

DOMESTIC RELATIONS CODE (23 PA.C.S.) - OMNIBUS AMENDMENTS

Act of May. 14, 2014, P.L. 645, No. 44

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No. 2014-44

SB 31

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions, for persons required to report suspected child abuse and for investigating performance of county agency; repealing provisions relating to definitions, school employees, administration, investigation, responsibilities of county agency for child protective services and report information; and further providing for services for prevention, investigation and treatment of child abuse.

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

Section 1. The definitions of "bodily injury," "founded report," "general protective services," "indicated report for school employee," "individual residing in the same home as the child," "near fatality" and "school employee" in section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes, amended December 18, 2013 (P.L.1170, No.108), are amended and the subsection is amended by adding definitions to read:

§ 6303. Definitions.

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

\* \* \*

["Bodily injury." Impairment of physical condition or substantial pain.]

**"Bodily injury." Impairment of physical condition or substantial pain.**

\* \* \*

"Founded report." A child abuse report involving a perpetrator that is made pursuant to this chapter, if any of the following applies:

(1) There has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following:

(i) The entry of a plea of guilty or nolo contendere.

(ii) A finding of guilt to a criminal charge.

(iii) A finding of dependency under 42 Pa.C.S. § 6341 (relating to adjudication) if the court has entered a finding that a child who is the subject of the report has been abused.

(iv) A finding of delinquency under 42 Pa.C.S. § 6341 if the court has entered a finding that the child who is the subject of the report has been abused by the child who was found to be delinquent.

(2) There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.

(3) There has been a consent decree entered in a juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the decree involves the same factual circumstances involved in the allegation of child abuse and the terms and conditions of the [allegation] **consent decree** include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent.

(4) A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and:

(i) only one individual is charged with the abuse in the protection from abuse action;

(ii) only that individual defends against the charge;

(iii) the adjudication involves the same factual circumstances involved in the allegation of child abuse; and

(iv) the protection from abuse adjudication finds that the child abuse occurred.

\* \* \*

"General protective services." Those services and activities provided by each county agency for [nonabuse] cases requiring protective services, as defined by the [Department of Public Welfare] **department** in regulations.

\* \* \*

["Indicated report for school employee." A report made under Subchapter C.1 (relating to students in public and private schools) if an investigation by the county agency determines that substantial evidence of serious bodily injury or sexual abuse or exploitation exists based on any of the following:

(1) Available medical evidence.

(2) The county agency's investigation.

(3) An admission of the acts of abuse by the school employee.

"Individual residing in the same home as the child." An individual who is 14 years of age or older and who resides in the same home as the child.]

\* \* \*

"Near fatality." [An act that, as certified by a physician, places a child in serious or critical condition.] **A child's serious or critical condition, as certified by a physician, where that child is a subject of the report of child abuse.**

\* \* \*

"School." A facility providing elementary, secondary or postsecondary educational services. The term includes the following:

(1) Any school of a school district.

(2) An area vocational-technical school.

(3) A joint school.

(4) An intermediate unit.

(5) A charter school or regional charter school.

(6) A cyber charter school.

(7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.

(8) A private school accredited by an accrediting association approved by the State Board of Education.

(9) A nonpublic school.

(10) A community college which is an institution now or hereafter created pursuant to Article XIX-A of the act

of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or the former act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.

(11) An independent institution of higher education which is an institution of higher education which is operated not for profit, located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college" or "university" as provided for by standards and qualifications prescribed by the State Board of Education pursuant to 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

(12) A State-owned university.

(13) A State-related university.

(14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.

(15) Hiram G. Andrews Center.

(16) A private residential rehabilitative institution as defined in section 914.1-A(c) of the Public School Code of 1949.

"School employee." An individual **who is** employed by a [public or private school, intermediate unit or area vocational-technical] school **or who provides a program, activity or service sponsored by a school.** [The term includes an independent contractor and employees.] The term excludes an individual who has no direct contact with [students] **children.**

\* \* \*

Section 2. Sections 6311(c) and 6343(c)(3) of Title 23 are amended to read:

§ 6311. Persons required to report suspected child abuse.

\* \* \*

(c) Staff members of institutions, etc.--Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall **report immediately in accordance with section 6313 and shall immediately thereafter** notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification, the person in charge or the designated agent, if any, shall [assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with section 6313.] **facilitate the cooperation of the institution, school, facility or agency with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is subject to the provisions of 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).** This chapter does not require more than one report from any such institution, school, facility or agency.

§ 6343. Investigating performance of county agency.

