

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JULY 2, 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 is
12 amended and the subsection is amended by adding a definition to
13 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 OR OMISSION that is committed with ←  
20 disregard of a 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).

18 \* \* \*

19 Section 2.1. Section 6342 of Title 23 is amended to read:  
20 § 6342. Studies of data in records.

21 (a) Studies.--The department may conduct or authorize the  
22 conducting of studies of the data contained in the pending  
23 complaint file and the Statewide central register and county  
24 agencies and distribute the results of the studies. No study may  
25 contain the name or other information by which a subject of a  
26 report could be identified. The department may allow Federal  
27 auditors access to nonidentifiable duplicates of reports in the  
28 pending complaint file and the Statewide central register if  
29 required for Federal financial participation in funding of  
30 agencies.

1     (b) Data form.--The department shall develop a data form to  
2 facilitate the collection of statistical and demographic  
3 information from a child fatality or near fatality review team  
4 and a county agency, which can be incorporated into a study  
5 conducted by the department.

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

8     § 6343. Investigating performance of county agency.

9     \* \* \*

10    (c) Department reviews and reports of child fatalities and  
11 near fatalities.--

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

15     The department shall summarize:

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

17       (ii) statutory and regulatory compliance by the  
18 county agency in the county where:

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

20           (B) the child resided within the 16 months  
21 preceding the fatality or near fatality;

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

25       (2) The department's child fatality or near fatality  
26 review shall be commenced immediately upon receipt of a  
27 report to the department that a child died or nearly died as  
28 a result of suspected child abuse. The department shall  
29 provide assistance and relevant information to the child  
30 fatality or near fatality review team and attempt to

1 coordinate its fact-finding efforts and interviews with the  
2 team to avoid duplication. The department's child fatality or  
3 near fatality review and report shall be completed as soon as  
4 possible but no later than six months from receipt of the  
5 initial report of the child fatality or near fatality.

6 (3) Prior to completing its report, the department may  
7 release the following information to the public concerning a  
8 child who died or nearly died as a result of suspected or  
9 substantiated child abuse:

10 (i) The identity of the child.

11 (ii) If the child was in the custody of a public or  
12 private agency, the identity of the agency.

13 (iii) The identity of the public or private agency  
14 under contract with a county agency to provide services  
15 to the child and the child's family in the child's home  
16 prior to the child's death or near fatality.

17 (iv) A description of services provided under  
18 subparagraph (iii).

19 (v) The identity of the county agency that convened  
20 a child fatality or near fatality review team with  
21 respect to the child.

22 (4) Upon completion of the review and report, the  
23 department's child fatality or near fatality report shall be  
24 made available to the county agency, the child fatality or  
25 near fatality review team and designated county officials  
26 under section 6340(a)(11) (relating to release of information  
27 in confidential reports). The report shall be made available,  
28 upon request, to other individuals to whom confidential  
29 reports may be released, as specified by section 6340. The  
30 department's report shall be made available to the public,

1 but identifying information shall be removed from the  
2 contents of the report except for disclosure of: the identity  
3 of a deceased child; if the child was in the custody of a  
4 public or private agency, the identity of the agency; the  
5 identity of the public or private agency under contract with  
6 a county agency to provide services to the child and the  
7 child's family in the child's home prior to the child's death  
8 or near fatality; and the identity of any county agency that  
9 convened a child fatality or near fatality review team in  
10 respect to the child. The report shall not be released to the  
11 public if the district attorney certifies that release of the  
12 report may compromise a pending criminal investigation or  
13 proceeding. Certification by the district attorney shall stay  
14 the release of the report for a period of 60 days, at which  
15 time the report shall be released unless a new certification  
16 is made by the district attorney.

17 Section 4. Section 6343.1(a) and (b)(2)(ii) of Title 23 are  
18 amended to read:

19 § 6343.1. Citizen review panels.

20 (a) Establishment.--The department shall establish a minimum  
21 of three citizen review panels. The department may designate a  
22 child fatality or near fatality review team under section  
23 6365(d) (relating to services for prevention, investigation and  
24 treatment of child abuse) as a citizen review panel as long as  
25 the team has the capacity to perform as a citizen review panel.

