

DOMESTIC RELATIONS CODE (23 PA.C.S.) - OMNIBUS AMENDMENTS
Act of Dec. 16, 1994, P.L. 1292, No. 151 Cl. 23
Session of 1994
No. 1994-151

HB 1001

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for preliminary provisions, for reporting suspected child abuse, for powers and duties of the Department of Public Welfare, for organization and responsibilities of child protective service and for miscellaneous provisions; providing for school students and for background checks for school employment; and imposing powers and duties on the Department of State and various professional licensure boards.

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

Section 1. Sections 6302 and 6303 of Title 23 of the Pennsylvania Consolidated Statutes are amended to read:

§ 6302. [Finding] **Findings** and purpose of chapter.

[(a) Finding.--Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment.

(b) Purpose.--It is the purpose of this chapter to encourage more complete reporting of suspected child abuse and to establish in each county a child protective service capable of investigating such reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the well-being of the child and to preserve and stabilize family life wherever appropriate.]

(a) Findings.--Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment.

(b) Purpose.--It is the purpose of this chapter to encourage more complete reporting of suspected child abuse; to the extent permitted by this chapter, to involve law enforcement agencies in responding to child abuse; and to establish in each county protective services for the purpose of investigating the reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve, stabilize and protect the integrity of family life wherever appropriate. It is also the purpose of this chapter to ensure that each county children and youth agency establish a program of protective services with procedures to assess risk of harm to a child and with the capabilities to respond adequately to meet the needs of the family and child who may be at risk and to prioritize the response and services to children most at risk.

(c) Effect on rights of parents.--This chapter does not restrict the generally recognized existing rights of parents to use reasonable supervision and control when raising their children.
§ 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:

["Child abuse." Serious physical or mental injury which is not explained by the available medical history as being accidental, sexual abuse, sexual exploitation or serious physical neglect of a child under 18 years of age if the injury, abuse or neglect has been caused by the acts or omissions of the child's parents or by a person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent. No child shall be deemed to be physically or mentally abused for the sole reason the child is in good faith being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof or is not provided specified medical treatment in the practice of religious beliefs, or solely on the grounds of environmental factors which are beyond the control of the person responsible for the welfare of the child such as inadequate housing, furnishings, income, clothing and medical care.]

"Accept for service." Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

"Child-care services." Child day-care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children, juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation, **early intervention** and drug and alcohol services for children; and [any] other child-care services which are provided by or subject to approval, licensure, registration or certification by the [department] **Department of Public Welfare** or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may be offered by public and private schools, intermediate units or area vocational-technical schools.

["Child protective service." That section of each county children and youth social service agency required to be established by section 6361 (relating to organization of child protective service).]

"Child protective services." Those services and activities provided by the Department of Public Welfare and each county agency for child abuse cases.

"Cooperation with an investigation or assessment." Includes, but is not limited to, a school or school district which permits authorized personnel from the [department or child protection services] **Department of Public Welfare or county agency** to interview a student while the student is in attendance at school.

"County agency." The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Department." The Department of Public Welfare of the Commonwealth.

"Expunge." To strike out or obliterate entirely so that the expunged information may not be stored, identified or later recovered by any mechanical or electronic means or otherwise.

"Family members." Spouses, parents and children or other persons related by consanguinity or affinity.

"Founded report." A **child abuse** report made pursuant to this chapter if there has been any judicial adjudication based on a finding that a child who is a subject of the report has been abused[.], **including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegation of child abuse.**

"Founded report for school employee." A report under Subchapter C.1 (relating to students in public and private schools) if there has been any judicial adjudication based on a finding that the victim has suffered serious bodily injury or sexual abuse or exploitation, including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegations of the report.

"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 in regulations.

"Indicated report." A **child abuse** report made pursuant to this chapter if an investigation by the [child protective service] **county agency or the Department of Public Welfare** determines that substantial evidence of the alleged abuse exists based on any of the following:

- (1) Available medical evidence.
- (2) The child protective service investigation.
- (3) An admission of the acts of abuse by the [parent of the child or person responsible for the welfare of the child.] **perpetrator.**

"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.

"Perpetrator." A person who has committed child abuse and is a parent of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

"Person responsible for the child's welfare." A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in any public or private school, intermediate unit or area vocational-technical school.

"Protective services." Those services and activities provided by the Department of Public Welfare and each county agency for children who are abused or are alleged to be in need of protection under this chapter.

"Recent acts or omissions." Acts or omissions committed within two years of the date of the report to the Department of Public Welfare or county agency.

"Risk assessment." A Commonwealth-approved systematic process that assesses a child's need for protection or services based on the risk of harm to the child.

"School employee." An individual employed by a public or private school, intermediate unit or area vocational-technical school. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with students.

"Secretary." The Secretary of Public Welfare of the Commonwealth.

"Serious bodily injury." Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

"Serious mental injury." A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

(1) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or

(2) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

"Serious physical injury." An injury that:

(1) causes a child severe pain; or

(2) significantly impairs a child's physical functioning, either temporarily or permanently.

"Sexual abuse[.]" The obscene or pornographic photographing, filming or depiction of children for commercial purposes] or exploitation." The employment, use, persuasion, inducement, enticement or coercion of any child to engage in or assist any other person to engage in any sexually explicit conduct or any simulation of any sexually explicit conduct for the purpose of producing any visual depiction of any sexually explicit conduct or the rape, molestation, incest, prostitution or other [forms] form of sexual exploitation of children [under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations of the department].

"Student." An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.

"Subject of the report." [Any child reported to the central register of child abuse and a parent, guardian or other responsible person also named in the report.] Any child, parent, guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator or school employee named in a report made to the Department of Public Welfare or a county agency under this chapter.

"Substantial evidence." Evidence which outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.

"Under investigation." A child abuse report pursuant to this chapter which is being investigated to determine whether it is "founded," "indicated" or "unfounded."

"Unfounded report." Any report made pursuant to this chapter unless the report is a "founded report" or [unless an investigation by the appropriate child protective service determines that the report is] an "indicated report."

(b) Child abuse.--

(1) The term "child abuse" shall mean any of the following:

(i) Any recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) Any recent act, failure to act or series of such acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

(2) No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors that are beyond the control of the parent or person responsible for the child's welfare, such as inadequate housing, furnishings, income, clothing and medical care.

(3) If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of seriously held religious beliefs of the child's parents, guardian or person responsible for the child's welfare, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. The county agency shall closely monitor the child and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health. In cases involving religious circumstances, all correspondence with a subject of the report and the records of the Department of Public Welfare and the county agency shall not reference "child abuse" and shall acknowledge the religious basis for the child's condition, and the family shall be referred for general protective services, if appropriate.

Section 2. The heading of Subchapter B of Chapter 63 of Title 23 is amended to read:

SUBCHAPTER B
PROVISIONS AND RESPONSIBILITIES FOR
REPORTING SUSPECTED CHILD ABUSE

Section 3. Sections 6311(a) and (b), 6313, 6314, 6315, 6316, 6317, 6318, 6331, 6332, 6333, 6334, 6335, 6336, 6337, 6338, 6339, 6340, 6341, 6343, 6344(b)(2) and (c), 6345, 6346, 6347 and 6349(a) and (b) of Title 23 are amended to read:

§ 6311. Persons required to report suspected child abuse.

(a) General rule.--Persons who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made in accordance with section 6313 (relating to reporting procedure) when they have [reason to believe,] **reasonable cause to suspect**, on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is an abused child. [The] **Except with respect to confidential communications made to an ordained member of the clergy which are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen), the privileged** communication between any professional person required to report and the patient or client of that person shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.

(b) Enumeration of persons required to report.--Persons required to report under subsection (a) include, but are not limited to, any licensed physician, osteopath, medical examiner, coroner, funeral director, dentist, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, [a] Christian Science practitioner, **member of the clergy**, school administrator, school teacher, school nurse, social services worker, day-care center worker or any other child-care or foster-care worker, mental health professional, peace officer or law enforcement official.

