

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2831 Session of  
1992

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TOMLINSON, STEELMAN, BATTISTO, ADOLPH, PRESTON, ALLEN AND  
SCRIMENTI, JUNE 15, 1992

REFERRED TO COMMITTEE ON AGING AND YOUTH, JUNE 15, 1992

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, further providing for preliminary  
3 provisions, for reporting suspected child abuse, for powers  
4 and duties of the Department of Public Welfare, for  
5 organization and responsibilities of child protective service  
6 and for miscellaneous provisions.

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

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

11 § 6302. [Finding] Findings and purpose of chapter.

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

15 (b) Purpose.--It is the purpose of this chapter to encourage  
16 more complete reporting of suspected child abuse and to

1 establish in each county a child protective service capable of  
2 investigating such reports swiftly and competently, providing  
3 protection for children from further abuse and providing  
4 rehabilitative services for children and parents involved so as  
5 to ensure the well-being of the child and to preserve and  
6 stabilize family life wherever appropriate.]

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

10 (b) Purpose.--It is the purpose of this chapter to encourage  
11 more complete reporting of suspected child abuse; to the extent  
12 permitted by this chapter, to involve law enforcement agencies  
13 in responding to child abuse; and to establish in each county a  
14 protective service capable of investigating such reports swiftly  
15 and competently, providing protection for children from further  
16 abuse and providing rehabilitative services for children and  
17 parents involved so as to ensure the child's well-being and to  
18 preserve and stabilize family life wherever appropriate. It is  
19 the purpose of this chapter to encourage parents or the persons  
20 responsible for the child's welfare to request assistance from a  
21 county children and youth agency in fulfilling parental duties  
22 and resolving family problems that are detrimental to the  
23 child's welfare. It is also the purpose of this chapter to  
24 ensure that each county children and youth agency establish a  
25 program of protective services with procedures to assess risk of  
26 harm to a child and with the capabilities to respond adequately  
27 to meet the needs of the family and child who may be at risk and  
28 to prioritize the response and services to children.

29 (c) Effect on rights of parents.--This chapter does not  
30 restrict the generally recognized existing rights of parents to

1 use reasonable supervision and control when raising their  
2 children.

3 § 6303. Definitions.

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

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

25 "Child abuse." Nonaccidental serious physical injury or  
26 serious physical neglect of a child under 18 years of age if the  
27 injury has been caused by the recent acts or omissions of the  
28 perpetrator or nonaccidental serious mental injury, sexual abuse  
29 or sexual exploitation of a child under 18 years of age if the  
30 injury or abuse has been caused by the acts or omissions of the

1 perpetrator. This term also includes any recent act or failure  
2 to act or series of acts or failures to act by a perpetrator  
3 that creates an imminent risk of serious physical injury, sexual  
4 abuse or sexual exploitation to a child under 18 years of age.  
5 However, no child shall be deemed to be physically or mentally  
6 abused based on injuries that result solely from environmental  
7 factors that are beyond the control of the parent or person  
8 responsible for the child's welfare such as inadequate housing,  
9 furnishings, income, clothing and medical care. If, upon  
10 investigation, the county agency determines that a child has not  
11 been provided needed medical or surgical care because of  
12 seriously-held religious beliefs of the child's parents,  
13 guardian or person responsible, which beliefs are consistent  
14 with those of a bona fide religion, the county agency shall  
15 closely monitor the child and shall seek court-ordered medical  
16 intervention when the lack of medical or surgical care threatens  
17 the child's life or long-term health. In cases of such religious  
18 circumstances, all correspondence with a subject of the report  
19 shall not reference "child abuse" and shall acknowledge the  
20 religious basis for the child's condition and the family shall  
21 be referred for general protective services, if appropriate.

22 "Child-care services." Child day-care centers, group and  
23 family day-care homes, foster homes, adoptive parents, boarding  
24 homes for children, juvenile detention center services or  
25 programs for delinquent or dependent children; mental health,  
26 mental retardation, early intervention and drug and alcohol  
27 services for children; and [any] other child-care services which  
28 are provided by or subject to approval, licensure, registration  
29 or certification by the [department] Department of Public  
30 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.

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

8 "General protective services." Those services and activities  
9 provided by each county agency for nonabuse cases requiring  
10 protective services, as defined by the Department of Public  
11 Welfare in regulations.

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

17 (1) Available medical evidence.

18 (2) The child protective service investigation.

19 (3) An admission of the acts of abuse by the parent of  
20 the child or person responsible for the welfare of the child.

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

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

28 "Person responsible for the child's welfare." A person who  
29 provides permanent or temporary care, supervision, mental health  
30 diagnosis or treatment, training or control of a child in lieu

1 of parental care, supervision and control. The term does not  
2 include a person who is employed by, or provides services or  
3 programs in, public, private or parochial nonresidential  
4 schools, intermediate units or area vocational-technical  
5 schools.

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

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

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

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

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

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

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

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

1 "Serious physical injury." An injury that:

2 (1) causes a child severe pain; or

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

5 "Serious physical neglect." A serious physical condition  
6 caused by acts or omissions which endanger a child's life or  
7 development or impair the functioning of the child and is the  
8 result of one of the following:

9 (1) Prolonged or repeated lack of supervision.

10 (2) Failure to provide essentials of life, including  
11 adequate medical care.