\* \* \*

(c) Department reviews and reports of child fatalities and near fatalities.--

\* \* \*

(3) Prior to completing its report, the department may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:

(i) The identity of the child, **only in the case of a child's fatality.**

(ii) If the child was in the custody of a public or private agency, the identity of the agency.

(iii) The identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality.

(iv) A description of services provided under subparagraph (iii).

(v) The identity of the county agency that convened a child fatality or near fatality review team with respect to the child.

\* \* \*

Section 3. Subchapter C.1 heading of Chapter 63 of Title 23 is repealed:

[SUBCHAPTER C.1

STUDENTS IN PUBLIC AND PRIVATE SCHOOLS]

Section 4. Sections 6351, 6352, 6353 and 6353.1 of Title 23 are repealed:

[§ 6351. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Administrator." The person responsible for the administration of a public or private school, intermediate unit or area vocational-technical school. The term includes an independent contractor.

§ 6352. School employees.

(a) Requirement.--

(1) Except as provided in paragraph (2), a school employee who has reasonable cause to suspect, on the basis of professional or other training and experience, that a student coming before the school employee in the employee's professional or official capacity is a victim of serious bodily injury or sexual abuse or sexual exploitation by a school employee shall immediately contact the administrator.

(2) If the school employee accused of seriously injuring or sexually abusing or exploiting a student is the administrator, the school employee who has reasonable cause to suspect, on the basis of professional or other training and experience, that a student coming before the school employee in the employee's professional or official capacity is a victim of serious bodily injury or sexual abuse or sexual exploitation shall immediately report to law enforcement officials and the district attorney under section 6353(a) (relating to administration). If an administrator is the school employee who suspects injury or abuse, the administrator shall make a report under section 6353(a).

(3) The school employee may not reveal the existence or content of the report to any other person.

(b) Immunity.--A school employee who refers a report under subsection (a) shall be immune from civil and criminal liability arising out of the report.

(c) Criminal penalty.--

(1) A school employee who willfully violates subsection (a) commits a summary offense.

(2) A school employee who, after being sentenced under paragraph (1), violates subsection (a) commits a misdemeanor of the third degree.

§ 6353. Administration.

(a) Requirement.--An administrator and a school employee governed by section 6352(a)(2) (relating to school employees) shall report immediately to law enforcement officials and the

appropriate district attorney any report of serious bodily injury or sexual abuse or sexual exploitation alleged to have been committed by a school employee against a student.

(b) Report.--A report under subsection (a) shall include the following information:

- (1) Name, age, address and school of the student.
- (2) Name and address of the student's parent or guardian.
- (3) Name and address of the administrator.
- (4) Name, work and home address of the school employee.
- (5) Nature of the alleged offense.
- (6) Any specific comments or observations that are directly related to the alleged incident and the individuals involved.

(c) Immunity.--An administrator who makes a report under subsection (a) shall be immune from civil or criminal liability arising out of the report.

(d) Criminal penalty.--An administrator who willfully violates subsection (a) commits a misdemeanor of the third degree.

#### § 6353.1. Investigation.

(a) General rule.--Upon receipt of a report under section 6353 (relating to administration), an investigation shall be conducted by law enforcement officials, in cooperation with the district attorney, and a determination made as to what criminal charges, if any, will be filed against the school employee.

(b) Referral to county agency.--

(1) If local law enforcement officials have reasonable cause to suspect on the basis of initial review that there is evidence of serious bodily injury, sexual abuse or sexual exploitation committed by a school employee against a student, local law enforcement officials shall notify the county agency in the county where the alleged abuse or injury occurred for the purpose of the agency conducting an investigation of the alleged abuse or injury.

(2) To the fullest extent possible, law enforcement officials and the county agency shall coordinate their respective investigations. In respect to interviews with the student, law enforcement officials and the county agency shall conduct joint interviews. In respect to interviews with the school employee, law enforcement officials shall be given an opportunity to interview the school employee prior to the employee having any contact with the county agency.

(3) The county agency and law enforcement officials have the authority to arrange for photographs, medical tests or X-rays of a student alleged to have been abused or injured by a school employee. The county agency and law enforcement officials shall coordinate their efforts in this regard and, to the fullest extent possible, avoid the duplication of any photographs, medical tests or X-rays.

(4) Law enforcement officials and the county agency shall advise each other of the status and findings of their respective investigations on an ongoing basis.]

Section 5. Sections 6353.2 and 6353.3 of Title 23, amended December 18, 2013 (P.L.1201, No.119), are repealed:

[§ 6353.2. Responsibilities of county agency.