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§ 6313. Reporting procedure.

(a) General rule.--Reports from persons required to report under section 6311 (relating to persons required to report suspected child abuse) shall be made immediately by telephone and in writing within 48 hours after the oral report.

(b) Oral reports.--Oral reports shall be made to the department pursuant to Subchapter C (relating to powers and duties of department) and may be made to the appropriate [child protective service] **county agency**. When oral reports of suspected child abuse are initially received at the [child protective service] **county agency**, the [child protective service] **protective services staff** shall, after seeing to the immediate safety of the child and other children in the home, immediately notify the department of the receipt of the report, which is to be held in the pending complaint file as provided in Subchapter C. The initial child abuse report summary shall be supplemented with a written report when a determination is made as to whether a report of suspected child abuse is a founded report, an unfounded report or an indicated report.

(c) Written reports.--Written reports from persons required to report under section 6311 shall be made to the appropriate [child protective service] **county agency** in a manner and on forms the department prescribes by regulation. The written reports shall include the following information if available:

(1) The names and addresses of the child and the parents or other person responsible for the care of the child if known.

(2) Where the suspected abuse occurred.

(3) The age and sex of the [child] **subjects of the report**.

(4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.

(5) The name **and relationship** of the person or persons responsible for causing the suspected abuse, if known, **and any evidence of prior abuse by that person or persons**.

(6) Family composition.

[(7)] The relationship of the suspected perpetrator to the child.

[(8)] (7) The source of the report.

[(9)] (8) The person making the report and where that person can be reached.

[(10)] (9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.

[(11)] (10) Any other information which the department may require by regulation.

(d) Failure to confirm oral report.--The failure of a person reporting cases of suspected child abuse to confirm an oral report in writing within 48 hours shall not relieve the [child protective service] **county agency** from any duties prescribed by this chapter.

In such event, the [child protective service] **county agency** shall proceed as if a written report were actually made.

§ 6314. Photographs, **medical tests** and X-rays of child subject to report.

A person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the [areas of trauma visible on a] child who is subject to a report and, if [medically] **clinically** indicated, cause to be performed a radiological examination **and other medical tests** on the child. Medical summaries or reports of the photographs [or], X-rays **and relevant medical tests** taken shall be sent to the [child protective service] **county agency** at the time the written report is sent or as soon thereafter as possible. [Child protective services] **The county agency** shall have access to [the] actual photographs **or duplicates** and X-rays and may obtain them or duplicates of them upon request.

§ 6315. Taking child into protective custody.

(a) General rule.--A child may be taken into protective custody:

(1) As provided by 42 Pa.C.S. § 6324 (relating to taking into custody).

(2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by the director, of any hospital or other medical institution where the child is being treated if protective custody is immediately necessary to protect the child [from further serious physical injury, sexual abuse or serious physical neglect.] **under this chapter.**

(b) Duration of custody.--No child may be held in protective custody for more than 24 hours unless the appropriate [child protective service] **county agency** is immediately notified that the child has been taken into custody and the [child protective service] **county agency** obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. Each court shall insure that a judge is available 24 hours a day, 365 days a year to accept and decide the actions brought by a [child protective service] **county agency** under this subsection within the 24-hour period.

(c) Notice of custody.--An individual taking a child into protective custody under this chapter shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child, **unless prohibited by court order**, and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate [child protective service] **county agency** in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.

(d) [Detention] **Informal** hearing.--In no case shall protective custody under this chapter be maintained longer than 72 hours without [a detention hearing.] **an informal hearing under 42 Pa.C.S. § 6332 (relating to informal hearing)**. If, at the [detention] hearing, it is determined that protective custody shall be continued **and the child is alleged to be without proper parental care or control or is alleged to be a dependent child under 42 Pa.C.S. § 6302 (relating to definitions)**, the [child protective service] **county agency** shall within 48 hours file a petition with the court under 42 Pa.C.S. Ch. 63[.] **alleging that the child is a dependent child.**

(e) Place of detention.--No child taken into protective custody under this chapter may be detained during the protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.

(f) Conference with parent or other custodian.--A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the [case worker designated by the child protection service] **employee designated by the county agency** to be responsible for the child shall be held within 48 hours of the time that the child is taken into custody for the purpose of:

(1) Explaining to the parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, **unless prohibited by court order.**

(2) Expediting, wherever possible, the return of the child to the custody of the parent, guardian or other custodian where custody is no longer necessary.

(3) **Explaining to the parent, guardian or other custodian the rights provided for under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights).**
§ 6316. Admission to private and public hospitals.

(a) General rule.--Children appearing to suffer any physical or mental [trauma which may constitute child abuse shall be admitted to and treated in appropriate] **condition which may constitute child abuse shall be admitted to, treated and maintained in** facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.

(b) Failure of hospital to admit child.--The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital.

§ 6317. [Reporting] **Mandatory reporting** and postmortem investigation of deaths.

A person or official required to report cases of suspected child abuse, including employees of a county [children and youth social service] agency [and its child protective service], who has reasonable cause to suspect that a child died as a result of child abuse shall report that [fact to the] **suspicion to the appropriate** coroner. The coroner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate [child protective service] **county agency** and, if the report is made by a hospital, the hospital.

§ 6318. Immunity from liability.

(a) General rule.--A person, hospital, institution, school, facility [or agency participating], **agency or agency employee that participates** in good faith in the making of a report, cooperating with an investigation [or], testifying in a proceeding arising out of an instance of suspected child abuse, the taking of photographs or the removal or keeping of a child pursuant to section 6315 (relating to taking child into protective custody), **and any official or employee of a county agency who refers a report of suspected abuse to law enforcement authorities or provides services under this chapter,** shall have immunity from [any civil or] **civil and criminal liability** that might otherwise result by reason of those actions.

(b) Presumption of good faith.--For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) **and of any person required to make**

a referral to law enforcement officers under this chapter shall be presumed.

§ 6331. Establishment of pending complaint file [and], Statewide central register **and file of unfounded reports.**

There shall be established in the department:

(1) A pending complaint file of child abuse reports under investigation **and a file of reports under investigation pursuant to Subchapter C.1 (relating to students in public and private schools).**

(2) A Statewide central register of child abuse which shall consist of founded and indicated reports [of child abuse].

(3) **A file of unfounded reports awaiting expunction.**

§ 6332. Establishment of Statewide toll-free telephone number.

(a) General rule.--The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse. A [child protective service may] **county agency shall** use the Statewide toll-free telephone number for determining the existence of prior founded or indicated reports of child abuse in the Statewide central register or reports under investigation in the pending complaint file.

(b) Limitation on use.--A [child protective service] **county agency** may only request and receive information pursuant to this subsection either on its own behalf because it has received a report of suspected child abuse or on behalf of a physician examining or treating a child or on behalf of the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by the director suspects the child of being an abused child.

§ 6333. Continuous availability of department.

The department shall be capable of receiving oral reports of child abuse made pursuant to this chapter, **reports under section 6353.2 (relating to responsibilities of county agency)** and report summaries of child abuse from [child protective services] **county agencies** and shall be capable of immediately identifying prior reports of child abuse **and prior reports of abuse or injury under Subchapter C.1 (relating to students in public and private schools)** in the Statewide central register and reports under investigation in the pending complaint file and of monitoring the provision of child protective services 24 hours a day, seven days a week.

§ 6334. Disposition of complaints received.