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

24 "Subject of the report." [Any child reported to the central  
25 register of child abuse and a parent, guardian or other  
26 responsible person also named in the report.] Any child, parent,  
27 guardian or other person responsible for the welfare of a child  
28 or alleged or actual perpetrator named in a report of suspected  
29 or substantiated child abuse made to the Department of Public  
30 Welfare or a county agency.



1     "Substantial evidence." Evidence which a reasonable person  
2     would accept as adequate to support a conclusion. It is more  
3     than a trace of evidence.

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

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

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

13                               SUBCHAPTER B

14                   PROVISIONS AND RESPONSIBILITIES FOR

15                   REPORTING SUSPECTED CHILD ABUSE

16    Section 3. Sections 6311(a) and (b), 6313, 6314, 6315, 6316,  
17    6317, 6318, 6331, 6332, 6333, 6334, 6335, 6336, 6337, 6338,  
18    6339, 6340, 6341, 6343, 6344(b)(2) and (c), 6345, 6346, 6347,  
19    6349(a) and (b), 6361, 6362, 6363, 6364, 6365, 6366, 6367, 6368,  
20    6369, 6370, 6371 and 6372 of Title 23 are amended to read:

21    § 6311. Persons required to report suspected child abuse.

22    (a) General rule.--Persons who, in the course of their  
23    employment, occupation or practice of their profession, come  
24    into contact with children shall report or cause a report to be  
25    made in accordance with section 6313 (relating to reporting  
26    procedure) when they have reason to [believe, on the basis of  
27    their medical, professional or other training and experience,  
28    that a child coming before them in their professional or  
29    official capacity] suspect, on the basis of information received  
30    in the course of their employment, occupation or profession,

1 that a child is an abused child. The privileged communication  
2 between any professional person required to report and the  
3 patient or client of that person shall not apply to situations  
4 involving child abuse and shall not constitute grounds for  
5 failure to report as required by this chapter.

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

17 \* \* \*

18 § 6313. Reporting procedure.

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

23 (b) Oral reports.--Oral reports shall be made to the  
24 department pursuant to Subchapter C (relating to powers and  
25 duties of department) and may be made to the appropriate [child  
26 protective service] county agency. When oral reports of  
27 suspected child abuse are initially received at the [child  
28 protective service] county agency, the [child protective  
29 service] protective services staff shall, after seeing to the  
30 immediate safety of the child and other children in the home,

1 immediately notify the department of the receipt of the report,  
2 which is to be held in the pending complaint file as provided in  
3 Subchapter C. The initial child abuse report summary shall be  
4 supplemented with a written report when a determination is made  
5 as to whether a report of suspected child abuse is a founded  
6 report, an unfounded report or an indicated report.

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

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

15 (2) Where the suspected abuse occurred.

16 (3) The age and sex of the [child] subject of the  
17 report.

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

21 (5) The name and relationship of the person or persons  
22 responsible for causing the suspected abuse, if known.

23 (6) Family composition.

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

26 (8)] (7) The source of the report.

27 [(9)] (8) The person making the report and where that  
28 person can be reached.

29 [(10)] (9) The actions taken by the reporting source,  
30 including the taking of photographs and X-rays, removal or

1 keeping of the child or notifying the medical examiner or  
2 coroner.

3 [(11)] (10) Any other information which the department  
4 may require by regulation.

5 (d) Failure to confirm oral report.--The failure of a person  
6 reporting cases of suspected child abuse to confirm an oral  
7 report in writing within 48 hours shall not relieve the [child  
8 protective service] county agency from any duties prescribed by  
9 this chapter. In such event, the [child protective service]  
10 county agency shall proceed as if a written report were actually  
11 made.

12 § 6314. Photographs and X-rays of child subject to report.

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

24 § 6315. Taking child into protective custody.

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

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

29 (2) By a physician examining or treating the child or by  
30 the director, or a person specifically designated in writing

1 by the director, of any hospital or other medical institution  
2 where the child is being treated if protective custody is  
3 immediately necessary to protect the child [from further  
4 serious physical injury, sexual abuse or serious physical  
5 neglect.] under this chapter.

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

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

25 (d) Detention hearing.--[In] Notwithstanding any provision  
26 of 42 Pa.C.S. Ch. 63, in no case shall protective custody under  
27 this chapter be maintained longer than 72 hours without a  
28 detention hearing. If, at the detention hearing, it is  
29 determined that protective custody shall be continued, the  
30 [child protective service] county agency shall within 48 hours

1 file a petition with the court under 42 Pa.C.S. Ch. 63.

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

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

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

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

21 (g) Voluntary agreements.--The family and county agency may  
22 enter into voluntary agreements for the provision of services,  
23 including placement of the child for a period to be determined  
24 by the department. Information contained in a voluntary  
25 agreement shall be given such weight, if any, as the court shall  
26 determine to be appropriate under all of the circumstances.

27 § 6316. Admission to private and public hospitals.

28 (a) General rule.--Children appearing to suffer any physical  
29 or mental [trauma which may constitute child abuse shall be  
30 admitted to and treated in appropriate] condition which may

1 constitute child abuse or neglect shall be admitted to, treated  
2 and maintained in facilities of private and public hospitals on  
3 the basis of medical need and shall not be refused or deprived  
4 in any way of proper medical treatment and care.

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

15 § 6317. [Reporting] Mandatory reporting and postmortem  
16 investigation of deaths.

