



WRITTEN COMMENTS REGARDING CONFIDENTIALITY OF CHILD WELFARE
INFORMATION AND KEEPING KIDS SAFE IN SCHOOLS

PRESENTED TO THE HOUSE CHILDREN AND YOUTH COMMITTEE
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BY

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My name is Brian Bornman. I am the Executive Director for the PA Children and Youth Administrators Association, an affiliate of the County Commissioners Association. Our association consists of all 67 county child welfare agencies and a number of associate members, primarily provider agencies. I have worked in the field of social work since 1988 in various roles, including those of child therapist, a child welfare caseworker, and legal counsel representing both parents and a county child welfare agency. I thank you for the opportunity to present to this body and appreciate the efforts being made here to address the critical issues impacting children and families in the Commonwealth.

The issue of confidentiality in child welfare can be extremely confusing for many people. Information sharing that many would consider to be "common sense" is often prohibited, including some that may make children safer in certain circumstances. Pennsylvania has historically valued privacy and confidentiality highly and the area of child welfare is no different.

Although this hearing is focusing on keeping kids safer in school, I wanted to take this opportunity to address some other common misperceptions and challenges that the field of child welfare experiences in Pennsylvania. As with all things, the issue of whether some piece of information should remain confidential is a balancing act between keeping children safe and protecting citizen's privacy and reputation. There are no perfect, or even easy, answers to this dilemma.

The base assumption under the CPSL is that information concerning child abuse referrals in investigations is confidential unless otherwise specified in the CPSL or Juvenile Act. See §6339.

Section 6340 sets out who information on the child abuse registry can be released to. Section 6337(f) provides that protective reports at the counties shall be maintained in the same manner as DHS, with the exception of the county's ability to retain expunged reports for risk assessment and research. *See Act 54 of 2018.*

The discussion of confidentiality of child abuse reports falls into several categories when it comes to the intersection of child welfare and schools. The following are common situations than can sometime turn into points of contention between schools and child welfare: 1) someone at the school is the reporter of suspected child abuse 2) there is a report of child abuse made in which a staff at the school is the alleged perpetrator 3) a child in the school may be an alleged or indicated perpetrator and 4) other situations that do not fall into abuse investigations, such as where a school may want information relative to a child receiving services from a child welfare agency or being in placement. These will be discussed below.

1) Information that may be shared with mandated reporters, school personnel included.

Under 6340(a)(12) of the CPSL:

- (12) *A mandated reporter of suspected child abuse under section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child shall be limited to the following:*
- (i) *Whether the child abuse report is indicated, founded or unfounded.*
- (ii) *Any services provided, arranged for or to be provided by the county agency to protect the child.*

So, mandated reporters can get this limited information. There is not a more expansive authorization to release more information to school personnel and they are limited to this information as a mandated reporter.

2) When a child abuse report is made in which a school employee is the alleged perpetrator.

§6340(a)(13) of the CPSL provides:

- (13) *School administrators and child-care service employers, as provided under this paragraph. The following shall apply:*
- (i) *If the alleged perpetrator is a school employee or child-care service employee, school administrators and child-care service employers shall receive notice of a pending allegation and the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.*
- (ii) *Information disclosed pursuant to this paragraph shall be provided to the school administrator or child-care service employer within ten days of the completion of the investigation.*

(iii) If the perpetrator is a school employee, the notice of the final status of the report shall be sent to the Department of Education within ten days of the completion of the investigation.

So, this allows for minimal sharing of information when the alleged perpetrator is a school employee.

3) A child attending the school is an alleged, indicated, or founded perpetrator of child abuse.

Under the §6303 of the CPSL, a child of school age may be a "Perpetrator" of child abuse. While school-age children may themselves be parents or paramours of parents, most kids fit this definition based upon being over 14 years of age and in a caretaking role or residing in the same home as a victim. *Pertinent provisions set forth below.*

"Perpetrator." *A person who has committed child abuse as defined in this section. The following shall apply:*

(1) The term includes only the following:

... (iv) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(v) An individual 14 years of age or older who resides in the same home as the child.

As such, there are certainly situations in which a student at the school may be listed on the child abuse registry as a perpetrator of abuse. As schools sit *In Loco Parentis* when in session, it is understandable that they may want to be aware of potential risks within the school, including students who may pose a risk to other students for child abuse; however, there is nothing within the CPSL that permits confidential child abuse registry information from being shared with the school.

Similarly, this is the same situation for when a county agency is investigating situations where a parent may have moved in with or is otherwise allowing access to their children with someone who has been indicated for child abuse. While a county agency may have information regarding a perpetrator living with a parent and their child, this is still protected information under the CPSL and the agency cannot tell the parent the details of the indicated report. When the perpetrator is on the Megan's Law registry or otherwise criminally convicted, it is easier to address, as these are public information that may be shared. This quirk in the law become frustrating for counties at times because they are trying to ensure the safety of children, but are not permitted to disclose the information that is making the children unsafe due to its protection under the CPSL without an applicable exception.

4) Other situations where child welfare may be involved with a child or their family or the child may be in placement.

There are any number of situations where a county agency may be involved with a student or their family and it may be beneficial for a school to have some information regarding that involvement. Many times, children who have been abused, are in placement, or otherwise are involved with the child welfare system have experienced significant trauma which impacts all aspects of their lives. They may struggle with focus and educational pursuits in school or may engage in behavioral acting out such as aggressive, sexualized, or withdrawn behavior. While this information may be beneficial for a school to have access to, there is generally not the authority in statute for a county agency to be able to do so.

When an agency is involved with a child or family, there are some ways to be able to share pertinent information with a school. The most common means of doing so is to simply have a parent sign a release of information which allows the sharing of information. This regularly occurs, but it is not guaranteed that a parent will be willing to sign such a release. If the case is a placement or court ordered in-home services, the court may order the release of information to the school, notwithstanding the objection of a parent. Lastly, §6352.2 of the Juvenile Act provides a mechanism for an information sharing agreement that may include the schools, but it must be approved by the court, in addition to all the parties.

Other situations arise from time to time between school and county agencies. Common issues that spring up periodically are schools demanding that one of their staff sit in on interviews between CPS caseworkers and kids, schools requesting personal identification of caseworkers or copies of child abuse clearances, and occasionally prohibiting caseworkers into the school. While these are issues that arise from time to time, on the whole most school districts and county agencies work together very well and have the best interest of the children at the forefront of their goals. Most issues can be readily discussed and resolutions arrived at.

I want to thank this body for holding this hearing to look into the protection of children in our schools. I think it is critically important for you, who are making the important decisions regarding the laws impacting child welfare, to hear not only from those who are doing the work, but also from those receiving services. I would encourage hearing testimony from youth and parents receiving services. Lastly, I want to thank all the professionals in Pennsylvania who have committed their lives to protecting and caring for the at-risk and abused children in the state. Thank you.

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