

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 823 Session of 2007

INTRODUCED BY DERMODY, SOLOBAY, KILLION, MELIO, PALLONE, HARHAI, KOTIK, DALEY, WOJNAROSKI, READSHAW, MANN, SAYLOR, SIPTROTH, SAINATO, MUNDY, WALKO, PETRARCA, M. SMITH, BELFANTI, JOSEPHS, FRANKEL, CALTAGIRONE, KULA, HORNAMAN, DeLUCA, K. SMITH, YOUNGBLOOD, MURT, JAMES AND KORTZ, MARCH 19, 2007

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 26, 2007

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing, in child protective
3 services, for definitions, FOR IMMUNITY FROM LIABILITY, for <—
4 release of information in confidential reports, FOR STUDIES <—
5 OF DATA IN RECORDS, for investigating performance of county
6 agencies, for citizen review panels, for child abuse services
7 and for reporting.

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

10 Section 1. The definition of "nonaccidental" in section
11 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes, <—
12 added November 9, 2006 (P.L.1358, No.146), is amended and the
13 subsection is amended by adding a definition to read:

14 § 6303. Definitions.

15 (a) General rule.--The following words and phrases when used
16 in this chapter shall have the meanings given to them in this
17 section unless the context clearly indicates otherwise:

18 * * *

1 "Children's advocacy center." A local public agency in this
2 Commonwealth and a not-for-profit entity incorporated in this
3 Commonwealth which:

4 (1) is tax exempt under section 501(c)(3) of the
5 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
6 501(c)(3)); and

7 (2) operates within this Commonwealth for the primary
8 purpose of providing a child-focused, facility-based program
9 dedicated to coordinating a formalized multidisciplinary
10 response to suspected child abuse that, at a minimum, either
11 onsite or through a partnership with another entity or
12 entities, assists county agencies, investigative teams and
13 law enforcement by providing services, including forensic
14 interviews, medical evaluations, therapeutic interventions,
15 victim support and advocacy, team case reviews and a system
16 for case tracking.

17 * * *

18 "Nonaccidental." [An injury that is the result of] Resulting
19 from an intentional act that is committed with disregard of a
20 substantial and unjustifiable risk.

21 * * *

22 SECTION 1.1. SECTION 6318(A) OF TITLE 23 IS AMENDED TO READ: <—

23 § 6318. IMMUNITY FROM LIABILITY.

24 (A) GENERAL RULE.--A PERSON, HOSPITAL, INSTITUTION, SCHOOL,
25 FACILITY, AGENCY OR AGENCY EMPLOYEE THAT PARTICIPATES IN GOOD
26 FAITH IN THE MAKING OF A REPORT, WHETHER REQUIRED OR NOT,
27 COOPERATING WITH AN INVESTIGATION, INCLUDING PROVIDING
28 INFORMATION TO A CHILD FATALITY OR NEAR FATALITY REVIEW TEAM,
29 TESTIFYING IN A PROCEEDING ARISING OUT OF AN INSTANCE OF
30 SUSPECTED CHILD ABUSE, THE TAKING OF PHOTOGRAPHS OR THE REMOVAL

1 OR KEEPING OF A CHILD PURSUANT TO SECTION 6315 (RELATING TO
2 TAKING CHILD INTO PROTECTIVE CUSTODY), AND ANY OFFICIAL OR
3 EMPLOYEE OF A COUNTY AGENCY WHO REFERS A REPORT OF SUSPECTED
4 ABUSE TO LAW ENFORCEMENT AUTHORITIES OR PROVIDES SERVICES UNDER
5 THIS CHAPTER, SHALL HAVE IMMUNITY FROM CIVIL AND CRIMINAL
6 LIABILITY THAT MIGHT OTHERWISE RESULT BY REASON OF THOSE
7 ACTIONS.

8 * * *

9 Section 2. Section 6340(a) of Title 23 is amended by adding
10 a paragraph to read:

11 § 6340. Release of information in confidential reports.

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

15 * * *

16 (17) A member of a child fatality or near fatality
17 review team under section 6365(d). This paragraph does not <—
18 include information which the district attorney determines
19 may compromise any pending criminal proceeding.

