



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 433

PRINTERS NO. 2008

PRIME SPONSOR: Aument

COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	See Fiscal Impact

SUMMARY: House Bill 433, Printer's Number 2008, amends Title 23 (Domestic Relations) to provide for procedural safeguards, notification of the results of a child abuse investigation, appeals of indicated reports of child abuse, child victims/witnesses, additional review of indicated reports and removal from the child abuse registry.

ANALYSIS: This legislation requires that a child abuse investigation must include interviews with all the subjects of the report, including the alleged perpetrator. If a subject cannot be interviewed, reasonable efforts to interview the subject and the reasons for the inability to do so must be documented. An indicated report of child abuse must be approved by the county children and youth administrator (or a designee) and the agency's solicitor.

Notice of the results of a child abuse investigation with information about the right to appeal must be sent to all subjects of a report within 24 business hours of DPW's receipt of the results of an investigation from a county agency. The county agency is required to notify DPW immediately upon the conclusion of an investigation.

A person named as the perpetrator in an indicated report of child abuse may appeal the determination to the DPW Secretary within 90 days of the date of notice. The person appealing will have a right to a hearing, which will proceed within the following timeframes:

- Within 30 days from the receipt of the appeal, DPW will schedule a hearing on the merits of the appeal.
- Proceedings before the Bureau of Hearings and Appeals will commence within 45 days of the entry of the scheduling order, unless good cause is shown. All hearings must commence within 90 days of the scheduling order.
- The hearing will be concluded not later than 30 days from commencement.
- The hearing decision will be entered, filed and served to parties within 45 days of the conclusion of the hearing. Except, this may be extended to 60 days, if good cause is shown for the extension.

The investigative agency will bear the burden of proving by clear and convincing evidence that the report should remain categorized as an indicated report. A child victim or witness at an administrative appeal hearing or other child abuse proceeding will be given any consideration that the child would receive in a criminal or civil proceeding.

Parties to an appeal hearing will have 15 days from the mailing date of the final order of the Bureau of Hearings and Appeals to request the DPW Secretary to reconsider the decision or to appeal to Commonwealth Court. Parties will have 30 days from the mailing date to perfect an appeal to Commonwealth Court, and a filing for reconsideration will not toll the 30 days. Notice of the decision will be made to the central register, the appropriate county children and youth agency, any appropriate law enforcement officials and all subjects of the report.

In an indicated or founded report of child abuse, a person can request that a report be amended or expunged from the child abuse registry in light of newly discovered clear and convincing evidence that the report is inaccurate as follows:

- For an indicated report, the person may make a request that the DPW Secretary remove or expunge the request. If the Secretary refuses the request, the person can appeal to the Court of Common Pleas in the county where the alleged abuse occurred.
- For a founded report, other than a founded report based on a criminal conviction, a person may petition the court that determined the report to be founded to order DPW to amend or expunge the report.

Perpetrators of indicted reports of child abuse that do not involve serious bodily injury or sexual abuse or exploitation can be removed from the child abuse registry after 5 years, if the DPW Secretary determines that the person represents no significant risk to children and that no significant public purpose is served by the continued listing of the person in the child abuse registry.

The person will not be removed from the child abuse registry, if they are listed in the registry for more than one instance of child abuse or are prohibited from employment with children (as the result of their criminal history). The person may request that the Secretary amend or expunge the indicated report, and a determination must be made within 90 days. DPW can consider any relevant factor. If the Secretary refuses the request, the person may appeal to the Court of Common Pleas in the county where the abuse occurred, and the court can order DPW to amend or expunge the record.

FISCAL IMPACT: This legislation is based upon recommendations from the Task Force on Child Protection. DPW anticipates an increase in administrative and IT costs; however has indicated that impact should be minimal. Therefore, DPW should be able to absorb any additional costs associated with the bill. It is also assumed that counties will bear some additional administrative costs for the review of indicated reports, as well as the requirement to notify all subjects of a child abuse report of the outcome of the child abuse investigation.

PREPARED BY: Janelle Lynch
House Appropriations Committee (R)

DATE: June 20, 2013

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.