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

27 § 6318. Immunity from liability.

28 (a) General rule.--A person, hospital, institution, school,  
29 facility [or agency participating], agency or agency employee  
30 that participates in good faith in the making of a report,

1 cooperating with an investigation [or], testifying in a  
2 proceeding arising out of an instance of suspected child abuse,  
3 the taking of photographs or the removal or keeping of a child  
4 pursuant to section 6315 (relating to taking child into  
5 protective custody), and any official or employee of a county  
6 agency who refers a report of suspected abuse to law enforcement  
7 authorities or provides services under this chapter, shall have  
8 immunity from [any civil or] civil and criminal liability that  
9 might otherwise result by reason of those actions.

10 (b) Presumption of good faith.--For the purpose of any civil  
11 or criminal proceeding, the good faith of a person required to  
12 report pursuant to section 6311 (relating to persons required to  
13 report suspected child abuse) and of any person required to make  
14 a referral to law enforcement officers under this chapter shall  
15 be presumed.

16 § 6331. Establishment of pending complaint file [and],  
17 Statewide central register and file of unfounded  
18 reports.

19 There shall be established in the department:

20 (1) A pending complaint file of child abuse reports  
21 under investigation.

22 (2) A Statewide central register of child abuse which  
23 shall consist of founded and indicated reports of child  
24 abuse.

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

26 § 6332. Establishment of Statewide toll-free telephone number.

27 (a) General rule.--The department shall establish a single  
28 Statewide toll-free telephone number that all persons, whether  
29 mandated by law or not, may use to report cases of suspected  
30 child abuse. A [child protective service may] county agency



1 shall use the Statewide toll-free telephone number for  
2 determining the existence of prior founded or indicated reports  
3 of child abuse in the Statewide central register or reports  
4 under investigation in the pending complaint file.

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

15 § 6333. Continuous availability of department.

16 The department shall be capable of receiving oral reports of  
17 child abuse made pursuant to this chapter and report summaries  
18 of child abuse from [child protective services] county agencies  
19 and shall be capable of immediately identifying prior reports of  
20 child abuse in the Statewide central register and reports under  
21 investigation in the pending complaint file and of monitoring  
22 the provision of child protective services 24 hours a day, seven  
23 days a week.

24 § 6334. Disposition of complaints received.

25 (a) Notice to [child protective service] county agency.--  
26 Upon receipt of a complaint of suspected child abuse, the  
27 department shall immediately transmit orally to the appropriate  
28 [child protective service] county agency notice that the  
29 complaint of suspected child abuse has been received and the  
30 substance of the complaint. If the Statewide central register or

1 the pending complaint file contains information indicating a  
2 prior report or a current investigation concerning a subject of  
3 the report, the department shall immediately notify the  
4 appropriate [child protective service] county agency of this  
5 fact.

6 (b) Referral for services or investigation.--If the  
7 complaint received does not suggest suspected child abuse but  
8 does suggest a need for social services or other services or  
9 investigation, the department shall transmit the information to  
10 the county [children and youth social service] agency or other  
11 public agency for appropriate action. The information shall not  
12 be considered a child abuse report unless the agency to which  
13 the information was referred has reason to [believe] suspect  
14 after investigation that abuse occurred. If the agency has  
15 reason to [believe] suspect that abuse occurred, the agency  
16 shall notify the department, and the initial complaint shall be  
17 considered to have been a child abuse report.

18 (c) Recording in pending complaint file.--Upon receipt of a  
19 complaint of suspected child abuse, the department shall  
20 maintain a record of the complaint of suspected child abuse in  
21 the pending complaint file.

22 § 6335. Information in pending complaint [file] and unfounded  
23 report files.

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

29 (a) Information authorized.--The information contained in  
30 the pending complaint file shall be limited to the information

1 required in section 6313(c) (relating to reporting procedure).  
2 The information contained in the file for unfounded reports  
3 shall be limited to the information required by section 6336  
4 (relating to information in the Statewide central register).

5 (b) Access to information.--Except as provided in sections  
6 6332 (relating to establishment of Statewide toll-free telephone  
7 number), 6334 (relating to disposition of complaints received),  
8 6340 (relating to release of information in confidential  
9 reports) and 6342 (relating to studies of data in records), no  
10 person, other than an employee of the department in the course  
11 of official duties in connection with the responsibilities of  
12 the department under this chapter, shall at any time have access  
13 to any information in the pending complaint file or Statewide  
14 central register. Information in the file of unfounded reports  
15 shall be available only to employees of the department pursuant  
16 to this subsection, to subjects of a report pursuant to section  
17 6340 and to the Office of Attorney General pursuant to section  
18 6345 (relating to audits by Attorney General) until the reports  
19 are expunged pursuant to section 6337 (relating to disposition  
20 of unfounded reports).

21 § 6336. Information in Statewide central register.

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

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

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

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

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

30 (5) Family composition.

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

4 (7) The primary cause of the abuse.

5 [(7)] (8) The source of the report.

6 [(8)] (9) Services planned or provided.

7 [(9)] (10) Whether the report is a founded report or an  
8 indicated report.

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

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

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

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

20 (b) Type of information released.--Except as provided in  
21 sections 6334 (relating to disposition of complaints received),  
22 6335 (relating to information in pending complaint file), 6340  
23 (relating to release of information in confidential reports) and  
24 6342 (relating to studies of data in records), persons receiving  
25 information from the Statewide central register or pending  
26 complaint file may be informed only as to:

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

29 (2) The number of such reports.