(a) Notice to [child protective service] **county agency.**--Upon receipt of a complaint of suspected child abuse, the department shall immediately transmit orally to the appropriate [child protective service] **county agency** notice that the complaint of suspected child abuse has been received and the substance of the complaint. If the Statewide central register or the pending complaint file contains information indicating a prior report or a current investigation concerning a subject of the report, the department shall immediately notify the appropriate [child protective service] **county agency** of this fact. **The appropriate county agency shall mean the agency in the county where the suspected child abuse occurred. If the residency of the subjects is a factor that requires the cooperation of more than one county agency, the department shall develop regulations to ensure the cooperation of those agencies in carrying out the requirements of this chapter.**

(b) Referral for services or investigation.--If the complaint received does not suggest suspected child abuse but does suggest a need for social services or other services or investigation, the

department shall transmit the information to the county [children and youth social service] agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has [reason to believe] **reasonable cause to suspect** after investigation that abuse occurred. If the agency has [reason to believe] **reasonable cause to suspect** that abuse occurred, the agency shall notify the department, and the initial complaint shall be considered to have been a child abuse report.

(c) Recording in pending complaint file.--Upon receipt of a complaint of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the pending complaint file. **Upon receipt of a report under section 6353.2 (relating to responsibilities of county agency), the department shall maintain a record of the report in the report file under section 6331 (relating to establishment of pending complaint file, Statewide central register and file of unfounded reports).**

§ 6335. Information in pending complaint [file] **and unfounded report files.**

[(a) Information authorized.--No information other than that permitted to be retained in the Statewide central register in section 6336 (relating to information in Statewide central register) shall be retained in the pending complaint file or otherwise by the department.]

(a) Information authorized.--The information contained in the pending complaint file shall be limited to the information required in sections 6313(c) (relating to reporting procedure) and 6353.2 (relating to responsibilities of county agency). The information contained in the file for unfounded reports shall be limited to the information required by section 6336 (relating to information in Statewide central register).

(b) Access to information.--Except as provided in sections 6332 (relating to establishment of Statewide toll-free telephone number), 6334 (relating to disposition of complaints received), 6340 (relating to release of information in confidential reports) and 6342 (relating to studies of data in records), no person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall at any time have access to any information in the pending complaint file or Statewide central register.

Information in the file of unfounded reports shall be available only to employees of the department pursuant to this subsection, to subjects of a report pursuant to section 6340 and to the Office of Attorney General pursuant to section 6345 (relating to audits by Attorney General) until the reports are expunged pursuant to section 6337 (relating to disposition of unfounded reports).

§ 6336. Information in Statewide central register.

(a) Information authorized.--The Statewide central register shall include and shall be limited to the following information:

(1) The names, Social Security numbers, age and sex of the subjects of the reports.

(2) The date or dates and the nature and extent of the alleged instances of suspected child abuse.

(3) The home addresses of the subjects of the report.

(4) The county in which the suspected abuse occurred.

(5) Family composition.

(6) The name and relationship to the abused child of [the person or persons responsible for causing the abuse.] **other persons named in the report.**

(7) Factors contributing to the abuse.

[(7)] **(8) The source of the report.**

[(8)] **(9) Services planned or provided.**

[(9)] (10) Whether the report is a founded report or an indicated report.

(11) **Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency.**

[(10)] (12) The progress of any legal proceedings brought on the basis of the report of suspected child abuse.

(13) **Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.**

No information other than that permitted in this subsection shall be retained in the Statewide central register[, the pending complaint file or otherwise by the department].

(b) Type of information released.--Except as provided in sections 6334 (relating to disposition of complaints received), 6335 (relating to information in pending complaint [file] **and unfounded report files**), 6340 (relating to release of information in confidential reports) and 6342 (relating to studies of data in records), persons receiving information from the Statewide central register or pending complaint file may be informed only as to:

(1) Whether the report is a founded or indicated abuse or is under investigation.

(2) The number of such reports.

(3) The nature and extent of the alleged or actual instances of suspected child abuse.

(4) The county in which the reports are investigated.

(5) **Any other information available which would further the purposes of this chapter.**

(c) Limitation on release of information.--Except as provided in sections 6334, 6335, 6340 and 6342, no information shall be released from the Statewide central register or pending complaint file unless pursuant to section 6332 (relating to establishment of Statewide toll-free telephone number) and unless the department has positively identified the representative of the [child protective service] **county agency** requesting the information and the department has inquired into and is satisfied that the representative has a legitimate need, within the scope of official duties and the provisions of section 6332, to obtain the information. Information in the Statewide central register or pending complaint file shall not be released for any purpose or to any individual not specified in section 6340.

§ 6337. Disposition of unfounded reports.

(a) General rule.--When a report of suspected child abuse is determined by the appropriate [child protective service] **county agency** to be an unfounded report, the information concerning that report of suspected child abuse shall be expunged from the pending complaint file [within 12 months of], **as soon as possible, but no later than 120 days after** the date the report was received by the department, and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department.

(b) Absence of other determination.--If an investigation of a report of suspected child abuse conducted by the appropriate [child protective service] **county agency** pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is **a founded report**, an indicated report or an unfounded report, or unless within that same 60-day period court action has been initiated and is responsible for the delay, the report shall be considered to be an unfounded report, and all information identifying the subjects of the report shall be expunged [within 12 months] **no later than 120**

days after the date the report was received by the department. The agency shall advise the department that court action or an arrest has been initiated so that the pending complaint file is kept current regarding the status of all legal proceedings and [expungement] **expunction** delayed. [Nothing in this subsection shall in any way limit the powers and duties of the department as provided in section 6343 (relating to investigating performance of child protective service).]

(c) [Expungement] **Expunction** of information.--All information identifying the subjects of any report of suspected child abuse and of any report under Subchapter C.1 (relating to students in public and private schools) determined to be an unfounded report shall be expunged from the pending complaint file [within 12 months of the date the report was received by the department. The expungement] **pursuant to this section. The expunction** shall be mandated and guaranteed by the department.

§ 6338. Disposition of founded and indicated reports.

(a) General rule.--When a report of suspected child abuse or a report under Subchapter C.1 (relating to students in public and private schools) is determined by the appropriate [child protective service] **county agency** to be a founded report or an indicated report, the information concerning that report of suspected child abuse shall be expunged immediately from the pending complaint file, and an appropriate entry shall be made in the Statewide central register. Notice of the determination must be given to the subjects of the report, other than the abused child, **and to the parent or guardian of the affected child or student** along with an explanation of the implications of the determination. Notice given to [subjects of the report] **perpetrators of child abuse and to school employees who are subjects of indicated reports for school employees or founded reports for school employees** shall include notice that their ability to obtain employment in a child-care facility or program **or a public or private school** may be adversely affected by entry of the report in the Statewide central register. The notice shall also inform the [subject of the report of his right, at any time, to request the secretary to amend, seal or expunge information contained in the Statewide central register] **recipient of his right, within 45 days after being notified of the status of the report, to appeal an indicated report, and his right to a hearing if the request is denied.**

[(b) Expungement of information when child attains 18 years of age.--All information identifying the subjects of all indicated reports and all information identifying the subject child of all founded reports shall be expunged when the subject child reaches the age of 18 years, unless another report is received involving the same child, his sibling or offspring, or another child in the care of the persons responsible for the subject child's welfare. The identifying information may then be maintained in the register for five years after the subsequent case or report is closed. The expungement shall be mandated and guaranteed by the department.]

(b) Expunction of information when child attains 23 years of age.--Except as provided in subsection (c), all information which identifies the subjects of founded and indicated child abuse reports shall be expunged when the subject child reaches the age of 23. The expunction shall be mandated and guaranteed by the department.

(c) Retention of information.--A subfile shall be established in the Statewide central register to indefinitely retain the names of perpetrators of child abuse and school employees who are subjects of founded or indicated reports only if the individual's Social Security number or date of birth is known to the department. The subfile shall not include identifying information regarding other subjects of the report.

§ 6339. Confidentiality of reports.

Except as otherwise provided in this subchapter, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and written reports made pursuant to section 6313(b) and (c) (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department[, a county children and youth social service agency or a child protective service] **or a county agency** shall be confidential.

