

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 871

**PRINTER NO.** 1079

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

September 17, 2021

**PRIME SPONSOR**

Senator J. Ward

**DESCRIPTION**

Senate Bill 871 makes several revisions to Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes.

The bill amends the definition of “child abuse” to include allowing a child to be present where methamphetamine is being produced. Under current law, it is child abuse if a person causes a child to be present where methamphetamine is being produced and the operation is being investigated by law enforcement.

The bill adds a subsection to the mandatory reporting requirement of suspected fatal cases of child abuse. The new subsection requires a coroner or medical examiner to provide the appropriate county agency with any information requested by the county agency that will help the investigation of the case.

The bill removes the definition of “expunge” from Title 23 and references to “expunction” of various types of child abuse reports. Under current law, state agencies must expunge these reports, while county children and youth agencies are not required to do so.

Senate Bill 871 adds a provision allowing a law enforcement official to use a child abuse report in the statewide database that was determined to be unfounded by a county agency. The unfounded report may be used for investigative purposes for up to one year after the county agency made the determination. The legislation allows the Department of Human Services or a county agency to use an unfounded child abuse report in the statewide database for future safety assessments, the evaluation of appropriate services and research purposes.

The bill eliminates the following expungement requirements for the Department of Human Services:

- That the statewide database expunge an unfounded report of child abuse “as soon as possible,” but no later than 120 days, after the one-year date that the department originally received the report;
- For a county agency investigation that does not determine within 60 days of the initial report that the report is a founded report, an indicated report or an unfounded report; and

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- That an unfounded report that did result in the provision of services for the family and child be expunged “as soon as possible,” or no later than 120 days, after the one-year anniversary of the case being closed.

In addition, the bill eliminates the expungement requirements for:

- Reports that the county agency determines are valid but are not accepted for services;
- Reports that the county agency determines are valid and are accepted for services; and
- Information on general protective services.

The reports that a county agency determines are invalid are to be maintained to assist in future risk and safety assessments, instead of being expunged.

The legislation eliminates the requirement that a found or indicated report be expunged when the child who was the subject of the report reaches the age of 23. It also eliminates the requirement that, for founded and indicated reports, the statewide database shall not retain identifying information about other subjects of the report (i.e., people who were not the perpetrator or a school employee). The legislation eliminates the requirement that the name of a perpetrator who was under the age of 18 when the abuse occurred shall be expunged from the statewide database at the later of these two dates:

- When he or she turns 21, or when five years have elapsed since the perpetrator’s name was added to the database. Instead, the person shall no longer be considered an “indicated perpetrator,” but the indicated report shall be maintained in the statewide database until the person is 21; or
- Until five years have elapsed since the perpetrator’s name was added to the database, whichever is later.

If said perpetrator meets the requirements contained in the current act, the report is no longer expunged, but the department shall guarantee that the report is changed to unfounded and shall maintain the report pursuant to Section 6335 (c).

The bill adds the Office of State Inspector General to the list of agencies that are permitted to access reports made under this section. The Office of State Inspector General shall have access to the report as part of an investigation authorized by Section 503-A of Act 175 of 1929, the Administrative Code of 1929. Access to a report shall not include information prohibited from disclosure by federal law or the identity of the child or child’s family.

Senate Bill 871 adds a section requiring the department to provide notice to the Juvenile Court Judges’ Commission, judges with placement decision authority in dependency and delinquency matters, chief juvenile probation officers and child county welfare administrators of a basis for a substantiated outcome of an indicated or founded report if the incident happened in a child residential facility, child day treatment center, an approved foster or pre-adoptive home or a facility operated by the department’s Bureau of Juvenile Justice Services.

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The legislation also directs the department to prepare and submit a quarterly report to these entities that includes the total number of child abuse reports, the total number of substantiated reports of abuse for the preceding quarter for all child residential facilities, child day treatment centers, approved foster or pre-adoptive homes and facilities operated by the department's Bureau of Juvenile Justice Services.

Senate Bill 871 places the burden of proof on the perpetrator or school employee in an appeal of the department secretary's refusal to grant the initial request to the secretary made under Section 6341(a)(1). For an appeal of a refusal of a request for an administrative review made under Section 6341(a)(2), the burden of proof is on the county agency.

The bill adds a section allowing a perpetrator named in a founded report to have the report changed to an indicated report if the person provides evidence of a successful completion of an Accelerated Rehabilitative Disposition (ARD) program and removal of the related charge from the criminal report.

The bill eliminates the requirement that an unfounded report involving a subject who received services be expunged no later than 120 days following the expiration of one year after the termination or completion of services provided or arranged by the county agency.

For department reviews and reports of child fatalities and near fatalities, the legislation eliminates the requirement that the department's written report include recommendations for reducing the likelihood of future child fatalities and near fatalities from abuse.

The bill removes the ability of the department to release the identity of the child prior to completion of the report, when the department reviews a case that resulted in a child's fatality or near fatality. Upon completion of the review and report, the department may no longer release the identity of the deceased child to the public.

In its annual report to the Governor and General Assembly, the department shall include available, relevant demographic information for the reports of suspected child abuse made to the department and reports of general protective services made to the department or county agencies.

The bill amends the existing statute to change the information that must be contained in the quarterly reports prepared by the department for the Governor and General Assembly. The reports must now include aggregate data on substantiated fatality and near fatality reports, and include the following information:

- The number of reports;
- The type of abuse;
- The age of the victim child at the time of the incident;
- The relationship of the perpetrator to the victim child; and

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- If the victim child was known to the child welfare system within the last sixteen months.

The bill adds a section directing the department secretary or the Deputy Secretary of the Office of Children, Youth and Families to appear before the Aging and Youth Committee and Appropriations Committee of the Senate and the Children and Youth Committee and Appropriations Committee of the House of Representative in person at least twice a year. The secretary will discuss the previous two quarter reports provided and child protection in general.

The bill changes the time period during which a team reviewing a child fatality or near fatality must convene from 31 days after the department's receipt of the oral report of suspected child abuse to 60 days. The bill allows a county agency to convene a regional review team that meets the requirements of Section 6365(d)(1) to satisfy its responsibilities to review fatal and near fatal cases. A county agency team reviewing a fatality or a near fatality shall have 60 days, instead of 90 days, to submit the final written report to the department and designated county officials. The report shall not include the identity of the deceased child.

The legislation revises the process by which the department reviews a report of child fatalities, near fatalities and associated data. The information is to be reviewed on a "continual basis," and the department shall make an annual data summary report available on its website. The review is to include recommendations for prevention efforts at the state and local level.

The bill directs the county agency to make child abuse reports available to the medical examiner in addition to the coroner. The county agency is to provide both the coroner and the medical examiner with any information relating to these reports that involve the death of a child that may assist either party in their investigation. During the investigation of a case of child abuse, if there is evidence that substance abuse was a contributing factor, the county agency can seek a court order to compel appropriate drug and alcohol screening.

The bill removes the requirement that, if the subjects of an unfounded report need services, the county agency can only retain those records if it specifically identifies the report as unfounded.

This act shall take effect in 180 days.

### **FISCAL IMPACT:**

Senate Bill 871 will have no fiscal impact to the Commonwealth. The Department of Human Services indicates there will be no fiscal impact to the department or the counties related to this bill. Any costs related to fulfilling these duties in the department are capable of being accommodated within the department's current workload and budget. In addition, the administration of the child welfare system is the responsibility of the counties within the Commonwealth. Funding for these services is included in the Needs-Based Budget within the County Child Welfare appropriation, which is sufficiently funded.