30 (3) The nature and extent of the alleged or actual

1 instances of suspected child abuse.

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

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

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

19 § 6337. Disposition of unfounded reports.

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

30 (b) Absence of other determination.--If an investigation of

1 a report of suspected child abuse conducted by the appropriate  
2 [child protective service] county agency pursuant to this  
3 chapter does not determine within 60 days of the date of the  
4 initial report of the instance of suspected child abuse that the  
5 report is a founded report, an indicated report or an unfounded  
6 report, or unless within that same 60-day period court action  
7 has been initiated and is responsible for the delay, the report  
8 shall be considered to be an unfounded report, and all  
9 information identifying the subjects of the report shall be  
10 expunged within 12 months. The agency shall advise the  
11 department that court action or an arrest has been initiated so  
12 that the pending complaint file is kept current regarding the  
13 status of all legal proceedings and [expungement] expunction  
14 delayed. [Nothing in this subsection shall in any way limit the  
15 powers and duties of the department as provided in section 6343  
16 (relating to investigating performance of child protective  
17 service).]

18 (c) [Expungement] Expunction of information.--All  
19 information identifying the subjects of any report of suspected  
20 child abuse determined to be an unfounded report shall be  
21 expunged from the pending complaint file [within 12 months of  
22 the date the report was received by the department. The  
23 expungement] pursuant to this section. The expunction shall be  
24 mandated and guaranteed by the department.

25 § 6338. Disposition of founded and indicated reports.

26 (a) General rule.--When a report of suspected child abuse is  
27 determined by the appropriate [child protective service] county  
28 agency to be a founded report or an indicated report, the  
29 information concerning that report of suspected child abuse  
30 shall be expunged immediately from the pending complaint file,

1 and an appropriate entry shall be made in the Statewide central  
2 register. Notice of the determination must be given to the  
3 subjects of the report, other than the abused child, along with  
4 an explanation of the implications of the determination. Notice  
5 given to [subjects of the report] perpetrators of child abuse  
6 shall include notice that their ability to obtain employment in  
7 a child-care facility or program may be adversely affected by  
8 entry of the report in the Statewide central register. The  
9 notice shall also inform the [subject of the report of his  
10 right, at any time, to request the secretary to amend, seal or  
11 expunge information contained in the Statewide central register]  
12 perpetrator of child abuse of his right, within 45 days after  
13 being notified of the status of the report, to appeal an  
14 indicated report, and his right to a hearing if the request is  
15 denied.

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

27 (b) Expunction of information when child attains 23 years of  
28 age.--Except as provided in subsection (c), all information  
29 which identifies the subjects of founded and indicated child  
30 abuse reports shall be expunged when the subject child reaches

1 the age of 23. The expunction shall be mandated and guaranteed  
2 by the department.

3 (c) Retention of information on perpetrators.--A subfile  
4 shall be established in the Statewide central register to  
5 indefinitely retain the names of perpetrators of founded or  
6 indicated reports only if the perpetrator's Social Security  
7 number or date of birth is known to the department. The subfile  
8 shall not include identifying information regarding other  
9 subjects of the report.

10 § 6339. Confidentiality of reports.

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

20 § 6340. Release of information in confidential reports.

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

24 (1) An authorized official of a [child protective  
25 service in the course of official] county agency or of an  
26 agency of another state that performs protective services  
27 analogous to those services performed by county agencies or  
28 the department in the course of the official's duties,  
29 multidisciplinary team members assigned to the case and duly  
30 authorized persons providing services pursuant to section



6370(a) (relating to services for protection of child at home or in custody).

(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).

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

(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:

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

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

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

9           (iv) A missing child report.

10          (10) Law enforcement officials who shall receive reports  
11          of abuse [in which the initial review], on forms provided by  
12          and according to regulations promulgated by the department,  
13          from the county agency in which the initial report of  
14          suspected child abuse or initial inquiry into the report  
15          gives evidence that the abuse is:

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

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

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

27          (11) County commissioners or other elected officials  
28          with administrative responsibilities under the act of June  
29          24, 1937 (P.L.2017, No.396), known as the County Institution  
30          District Law, and the act of August 9, 1955 (P.L.323,

1     No.130), known as The County Code.

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

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

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

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

21    (c) Protecting identity of person making report.--[The]  
22    Except for reports pursuant to subsection (a)(9) and (10) or  
23    section 6313 (relating to reporting procedure), the release of  
24    data that would identify the person who made a report of  
25    suspected child abuse or the person who cooperated in a  
26    subsequent investigation is prohibited unless the secretary  
27    finds that the release will not be detrimental to the safety of  
28    that person. Law enforcement officials shall treat all reporting  
29    sources as confidential informants.

30    [(d) Definition.--As used in this section, "serious bodily

1 injury" means bodily injury which creates a substantial risk of  
2 death or which causes serious permanent disfigurement or  
3 protracted loss or impairment of the function of any bodily  
4 member or organ.]

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

10 § 6341. Amendment, sealing or [expungement] expunction of  
11 information.

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

13 (1) The secretary may amend, seal or expunge any record  
14 of child abuse upon good cause shown and notice to the  
15 appropriate subjects of the report.