20 * * *

21 SECTION 2.1. SECTION 6342 OF TITLE 23 IS AMENDED TO READ: <—

22 § 6342. STUDIES OF DATA IN RECORDS.

23 (A) STUDIES.--THE DEPARTMENT MAY CONDUCT OR AUTHORIZE THE
24 CONDUCTING OF STUDIES OF THE DATA CONTAINED IN THE PENDING
25 COMPLAINT FILE AND THE STATEWIDE CENTRAL REGISTER AND COUNTY
26 AGENCIES AND DISTRIBUTE THE RESULTS OF THE STUDIES. NO STUDY MAY
27 CONTAIN THE NAME OR OTHER INFORMATION BY WHICH A SUBJECT OF A
28 REPORT COULD BE IDENTIFIED. THE DEPARTMENT MAY ALLOW FEDERAL
29 AUDITORS ACCESS TO NONIDENTIFIABLE DUPLICATES OF REPORTS IN THE
30 PENDING COMPLAINT FILE AND THE STATEWIDE CENTRAL REGISTER IF

1 REQUIRED FOR FEDERAL FINANCIAL PARTICIPATION IN FUNDING OF
2 AGENCIES.

3 (B) DATA FORM.--THE DEPARTMENT SHALL DEVELOP A DATA FORM TO
4 FACILITATE THE COLLECTION OF STATISTICAL AND DEMOGRAPHIC
5 INFORMATION FROM A CHILD FATALITY OR NEAR FATALITY REVIEW TEAM
6 AND A COUNTY AGENCY, WHICH CAN BE INCORPORATED INTO A STUDY
7 CONDUCTED BY THE DEPARTMENT.

8 Section 3. Section 6343 of Title 23 is amended by adding a
9 subsection to read:

10 § 6343. Investigating performance of county agency.

11 * * *

12 (c) Department reviews and reports of child fatalities and
13 near fatalities.--

14 (1) The department shall conduct a child fatality and
15 near fatality review and provide a written report on any
16 child fatality or near fatality, if child abuse is suspected.

17 The department shall summarize:

18 (i) the nature and extent of its review;

19 (ii) statutory and regulatory compliance by the
20 county agency in the county where:

21 (A) the fatality or near fatality occurred; and

22 (B) the child resided within the 16 months
23 preceding the fatality or near fatality;

24 (iii) its findings and recommendations for reducing
25 the likelihood of future child fatalities and near
26 fatalities, resulting from child abuse.

27 (2) The department's child fatality or near fatality
28 review shall be commenced immediately upon receipt of a
29 report to the department that a child died or nearly died as
30 a result of suspected child abuse. THE DEPARTMENT SHALL

<—

1 PROVIDE ASSISTANCE AND RELEVANT INFORMATION TO THE CHILD
2 FATALITY OR NEAR FATALITY REVIEW TEAM AND ATTEMPT TO
3 COORDINATE ITS FACT-FINDING EFFORTS AND INTERVIEWS WITH THE
4 TEAM TO AVOID DUPLICATION. The department's child fatality or
5 near fatality review and report shall be completed as soon as
6 possible but no later than six months from receipt of the
7 initial report of the child fatality or near fatality.

8 (3) PRIOR TO COMPLETING ITS REPORT, THE DEPARTMENT MAY <—
9 RELEASE THE FOLLOWING INFORMATION TO THE PUBLIC CONCERNING A
10 CHILD WHO DIED OR NEARLY DIED AS A RESULT OF SUSPECTED OR
11 SUBSTANTIATED CHILD ABUSE:

12 (I) THE IDENTITY OF THE CHILD.

13 (II) IF THE CHILD WAS IN THE CUSTODY OF A PUBLIC OR
14 PRIVATE AGENCY, THE IDENTITY OF THE AGENCY.

15 (III) THE IDENTITY OF THE PUBLIC OR PRIVATE AGENCY
16 UNDER CONTRACT WITH A COUNTY AGENCY TO PROVIDE SERVICES
17 TO THE CHILD AND THE CHILD'S FAMILY IN THE CHILD'S HOME
18 PRIOR TO THE CHILD'S DEATH OR NEAR FATALITY.

