing in this section shall require a child to

1 come before the mandated reporter in order for the mandated  
2 reporter to make a report of suspected child abuse.

3 (3) Nothing in this section shall require the mandated  
4 reporter to identify the perpetrator of child abuse to make a  
5 report of suspected child abuse.

6 Section 3. Title 23 is amended by adding a section to read:  
7 § 6311.1. Privileged communications.

8 (a) General rule.--Subject to subsection (b), the privileged  
9 communications between a mandated reporter and a patient or  
10 client of the mandated reporter shall not:

11 (1) Apply to a situation involving child abuse.

12 (2) Relieve the mandated reporter of the duty to make a  
13 report of suspected child abuse.

14 (b) Confidential communications.--The following protections  
15 shall apply:

16 (1) Confidential communications made to a member of the  
17 clergy are protected under 42 Pa.C.S. § 5943 (relating to  
18 confidential communications to clergymen).

19 (2) Confidential communications made to an attorney are  
20 subject to 42 Pa.C.S. §§ 5916 (relating to confidential  
21 communications to attorney) and 5928 (relating to  
22 confidential communications to attorney), but only to the  
23 extent that such communications are protected under the rules  
24 of professional conduct for attorneys.

25 Section 4. Sections 6312, 6313 and 6314 of Title 23 are  
26 amended to read:

27 § 6312. Persons [permitted] encouraged to report suspected  
28 child abuse.

29 [In addition to those persons and officials required to  
30 report suspected child abuse, any] Any person may make [such a

1 report] an oral or written report of suspected child abuse,  
2 which may be submitted electronically, or cause a report of  
3 suspected child abuse to be made to the department, county  
4 agency or law enforcement, if that person has reasonable cause  
5 to suspect that a child is [an abused child] a victim of child  
6 abuse.

7 § 6313. Reporting procedure.

8 [(a) General rule.--Reports from persons required to report  
9 under section 6311 (relating to persons required to report  
10 suspected child abuse) shall be made immediately by telephone  
11 and in writing within 48 hours after the oral report.

12 (b) Oral reports.--Oral reports shall be made to the  
13 department pursuant to Subchapter C (relating to powers and  
14 duties of department) and may be made to the appropriate county  
15 agency. When oral reports of suspected child abuse are initially  
16 received at the county agency, the protective services staff  
17 shall, after seeing to the immediate safety of the child and  
18 other children in the home, immediately notify the department of  
19 the receipt of the report, which is to be held in the pending  
20 complaint file as provided in Subchapter C. The initial child  
21 abuse report summary shall be supplemented with a written report  
22 when a determination is made as to whether a report of suspected  
23 child abuse is a founded report, an unfounded report or an  
24 indicated report.

25 (c) Written reports.--Written reports from persons required  
26 to report under section 6311 shall be made to the appropriate  
27 county agency in a manner and on forms the department prescribes  
28 by regulation. The written reports shall include the following  
29 information if available:

30 (1) The names and addresses of the child and the parents

1 or other person responsible for the care of the child if  
2 known.

3 (2) Where the suspected abuse occurred.

4 (3) The age and sex of the subjects of the report.

5 (4) The nature and extent of the suspected child abuse,  
6 including any evidence of prior abuse to the child or  
7 siblings of the child.

8 (5) The name and relationship of the person or persons  
9 responsible for causing the suspected abuse, if known, and  
10 any evidence of prior abuse by that person or persons.

11 (6) Family composition.

12 (7) The source of the report.

13 (8) The person making the report and where that person  
14 can be reached.

15 (9) The actions taken by the reporting source, including  
16 the taking of photographs and X-rays, removal or keeping of  
17 the child or notifying the medical examiner or coroner.

18 (10) Any other information which the department may  
19 require by regulation.

20 (d) Failure to confirm oral report.--The failure of a person  
21 reporting cases of suspected child abuse to confirm an oral  
22 report in writing within 48 hours shall not relieve the county  
23 agency from any duties prescribed by this chapter. In such  
24 event, the county agency shall proceed as if a written report  
25 were actually made.]

