

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1548 Session of
1998

INTRODUCED BY JUBELIRER, WHITE, GREENLEAF, PICCOLA, TILGHMAN,
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SALVATORE, PUNT, MOWERY, LEMMOND, TOMLINSON, WAGNER, MELLOW,
MURPHY, CONTI AND HART, OCTOBER 2, 1998

REFERRED TO AGING AND YOUTH, OCTOBER 2, 1998

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for findings and
3 purpose of chapter, for information in pending complaint and
4 unfounded report files, for disposition of unfounded reports,
5 for release of information in confidential reports, for
6 amendment or expunction of information, for grounds for
7 denying employment, for cooperation of other agencies and for
8 services for prevention and treatment of child abuse.

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

11 Section 1. Sections 6302(b), 6335(b) and 6337 of Title 23 of
12 the Pennsylvania Consolidated Statutes are amended to read:

13 § 6302. Findings and purpose of chapter.

14 * * *

15 (b) Purpose.--It is the purpose of this chapter to encourage
16 more complete reporting of suspected child abuse; to the extent
17 permitted by this chapter, to involve law enforcement agencies
18 in responding to child abuse; and to establish in each county
19 protective services for the purpose of investigating the reports
20 swiftly and competently, providing protection for children from

1 further abuse and providing rehabilitative services for children
2 and parents involved so as to ensure the child's well-being and
3 to preserve, stabilize and protect the integrity of family life
4 wherever appropriate or to provide another alternative permanent
5 family when the unity of the family cannot be maintained. It is
6 also the purpose of this chapter to ensure that each county
7 children and youth agency establish a program of protective
8 services with procedures to assess risk of harm to a child and
9 with the capabilities to respond adequately to meet the needs of
10 the family and child who may be at risk and to prioritize the
11 response and services to children most at risk.

12 * * *

13 § 6335. Information in pending complaint and unfounded report
14 files.

15 * * *

16 (b) Access to information.--Except as provided in sections
17 6332 (relating to establishment of Statewide toll-free telephone
18 number), 6334 (relating to disposition of complaints received),
19 6340 (relating to release of information in confidential
20 reports) and 6342 (relating to studies of data in records), no
21 person, other than an employee of the department in the course
22 of official duties in connection with the responsibilities of
23 the department under this chapter, shall at any time have access
24 to any information in the pending complaint file or Statewide
25 central register. Information in the file of unfounded reports
26 shall be available only to employees of the department pursuant
27 to this subsection, to subjects of a report or law enforcement
28 officials pursuant to section 6340 and to the Office of Attorney
29 General pursuant to section 6345 (relating to audits by Attorney
30 General) until the reports are expunged pursuant to section 6337

1 (relating to disposition of unfounded reports).

2 § 6337. Disposition of unfounded reports.

3 (a) General rule.--When a report of suspected child abuse is
4 determined by the appropriate county agency to be an unfounded
5 report, the information concerning that report of suspected
6 child abuse shall be maintained for a period of one year.
7 Following the expiration of one year after the date the report
8 was received by the department, the report shall be expunged
9 from the pending complaint file, as soon as possible, but no
10 later than 120 days after the one-year period following the date
11 the report was received by the department, and no information
12 other than that authorized by subsection (b), which shall not
13 include any identifying information on any subject of the
14 report, shall be retained by the department.

15 (b) Absence of other determination.--If an investigation of
16 a report of suspected child abuse conducted by the appropriate
17 county agency pursuant to this chapter does not determine within
18 60 days of the date of the initial report of the instance of
19 suspected child abuse that the report is a founded report, an
20 indicated report or an unfounded report, or unless within that
21 same 60-day period court action has been initiated and is
22 responsible for the delay, the report shall be considered to be
23 an unfounded report, and all information identifying the
24 subjects of the report shall be expunged no later than 120 days
25 following the expiration of one year after the date the report
26 was received by the department. The agency shall advise the
27 department that court action or an arrest has been initiated so
28 that the pending complaint file is kept current regarding the
29 status of all legal proceedings and expunction delayed.