19 (IV) A DESCRIPTION OF SERVICES PROVIDED UNDER
20 SUBPARAGRAPH (III).

21 (V) THE IDENTITY OF THE COUNTY AGENCY THAT CONVENE
22 A CHILD FATALITY OR NEAR FATALITY REVIEW TEAM WITH
23 RESPECT TO THE CHILD.

24 ~~(3)~~ (4) Upon completion of the review and report, the <—
25 department's child fatality or near fatality report shall be
26 made available to the county agency, THE CHILD FATALITY OR <—
27 NEAR FATALITY REVIEW TEAM and designated county officials
28 under section 6340(a)(11) (relating to release of information
29 in confidential reports). The report shall be made available,
30 upon request, to other individuals to whom confidential

1 reports may be released, as specified by section 6340. The
2 DEPARTMENT'S report shall be made available to the public, <—
3 but identifying information shall be removed from the
4 contents of the report EXCEPT FOR DISCLOSURE OF: THE IDENTITY <—
5 OF A DECEASED CHILD; IF THE CHILD WAS IN THE CUSTODY OF A
6 PUBLIC OR PRIVATE AGENCY, THE IDENTITY OF THE AGENCY; THE
7 IDENTITY OF THE PUBLIC OR PRIVATE AGENCY UNDER CONTRACT WITH
8 A COUNTY AGENCY TO PROVIDE SERVICES TO THE CHILD AND THE
9 CHILD'S FAMILY IN THE CHILD'S HOME PRIOR TO THE CHILD'S DEATH
10 OR NEAR FATALITY; AND THE IDENTITY OF ANY COUNTY AGENCY THAT
11 CONVENED A CHILD FATALITY OR NEAR FATALITY REVIEW TEAM IN
12 RESPECT TO THE CHILD. THE REPORT SHALL NOT BE RELEASED TO THE
13 PUBLIC IF THE DISTRICT ATTORNEY CERTIFIES THAT RELEASE OF THE
14 REPORT MAY COMPROMISE A PENDING CRIMINAL INVESTIGATION OR
15 PROCEEDING. CERTIFICATION BY THE DISTRICT ATTORNEY SHALL STAY
16 THE RELEASE OF THE REPORT FOR A PERIOD OF 60 DAYS, AT WHICH
17 TIME THE REPORT SHALL BE RELEASED UNLESS A NEW CERTIFICATION
18 IS MADE BY THE DISTRICT ATTORNEY.

19 ~~Section 4. Section 6343.1(a) of Title 23, added November 9,~~ <—
20 ~~2006 (P.L.1358, No.146), is amended to read:~~

21 SECTION 4. SECTION 6343.1(A) AND (B)(2)(II) OF TITLE 23 ARE <—
22 AMENDED TO READ:

23 § 6343.1. Citizen review panels.

24 (a) Establishment.--The department shall establish a minimum
25 of three citizen review panels. The department may designate a
26 child fatality or near fatality review team under section
27 6365(d) (relating to services for prevention, investigation and
28 treatment of child abuse) as a citizen review panel as long as
29 the team has the capacity to perform as a citizen review panel.

30 (B) FUNCTION.--THE PANELS SHALL EXAMINE ALL OF THE <—

1 FOLLOWING:

2 * * *

3 (2) OTHER CRITERIA THE PANEL CONSIDERS IMPORTANT TO
4 ENSURE THE PROTECTION OF CHILDREN, INCLUDING:

5 * * *

6 (II) A REVIEW OF CHILD FATALITIES AND NEAR
7 FATALITIES[.], INCLUDING, BUT NOT LIMITED TO, A REVIEW OF
8 ANY CHILD FATALITY OR NEAR FATALITY INVOLVING A CHILD IN
9 THE CUSTODY OF A PUBLIC OR PRIVATE AGENCY WHERE THERE IS
10 NO REPORT OF SUSPECTED CHILD ABUSE AND THE CAUSE OF DEATH
11 IS NEITHER THE RESULT OF CHILD ABUSE OR NATURAL CAUSES.