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

24 (b) Review of grant of request.--If the secretary grants the  
25 request under subsection (a)(2), the Statewide central register,  
26 appropriate [child protective service] county agency and all  
27 subjects shall be so advised [within seven days from the date]  
28 of the decision. The [child protective service] county agency  
29 and any subject have 45 days in which to file an administrative  
30 appeal with the secretary. If an administrative appeal is

1 received, the secretary or his designated agent shall schedule a  
2 hearing pursuant to Article IV of the act of June 13, 1967  
3 (P.L.31, No.21), known as the Public Welfare Code, and attending  
4 departmental regulations. If no administrative appeal is  
5 received within the designated time period, the Statewide  
6 central register shall comply with the decision of the secretary  
7 and advise the [child protective service] county agency to  
8 amend[, seal] or expunge the information in their records so  
9 that the records are consistent at both the State and local  
10 levels.

11 (c) Review of refusal of request.--If the secretary refuses  
12 the request under subsection (a)(2) or does not act within a  
13 reasonable time, but in no event later than 30 days after  
14 receipt of the request, the [subject] perpetrator shall have the  
15 right to a hearing before the secretary or a designated agent of  
16 the secretary to determine whether the summary of the indicated  
17 report in the Statewide central register [or the contents of any  
18 report filed pursuant to section 6313] should be amended[,  
19 sealed] or expunged on the grounds that it is inaccurate or that  
20 it is being maintained in a manner inconsistent with this  
21 chapter. The perpetrator shall have 45 days from the date of the  
22 letter giving notice of the decision to deny the request in  
23 which to request a hearing. The appropriate [child protective  
24 service] county agency shall be given notice of the hearing. The  
25 burden of proof in the hearing shall be on the appropriate  
26 [child protective service] county agency. The department shall  
27 assist the [child protective service] county agency as  
28 necessary. [In the hearings, the fact that there was a court  
29 finding of child abuse shall be presumptive evidence that the  
30 report was substantiated.]

1     (d) Stay of proceedings.--Any appeal proceeding pursuant to  
2     subsection (b) shall be automatically stayed when there is a  
3     pending criminal or juvenile court proceeding, including any  
4     appeal thereof, involving the same factual circumstances as the  
5     administrative appeal.

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

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

25    (f) Notice of expunction.--Written notice of an expunction  
26    of any child abuse record made pursuant to the provisions of  
27    this chapter shall be served upon the subject of the record who  
28    was responsible for the abuse and the appropriate county agency.  
29    Except as provided in this subsection, the county agency, upon  
30    receipt of the notice, shall take appropriate, similar action in

1 regard to the local child abuse records and inform, for the same  
2 purpose, the appropriate coroner if that officer has received  
3 reports pursuant to section 6367 (relating to reports to  
4 department and coroner). Whenever the county agency  
5 investigation reveals, within 60 days of receipt of the report  
6 of suspected child abuse, that the report is unfounded but that  
7 the subjects need services provided or arranged by the county  
8 agency, the county agency may retain those records and shall  
9 specifically identify that the report was an unfounded report of  
10 suspected child abuse.

11 [(f)] (g) Access to sealed record.--Once sealed, a record  
12 shall not be otherwise available except as provided in section  
13 6342 (relating to studies of data in records) or except if the  
14 secretary, upon notice to the subjects of the report, gives  
15 personal approval for an appropriate reason[.] or as a specified  
16 part of a negotiated settlement between the department and the  
17 perpetrator.

18 § 6343. Investigating performance of [child protective service]  
19 county agency.

20 [(a) General rule.--If, within 30 days from the date of an  
21 initial report of suspected child abuse, the appropriate child  
22 protective service has not properly investigated the report and  
23 informed the department that the report is an indicated report  
24 or an unfounded report or unless within that same 30-day period  
25 the report is determined to be a founded report, the department  
26 shall immediately begin an inquiry into the performance of the  
27 child protective service which inquiry may include a performance  
28 audit of the child protective service as provided in subsection  
29 (b). On the basis of that inquiry, the department shall take  
30 appropriate action to require that the provisions of this

1 chapter be strictly followed, which action may include, without  
2 limitation, the institution of appropriate legal action and the  
3 withholding of reimbursement for all or part of the activities  
4 of the county children and youth social service agency.

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

10 § 6344. Information relating to prospective child-care  
11 personnel.

12 \* \* \*

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

17 \* \* \*

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

27 \* \* \*

28 (c) Grounds for denying employment.--In no case shall an  
29 administrator hire an applicant where the department has  
30 verified that the applicant is named in the central register as



1 the perpetrator of a founded report of child abuse committed  
2 within the five-year period immediately preceding verification  
3 pursuant to this section. In no case shall an administrator hire  
4 an applicant if the applicant's criminal history record  
5 information indicates the applicant has been convicted, within  
6 five years immediately preceding the date of the report, of one  
7 or more of the following offenses under Title 18 (relating to  
8 crimes and offenses):

9 Chapter 25 (relating to criminal homicide).

10 Section 2702 (relating to aggravated assault).

11 Section 2901 (relating to kidnapping).

12 Section 2902 (relating to unlawful restraint).

13 Section 3121 (relating to rape).

14 Section 3122 (relating to statutory rape).

15 Section 3123 (relating to involuntary deviate sexual  
16 intercourse).

17 Section 3125 (relating to aggravated indecent assault).

18 Section 3126 (relating to indecent assault).

19 Section 3127 (relating to indecent exposure).

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

22 Section 4304 (relating to endangering welfare of  
23 children).

24 Section 4305 (relating to dealing in infant children).

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

27 Section 5903(c) or (d) (relating to obscene and other  
28 sexual materials).

29 Section 6301 (relating to corruption of minors).

30 Section 6312 (relating to sexual abuse of children).

1       \* \* \*

2   § 6345. Audits by Attorney General.