§ 6340. Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

(1) An authorized official of a [child protective service in the course of official] **county agency or of an agency of another state that performs protective services analogous to those services performed by county agencies or the department in the course of the official's** duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to [services for protection of child at home or in custody] **voluntary or court-ordered services; findings of child abuse**).

(2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child[.] **or a child alleged to be in need of protection under this chapter.**

(3) A guardian ad litem **or court designated advocate** for the child.

(4) An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of [child protective service] **county agency**).

(5) A court of competent jurisdiction pursuant to a court order.

(5.1) A court of common pleas in connection with any matter involving custody of a child. The department shall provide to the court any reports and files which the court considers relevant.

(6) A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).

(7) The Attorney General.

(8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not [have access to identifiable reports.] **remove identifiable reports or copies thereof from the department or county agencies.**

(9) Law enforcement officials **of any jurisdiction, as long as the information is relevant** in the course of investigating cases of:

(i) Homicide, sexual abuse, sexual exploitation or serious bodily injury perpetrated by persons whether or not related to the victim.

(ii) Child abuse perpetrated by persons who are not family members.

(iii) Repeated physical injury to a child under circumstances which indicate that the child's health or welfare is harmed or threatened.

(iv) A missing child report.

(10) Law enforcement officials who shall receive, **immediately after the county agency has ensured the safety of the child**, reports of abuse [in which the initial review], **either orally or in writing, according to regulations promulgated by the department, from the county agency in which the initial report of suspected child abuse or initial inquiry into the report** gives evidence that the abuse is:

(i) homicide, sexual abuse, sexual exploitation or serious bodily injury perpetrated by persons, whether or not related to the victim[,]; or

(ii) child abuse perpetrated by persons who are not family members. [Reports referred to law enforcement officials shall be on forms provided by and according to regulations promulgated by the department.

(11) County commissioners, to whom the department shall forward specific files upon request, for review when investigating the competence of county children and youth employees.]

(11) **Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:**

(i) **The board of commissioners in counties other than counties of the first class.**

(ii) **Mayor in a city of the first class under the act of April 21, 1949 (P.L.665, No.155), known as the First Class City Home Rule Act.**

(iii) **An individual serving as a county chief executive as designated by a county home rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.**

(12) A mandated reporter of **suspected** child abuse as defined in section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child, but the information permitted to be released to the mandated reporter shall be limited to the following:

(i) The final status of the **child abuse** report following the investigation, whether it be indicated, founded or unfounded.

(ii) Any services provided, arranged for or to be provided by the [child protective service to protect the child from further abuse.] **county agency to protect the child.**

(13) **Persons required to make reports under Subchapter C.1 (relating to students in public and private schools). Information under this paragraph shall be limited to the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.**

(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the **prospective parent may make an informed decision to adopt.**

(b) Release of information to subject [child] **of report.**--At any time and upon written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide central register or in any report filed pursuant to section 6313 (relating to reporting procedure).

(c) Protecting identity of person making report.--[The] **Except for reports pursuant to subsection (a)(9) and (10), the** release of data that would identify the person who made a report of suspected child abuse or the person who cooperated in a subsequent investigation is prohibited unless the secretary finds that the release will not be detrimental to the safety of that person. **Law enforcement officials shall treat all reporting sources as confidential informants.**

[(d) Definition.--As used in this section, "serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.]

(d) Exclusion of administrative information.--Information maintained in the Statewide central register which was obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official, as provided by regulation.

§ 6341. Amendment[, sealing or expungement] **or expunction** of information.

(a) General rule.--At any time:

(1) The secretary may amend[, seal] or expunge any record **under this chapter** upon good cause shown and notice to the appropriate subjects of the report.

(2) [A subject of a report may request the secretary to amend, seal or expunge information contained in the Statewide central register] **Any person named as a perpetrator, and any school employee named, in an indicated report of child abuse may, within 45 days of being notified of the status of the report, request the secretary to amend or expunge an indicated report** on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter.

(b) Review of grant of request.--If the secretary grants the request under subsection (a)(2), the Statewide central register, appropriate [child protective service] **county** agency and all subjects shall be so advised [within seven days from the date] of the decision. The [child protective service] **county** agency and any subject have 45 days in which to file an **administrative** appeal with the secretary. If an **administrative** appeal is received, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and attending departmental regulations. If no **administrative** appeal is received within the designated time period, the Statewide central register shall comply with the decision of the secretary and advise the [child protective service] **county** agency to amend[, seal] or expunge the information in their records so that the records are consistent at both the State and local levels.

(c) Review of refusal of request.--If the secretary refuses the request under subsection (a)(2) or does not act within a reasonable time, but in no event later than 30 days after receipt of the request, the [subject] **perpetrator or school employee** shall have the right to a hearing before the secretary or a designated agent of the secretary to determine whether the summary **of the indicated report** in the Statewide central register [or the contents of any report filed pursuant to section 6313] should be amended[, sealed] or expunged on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with this chapter. **The perpetrator or school employee shall have 45 days from the date of the letter giving notice of the decision to deny the request in which to request a hearing.** The appropriate [child protective service] **county agency** shall be given notice of the hearing. The burden of proof in the hearing shall be on the appropriate [child

protective service] **county agency**. The department shall assist the [child protective service] **county agency** as necessary. [In the hearings, the fact that there was a court finding of child abuse shall be presumptive evidence that the report was substantiated.]

(d) Stay of proceedings.--Any administrative appeal proceeding pursuant to subsection (b) shall be automatically stayed upon notice to the department by either of the parties when there is a pending criminal proceeding or a dependency or delinquency proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), including any appeal thereof, involving the same factual circumstances as the administrative appeal.

[(d)] **(e) Order.--**The secretary or designated agent may make any appropriate order respecting the amendment [or expungement] **or expunction** of such records to make them accurate or consistent with the requirements of this chapter.

[(e) Notice of expungement.--Written notice of an expungement of any record, made pursuant to the provisions of this chapter, shall be served upon the subject of the record who was responsible for the abuse and the appropriate child protective service. The latter, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse records and inform, for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating to reports to department and coroner). Whenever the investigation reveals that the report is unfounded but that the subjects need services and voluntarily accept services, the county children and youth social service agency may retain those portions of its records which do not specifically identify the source of the investigation or report as suspected child abuse.]

(f) Notice of expunction.--Written notice of an expunction of any child abuse record made pursuant to the provisions of this chapter shall be served upon the subject of the record who was responsible for the abuse or injury and the appropriate county agency. Except as provided in this subsection, the county agency, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse and school employee records and inform, for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating to reports to department and coroner). Whenever the county agency investigation reveals, within 60 days of receipt of the report of suspected child abuse, that the report is unfounded but that the subjects need services provided or arranged by the county agency, the county agency may retain those records and shall specifically identify that the report was an unfounded report of suspected child abuse.

[(f) Access to sealed record.--Once sealed, a record shall not be otherwise available except as provided in section 6342 (relating to studies of data in records) or except if the secretary, upon notice to the subjects of the report, gives personal approval for an appropriate reason.]

§ 6343. Investigating performance of [child protective service] **county agency**.

(a) General rule.--If, within 30 days from the date of an initial report of suspected child abuse, the appropriate [child protective service] **county agency** has not [properly] investigated the report and informed the department that the report is an indicated report or an unfounded report or unless within that same 30-day period the report is determined to be a founded report, the department shall [immediately] **have the authority to** begin an inquiry into the performance of the [child protective service] **county agency** which inquiry may include a performance audit of the [child protective service] **county agency** as provided in subsection

(b). On the basis of that inquiry, the department shall take appropriate action to require that the provisions of this chapter be strictly followed, which action may include, without limitation, the institution of appropriate legal action and the withholding of reimbursement for all or part of the activities of the county [children and youth social service] agency. **The department shall determine in its review whether the county agency has sufficiently documented reasons why the investigation has not been completed in the 30-day period.**

(b) Performance audit.--Notwithstanding any other provision of this chapter, the secretary or a designee of the secretary may direct, at their discretion, **and after reasonable notice to the county agency**, a performance audit of any activity engaged in pursuant to this chapter.