26 (b) Function.--The panels shall examine all of the  
27 following:

28 \* \* \*

29 (2) Other criteria the panel considers important to  
30 ensure the protection of children, including:

1 \* \* \*

2 (ii) a review of child fatalities and near  
3 fatalities[.], including, but not limited to, a review of  
4 any child fatality or near fatality involving a child in  
5 the custody of a public or private agency where there is  
6 no report of suspected child abuse and the cause of death  
7 is neither the result of child abuse or natural causes.

8 \* \* \*

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

11 § 6365. Services for prevention, investigation and treatment of  
12 child abuse.

13 \* \* \*

14 (d) Child fatality or near fatality review team and written  
15 report.--

16 (1) A child fatality or near fatality review team shall  
17 be convened by a county agency IN ACCORDANCE WITH A PROTOCOL ←  
18 DEVELOPED BY THE COUNTY AGENCY, THE DEPARTMENT AND THE  
19 DISTRICT ATTORNEY in a case when a child dies or nearly dies  
20 as a result of substantiated child abuse or when the county  
21 agency has not made a status determination within 30 days.  
22 The team may convene after a substantiation is made and shall  
23 convene no later than 31 days from the receipt of the oral  
24 report to the department of the suspected child abuse. The  
25 county agency shall convene a child fatality or near fatality  
26 review team in the county where the abuse occurred and in any  
27 county where the child resided within the 16 months preceding  
28 the fatality or near fatality. The team shall consist of at  
29 least six individuals who are broadly representative of the  
30 county where the team is established and who have expertise

1 in prevention and treatment of child abuse. With  
2 consideration given to the circumstances of each case and  
3 availability of individuals to serve as members, the team may  
4 consist of the following individuals:

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 health care professional.

9 (iv) A representative of a local school, educational  
10 program or child care or early childhood development  
11 program.

12 (v) A representative of law enforcement or the  
13 district attorney.

14 (vi) An attorney-at-law trained in legal  
15 representation of children or an individual trained under  
16 42 Pa.C.S. § 6342 (relating to court-appointed special  
17 advocates).

18 (vii) A mental health professional.

19 (viii) A representative of a children's advocacy  
20 center that provides services to children in the county.

21 The individual under this subparagraph must not be an  
22 employee of the county agency.

23 (ix) The county coroner or forensic pathologist.

24 (x) A representative of a local domestic violence  
25 program.

26 (xi) A representative of a local drug and alcohol  
27 program.

28 (xii) An individual representing parents.

29 (xiii) Any individual whom the county agency or  
30 child fatality or near fatality review team determines is

1 necessary to assist the team in performing its duties.

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

4 (i) Maintaining confidentiality of information under  
5 sections 6339 (relating to confidentiality of reports)  
6 and 6340.

7 (ii) Providing and discussing relevant case-specific  
8 information.

9 (iii) Attending and participating in all meetings  
10 and activities as required.

11 (iv) Assisting in the development of the report  
12 under paragraph (4)(v).

13 (3) The county agency, IN ACCORDANCE WITH THE PROTOCOL ←  
14 AND in consultation with the team, shall appoint an  
15 individual who is not an employee of the county agency to  
16 serve as chairperson.

17 (4) The team shall perform the following:

18 (i) Review the circumstances of the child's fatality  
19 or near fatality resulting from suspected or  
20 substantiated child abuse.

21 (ii) Review the delivery of services to the abused  
22 child and the child's family provided by the county  
23 agency and review services provided to the perpetrator by  
24 the county agency in each county where the child and  
25 family have resided within the 16 months preceding the  
26 fatality or near fatality and the services provided to  
27 the child, the child's family and the perpetrator by  
28 other public and private community agencies or  
29 professionals. This subparagraph includes law  
30 enforcement, mental health services, programs for young

1 children and children with special needs, drug and  
2 alcohol programs, local schools and health care  
3 providers.

4 (iii) Review relevant court records and documents  
5 related to the abused child and the child's family.

6 (iv) Review the county agency's compliance with  
7 statutes and regulations and with relevant policies and  
8 procedures of the county agency.