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

7   § 6346. Cooperation of other agencies.

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

19       (b) Willful failure to cooperate.--Any person, agency,  
20 school district or facility which violates this section by  
21 willfully failing to cooperate with the department or a county  
22 agency when investigating a report of suspected child abuse or  
23 when assessing risk to a child commits a summary offense for a  
24 first violation and a misdemeanor of the third degree for  
25 subsequent violations.

26       (c) Cooperation of county agency and law enforcement  
27 agencies.--Consistent with the provisions of this chapter, the  
28 county agency and law enforcement agencies shall cooperate and  
29 coordinate, to the fullest extent possible, their efforts to  
30 respond to reports of suspected child abuse.

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

11 § 6347. Annual reports to Governor and General Assembly.

12     (a) General rule.--No later than [April 15] May 1 of every  
13 year, the secretary shall prepare and transmit to the Governor  
14 and the General Assembly a report on the operations of the  
15 central register of child abuse and [the various] child  
16 protective services provided by county agencies. The report  
17 shall include a full statistical analysis of the reports of  
18 suspected child abuse made to the department, together with a  
19 report on the implementation of this chapter and its total cost  
20 to the Commonwealth, the evaluation of the secretary of services  
21 offered under this chapter and recommendations for repeal or for  
22 additional legislation to fulfill the purposes of this chapter.  
23 All such recommendations should contain an estimate of increased  
24 or decreased costs resulting therefrom. The report shall also  
25 include an explanation of services provided to children who were  
26 the subjects of founded or indicated reports of child abuse  
27 while receiving child-care services. The department shall also  
28 describe its actions in respect to the perpetrators of the  
29 abuse.

30     (b) Reports from county agencies.--To assist the department

1 in preparing its annual report, each county agency shall submit  
2 a quarterly report to the department, including, at a minimum,  
3 the following information, on an aggregate basis, regarding  
4 general protective services and child protective services:

5       (1) The number of referrals received and referrals  
6 accepted.

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

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

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

13 § 6349. Penalties.

14 (a) Failure to amend, seal or expunge information.--

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

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

28 (b) Unauthorized release of information.--A person who  
29 willfully releases or permits the release of any [data and]  
30 information contained in the pending complaint file, the

1 Statewide central register or the [child welfare] county agency  
2 records required by this chapter[, including records maintained  
3 by any county children and youth social service agency and any  
4 child protective service,] to persons or agencies not permitted  
5 by this chapter to receive such information commits a  
6 misdemeanor of the third degree. Law enforcement agencies shall  
7 insure the confidentiality and security of information under  
8 this subsection. A person, including a law enforcement agency,  
9 who violates the provisions of this subsection shall, in  
10 addition to other civil or criminal penalties provided by law,  
11 be denied access to the information provided under this chapter.

12 \* \* \*

13 § 6361. Organization [of] for child protective service.

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

20 (1) A separate child protective service:

21 (i) would not be conducive to the best interests of  
22 all children within the county who need public child  
23 welfare services; and

24 (ii) would not be feasible or economical.

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

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

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

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

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

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

23 (2) The goals and objectives of this chapter will  
24 continue to be met if a waiver is granted.  
25 If the department grants a waiver under this subsection, the  
26 county agency and its agents shall be bound by all other  
27 provisions of this chapter, including requirements concerning  
28 the maintenance and disclosure of confidential information and  
29 records.

30 (b) Staff and organization.--The county agency shall have a

1 sufficient staff of sufficient qualifications to fulfill the  
2 purposes of this chapter and be organized in such a way as to  
3 maximize the continuity of responsibility, care and services of  
4 individual workers toward individual children and families. The  
5 department, by regulation, shall set forth maximum staff-to-  
6 family ratios for the various activities required of the county  
7 agency under this chapter, including reports and investigations  
8 of suspected child abuse, risk assessment and the provision or  
9 monitoring of services to abused children and their families.

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

13 § 6362. Responsibilities of county agency for child protective  
14 [service] services.

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

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

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

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

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

19 § 6363. Local plan for child protective services.

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

27 (b) Certification by department.--The department shall  
28 certify whether or not the local plan fulfills the purposes of  
29 and meets the requirements set forth in this chapter. If the  
30 department certifies that the local plan does not do so, the



1 department shall state the reasons therefor and may withhold  
2 reimbursement for all or part of the activities of the agency.  
3 If the department finds that a proposed local plan does not meet  
4 the requirements set forth in this chapter, the child protective  
5 service shall revise the local plan in accordance with the  
6 reasons of the department for disapproval.] The county agency  
7 shall provide a local plan for protective services as required  
8 by the act of June 13, 1967 (P.L.31, No.21), known as the Public  
9 Welfare Code.

10 § 6364. Purchasing services of other agencies.

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

19 § 6365. Services for prevention and treatment of child abuse.

