



# CITY OF PHILADELPHIA

DEPARTMENT OF HUMAN SERVICES  
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May 13, 1988

Honorable H. William DeWeese, Chairman  
Judiciary Committee  
Honorable David P. Richardson, Jr., Chairman  
Health and Welfare Committee  
House of Representatives  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120-0028

Dear Representatives DeWeese and Richardson:

Attached please find the Department's written notes of testimony on the proposed revisions to the Crimes Code and related Child Protection Statutes addressed at the Joint Hearing on May 19, 1988. The fact that the Hearing was twice postponed made it difficult to send a representative from the Department.

We do hope however, that the written testimony will be of value in your efforts to enhance our ability to protect children from abuse and neglect.

Sincerely,

*Rosemarie Hake*  
Rosemarie Hake  
Deputy Commissioner

RH:ybb

Encl.

## NOTES OF TESTIMONY

Re: Public Hearing  
"Crimes Code and Related Child Protection Statutes"

The Philadelphia Department of Human Services thanks you for this opportunity to present testimony on the proposed changes to the Crimes Code and related Child Protection Statutes.

Before commenting on the specific changes, a number of points deserve serious consideration:

- 1) The epidemic of drug and alcohol abuse has led to many situations where children, though not currently harmed, are in imminent danger because of parents' addiction. There are no provisions in current law nor in the proposed amendments which address this problem or offer guidance to the counties in how to handle such situations.
- 2) The seriousness of the initial information reported to Childline or the County Agency is not a reliable predictor of outcome. Situations that are reportable as General Protective Service (GPS) rather than Child Protective Service (CPS) frequently have more serious outcomes. More child deaths have occurred on cases that were initially reported as GPS than on those reported as CPS.
- 3) If all cases currently reportable as CPS or GPS were to receive the same handling and reporting requirement as for CPS cases, including initiating 24 hour investigations, the workload on Philadelphia County would be tripled. Such a change, which could be of great benefit to children in need of child protection, can only be accomplished with a corresponding increase in resources. To make changes in laws and statutes that will increase reports without resources is an empty promise indeed.
- 4) Child Protective Services cases despite their great numbers represent only about one-third (34%) of the total intake. The other 66% of intake represents general protective (GPS) cases, court referrals and voluntary requests for service.

Any revisions to the statutes should take the above factors in account. The specific comments to the proposed revisions are as follows:

## House Bill 1569

### Section 2. Definitions

Adding separate definitions for CAREGIVER and INJURY certainly helps to "clean up" child abuse definition by taking out excess words and meanings. BUT new definition of CHILD ABUSE adds 2 categories of abuse:

- COULD HAVE CAUSED SERIOUS INJURY; and
- TWO OR MORE ACTS/OMISSIONS THAT IF CONTINUED MORE LIKELY THAN NOT CAUSE A SERIOUS INJURY; these changes will not make it any easier to protect children. They are unclear and will lead to a great deal of speculation that will add tremendously to the already large number of appeals.

We believe that the proposed changes in the definition of child abuse are overly intrusive in scope and not well thought out. Furthermore, an expansion of the definitions of child abuse that would further strain the already overburdened system without providing adequate resources is not helpful.

### Section 4. Persons Required to Report Suspected Child Abuse

The provision to allow the reporting of "second hand" information by professionals is commendable but giving mandated reporters the authority to screen out what they feel is confidential and to also rule out risk without even seeing the child is a very dangerous precedent.

This "escape clause" for mandated reporters should be deleted so that all information is reported and investigated.

### Section 11. Immunity From Liability

We strongly support the inclusion of CPS staff among those immune from liability for reporting cases to law enforcement agencies as required by law.

### Section 14. Recordkeeping Duties of the Department

#### Cumulative Complaint File

There are many good reasons for retaining the unfounded reports for a period of time (one year) to help in the evaluation of subsequent reports and especially to help document the (as the current definition states) "continuous pattern of separate, unexplained injuries to the child."

Two years is an unusually long time to retain all unfounded reports to wait for a second report that leads to documentation that, "if continued or repeated would more likely than not cause a child serious injury." There should be more than 2 incidents on file, occurring in less time than 2 years, to document this category of abuse properly. Furthermore, the record-keeping duties and file storage space needed to retain 2 years of unfoundeds would be tremendous.

The ability to use an unfounded report as a basis for a later indicated report and then to keep this old report (and not expunging after 2 years) in the central registry IS a major positive change in this Bill. Therefore, while disagreeing with the terms of the definition, maintaining such a cumulative complaint file" is important.

#### Section 15. Confidentiality of Records

- A) Sharing information with other States' CPS is a good idea and should assist investigations.
- B) Police Reports - amendment would require us to report all allegations (not just substantial evidence reports from mandated reporters) that allege acts/omissions that caused or could have caused serious bodily injury and cumulative acts/omissions that if continued or repeated would more likely than not cause serious bodily injury.

This would significantly and drastically increase the number of reports to the Sex Crimes Unit. We question whether the flood of reports will interfere with SCU's ability to investigate the cases we really need their involvement?