30 (c) Expunction of information.--All information identifying

1 the subjects of any report of suspected child abuse and of any
2 report under Subchapter C.1 (relating to students in public and
3 private schools) determined to be an unfounded report shall be
4 expunged from the pending complaint file pursuant to this
5 section. The expunction shall be mandated and guaranteed by the
6 department.

7 Section 2. Section 6340(a)(9) and (10) of Title 23 are
8 amended, the subsection is amended by adding a paragraph and the
9 section is amended by adding a subsection to read:

10 § 6340. Release of information in confidential reports.

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

14 * * *

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

18 (i) Homicide or other criminal offense set forth in
19 section 6344(c) (relating to information relating to
20 prospective child-care personnel), sexual abuse, sexual
21 exploitation [or], serious bodily injury or serious
22 physical injury perpetrated by persons whether or not
23 related to the victim.

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

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

29 (iv) A missing child report.

30 (10) [Law enforcement officials] The district attorney

1 or his designee or other law enforcement official, if agreed
2 to by the district attorney and the law enforcement official,
3 who shall receive, immediately after the county agency has
4 ensured the safety of the child, reports of abuse, either
5 orally or in writing, according to regulations promulgated by
6 the department, from the county agency in which the initial
7 report of suspected child abuse or initial inquiry into the
8 report gives evidence that the abuse is:

9 (i) homicide[,] or another criminal offense set
10 forth in section 6344(c), sexual abuse, sexual
11 exploitation [or], serious bodily injury or serious
12 physical injury perpetrated by persons, whether or not
13 related to the victim; or

14 (ii) child abuse perpetrated by persons who are not
15 family members.

16 * * *

17 (15) Appropriate officials of another county or state
18 regarding an investigation related to child abuse or
19 protective services when a family has moved to that county or
20 state. Reports under this paragraph shall include general
21 protective service reports and related information. Reports
22 and information under this paragraph shall be provided within
23 seven calendar days.

24 * * *

25 (e) Regulations.--The department shall promulgate
26 regulations as necessary to carry out the purposes of this
27 section.

28 Section 3. Sections 6341(b) and (c), 6344(b) and (c),
29 6346(c) and 6365 of Title 23 are amended to read:

30 § 6341. Amendment or expunction of information.

1 * * *

2 (b) Review of grant of request.--If the secretary grants the
3 request under subsection (a)(2), the Statewide central register,
4 appropriate county agency, appropriate law enforcement officials
5 and all subjects shall be so advised of the decision. The county
6 agency and any subject have 45 days in which to file an
7 administrative appeal with the secretary. If an administrative
8 appeal is received, the secretary or his designated agent shall
9 schedule a hearing pursuant to Article IV of the act of June 13,
10 1967 (P.L.31, No.21), known as the Public Welfare Code, and
11 attending departmental regulations. If no administrative appeal
12 is received within the designated time period, the Statewide
13 central register shall comply with the decision of the secretary
14 and advise the county agency to amend or expunge the information
15 in their records so that the records are consistent at both the
16 State and local levels.

17 (c) Review of refusal of request.--If the secretary refuses
18 the request under subsection (a)(2) or does not act within a
19 reasonable time, but in no event later than 30 days after
20 receipt of the request, the perpetrator or school employee shall
21 have the right to a hearing before the secretary or a designated
22 agent of the secretary to determine whether the summary of the
23 indicated report in the Statewide central register should be
24 amended or expunged on the grounds that it is inaccurate or that
25 it is being maintained in a manner inconsistent with this
26 chapter. The perpetrator or school employee shall have 45 days
27 from the date of the letter giving notice of the decision to
28 deny the request in which to request a hearing. The appropriate
29 county agency and appropriate law enforcement officials shall be
30 given notice of the hearing. The burden of proof in the hearing

1 shall be on the appropriate county agency. The department shall
2 assist the county agency as necessary.

3 * * *

4 § 6344. Information relating to prospective child-care
5 personnel.

6 * * *

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

11 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
12 history record information), a report of criminal history
13 record information from the Pennsylvania State Police or a
14 statement from the Pennsylvania State Police that the State
15 Police central repository contains no such information
16 relating to that person. The criminal history record
17 information shall be limited to that which is disseminated
18 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general
19 regulations).