20 Each [child protective service] county agency shall make  
21 available among its services for the prevention and treatment of  
22 child abuse multidisciplinary teams, instruction and education  
23 for parenthood and parenting skills, protective and preventive  
24 social counseling, emergency caretaker services, emergency  
25 shelter care, emergency medical services and the establishment  
26 of self-help groups organized [by former abusing parents to  
27 encourage self-reporting and self-treatment of present abusers.]  
28 for the prevention and treatment of child abuse, part-day  
29 services, out-of-home placement services, therapeutic activities  
30 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 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 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 commence, within the time frames established in department regulations, an appropriate investigation, which shall include a determination of the risk

1 of harm to the child or children if they continue to remain in  
2 the existing home environment, as well as a determination of the  
3 nature, extent and cause of any condition enumerated in the  
4 report [and, after seeing to] any action necessary to provide  
5 for the safety of the child or children[, immediately notify the  
6 subjects]. The investigation shall include communication with  
7 the department's service under section 6332 (relating to  
8 establishment of Statewide toll-free telephone number). Prior to  
9 interviewing a subject of the report [in writing] the county  
10 agency shall orally notify the subject who is about to be  
11 interviewed of the existence of the report and [their] the  
12 subject's rights pursuant to this chapter in regard to amendment  
13 or expungement. Within 72 hours following oral notification to  
14 the subject, the county agency shall give written notice to the  
15 subject. The notice may be reasonably delayed if notification is  
16 likely to threaten the safety of the victim, a nonperpetrator  
17 subject, or the investigating county agency worker; to cause the  
18 perpetrator to abscond; or to significantly interfere with the  
19 conduct of a criminal investigation. However, the written notice  
20 must be provided to all subjects prior to the county agency's  
21 reaching a finding on the validity of the report.

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

1 (c) Limitation of actions.--The investigation shall be  
2 completed within [30 days. The child protective service shall  
3 determine, within 30 days, whether the report is "founded,"  
4 "indicated" or "unfounded."] 60 days to determine whether the  
5 report is "founded," "indicated" or "unfounded" and whether to  
6 accept the family for service.

7 (d) Referral for investigation.--If the complaint of  
8 suspected abuse is determined to be one which cannot be  
9 investigated under this chapter because the person accused of  
10 the abuse is not a perpetrator within the meaning of section  
11 6303 (relating to definitions), but does suggest the need for  
12 investigation, the county agency shall transmit the information  
13 to the appropriate authorities.

14 § 6369. Taking child into protective custody.

15 Pursuant to the provisions of section 6315 (relating to  
16 taking child into protective custody) and after receipt of a  
17 court order, the [child protective service] county agency shall  
18 take a child into protective custody for protection from  
19 [further] abuse. No [child protective service] county agency  
20 worker may enter the home of any individual for this purpose  
21 without judicial authorization.

22 § 6370. Services for protection of child at home or in custody.

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

1 may inform the family of the obligations and authority of the  
2 [child protective service] county agency to initiate appropriate  
3 court proceedings.

4 (b) Initiation of court proceedings.--In those cases in  
5 which an appropriate offer of service is refused and the [child  
6 protective service] county agency determines, or if the service  
7 for any other appropriate reason determines, that the best  
8 interests of the child require court action, the [child  
9 protective service] county agency shall initiate the appropriate  
10 court proceeding. The [child protective service] county agency  
11 shall assist the court during all stages of the court proceeding  
12 in accordance with the purposes of this chapter.

13 § 6371. Rehabilitative services for child and family.

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

18 § 6372. Protecting well-being of children maintained outside  
19 home.

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

1 the court.

2 Section 4. Title 23 is amended by adding sections to read:

3 § 6373. General protective services responsibilities of county  
4 agency.

5 Each county agency is responsible for administering a program  
6 of general protective services to children and youth that is  
7 consistent with the agency's objectives to:

8 (1) Keep children in their own homes, whenever possible.

9 (2) Prevent abuse, neglect and exploitation.

10 (3) Overcome problems that result in dependency.

11 (4) Provide temporary, substitute placement in a foster  
12 family home or residential child-care facility for a child in  
13 need of such care.

14 (5) Reunite children and their families whenever  
15 possible when children are in temporary, substitute  
16 placement.

17 (6) Provide a permanent, legally assured family for a  
18 child in temporary, substitute care who cannot be returned to  
19 his own home.

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

22 § 6374. Principles and goals of general protective services.

23 (a) Primary purpose.--The primary purpose of general  
24 protective services is to protect the rights and welfare of  
25 children, to ensure that the basic needs of children are being  
26 met and to ensure that children have an opportunity for healthy  
27 growth and development. Basic needs shall include adequate food,  
28 shelter, clothing, medical and dental care, personal care,  
29 protection from physical injury and supervision.

30 (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 general protective services within each agency. The county agency shall perform those functions assigned by this chapter and such 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 such 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 maximum staff-to-family ratios for the receipt and assessment of reports of child neglect 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 of risk.--

(1) Within 60 days of receipt of a report, an assessment of risk to the child shall be completed and a decision on whether to accept the family for service shall be made.

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

1     (d) Receiving and assessing reports.--The county agency  
2     shall be the sole civil agency responsible for receiving and  
3     assessing all reports of child neglect made pursuant to this  
4     chapter for the purpose of providing protective services to  
5     prevent abuse or neglect to children and to provide or arrange  
6     for and monitor the provision of those services necessary to  
7     safeguard and ensure the child's well-being and development and  
8     to preserve and stabilize family life wherever appropriate. The  
9     department may waive the receipt and assessment requirement  
10    pursuant to section 6361 (relating to organization for child  
11    protective service).

