

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 140

Session of  
1987

INTRODUCED BY GREENLEAF AND O'PAKE, JANUARY 15, 1987

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 14, 1987

AN ACT

1 Amending the act of November 26, 1975 (P.L.438, No.124),  
2 entitled, as amended, "An act establishing child protective  
3 services; providing procedures for reporting and  
4 investigating the abuse of children; establishing and  
5 providing access to a Statewide central register and pending  
6 complaint file on child abuse; investigating such reports;  
7 providing for taking protective action including taking a  
8 child into protective custody; placing duties on the  
9 Department of Public Welfare and county children and youth  
10 social service agencies; establishing child protective  
11 services in each county children and youth social service  
12 agency; and providing penalties," REQUIRING FUNERAL DIRECTORS <—  
13 TO REPORT SUSPECTED CHILD ABUSE; further providing for  
14 ~~recordkeeping duties of the department and information~~ <—  
15 ~~relating to prospective child care personnel.~~ THE <—  
16 CONFIDENTIALITY OF RECORDS; AND PROVIDING FOR THE EMPLOYMENT  
17 OF CERTAIN PERSONS ON A PROVISIONAL BASIS.

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

20 ~~Section 1. Section 14(h) of the act of November 26, 1975~~ <—  
21 ~~(P.L.438, No.124), known as the Child Protective Services Law,~~  
22 ~~amended July 1, 1985 (P.L.124, No.33), is amended to read:~~

23 ~~Section 14. Record Keeping Duties of the Department. \* \* \*~~

24 ~~(h) When a report of suspected child abuse is determined by~~

1 ~~the appropriate child protective service to be a founded report~~  
2 ~~or an indicated report, the information concerning such report~~  
3 ~~of suspected child abuse shall be expunged forthwith from the~~  
4 ~~pending complaint file and an appropriate entry shall be made in~~  
5 ~~the Statewide central register. Notice of such determination~~  
6 ~~must be given to the subjects of the report other than the~~  
7 ~~abused child along with an explanation of the implications of~~  
8 ~~such a finding and, upon request, to the person who reported the~~  
9 ~~suspected abuse if such person is required to report under~~  
10 ~~section 4 and has a current and ongoing professional~~  
11 ~~relationship with the child or with a sibling of the child.~~  
12 ~~Notice given to subjects of the report shall include notice that~~  
13 ~~their ability to obtain employment in a child care facility or~~  
14 ~~program may be adversely affected by entry of the report in the~~  
15 ~~Statewide central register. The notice shall also inform the~~  
16 ~~subject of the report of his right, at any time, to request the~~  
17 ~~secretary to amend, seal or expunge information contained in the~~  
18 ~~Statewide central register and his right to a hearing if the~~  
19 ~~request is denied. When a report of suspected child abuse is~~  
20 ~~determined by the appropriate child protective service to be an~~  
21 ~~unfounded report, the information concerning such report of~~  
22 ~~suspected child abuse shall be expunged from the pending~~  
23 ~~complaint file within 12 months of the date the report was~~  
24 ~~received by the department and no information other than that~~  
25 ~~authorized by subsection (k), which shall not include any~~  
26 ~~identifying information on any subject of such report, shall be~~  
27 ~~retained by the department.~~

28 ~~SECTION 1. SECTION 15(A) OF THE ACT OF NOVEMBER 26, 1975~~ <—  
29 ~~(P.L.438, NO.124), KNOWN AS THE CHILD PROTECTIVE SERVICES LAW,~~  
30 ~~IS AMENDED BY ADDING A CLAUSE TO READ:~~

SECTION 1. SECTION 4 OF THE ACT OF NOVEMBER 26, 1975  
(P.L.438, NO.124), KNOWN AS THE CHILD PROTECTIVE SERVICES LAW,  
AMENDED JUNE 10, 1982 (P.L.460, NO.136), IS AMENDED TO READ:

SECTION 4. PERSONS REQUIRED TO REPORT SUSPECTED CHILD  
ABUSE.--(A) ANY 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 6 WHEN THEY HAVE REASON TO BELIEVE, 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.