12 * * *

13 Section 5. Sections 6365 and 6367 of Title 23 are amended by
14 adding subsections to read:

15 § 6365. Services for prevention, investigation and treatment of
16 child abuse.

17 * * *

18 (d) Child fatality ~~and~~ OR near fatality review team and ←
19 written report.--

20 (1) A child fatality or near fatality review team shall
21 be convened by a county agency in a case when a child dies or
22 nearly dies as a result of substantiated child abuse or when
23 the county agency has not made a status determination within
24 30 days. The team may convene after a substantiation is made
25 and shall convene no later than 31 days from the receipt of
26 the oral report to the department of the suspected child
27 abuse. The county agency shall convene a child fatality or
28 near fatality review team in the county where the abuse
29 occurred and in any county where the child resided within the
30 16 months preceding the fatality or near fatality. The team

1 shall consist of AT LEAST SIX individuals who are broadly <—
2 representative of the county where the team is established
3 and who have expertise in prevention and treatment of child
4 abuse. The team shall include: <—

5 (i) A staff person from the county agency.

6 (ii) A member of the advisory committee of the
7 county agency.

8 (iii) A representative of a private or public human
9 services agency other than the county agency.

10 (iv) A health care provider.

11 (v) A representative of a local school or
12 educational program.

13 (vi) A representative of law enforcement.

14 (vii) A lawyer trained in legal representation of
15 children or an individual trained under 42 Pa.C.S § 6342
16 (relating to court appointed special advocates).

17 (viii) A mental health service provider.

18 (ix) A representative of a children's advocacy
19 center that provides services to children in the county.
20 The individual under this subparagraph must not be an
21 employee of the county agency.

22 (x) The county coroner or forensic pathologist.

23 (xi) A resident of the county where the review is
24 being conducted.

25 (xii) A representative of a local domestic violence
26 program.

27 WITH CONSIDERATION GIVEN TO THE CIRCUMSTANCES OF EACH CASE <—
28 AND AVAILABILITY OF INDIVIDUALS TO SERVE AS MEMBERS, THE TEAM
29 MAY CONSIST OF THE FOLLOWING INDIVIDUALS:

30 (I) A STAFF PERSON FROM THE COUNTY AGENCY.

1 (II) A MEMBER OF THE ADVISORY COMMITTEE OF THE
2 COUNTY AGENCY.

3 (III) A HEALTH CARE PROFESSIONAL.

4 (IV) A REPRESENTATIVE OF A LOCAL SCHOOL, EDUCATIONAL
5 PROGRAM OR CHILD CARE OR EARLY CHILDHOOD DEVELOPMENT
6 PROGRAM.

7 (V) A REPRESENTATIVE OF LAW ENFORCEMENT OR THE
8 DISTRICT ATTORNEY.

9 (VI) AN ATTORNEY-AT-LAW TRAINED IN LEGAL
10 REPRESENTATION OF CHILDREN OR AN INDIVIDUAL TRAINED UNDER
11 42 PA.C.S. § 6342 (RELATING TO COURT-APPOINTED SPECIAL
12 ADVOCATES).

13 (VII) A MENTAL HEALTH PROFESSIONAL.

14 (VIII) A REPRESENTATIVE OF A CHILDREN'S ADVOCACY
15 CENTER THAT PROVIDES SERVICES TO CHILDREN IN THE COUNTY.
16 THE INDIVIDUAL UNDER THIS SUBPARAGRAPH MUST NOT BE AN
17 EMPLOYEE OF THE COUNTY AGENCY.

18 (IX) THE COUNTY CORONER OR FORENSIC PATHOLOGIST.

19 (X) A REPRESENTATIVE OF A LOCAL DOMESTIC VIOLENCE
20 PROGRAM.

21 (XI) A REPRESENTATIVE OF A LOCAL DRUG AND ALCOHOL
22 PROGRAM.

23 (XII) AN INDIVIDUAL REPRESENTING PARENTS.