9 (v) Within 90 days of convening, submit a final  
10 written report on the child fatality or near fatality to  
11 the department and designated county officials under  
12 section 6340(a)(11). Within 30 days after submission of  
13 the report to the department, the report shall be made  
14 available, upon request, to other individuals to whom  
15 confidential reports may be released, as specified by  
16 section 6340. The report shall be made available to the  
17 public, but identifying information shall be removed from  
18 the contents of the report except for disclosure of: the  
19 identity of a deceased child; if the child was in the  
20 custody of a public or private agency, the identity of  
21 the agency; the identity of the public or private agency  
22 under contract with a county agency to provide services  
23 to the child and the child's family in the child's home  
24 prior to the child's death or near fatality; and the  
25 identity of any county agency that convened a child  
26 fatality or near fatality review team in respect to the  
27 child. The report shall not be released to the public if  
28 the district attorney certifies that release of the  
29 report may compromise a pending criminal investigation or  
30 proceeding. Certification by the district attorney shall

1 stay the release of the report for a period of 60 days,  
2 at which time the report shall be released unless a new  
3 certification is made by the district attorney. The  
4 report shall include:

5 (A) Deficiencies and strengths in:

6 (I) compliance with statutes and  
7 regulations; and

8 (II) services to children and families.

9 (B) Recommendations for changes at the State and  
10 local levels on:

11 (I) reducing the likelihood of future child  
12 fatalities and near fatalities directly related  
13 to child abuse and neglect;

14 (II) monitoring and inspection of county  
15 agencies; and

16 (III) collaboration of community agencies  
17 and service providers to prevent child abuse and  
18 neglect.

19 (e) Response by department.--Within 45 days of receipt of a  
20 report of a child fatality or near fatality under subsection  
21 (d), the department shall review the findings and  
22 recommendations of the report and provide a written response to  
23 the county agency and the child fatality review team or near  
24 fatality review team. The department's response to the report of  
25 the child fatality or near fatality review team shall be made  
26 available, upon request, to other individuals to whom  
27 confidential reports may be released, as specified by section  
28 6340. The department's response shall be made available to the  
29 public, but identifying information shall be removed from the  
30 contents of the response, except for disclosure of: the

1 identity, of a deceased child; if the child was in the custody  
2 of a public or private agency, the identity of the agency; the  
3 identity of the public or private agency under contract with a  
4 county agency to provide services to the child and the child's  
5 family in the child's home prior to the child's death or near  
6 fatality; and the identity of any county agency that convened a  
7 child fatality or near fatality review team in respect to the  
8 child. The response shall not be released to the public if the  
9 district attorney certifies that release of the response may  
10 compromise a pending criminal investigation or proceeding.  
11 Certification by the district attorney shall stay the release of  
12 the report for a period of 60 days, at which time the report  
13 shall be released unless a new certification is made by the  
14 district attorney.

15 (F) CONSTRUCTION.--THE PROVISIONS OF THIS SECTION SHALL BE ←  
16 CONSTRUED TO ASSIST IN THE IMPROVEMENT OF SERVICES DESIGNED TO  
17 IDENTIFY AND PREVENT CHILD ABUSE. THE PROVISIONS SHALL NOT BE  
18 CONSTRUED TO IMPEDE OR INTERFERE WITH CRIMINAL PROSECUTIONS OF  
19 PERSONS WHO HAVE COMMITTED CHILD ABUSE.

20 § 6367. Reports to department and coroner.

21 \* \* \*

22 (c) Child deaths and near fatalities.--A county agency shall  
23 immediately provide information to the department regarding its  
24 involvement with the child and with the child's parent, guardian  
25 or custodian when a child dies or nearly dies and child abuse is  
26 suspected. The county agency shall inform the department of any  
27 history of child protective or general protective services  
28 provided to the child prior to the child's death or near  
29 fatality and of services provided to other children of the  
30 child's parent, guardian or custodian by the county agency or by

1 court order. The county agency shall inform the department if  
2 the child was in the agency's custody at the time of the child's  
3 death or near fatality. The county agency shall provide this  
4 information in writing on forms provided by the department  
5 within 48 hours of the oral report.

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