- C) Reporting Source Released to Police - We do not support this provision as it could lead to further reluctance on the part of persons to report suspected abuse. We recommend that the Secretary of DPW establish a procedure for providing this information as is currently required by CPS regulation.

Act 80 (SB 140) was signed into law 11/87, but this bill does not include its provision that the status of a CPS report be made available to the mandated reporter of that allegation along with information on services provided, arranged for or to be provided by the CPS to protect the child from further abuse.

HB 1566 - Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes Further Providing For Offenses Against Children

The requirement to have law enforcement agencies and coroners report information on any unidentified deceased child to a central (state) file is a useful idea.

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SS2909(a)

In general, the bill as a whole is worthy of support; however, the language in paragraph (a) could be construed to prohibit legitimate runaway shelters from providing sanctuary to youth. Therefore the language should be expanded to include:

"(a) Offense Defined - ....or is a reasonable response to domestic violence, [ ] child abuse or part of a program of services to runaway youth for a period not to exceed 72 hours where such program is conducted by a legally sanctioned social service agency."

Please note that the 72 hours time frame is consistent with Federal guidelines.

SS2910:

The intention of protecting children from kidnapping seems to be inadequately realized by the language in this section. "....consent, express or implied...." (emphasis added) leaves too much room for someone to claim that a parent consented unless the parent expressly denies consent. The singular "parent" or "guardian" allows for conflict and confusion if one parent gives consent and the other denies it. Who is to determine whether "circumstances reasonably indicate that the child is in need of assistance? Upon what criteria will they base their judgement? What constitutes the limits, or types, of "assistance". Whose opinion that a particular kind of assistance is appropriate will determine whether a person is or is not chargeable under the terms of this legislation? Need a suspect (e.g. religious cult recruiter saying child obviously needs spiritual assistance) merely claim good faith conviction that assistance was needed or must they prove it? How would a police officer or an average citizen tell that this law was broken?

HB 1566 (Cont'd)

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3101

The definition of "sexual molestation" should not require "penetration", rather "contact" should be the standard. In instances where sexual abuse is not violent, the damage is more psychological than physical, and mere touching without any penetration is nevertheless a violation of a child's trust and of their bodily integrity.

3122(e):

The added severity of charge for a person who patronizes a prostitute younger than 16 years old should dissuade many individuals from that act and may, by reducing the "market", help to remove some of the inducement of those who systematically exploit young people by pandering.

It would be worth exploring, in conjunction with this move, the possibility of lessening or eliminating the criminal charge of a person under 16 who engages in prostitution. Such young people are commonly abused and/or neglected before they become involved in prostitution and almost always are subject to abuse and exploitation afterward. Given the degree of their vulnerability, it is more consistent with the goal of protecting the child to classify these victims as dependent children, eligible for social services, rather than as criminals who must be punished or disregarded.

HB 1565 (Cont'd)

without additional data such as race, gender, parent names, etc. the likelihood of making false matches is so high as to render the whole program not cost-effective. Furthermore, the probability of finding an abducted child in this way is low: a person who is holding a child against his/her will, or exploiting them is not likely to register them under their true name and date of birth. The person who is likely to do this is a parent -one, perhaps, who is contesting or violating a custody decision. Such situations are heartbreaking and hurtful to all the parties, and reforms of divorce and custody laws across state lines may be helpful. However, unless there is reasonable cause to believe that a parent in these circumstances would harm the child, it is a problem better suited to social services and domestic court intervention - not the police.

(i)

P. 3

The inclusion in the last paragraph of "sexually abused or sexually exploited" children along with those who are missing appears arbitrary and lacking benefit to the children. Such information can come into this file only by means of another law enforcement agency's involvement, so that any prosecution or referral for treatment services would have already occurred. Victims of sexual abuse frequently shrink from telling others about their experience and, like other abused children, may feel the abuse is their fault. To expose these already injured children to the humiliation of inclusion in yet another police file is insensitive at best and damaging at worst. To do so where no good result outweighs the negative simply can't be justified.

HB 1567 and 1568 - Requiring School Principals and Day Care Providers to Submit Information on New Enrollees to the State Police:

Concerns about these bills center on the collection and maintenance of information included in the discussion of HB 1565, Section 3.1(b) (e) and (g)

Re: H.B. 1669 - Crime Codes Regarding Sexual Abuse  
of Children

While well-intentioned in trying to strengthen the government's authority to keep children from being sexually exploited by pornographers, this bill has overly vague language.

Even some materials developed to help children recognize and resist sexual abuse may fall under taboo, while philosophic and political debate on the subject may be restricted.

The difficulty lies in the subjective nature of sexual stimulation. The question remains as to what is an objective standard that contributes obscene behavior. The goal of protecting children might be better served by using language that focuses on them, such as by "prohibiting the use, or allowing or assisting the use of a person under 18 to model, simulate, or perform a prohibited sexual act".

A critical issue is one of resources. Additional funds must be allocated to implement this act. It should not decrease the funds available for services and programs that are directly targetted to the protection of children. If more dollars aren't applied, law enforcement personnel and equipment will be far stretched between censoring an unknown variety of materials and such solid community services as patrolling the streets, arresting rapists and intervening to halt domestic violence.