(B) WHENEVER ANY PERSON IS REQUIRED TO REPORT UNDER  
SUBSECTION (C) IN HIS CAPACITY AS A MEMBER OF THE STAFF OF A  
MEDICAL OR OTHER PUBLIC OR PRIVATE INSTITUTION, SCHOOL,  
FACILITY, OR AGENCY, HE SHALL IMMEDIATELY NOTIFY THE PERSON IN  
CHARGE OF SUCH INSTITUTION, SCHOOL, FACILITY OR AGENCY, OR THE  
DESIGNATED AGENT OF THE PERSON IN CHARGE. UPON NOTIFICATION,  
SUCH PERSON IN CHARGE OR HIS DESIGNATED AGENT, IF ANY, SHALL  
ASSUME THE RESPONSIBILITY AND HAVE THE LEGAL OBLIGATION TO  
REPORT OR CAUSE A REPORT TO BE MADE IN ACCORDANCE WITH SECTION  
6. NOTHING IN THIS ACT IS INTENDED TO REQUIRE MORE THAN ONE  
REPORT FROM ANY SUCH INSTITUTION, SCHOOL OR AGENCY.

(C) PERSONS REQUIRED TO REPORT UNDER SUBSECTION (A) INCLUDE,  
BUT ARE NOT LIMITED TO, ANY LICENSED PHYSICIAN, MEDICAL  
EXAMINER, CORONER, FUNERAL DIRECTOR, DENTIST, OSTEOPATH,  
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, SCHOOL ADMINISTRATOR, SCHOOL  
TEACHER, SCHOOL NURSE, SOCIAL SERVICES WORKER, DAY CARE CENTER

1 WORKER OR ANY OTHER CHILD CARE OR FOSTER CARE WORKER, MENTAL  
2 HEALTH PROFESSIONAL, PEACE OFFICER OR LAW ENFORCEMENT OFFICIAL.  
3 THE PRIVILEGED COMMUNICATION BETWEEN ANY PROFESSIONAL PERSON  
4 REQUIRED TO REPORT AND HIS PATIENT OR CLIENT SHALL NOT APPLY TO  
5 SITUATIONS INVOLVING CHILD ABUSE AND SHALL NOT CONSTITUTE  
6 GROUNDS FOR FAILURE TO REPORT AS REQUIRED BY THIS ACT.

7 (D) ANY PERSON WHO, UNDER THIS SECTION, IS REQUIRED TO  
8 REPORT OR CAUSE A REPORT OF SUSPECTED CHILD ABUSE TO BE MADE AND  
9 WHO, IN GOOD FAITH, MAKES OR CAUSES SAID REPORT TO BE MADE AND  
10 WHO, AS A RESULT THEREOF, IS DISCHARGED FROM HIS EMPLOYMENT OR  
11 IN ANY OTHER MANNER IS DISCRIMINATED AGAINST WITH RESPECT TO  
12 COMPENSATION, HIRE, TENURE, TERMS, CONDITIONS OR PRIVILEGES OF  
13 EMPLOYMENT, MAY FILE A CAUSE OF ACTION IN THE COURT OF COMMON  
14 PLEAS OF THE COUNTY IN WHICH THE ALLEGED UNLAWFUL DISCHARGE OR  
15 DISCRIMINATION OCCURRED FOR APPROPRIATE RELIEF. IF THE COURT  
16 FINDS THAT THE INDIVIDUAL IS A PERSON WHO, UNDER THIS SECTION,  
17 IS REQUIRED TO REPORT OR CAUSE A REPORT OF SUSPECTED CHILD ABUSE  
18 TO BE MADE, THAT HE, IN GOOD FAITH, MADE OR CAUSED TO BE MADE A  
19 REPORT OF SUSPECTED CHILD ABUSE, AND THAT AS A RESULT THEREOF HE  
20 WAS DISCHARGED OR DISCRIMINATED AGAINST WITH RESPECT TO  
21 COMPENSATION, HIRE, TENURE, TERMS, CONDITIONS OR PRIVILEGES OF  
22 EMPLOYMENT, IT MAY ISSUE AN ORDER GRANTING APPROPRIATE RELIEF,  
23 INCLUDING BUT NOT LIMITED TO REINSTATEMENT WITH BACK PAY. THE  
24 DEPARTMENT OF PUBLIC WELFARE MAY INTERVENE IN ANY ACTION BROUGHT  
25 PURSUANT TO THIS SUBSECTION.