§ 6344. Information relating to prospective child-care personnel.

* * *

(b) Information submitted by prospective employees.--Administrators of child-care services shall require applicants to submit with their applications the following information obtained within the preceding one-year period:

* * *

(2) A certification from the department as to whether the applicant is named in the central register as the perpetrator of a founded [or] **report of child abuse**, indicated report of child abuse, **founded report for school employee or indicated report for school employee**. [An indicated report shall not be included until the department adopts regulations specifying the manner in which the investigation required by sections 6366 (relating to continuous availability to receive reports) through 6372 (relating to protecting well-being of children detained outside home) is to be conducted.]

* * *

(c) Grounds for denying employment.--In no case shall an administrator hire an applicant where the department has verified that the applicant is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section. In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted[, within five years immediately preceding the date of the report,] of one or more of the following offenses under Title 18 (relating to crimes and offenses):

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709 (relating to harassment and stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122 (relating to statutory rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4303 (relating to concealing death of child born out of wedlock).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials **and performances**).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

* * *

§ 6345. Audits by Attorney General.

The Attorney General shall conduct a mandated audit done randomly but at least once during each year on an unannounced basis to ensure that the [expungement] **expunction** requirements of this chapter are being fully and properly conducted.

§ 6346. Cooperation of other agencies.

(a) **General rule.**--The secretary may request and shall receive from Commonwealth agencies, political subdivisions, an authorized agency or any other agency providing services under the local [child] protective services plan any assistance and data that will enable the department and the [child protective services] **county agency** to fulfill their responsibilities properly, including law enforcement personnel when assistance is needed in conducting an investigation [of alleged child abuse] **or an assessment of risk to the child**. School districts shall cooperate with the department and the agency by providing them upon request with the information as is consistent with law.

(b) **Willful failure to cooperate.**--Any agency, school district or facility or any person acting on behalf of an agency, school district or facility that violates this section by willfully failing to cooperate with the department or a county agency when investigating a report of suspected child abuse or a report under Subchapter C.1 (relating to students in public and private schools) or when assessing risk to a child commits a summary offense for a first violation and a misdemeanor of the third degree for subsequent violations.

(c) **Cooperation of county agency and law enforcement agencies.**--Consistent with the provisions of this chapter, the county agency and law enforcement agencies shall cooperate and coordinate, to the fullest extent possible, their efforts to respond to reports of suspected child abuse and to reports under Subchapter C.1.

(d) **Advice to county agency.**--Whenever a report of suspected child abuse is referred from a county agency to a law enforcement agency pursuant to section 6340(a)(9) and (10) (relating to release of information in confidential reports), as soon as possible, and without jeopardizing the criminal investigation or prosecution, the law enforcement agency shall advise the county agency as to whether a criminal investigation has been undertaken and the results of the investigation and of any criminal prosecution. The county agency shall ensure that the information is referred to the **Statewide central register**.

§ 6347. Annual reports to Governor and General Assembly.

(a) **General rule.**--No later than [April 15] **May 1** of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the central register of child abuse and [the various] child protective services **provided by county agencies**. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department **and the reports under Subchapter C.1 (relating to students in public and private schools)**, together with a report on the implementation of this chapter and its total cost to the Commonwealth, the evaluation of the secretary of services offered under this chapter and recommendations for repeal or for additional legislation to fulfill the purposes of this chapter. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom. The report shall also include an explanation of services provided to children who were the subjects of founded or indicated reports [of child abuse] while receiving

child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

(b) **Reports from county agencies.--To assist the department in preparing its annual report, each county agency shall submit a quarterly report to the department, including, at a minimum, the following information, on an aggregate basis, regarding general protective services, child protective services and action under Subchapter C.1:**

(1) **The number of referrals received and referrals accepted.**

(2) **The number of children over whom the agency maintains continuing supervision.**

(3) **The number of cases which have been closed by the agency.**

(4) **The services provided to children and their families.**

§ 6349. Penalties.

(a) Failure to amend or expunge information.--

(1) A person or official authorized to keep the records mentioned in section 6337 (relating to disposition of unfounded reports) or 6338 (relating to disposition of founded and indicated reports) who willfully fails to **amend or** expunge the information when required commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

(2) A person who willfully fails to obey a final order of the secretary or designated agent of the secretary to amend or expunge the summary of the report in the Statewide central register or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a summary offense.

(b) Unauthorized release of information.--A person who willfully releases or permits the release of any [data and] information contained in the pending complaint file, the Statewide central register or the [child welfare] **county agency** records required by this chapter[, including records maintained by any county children and youth social service agency and any child protective service,] to persons or agencies not permitted by this chapter **to receive that information** commits a misdemeanor of the third degree. **Law enforcement agencies shall insure the confidentiality and security of information under this chapter. A person, including an employee of a law enforcement agency, who violates the provisions of this subsection shall, in addition to other civil or criminal penalties provided by law, be denied access to the information provided under this chapter.**

* * *

Section 4. Chapter 63 of Title 23 is amended by adding subchapters to read:

SUBCHAPTER C.1

STUDENTS IN PUBLIC AND PRIVATE SCHOOLS

Sec.

6351. Definitions.

6352. School employees.

6353. Administration.

6353.1. Investigation.

6353.2. Responsibilities of county agency.

6353.3. Information in Statewide central register.

6353.4. Other provisions.

§ 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.

§ 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.

§ 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).

SUBCHAPTER C.2
BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS

Sec.

6354. Definitions.

6355. Requirement.

6356. Exceptions.

6357. Fee.

6358. Time limit for official clearance statement.

§ 6354. 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:

"Applicant." An individual who applies for a position as a school employee. The term includes an individual who transfers from one position as a school employee to another position as a school employee.

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

§ 6355. Requirement.

(a) Investigation.--

(1) Except as provided in paragraph (2), an administrator shall require each applicant to submit an official clearance statement obtained from the department within the immediately preceding year as to whether the applicant is named as the perpetrator of an indicated or a founded report or is named as the individual responsible for injury or abuse in an indicated report for school employee or a founded report for school employee.

(2) The official clearance statement under paragraph (1) shall not be required for an applicant who:

(i) transfers from one position as a school employee to another position as a school employee of the same school district or of the same organization; and

(ii) has, prior to the transfer, already obtained the official clearance statement under paragraph (1).

(b) Grounds for denying employment.--Except as provided in section 6356 (relating to exceptions), an administrator shall not hire an applicant if the department verifies that the applicant is named as the perpetrator of a founded report or is named as the individual responsible for injury or abuse in a founded report for school employee. No individual who is a school employee on the effective date of this subchapter shall be required to obtain an official clearance statement under subsection (a)(1) as a condition of continued employment.

(c) Penalty.--An administrator who willfully violates this section shall be subject to an administrative penalty of \$2,500. An action under this subsection is governed by 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 6356. Exceptions.

Section 6355 (relating to requirement) shall not apply to any of the following:

(1) A school employee who is:

(i) under 21 years of age;

(ii) participating in a job development or job training program; and

(iii) employed for not more than 90 days.

(2) A school employee hired on a provisional basis pending receipt of information under section 6355(a) if all of the following apply:

- (i) The applicant demonstrates application for the official clearance statement under section 6355(a).
- (ii) The applicant attests in writing by oath or affirmation that the applicant is not disqualified under section 6355(b).
- (iii) The administrator has no knowledge of information which would disqualify the applicant under section 6355(b).
- (iv) The provisional period does not exceed:
 - (A) 90 days for an applicant from another state; and
 - (B) 30 days for all other applicants.
- (v) The hiring does not take place during a strike under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act.

§ 6357. Fee.

The department may charge a fee of not more than \$10 for the official clearance statement required under section 6355(a) (relating to requirement).