20 (2) A certification from the department as to whether
21 the applicant is named in the central register as the
22 perpetrator of a founded report of child abuse, indicated
23 report of child abuse, founded report for school employee or
24 indicated report for school employee.

25 (3) Where the applicant is not a resident of this
26 Commonwealth, administrators shall require the applicant to
27 submit with the application for employment a full set of
28 fingerprints. The department shall submit the fingerprints to
29 the Federal Bureau of Investigation in order to obtain a
30 report of Federal criminal history record information

1 [pursuant to the Federal Bureau of Investigation
2 appropriation of the Department of Justice Appropriation Act
3 of 1973 (Public Law 92-544, 86 Stat. 1116), and the
4 department shall be the intermediary for the purposes of this
5 section].

6 For the purposes of this subsection, an applicant may submit a
7 copy of the required information with an application for
8 employment. Administrators shall maintain a copy of the required
9 information and shall require applicants to produce the original
10 document prior to employment.

11 (c) Grounds for denying employment.--

12 (1) In no case shall an administrator hire an applicant
13 where the department has verified that the applicant is named
14 in the central register as the perpetrator of a founded
15 report of child abuse committed within the five-year period
16 immediately preceding verification pursuant to this section.

17 (2) In no case shall an administrator hire an applicant
18 if the applicant's criminal history record information
19 indicates the applicant has been convicted of one or more of
20 the following offenses under Title 18 (relating to crimes and
21 offenses) or an equivalent crime under Federal law or the law
22 of another state:

23 Chapter 25 (relating to criminal homicide).

24 Section 2702 (relating to aggravated assault).

25 Section 2709 (relating to harassment and stalking).

26 Section 2901 (relating to kidnapping).

27 Section 2902 (relating to unlawful restraint).

28 Section 3121 (relating to rape).

29 Section 3122.1 (relating to statutory sexual assault).

30 Section 3123 (relating to involuntary deviate sexual

intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

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

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

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(3) In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.

* * *

§ 6346. Cooperation of other agencies.

* * *

(c) Cooperation of county agency and law enforcement agencies.--Consistent with the provisions of this chapter, the county agency and law enforcement agencies shall cooperate and coordinate, to the fullest extent possible, their efforts to

1 respond to and investigate reports of suspected child abuse and
2 to reports under Subchapter C.1.

3 * * *

4 § 6365. Services for prevention, investigation and treatment of
5 child abuse.

6 (a) Instruction and education.--Each county agency shall
7 make available among its services for the prevention and
8 treatment of child abuse [multidisciplinary teams,] instruction
9 and education for parenthood and parenting skills, protective
10 and preventive social counseling, emergency caretaker services,
11 emergency shelter care, emergency medical services and the
12 establishment of self-help groups organized for the prevention
13 and treatment of child abuse, part-day services, out-of-home
14 placement services, therapeutic activities for child and family
15 directed at alleviating conditions that present a risk to the
16 safety and well-being of a child and any other services required
17 by department regulations.

18 (b) Multidisciplinary team.--The county agency shall make
19 available among its services a multidisciplinary team for the
20 prevention, investigation and treatment of child abuse and shall
21 convene the multidisciplinary team at any time, but not less
22 than annually:

23 (1) To review substantiated cases of child abuse,
24 including responses by the county agency and other agencies
25 providing services to the child.

26 (2) Where appropriate to assist in the development of a
27 family service plan for the child.

28 The county agency shall annually submit all findings and
29 recommendations of the multidisciplinary team to the department.

30 (c) Investigative team.--The county agency and the district

attorney shall develop a protocol for the convening of
investigative teams for any case of child abuse involving
serious physical injury, sexual abuse or serious bodily injury.
The district attorney shall convene an investigative team in
accordance with the protocol. The investigative team shall
consist of those individuals and agencies responsible for
investigating the abuse or for providing services to the child
and shall at a minimum include a health care provider, county
caseworker and law enforcement. The investigative team shall
review the report of abuse and related information in order to
facilitate cooperation in the evaluation and investigation of
the case for the purpose of protecting the health, safety and
welfare of the child.

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