26 SECTION 2. SECTION 15(A) OF THE ACT IS AMENDED BY ADDING A  
27 CLAUSE TO READ:

28 SECTION 15. CONFIDENTIALITY OF RECORDS.--(A) EXCEPT AS  
29 PROVIDED IN SECTION 14, REPORTS MADE PURSUANT TO THIS ACT  
30 INCLUDING BUT NOT LIMITED TO REPORT SUMMARIES OF CHILD ABUSE

1 MADE PURSUANT TO SECTION 6(B) AND WRITTEN REPORTS MADE PURSUANT  
2 TO SECTION 6(C) AS WELL AS ANY OTHER INFORMATION OBTAINED,  
3 REPORTS WRITTEN OR PHOTOGRAPHS OR X-RAYS TAKEN CONCERNING  
4 ALLEGED INSTANCES OF CHILD ABUSE IN THE POSSESSION OF THE  
5 DEPARTMENT, A COUNTY CHILDREN AND YOUTH SOCIAL SERVICE AGENCY OR  
6 A CHILD PROTECTIVE SERVICE SHALL BE CONFIDENTIAL AND SHALL ONLY  
7 BE MADE AVAILABLE TO:

8 \* \* \*

9 (12) A MANDATED REPORTER OF CHILD ABUSE AS DEFINED IN  
10 SECTION 4 WHO MADE A REPORT OF ABUSE INVOLVING THE SUBJECT  
11 CHILD: PROVIDED, HOWEVER, THAT THE INFORMATION PERMITTED TO BE  
12 RELEASED TO SUCH MANDATED REPORTER SHALL BE LIMITED TO THE  
13 FOLLOWING:

14 (I) THE FINAL STATUS OF THE REPORT FOLLOWING THE  
15 INVESTIGATION, WHETHER IT BE INDICATED, FOUNDED OR UNFOUNDED;  
16 AND

17 (II) ANY SERVICES PROVIDED, ARRANGED FOR, OR TO BE PROVIDED  
18 BY THE CHILD PROTECTIVE SERVICE TO PROTECT THE CHILD FROM  
19 FURTHER ABUSE.

20 \* \* \*

21 Section 2 3. Section 23.1 of the act is amended by adding a <—  
22 subsection to read:

23 Section 23.1. Information Relating to Prospective Child Care  
24 Personnel.--\* \* \*

25 (o) Notwithstanding subsections (b), ~~(c)~~ and ~~(f)~~ AND (C), <—  
26 administrators may employ applicants on a provisional basis for  
27 a single period not to exceed 30 days, OR, FOR OUT-OF-STATE <—  
28 APPLICANTS, A PERIOD OF 90 DAYS, provided that all of the  
29 following conditions ~~apply~~ ARE MET: <—

30 (1) the applicant has applied for the information required

1 under subsection (b), and the applicant provides a copy of the  
2 appropriate completed request forms to the administrator;

3 (2) the administrator has no knowledge of information  
4 pertaining to the applicant which would disqualify him from  
5 employment pursuant to subsection (d) or (e); and

<—

6 ~~(3) the administrator requires that the applicant be~~  
7 ~~supervised at all times in his contacts with children.~~

8 (3) THE APPLICANT SWEARS OR AFFIRMS IN WRITING THAT HE IS  
9 NOT DISQUALIFIED FROM EMPLOYMENT PURSUANT TO SUBSECTION (D) OR  
10 (E);

<—

11 (4) IF THE INFORMATION OBTAINED PURSUANT TO SUBSECTION (B)  
12 REVEALS THAT THE APPLICANT IS DISQUALIFIED FROM EMPLOYMENT  
13 PURSUANT TO SUBSECTION (D) OR (E), THE APPLICANT SHALL BE  
14 IMMEDIATELY DISMISSED BY THE ADMINISTRATOR; AND

15 (5) THE ADMINISTRATOR REQUIRES THAT THE APPLICANT NOT BE  
16 PERMITTED TO WORK ALONE WITH CHILDREN AND THAT THE APPLICANT  
17 WORK IN THE IMMEDIATE VICINITY OF A PERMANENT EMPLOYEE.

18 Section 3 4. This act shall take effect in 60 days.

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