(a) Information for the pending complaint file.--Immediately after receiving a report under section 6353.1 (relating to investigation), the county agency shall notify the department of the receipt of the report, which is to be filed in the pending complaint file as provided in section 6331(1) (relating

to establishment of pending complaint file, Statewide central register and file of unfounded reports). The oral report shall include the following information:

- (1) The name and address of the student and the student's parent or guardian.
- (2) Where the suspected abuse or injury occurred.
- (3) The age and sex of the student.
- (4) The nature and extent of the suspected abuse or injury.
- (5) The name and home address of the school employee alleged to have committed the abuse or injury.
- (6) The relationship of the student to the school employee alleged to have committed the abuse or injury.
- (7) The source of the report to the county agency.
- (8) The actions taken by the county agency, law enforcement officials, parents, guardians, school officials or other persons, including the taking of photographs, medical tests and X-rays.

(b) Investigation of reports.--Upon receipt of a report under section 6353.1, the county agency shall commence, within the time frames established in department regulations, an investigation of the nature, extent and cause of any alleged abuse or injury enumerated in the report. The county agency shall coordinate its investigation to the fullest extent possible with law enforcement officials as provided in section 6353.1(b).

(c) Completion of investigation.--The investigation by the county agency to determine whether the report is an indicated report for school employee or an unfounded report shall be completed within 60 days.

(d) Notice to subject of a report.--Prior to interviewing a subject of the report, the county agency shall orally notify the subject of the report of the existence of the report and the subject's rights under this chapter in regard to amendment or expungement. Within 72 hours following oral notification to the subject, the county agency shall give written notice to the subject. The notice may be reasonably delayed if notification is likely to threaten the safety of the student or the county agency worker, to cause the school employee to abscond or to significantly interfere with the conduct of a criminal investigation.

(e) Reliance on factual investigation.--The county agency may rely on a factual investigation of substantially the same allegations by a law enforcement officials to support the agency's finding. This reliance shall not relieve the county agency of its responsibilities relating to the investigation of reports under this subchapter.

(f) Notice to the department of the county agency's determination.--As soon as the county agency has completed its investigation, the county agency shall advise the department and law enforcement officials of its determination of the report as an indicated report for school employee or an unfounded report. Supplemental reports shall be made at regular intervals thereafter in a manner and form the department prescribes by regulation to the end that the department is kept fully informed and up-to-date concerning the status of the report.

§ 6353.3. Information in Statewide central register.

The Statewide central register established under section 6331 (relating to establishment of pending complaint file, Statewide central register and file of unfounded reports) shall retain only the following information relating to reports of abuse or injury of a student by a school employee which have

been determined to be a founded report for school employee or an indicated report for school employee:

- (1) The names, Social Security numbers, age and sex of the subjects of the report.
- (2) The home address of the subjects of the report.
- (3) The date and the nature and extent of the alleged abuse or injury.
- (4) The county and state where the abuse or injury occurred.
- (5) Factors contributing to the abuse or injury.
- (6) The source of the report.
- (7) Whether the report is a founded or indicated report.
- (8) Information obtained by the department in relation to the school employee's request to release, amend or expunge information retained by the department or the county agency.
- (9) The progress of any legal proceedings brought on the basis of the report.
- (10) Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.]

Section 6. Section 6353.4 of Title 23 is repealed:

[§ 6353.4. Other provisions.

The following provisions shall apply to the release and retention of information by the department and the county agency concerning reports of abuse or injury committed by a school employee as provided by this subchapter:

Section 6336(b) and (c) (relating to information in Statewide central register).

Section 6337 (relating to disposition of unfounded reports).

Section 6338(a) and (b) (relating to disposition of founded and indicated reports).

Section 6339 (relating to confidentiality of reports).

Section 6340 (relating to release of information in confidential reports).

Section 6341(a) through (f) (relating to amendment or expunction of information).

Section 6342 (relating to studies of data in records).]

Section 7. Section 6365 of Title 23 is amended by adding a subsection to read:

§ 6365. Services for prevention, investigation and treatment of child abuse.

\* \* \*

**(d.1) Release by county agency.--Prior to completing its child fatality or near fatality report, the investigating county agency may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:**

**(1) The identity of the child, only in the case of a child's fatality.**

**(2) If the child was in the custody of a public or private agency, the identity of the agency.**

**(3) The identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality.**

**(4) A description of services provided under paragraph (3).**

\* \* \*

Section 8. This act shall take effect December 31, 2014.

APPROVED--The 14th day of May, A.D. 2014.

TOM CORBETT