24 (XIII) ANY INDIVIDUAL WHOM THE COUNTY AGENCY OR
25 CHILD FATALITY OR NEAR FATALITY REVIEW TEAM DETERMINES IS
26 NECESSARY TO ASSIST THE TEAM IN PERFORMING ITS DUTIES.

27 (2) Members of the team shall be responsible for all of
28 the following:

29 (i) Maintaining confidentiality of information under
30 section SECTIONS 6339 (RELATING TO CONFIDENTIALITY OF

<—

1 REPORTS) AND 6340.

2 (ii) Providing and discussing relevant case-specific
3 information from the member's records. <—

4 (iii) Attending and participating in all meetings
5 and activities as required.

6 (iv) Assisting in the development of the report
7 under paragraph ~~(4)(iv)~~ (4)(V). <—

8 (3) The county agency, IN CONSULTATION WITH THE TEAM, <—
9 shall appoint an individual who is not an employee of the
10 county agency to serve as chairperson.

11 (4) The team shall perform the following:

12 (i) Review the circumstances of the child's fatality
13 or near fatality resulting from suspected or
14 substantiated child abuse.

15 (ii) Review the delivery of services to the abused
16 child and the child's family provided by the county
17 agency AND REVIEW SERVICES PROVIDED TO THE PERPETRATOR BY <—
18 THE COUNTY AGENCY in each county where the child and
19 family have resided within the 16 months preceding the
20 fatality or near fatality and the services provided to
21 the child ~~and~~, the child's family AND THE PERPETRATOR by <—
22 other public and private community agencies or
23 professionals. This subparagraph includes law
24 enforcement, mental health services, programs for young
25 children and children with special needs, drug and
26 alcohol programs, local schools and health care
27 providers.

28 (III) REVIEW RELEVANT COURT RECORDS AND DOCUMENTS <—
29 RELATED TO THE ABUSED CHILD AND THE CHILD'S FAMILY.

30 ~~(iii)~~ (IV) Review the county agency's compliance <—

1 with statutes and regulations and with relevant policies
2 and procedures of the county agency.

3 (iv) (V) Within 90 days of convening, submit a FINAL <—
4 written report on the child fatality or near fatality to
5 the department and designated county officials under
6 section 6340(a)(11). The WITHIN 30 DAYS AFTER SUBMISSION <—
7 OF THE REPORT TO THE DEPARTMENT, THE report shall be made
8 available, upon request, to other individuals to whom
9 confidential reports may be released, as specified by
10 section 6340. The report and the department's response <—
11 shall be made available to the public, but identifying
12 information shall be removed from the contents of the
13 report EXCEPT FOR DISCLOSURE OF: THE IDENTITY OF A <—
14 DECEASED CHILD; IF THE CHILD WAS IN THE CUSTODY OF A
15 PUBLIC OR PRIVATE AGENCY, THE IDENTITY OF THE AGENCY; THE
16 IDENTITY OF THE PUBLIC OR PRIVATE AGENCY UNDER CONTRACT
17 WITH A COUNTY AGENCY TO PROVIDE SERVICES TO THE CHILD AND
18 THE CHILD'S FAMILY IN THE CHILD'S HOME PRIOR TO THE
19 CHILD'S DEATH OR NEAR FATALITY; AND THE IDENTITY OF ANY
20 COUNTY AGENCY THAT CONVENED A CHILD FATALITY OR NEAR
21 FATALITY REVIEW TEAM IN RESPECT TO THE CHILD. THE REPORT
22 SHALL NOT BE RELEASED TO THE PUBLIC IF THE DISTRICT
23 ATTORNEY CERTIFIES THAT RELEASE OF THE REPORT MAY
24 COMPROMISE A PENDING CRIMINAL INVESTIGATION OR
25 PROCEEDING. CERTIFICATION BY THE DISTRICT ATTORNEY SHALL
26 STAY THE RELEASE OF THE REPORT FOR A PERIOD OF 60 DAYS,
27 AT WHICH TIME THE REPORT SHALL BE RELEASED UNLESS A NEW
28 CERTIFICATION IS MADE BY THE DISTRICT ATTORNEY. The
29 report shall include:

30 (A) Deficiencies and strengths in:

- 1 (I) compliance with statutes and
2 regulations; and
3 (II) services to children and families.
4 (B) Recommendations for changes at the State and
5 local levels on:
6 (I) reducing the likelihood of future child
7 fatalities and near fatalities directly related
8 to child abuse and neglect;
9 (II) monitoring and inspection of county
10 agencies; and
11 (III) collaboration of community agencies
12 and service providers to prevent child abuse and
13 neglect.