§ 6358. Time limit for official clearance statement.

The department shall comply with the official clearance statement requests under section 6355(a) (relating to requirement) within 14 days of receipt of the request.

Section 5. Sections 6361, 6362, 6363, 6364, 6365, 6366, 6367 6368, 6369, 6370, 6371 and 6372 of Title 23 are amended to read:

§ 6361. Organization [of] **for** child protective [service] **services.**

[(a) Establishment.--Unless the department finds it is unfeasible, every county children and youth social service agency shall establish a Child Protective Service within the agency. The department may waive the requirement that a county establish a separate child protective service upon a showing by the county that:

- (1) A separate child protective service:
 - (i) would not be conducive to the best interests of all children within the county who need public child welfare services; and
 - (ii) would not be feasible or economical.

(2) The goals and objectives of this chapter will continue to be met if a waiver is granted.

If the department grants a waiver under this subsection, the county shall be bound by all other provisions of this chapter, including requirements concerning the maintenance and disclosure of confidential information and records.

(b) Staff and organization.--The child protective service shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual children and families.

(c) Functions authorized.--The child protective service shall perform those functions assigned by this chapter to it and only such others that would further the purposes of this chapter.]

(a) Establishment.--Every county agency shall make available child protective services within the agency. The department may waive the requirement that a county agency be the sole civil agency for receipt and investigation of reports pursuant to section 6362 (relating to responsibilities of county agency for child protective services) upon a showing by the county that:

- (1) It is participating in a demonstration project for or has become part of an approved combined intake system for public human service agencies as permitted by department regulations. Nothing in this paragraph is intended to permit noncounty government agencies to participate in the receipt and investigation of the reports.

(2) The goals and objectives of this chapter will continue to be met if a waiver is granted.

If the department grants a waiver under this subsection, the county agency and its agents shall be bound by all other provisions of this chapter, including requirements concerning the maintenance and disclosure of confidential information and records.

(b) **Staff and organization.**--The county agency shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way to maximize the continuity of responsibility, care and services of individual workers toward individual children and families. The department, by regulation, shall set forth staff-to-family ratios for the various activities required of the county agency under this chapter, including reports and investigations of suspected child abuse, risk assessment and the provision or monitoring of services to abused children and their families.

(c) **Functions authorized.**--The county agency staff shall perform those functions assigned to it by this chapter and such other functions as would further the purposes of this chapter.

§ 6362. Responsibilities of **county agency for child protective**
[service] **services.**

(a) **General rule.**--The [child protective service] **county agency** shall be the sole civil agency responsible for receiving and investigating all reports of child abuse made pursuant to this chapter, specifically including, but not limited to, reports of child abuse in facilities operated by the department and other public agencies, for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the well-being and development of the child and to preserve and stabilize family life wherever appropriate.

(b) **Assumption of responsibility by department.**--When the suspected abuse has been committed by the county [children and youth social service] agency or any of its agents or employees, the department shall assume the role of the agency with regard to the investigation and directly refer the child for services.

(c) **Action by agencies for abuse by agents or employees.**--Where suspected child abuse has occurred and an employee or agent of the department or the county [children and youth social service] agency or a private or public institution is a subject of the report, the department, agency or institution shall be informed of the investigation so that it may take appropriate action.

(d) **Reliance on factual investigation.**--An agency charged by this section or section 6361 (relating to organization for child protective services) with investigating a report of child abuse may rely on a factual investigation of substantially the same allegations by a law enforcement agency to support the agency's finding. This reliance shall not, however, limit the duties imposed by section 6368(a) (relating to investigation of reports).

(e) **Risk assessment.**--Each county agency shall implement a State-approved risk assessment process in performance of its duties under this subchapter.

§ 6363. [Local plan for child] **County plan for protective services.**

[(a) **General rule.**-- No later than once each year as required by the department, each county agency child protective service shall prepare and submit a local plan for the provision of child protective services. The local plan may be a component of a county human service plan or a children and youth plan which may be required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) **Certification by department.**--The department shall certify whether or not the local plan fulfills the purposes of and meets

the requirements set forth in this chapter. If the department certifies that the local plan does not do so, the department shall state the reasons therefor and may withhold reimbursement for all or part of the activities of the agency. If the department finds that a proposed local plan does not meet the requirements set forth in this chapter, the child protective service shall revise the local plan in accordance with the reasons of the department for disapproval.] **The county agency shall include provisions for protective services in its annual plan as required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.**

§ 6364. Purchasing services of other agencies.

Any other provision of law notwithstanding but consistent with sections 6361 (relating to organization [of] **for** child protective [service] **services**) and 6362 (relating to responsibilities of **county agency for** child protective [service] **services**), the county [children and youth social service] agency, based upon the [local] plan of services as provided in section 6363 (relating to [local plan for child] **county plan for** protective services), may purchase and utilize the services of any appropriate public or private agency.

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

Each [child protective service] **county agency** shall make available among its services for the prevention and treatment of child abuse multidisciplinary teams, instruction and education for parenthood **and parenting skills**, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of **self-help** groups organized [by former abusing parents to encourage self-reporting and self-treatment of present abusers.] **for the prevention and treatment of child abuse, part-day services, out-of-home placement services, therapeutic activities for child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.**

§ 6366. Continuous availability to receive reports.

Each [child protective service] **county agency** shall receive 24 hours a day, seven days a week, all reports, both oral and written, of suspected child abuse in accordance with this chapter, the [local] **county** plan for the provision of child protective services and the regulations of the department.

§ 6367. Reports to department and coroner.

(a) Reports to department.--Upon the receipt of each report of suspected child abuse made pursuant to this chapter, the [child protective service] **county agency** shall immediately transmit a child abuse report summary as provided in section 6313 (relating to reporting procedure) to the department. 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 reports of child abuse.

(b) Reports to coroner.--The [child protective service] **county agency** shall give telephone notice and forward immediately a copy of reports made pursuant to this chapter which involve the death of a child to the appropriate coroner pursuant to section 6317 (relating to **mandatory** reporting and postmortem investigation of deaths).

§ 6368. Investigation of reports.

(a) General rule.--Upon receipt of each report of suspected child abuse, the [child protective service shall commence within 24 hours] **county agency shall immediately commence** an appropriate investigation [which] **and see the child immediately if emergency protective custody is required or has been or shall be taken or if**

it cannot be determined from the report whether emergency protective custody is needed. Otherwise, the county agency shall commence an appropriate investigation and see the child within 24 hours of receipt of the report. The investigation shall include a determination of the risk of harm to the child or children if they continue to remain in the existing home environment, as well as a determination of the nature, extent and cause of any condition enumerated in the report and[, after seeing to] **any action necessary to provide for** the safety of the child or children[, immediately notify the subjects]. During the investigation, the county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination pursuant to this section. If the investigation indicates serious physical injury, a medical examination shall be performed on the subject child by a certified medical practitioner. Where there is reasonable cause to suspect there is a history of prior or current abuse, the medical practitioner has the authority to arrange for further medical tests or the county agency has the authority to request further medical tests. The investigation shall include communication with the department's service under section 6332 (relating to establishment of Statewide toll-free telephone number). Prior to interviewing a subject of the report [in writing], the county agency shall orally notify the subject who is about to be interviewed of the existence of the report, the subject's rights under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights) and [their] the subject's rights pursuant to 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 victim, a nonperpetrator subject or the investigating county agency worker, to cause the perpetrator to abscond or to significantly interfere with the conduct of a criminal investigation. However, the written notice must be provided to all subjects prior to the county agency's reaching a finding on the validity of the report.

(a.1) Investigation of report concerning child-care service personnel.--Upon notification that an investigation involves suspected child abuse perpetrated by child-care service personnel, including a child-care service employee, service provider or administrator, the respective child-care service must immediately implement a plan of supervision or alternative arrangement subject to the county agency's approval for the individual under investigation to ensure the safety of the child and other children who are in the care of the child-care service. Such plan of supervision or alternative arrangement shall be kept on file with the county agency until such time that the investigation is completed.