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

15    (f) Types of services.--Each county agency shall make  
16    available for the prevention and treatment of child neglect:  
17    multidisciplinary teams, instruction and education for  
18    parenthood and parenting skills, protective and preventive  
19    social counseling, emergency caretaker services, emergency  
20    shelter care, emergency medical services, part-day services,  
21    out-of-home placement services, therapeutic activities for the  
22    child and family directed at alleviating conditions that present  
23    a risk to the safety and well-being of a child and any other  
24    services required by department regulations.

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

29    (h) Emergency coverage.--As part of its general protective  
30    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 protective services worker shall enter the home of any individual for this purpose without judicial authorization.

(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 delinquency.--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 act.

§ 6376. Appeals with respect to general protective services.

(a) Right to appeal.--A parent or person responsible for the welfare of a child may appeal the county agency's decision to accept or reject 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 or reject for service.

(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 parent or person responsible for the child's welfare. Requests must be made on the grounds that the child is

1 or is not at risk of abuse or neglect.

2 (c) Review and decision and request for hearing.--The county  
3 agency shall review the request and render a decision within 45  
4 days of receipt of the appeal. If the agency denies the request,  
5 the parent or person responsible for the child may request a  
6 hearing before the department. The request must be made within  
7 45 days of the date of the county agency's decision.

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

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

18 (f) Other appeals.--Action by a parent or person responsible  
19 for a child under this section does not preclude his right to  
20 exercise other appeals available through department regulations  
21 or the courts.

22 § 6377. Staff training.

23 Pursuant to section 6383 (relating to education and  
24 training), the department and county agency shall arrange for  
25 training for general protective services staff. Training shall  
26 be designed to improve the skills and knowledge needed by staff  
27 in the performance of their duties.

28 § 6378. Caseloads.

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

1   § 6379. Purchase of services.

2       Except for the receipt and assessment of reports alleging a  
3   need for protective services, the county agency may purchase and  
4   utilize the services of any appropriate public or private  
5   agency.

6       Section 5. Sections 6381(a) and (d), 6382 and 6383 of Title  
7   23 are amended to read:

8   § 6381. Evidence in court proceedings.

9       (a) General rule.--In addition to the rules of evidence  
10   provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters),  
11   the rules of evidence in this section shall govern in child  
12   abuse proceedings in court[.] or in any department  
13   administrative hearing pursuant to section 6339 (relating to  
14   confidentiality of reports).

15       \* \* \*

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

24   § 6382. Guardian ad litem for child in court proceedings.

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

29       (b) Powers and duties.--The guardian ad litem shall be given  
30   access to all reports relevant to the case and to any reports of

1 examination of the parents or other custodian of the child  
2 pursuant to this chapter. The guardian ad litem shall be charged  
3 with the representation of the best interests of the child at  
4 every stage of the proceeding and shall make such further  
5 investigation necessary to ascertain the facts, interview  
6 witnesses, examine and cross-examine witnesses, make  
7 recommendations to the court and participate further in the  
8 proceedings to the degree appropriate for adequately  
9 representing the child.

10 (c) Duty of court.--The court shall, upon consideration of  
11 the petition of any attorney for the child, order a local [child  
12 protective service] county agency or other agency to establish  
13 and implement, fully and promptly, appropriate services,  
14 treatment and plans for a child found in need of them. The court  
15 shall also, upon consideration of the petition of an attorney  
16 for the child, terminate or alter the conditions of any  
17 temporary or permanent placement of a child.

18 § 6383. Education and training.

19 The department and each [child protective service] county  
20 agency, both jointly and individually, shall conduct a  
21 continuing publicity and education program for the citizens of  
22 this Commonwealth aimed at the prevention of child abuse and  
23 child neglect, the identification of abused and neglected  
24 children and the provision of necessary ameliorative services to  
25 abused and neglected children and their families. [In addition,  
26 the department and each child protective service] The department  
27 and each county agency shall conduct an ongoing training and  
28 education program for local staff, persons required to make  
29 reports and other appropriate persons in order to familiarize  
30 those persons with the reporting and investigative procedures

1 for cases of suspected child abuse and the rehabilitative  
2 services that are available to children and families. In  
3 addition, the department shall, by regulation, establish a  
4 program of training and certification for persons classified as  
5 protective service workers. The regulations shall provide for  
6 the grandfathering of all current permanent protective service  
7 workers as certified protective service workers. Upon request by  
8 the county agency and approval of the department, the agency may  
9 conduct the training of the county's protective service workers.

10 Section 6. Title 23 is amended by adding a section to read:

11 § 6385. Jurisdiction.

12 A county agency may file a petition under this chapter for a  
13 determination of child abuse to a court with jurisdiction over  
14 dependency under 42 Pa.C.S. § 6321 (relating to commencement of  
15 proceedings).

16 Section 7. This act shall take effect as follows:

17 (1) The addition of 23 Pa.C.S. §§ 6362(e) and 6375(c)(2)  
18 shall take effect upon the effective date of regulations  
19 promulgated by the Department of Public Welfare to implement  
20 the provisions or in five years, whichever is earlier.

21 (2) The remainder of this act shall take effect July 1,  
22 1993, or immediately, whichever is later.