14 (e) Response by department.--Within ~~60~~ 45 days of receipt of <—
15 a report of a child fatality or near fatality under subsection
16 (d), the department shall review the findings and
17 recommendations of the report and provide a written response to
18 the county agency and the child fatality review team or near
19 fatality review team. THE DEPARTMENT'S RESPONSE TO THE REPORT OF <—
20 THE CHILD FATALITY OR NEAR FATALITY REVIEW TEAM SHALL BE MADE
21 AVAILABLE, UPON REQUEST, TO OTHER INDIVIDUALS TO WHOM
22 CONFIDENTIAL REPORTS MAY BE RELEASED, AS SPECIFIED BY SECTION
23 6340. THE DEPARTMENT'S RESPONSE SHALL BE MADE AVAILABLE TO THE
24 PUBLIC, BUT IDENTIFYING INFORMATION SHALL BE REMOVED FROM THE
25 CONTENTS OF THE RESPONSE, EXCEPT FOR DISCLOSURE OF: THE
26 IDENTITY, OF A DECEASED CHILD; IF THE CHILD WAS IN THE CUSTODY
27 OF A PUBLIC OR PRIVATE AGENCY, THE IDENTITY OF THE AGENCY; THE
28 IDENTITY OF THE PUBLIC OR PRIVATE AGENCY UNDER CONTRACT WITH A
29 COUNTY AGENCY TO PROVIDE SERVICES TO THE CHILD AND THE CHILD'S
30 FAMILY IN THE CHILD'S HOME PRIOR TO THE CHILD'S DEATH OR NEAR

1 FATALITY; AND THE IDENTITY OF ANY COUNTY AGENCY THAT CONVENED A
2 CHILD FATALITY OR NEAR FATALITY REVIEW TEAM IN RESPECT TO THE
3 CHILD. THE RESPONSE SHALL NOT BE RELEASED TO THE PUBLIC IF THE
4 DISTRICT ATTORNEY CERTIFIES THAT RELEASE OF THE RESPONSE MAY
5 COMPROMISE A PENDING CRIMINAL INVESTIGATION OR PROCEEDING.
6 CERTIFICATION BY THE DISTRICT ATTORNEY SHALL STAY THE RELEASE OF
7 THE REPORT FOR A PERIOD OF 60 DAYS, AT WHICH TIME THE REPORT
8 SHALL BE RELEASED UNLESS A NEW CERTIFICATION IS MADE BY THE
9 DISTRICT ATTORNEY.

10 § 6367. Reports to department and coroner.

11 * * *

12 (c) ~~Reports of child death~~ CHILD DEATHS AND NEAR <—
13 FATALITIES.--A county agency shall immediately provide
14 information to the department regarding its involvement with the
15 child and with ~~either of the child's parents~~ PARENT, GUARDIAN OR <—
16 CUSTODIAN when a child dies or nearly dies and child abuse is
17 suspected. The county agency shall inform the department of any
18 history of CHILD protective or general protective services <—
19 provided to the child ~~or~~ PRIOR TO THE CHILD'S DEATH OR NEAR <—
20 FATALITY AND OF SERVICES PROVIDED to other children of ~~either of~~ <—
21 the child's ~~parents~~ PARENT, GUARDIAN OR CUSTODIAN by the county <—
22 agency ~~under this chapter~~ or by court order ~~and~~. THE COUNTY <—
23 AGENCY shall inform the department if the child was in the
24 agency's custody at the time of the child's death OR NEAR <—
25 FATALITY. The county agency shall provide this information in
26 writing on forms provided by the department within 48 hours of
27 the oral report.

28 Section 6. This act shall take effect in 180 days.