(b) Conditions outside home environment.--The investigation shall determine whether the child is being harmed by factors beyond the control of the parent or other person responsible for the welfare of the child, and, if so determined, the [child protective service] **county agency** shall promptly take all available steps to remedy and correct these conditions, including, but not limited to, the coordination of social services for the child and the family[.], **or referral of the family to appropriate agencies for the provision of services.**

[(c) Limitation of actions.--The investigation shall be completed within 30 days. The child protective service shall determine, within 30 days, whether the report is "founded," "indicated" or "unfounded."]

(c) **Completion of investigations.--**The investigation by the county agency to determine whether the report is "founded," "indicated" or "unfounded" and whether to accept the family for service shall be completed within 60 days in all cases. If, due to the particular circumstances of the case, the county agency cannot complete the investigation within 30 days, the particular reasons for the delay shall be described in the child protective service record and available to the department for purposes of determining whether the county agency has strictly followed the provisions of this chapter and whether the county agency is subject to action as authorized by section 6343 (relating to investigating performance of county agency). Where a petition has been filed under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) alleging that the child is a dependent child, the county agency shall make all reasonable efforts to complete the investigation to enable the hearing on the petition to be held as required by 42 Pa.C.S. § 6335 (relating to release or holding of hearing).

(d) **Referral for investigation.--**If the complaint of suspected abuse is determined to be one which cannot be investigated under this chapter because the person accused of the abuse is not a perpetrator within the meaning of section 6303 (relating to definitions), but does suggest the need for investigation, the county agency shall immediately transmit the information to the appropriate authorities.

§ 6369. Taking child into protective custody.

Pursuant to the provisions of section 6315 (relating to taking child into protective custody) and after **receipt of a court order**, the [child protective service] **county agency** shall take a child into protective custody for protection from [further] abuse. No [child protective service] **county agency** worker may [enter the home of any individual for this purpose] **take custody of the child** without judicial authorization **based on the merits of the situation**.
§ 6370. [Services for protection of child at home or in custody.]

Voluntary or court-ordered services; findings of child abuse.

(a) **General rule.--**Based on the investigation and evaluation conducted pursuant to this chapter, the [child protective service] **county agency** shall provide or contract with private or public agencies for the protection of the child at home whenever possible and those services necessary for adequate care of the child when placed in protective custody. Prior to offering these services to a family, the agency shall explain that it has no legal authority to compel the family to receive the services but may inform the family of the obligations and authority of the [child protective service] **county agency** to initiate appropriate court proceedings.

(b) **Initiation of court proceeding.--**

(1) In those cases in which an appropriate offer of service is refused and the [child protective service] **county agency** determines[, or if the service for any other appropriate reason determines,] that the best interests of the child require court action, the [child protective service] **county agency** shall initiate the appropriate court proceeding. The [child protective service] **county agency** shall assist the court during all stages of the court proceeding in accordance with the purposes of this chapter.

(2) (i) If the county agency deems it appropriate in a dependency or delinquency proceeding, including an instance in which the alleged perpetrator has access or poses a threat to a child, the county agency may petition the court under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) for a finding of child abuse.

(ii) If the court makes a specific finding that child abuse as defined by this chapter has not occurred, the county agency shall consider the court's finding to be a determination that the report of suspected abuse was an unfounded report. The county agency shall immediately notify the department of the change in the status of the report from an indicated report to an unfounded report. Upon notice, the department shall be responsible for expunging the indicated report consistent with the expunction requirements of this chapter.

(iii) If there is a determination that the subjects of the unfounded report need services provided or arranged by the county agency, the county agency may retain those records only if it specifically identifies the report as an unfounded report of suspected child abuse.

§ 6371. Rehabilitative services for child and family.

The [child protective service] **county agency** shall provide or arrange for and monitor rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the court.

§ 6372. Protecting well-being of children maintained outside home.

The [child protective service] **county agency** shall be as equally vigilant of the status, well-being and conditions under which a child is living and being maintained in a facility other than that of a parent, custodian or guardian from which the child has been removed as the service is of the conditions in the dwelling of the parent, custodian or guardian. Where the [child protective service] **county agency** finds that the placement for any temporary or permanent custody, care or treatment is for any reason inappropriate or harmful in any way to the physical or mental well-being of the child, it shall take immediate steps to remedy these conditions including petitioning the court.

Section 6. Title 23 is amended by adding sections to read:

§ 6373. **General protective services responsibilities of county agency.**

(a) **Program objectives.**--Each county agency is responsible for administering a program of general protective services to children and youth that is consistent with the agency's objectives to:

- (1) Keep children in their own homes, whenever possible.
- (2) Prevent abuse, neglect and exploitation.
- (3) Overcome problems that result in dependency.
- (4) Provide temporary, substitute placement in a foster family home or residential child-care facility for a child in need of care.
- (5) Reunite children and their families whenever possible when children are in temporary, substitute placement.
- (6) Provide a permanent, legally assured family for a child in temporary, substitute care who cannot be returned to his own home.

(7) Provide services and care ordered by the court for children who have been adjudicated dependent.

(b) **Efforts to prevent need for removal from home.**--In its effort to assist the child and the child's parents, pursuant to Federal regulations, the county agency will make reasonable efforts prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his home and to make it possible for the child to return to home.

(c) **Assistance in obtaining available benefits.**--The county agency shall aid the child and the family in obtaining benefits and services for which they may qualify under Federal, State and local programs.

(d) Duplication of services.--Except where ordered by the court in a proceeding brought under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), a county agency shall not be required to duplicate services which are the statutory responsibility of any other agency.

§ 6374. Principles and goals of general protective services.

(a) Primary purpose.--The primary purpose of general protective services is to protect the rights and welfare of children so that they have an opportunity for healthy growth and development.

(b) Assistance to parents.--Implicit in the county agency's protection of children is assistance to parents in recognizing and remedying conditions harmful to their children and in fulfilling their parental duties more adequately.

§ 6375. County agency requirements for general protective services.

(a) Duties of county agency.--The county agency shall make available a program of general protective services within each agency. The county agency shall perform those functions assigned by this chapter and others that would further the purposes of this chapter. It shall have sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way as to maximize the continuity of responsibility, care and service of individual workers toward individual children and families. The department by regulation shall set forth staff-to-family ratios for the receipt and assessment of reports of children in need of protective services and for the provision of services to neglected children and their families.

(b) Organization of county agency.--Each county agency shall be organized and staffed to ensure that the agency can provide intake for general protective services. Intake occurs when a report or referral is made to the agency or when a parent or person responsible for the child's welfare requests the assistance of the agency.

(c) Assessment for services.--

(1) Within 60 days of receipt of a report, an assessment shall be completed and a decision on whether to accept the family for service shall be made. The county agency shall provide or arrange for services necessary to protect the child during the assessment period.

(2) Each county agency shall implement a State-approved risk assessment process in performance of its duties.

(d) Receiving and assessing reports.--The county agency shall be the sole civil agency responsible for receiving and assessing all reports of children in need of protective services made pursuant to this chapter for the purpose of providing protective services to prevent abuse or neglect to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development and to preserve and stabilize family life wherever appropriate. The department may waive the receipt and assessment requirement pursuant to section 6361 (relating to organization for child protective services). Nothing in this subsection limits 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers).

(e) Family service plan.--The county agency shall prepare a written family service plan in accordance with regulations adopted by the department.

(f) Types of services.--Each county agency shall make available for the prevention and treatment of child abuse and neglect: multidisciplinary teams, instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency

medical services, part-day services, out-of-home placement services, therapeutic activities for the child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

(g) Monitoring, evaluating and assessing.--The county agency shall frequently monitor the provision of services, evaluate the effectiveness of the services, conduct in-home visits and make a periodic assessment of the risk of harm to the child.