26 (a) Report by mandated reporter.--

27 (1) A mandated reporter shall immediately make an oral  
28 or written report, which may be submitted electronically, of <--  
29 suspected child abuse to the department REPORT OF SUSPECTED <--  
30 CHILD ABUSE TO THE DEPARTMENT VIA THE STATEWIDE TOLL-FREE

1 TELEPHONE NUMBER UNDER SECTION 6332 (RELATING TO  
2 ESTABLISHMENT OF STATEWIDE TOLL-FREE TELEPHONE NUMBER) OR A  
3 WRITTEN REPORT USING ELECTRONIC TECHNOLOGIES UNDER SECTION  
4 6304 (RELATING TO ELECTRONIC REPORTING).

5 (2) A mandated reporter making an oral report under  
6 paragraph (1) of suspected child abuse shall also make a  
7 written report, which may be submitted electronically, within  
8 48 hours to the department or county agency assigned to the  
9 case in a manner and format prescribed by the department.

10 (3) The failure of the mandated reporter to file the  
11 report under paragraph (2) shall not relieve the county  
12 agency from any duty under this chapter, and the county  
13 agency shall proceed as though the mandated reporter complied  
14 with paragraph (2).

15 (b) Contents of report.--A written report of suspected child  
16 abuse, which may be submitted electronically, shall include the  
17 following information, if known:

18 (1) The names and addresses of the child, the child's  
19 parents and any other person responsible for the child's  
20 welfare.

21 (2) Where the suspected abuse occurred.

22 (3) The age and sex of each subject of the report.

23 (4) The nature and extent of the suspected child abuse,  
24 including any evidence of prior abuse to the child or any  
25 sibling of the child.

26 (5) The name and relationship of each individual  
27 responsible for causing the suspected abuse and any evidence  
28 of prior abuse by each individual.

29 (6) Family composition.

30 (7) The source of the report.

1           (8) The person making the report and where that person  
2           can be reached.

3           (9) The actions taken by the person making the report,  
4           including those actions taken under section 6314 (relating to  
5           photographs, medical tests and X-rays of child subject to  
6           report), 6315 (relating to taking child into protective  
7           custody), 6316 (relating to admission to private and public  
8           hospitals) or 6317 (relating to mandatory reporting and  
9           postmortem investigation of deaths).

10           (10) Any other information required by Federal law or  
11           regulation.

12           (11) Any other information that the department requires  
13           by regulation.

14 § 6314. Photographs, medical tests and X-rays of child subject  
15           to report.

16           A person or official required to report cases of suspected  
17 child abuse may take or cause to be taken photographs of the  
18 child who is subject to a report and, if clinically indicated,  
19 cause to be performed a radiological examination and other  
20 medical tests on the child. Medical summaries or reports of the  
21 photographs, X-rays and relevant medical tests taken shall be  
22 sent to the county agency at the time the written report is sent  
23 or within 48 hours after a report is made by electronic  
24 technologies or as soon thereafter as possible. The county  
25 agency shall have access to actual photographs or duplicates and  
26 X-rays and may obtain them or duplicates of them upon request.  
27 Medical summaries or reports of the photographs, x-rays and  
28 relevant medical tests shall be made available to law  
29 enforcement officials in the course of investigating cases  
30 pursuant to section 6340(a)(9) or (10).

1 Section 5. Section 6315(a) of Title 23 is amended by adding  
2 a paragraph to read:

3 § 6315. Taking child into protective custody.

4 (a) General rule.--A child may be taken into protective  
5 custody:

6 \* \* \*

7 (4) Subject to this section and after receipt of a court  
8 order, the county agency shall take a child into protective  
9 custody for protection from abuse. No county agency worker  
10 may take custody of the child without judicial authorization  
11 based on the merits of the situation.

12 \* \* \*

13 Section 6. Section 6369 of Title 23 is repealed:

14 [§ 6369. Taking child into protective custody.

15 Pursuant to the provisions of section 6315 (relating to  
16 taking child into protective custody) and after receipt of a  
17 court order, the county agency shall take a child into  
18 protective custody for protection from abuse. No county agency  
19 worker may take custody of the child without judicial  
20 authorization based on the merits of the situation.]

21 Section 7. This act shall take effect January 1, 2014.