(h) Emergency coverage.--As part of its general protective services program, a county agency shall provide 24-hour-a-day emergency coverage and be accessible to the public.

(i) Protective custody.--Pursuant to section 6315 (relating to taking child into protective custody) and after receipt of a court order, the county agency shall take a child into protective custody to protect the child from abuse or further neglect. No county agency worker may take custody of a child without judicial authorization based on the merits of the situation.

(j) Court action.--If the county agency determines that protective services are in the best interest of a child and if an offer of those services is refused or if any other reason exists to warrant court action, the county agency shall initiate the appropriate court proceedings.

(k) Adjudication of dependency.--The county agency shall maintain its responsibility for petitioning the court when necessary for the adjudication of dependency of a child pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(l) Assistance to court.--The county agency shall assist the court during all stages of a court proceeding in accordance with the purposes of this chapter.

§ 6376. Appeals with respect to general protective services.

(a) Right to appeal.--A custodial parent or person who has primary responsibility for the welfare of a child may appeal the county agency's decision to accept the family for services. Written notice of this right, along with an explanation of the agency's decision, shall be given to the family within seven days of the decision to accept for service. The department has no authority to modify an order of a court of common pleas.

(b) Receipt and grounds of appeal.--Appeals must be received by the county agency within 45 days of the date when the notice was mailed to the custodial parent or person who has primary responsibility for the welfare of a child. Requests must be made on the grounds that the child is or is not at risk of abuse or neglect.

(c) Review and decision and request for hearing.--The county agency shall review the request and issue a written decision within 45 days of receipt of the appeal. If the agency denies the request, the custodial parent or person who has primary responsibility for the welfare of a child may request a hearing before the department. The request must be made within 45 days of the date of the county agency's decision.

(d) Hearing.--If a hearing is requested, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and applicable department regulations. The burden of proof in the hearing shall be on the county agency. The department shall assist the county agency as necessary.

(e) Order.--The department is authorized and empowered to make any appropriate order regarding records to make them accurate or consistent with the requirements of this chapter.

(f) Other appeals.--Action by a custodial parent or person who has primary responsibility for the welfare of a child under this section does not preclude his right to exercise other appeals available through department regulations or the courts.

§ 6377. Caseloads.

The department by regulation shall set forth staff-to-family ratios for general protective services.

§ 6378. Purchase of services.

Except for the receipt and assessment of reports alleging a need for protective services, the county agency may purchase and utilize the services of any appropriate public or private agency. The department shall promulgate regulations establishing standards and qualifications of persons or agencies providing services for a county agency. The department may, by regulation, provide for the establishment of regional facilities or a regional coordination of licensed professional service providers to provide county agencies with access to licensed physicians and psychologists, as required by this section.

Section 7. Sections 6381(a) and (d), 6382 and 6383 of Title 23 are amended to read:

§ 6381. Evidence in court proceedings.

(a) General rule.--In addition to the rules of evidence provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the rules of evidence in this section shall govern in child abuse proceedings in court[.] **or in any department administrative hearing pursuant to section 6341 (relating to amendment or expunction of information).**

* * *

(d) Prima facie evidence of abuse.--Evidence that a child has suffered [serious physical injury, sexual abuse or serious physical neglect] **child abuse** of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the welfare of the child shall be prima facie evidence of child abuse by the parent or other person responsible for the welfare of the child.

§ 6382. Guardian ad litem for child in court proceedings.

(a) Appointment.--When a proceeding has been initiated alleging child abuse, the court shall appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney at law.

(b) Powers and duties.--The guardian ad litem shall be given access to all reports relevant to the case and to any reports of examination of the parents or other custodian of the child pursuant to this chapter. The guardian ad litem shall be charged with the representation of the best interests of the child at every stage of the proceeding and shall make such further investigation necessary to ascertain the facts, interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the child. **When appropriate because of the age or mental and emotional condition of the child, the guardian ad litem shall also determine the wishes of the child concerning the proceedings and shall communicate this information to the court.**

(c) Duty of court.--The court shall[, upon consideration of] **give consideration to** the petition of any attorney for the child[,] **and when deemed in the best interests of a child order a local** [child protective service] **county agency** or other agency to establish and implement, fully and promptly, appropriate services, treatment and plans for a child found in need of them. The court shall also[, upon consideration of] **give consideration to** the petition of an attorney for the child **and when deemed in the best interests of the child,** terminate or alter the conditions of any temporary or permanent placement of a child.

§ 6383. Education and training.

(a) **Duties of department and county agencies.**--The department and each [child protective service] **county agency**, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse **and child neglect**, the identification of abused **and neglected** children and the provision of necessary ameliorative services to abused **and neglected** children and their families. [In addition, the department and each child protective service] **The department and each county agency** shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families. **In addition, the department shall, by regulation, establish a program of training and certification for persons classified as protective services workers. The regulations shall provide for the grandfathering of all current permanent protective services workers as certified protective services workers. Upon request by the county agency and approval of the department, the agency may conduct the training of the county's protective services workers.**

(a.1) **Study by department.**--The department shall conduct a study to determine the extent of the reporting of suspected child abuse in this Commonwealth where the reports upon investigation are determined to be unfounded and to be knowingly false and maliciously reported or it is believed that a minor was persuaded to make or substantiate a false and malicious report. The department shall submit the report to the Governor, General Assembly and Attorney General no later than June 1, 1996. The report shall include the department's findings and recommendations on how to reduce the incidence of knowingly false and malicious reporting.

(b) **Duties of Department of State.**--

(1) The Department of State shall make training and educational programs and materials available for all professional licensing boards whose licensees are charged with responsibilities for reporting child abuse under this chapter with a program of distributing educational materials to all licensees.

(2) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall promulgate regulations within one year of the effective date of this subsection on the responsibilities of mandated reporters. These regulations shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse.

Section 8. Title 23 is amended by adding a section to read:

§ 6385. **Reimbursement to county agencies.**

The department shall certify in accordance with the needs-based budgeting provisions of Article VII of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, a level of funds sufficient to meet the cost of services required by the provisions of this chapter which are reasonable and allowable as defined in Article VII.

Section 9. The Department of Public Welfare shall study the advisability of the adoption of a protocol for the screening of anonymous referrals of suspected child abuse which might include requiring some corroboration of the alleged abuse prior to the commencement of an appropriate investigation under 23 Pa.C.S. The Department of Public Welfare shall report its conclusions and

recommendations to the General Assembly regarding anonymous referrals no later than June 1, 1996.

Section 10. This act shall take effect as follows:

(1) (i) The addition of 23 Pa.C.S. §§ 6362(e) and 6375(c)(2) shall take effect upon the effective date of regulations promulgated by the Department of Public Welfare to implement the provisions of this act or within three years from July 1, 1995, whichever is earlier.

(ii) Subparagraph (i) does not preclude the department from continuing to support the county agencies in the development of risk assessment processes prior to the adoption of regulations, as required under subparagraph (i).

(2) (i) The department shall promulgate regulations pertaining to general protective services as provided under this act no later than July 1, 1997.

(ii) Regulations pertaining to general protective services that have been adopted by the department under 55 Pa. Code Ch. 3480 (relating to Child Protective Services - General) shall remain in effect until regulations have been adopted pursuant to subparagraph (i).

(3) The amendment or addition of 23 Pa.C.S. §§ 6337, 6347, 6354, 6355, 6356, 6357, 6358, 6361(b), 6365, 6368 and 6383(a) shall take effect July 1, 1996.

(4) The amendment or addition of 23 Pa.C.S. §§ 6373, 6374, 6375 except (c)(2), 6376, 6377 and 6378 shall take effect July 1, 1997.

(5) The remainder of this act shall take effect July 1, 1995.

APPROVED--The 16th day of December, A. D. 1994.

ROBERT P. CASEY