

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1024 Session of  
2007

INTRODUCED BY STURLA, CALTAGIRONE, BIANCUCCI, DENLINGER, CAUSER,  
DALLY, FRANKEL, FREEMAN, GOODMAN, HARHAI, HENNESSEY, KILLION,  
KULA, PALLONE, RAPP, RAYMOND, SCAVELLO, SIPTROTH, SOLOBAY,  
STABACK, WALKO, WATSON AND YOUNGBLOOD, APRIL 5, 2007

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 5, 2007

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, further defining, in child protective  
3 services, "person responsible for the child's welfare" and  
4 "subject of the report"; further providing, in child  
5 protective services, for definitions, for establishment of  
6 pending complaint file, Statewide central register and file  
7 of unfounded reports, for continuous availability of  
8 department, for disposition of complaints received, for  
9 information in pending complaint and unfounded report files,  
10 for disposition of unfounded reports, for disposition of  
11 founded and indicated reports, for release of information in  
12 confidential reports, for amendment or expunction of  
13 information, for cooperation of other agencies and for  
14 reports to Governor and General Assembly; and repealing, in  
15 child protective services, provisions relating to students in  
16 public and private schools.

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

19 Section 1. The definitions of "founded report for school  
20 employee," "indicated report for school employee," "person  
21 responsible for the child's welfare" and "subject of the report"  
22 in section 6303(a) of Title 23 of the Pennsylvania Consolidated  
23 Statutes are amended to read:

24 § 6303. Definitions.

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

4 \* \* \*

5 "Founded report for school employee." A report under former  
6 Subchapter C.1 (relating to students in public and private  
7 schools) if there has been any judicial adjudication based on a  
8 finding that the victim has suffered serious bodily injury or  
9 sexual abuse or exploitation, including the entry of a plea of  
10 guilty or nolo contendere or a finding of guilt to a criminal  
11 charge involving the same factual circumstances involved in the  
12 allegations of the report.

13 \* \* \*

14 "Indicated report for school employee." A report made under  
15 former Subchapter C.1 (relating to students in public and  
16 private schools) if an investigation by the county agency  
17 determines that substantial evidence of serious bodily injury or  
18 sexual abuse or exploitation exists based on any of the  
19 following:

- 20 (1) Available medical evidence.  
21 (2) The county agency's investigation.  
22 (3) An admission of the acts of abuse by the school  
23 employee.

24 \* \* \*

25 "Person responsible for the child's welfare." A person who  
26 provides permanent or temporary care, supervision, mental health  
27 diagnosis or treatment, training or control of a child in lieu  
28 of parental care, supervision and control. The term [does not  
29 include] includes a person who is employed by or provides  
30 services or programs in any public or private school,

1 intermediate unit or area vocational-technical school.

2 \* \* \*

3 "Subject of the report." Any child, parent, guardian or  
4 other person responsible for the welfare of a child or any  
5 alleged or actual perpetrator [or school employee] named in a  
6 report made to the Department of Public Welfare or a county  
7 agency under this chapter.

8 \* \* \*

9 Section 2. Sections 6331, 6333, 6334(c), 6335(a), 6337(c),  
10 6338(a) and (c), 6340(a)(13), 6341(a), (c) and (f), 6346(b) and  
11 (c) and 6347(a) and (b) of Title 23 are amended to read:

12 § 6331. Establishment of pending complaint file, Statewide  
13 central register and file of unfounded reports.

14 There shall be established in the department:

15 (1) A pending complaint file of child abuse reports  
16 under investigation [and a file of reports under  
17 investigation pursuant to Subchapter C.1 (relating to  
18 students in public and private schools)].

19 (2) A Statewide central register of child abuse which  
20 shall consist of founded and indicated reports.

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

22 § 6333. Continuous availability of department.

23 The department shall be capable of receiving oral reports of  
24 child abuse made pursuant to this chapter[, reports under  
25 section 6353.2 (relating to responsibilities of county agency)]  
26 and report summaries of child abuse from county agencies and  
27 shall be capable of immediately identifying prior reports of  
28 child abuse and prior [reports of abuse or injury under  
29 Subchapter C.1 (relating to students in public and private  
30 schools)] indicated reports for school employees or founded

1 reports for school employees in the Statewide central register  
2 and reports under investigation in the pending complaint file  
3 and of monitoring the provision of child protective services 24  
4 hours a day, seven days a week.

5 § 6334. Disposition of complaints received.

6 \* \* \*

7 (c) Recording in pending complaint file.--Upon receipt of a  
8 complaint of suspected child abuse, the department shall  
9 maintain a record of the complaint of suspected child abuse in  
10 the pending complaint file. [Upon receipt of a report under  
11 section 6353.2 (relating to responsibilities of county agency),  
12 the department shall maintain a record of the report in the  
13 report file under section 6331 (relating to establishment of  
14 pending complaint file, Statewide central register and file of  
15 unfounded reports).]

16 \* \* \*

17 § 6335. Information in pending complaint and unfounded report  
18 files.

19 (a) Information authorized.--The information contained in  
20 the pending complaint file shall be limited to the information  
21 required in [sections] section 6313(c) (relating to reporting  
22 procedure) [and 6353.2 (relating to responsibilities of county  
23 agency)]. The information contained in the file for unfounded  
24 reports shall be limited to the information required by section  
25 6336 (relating to information in Statewide central register).

26 \* \* \*

27 § 6337. Disposition of unfounded reports.

28 \* \* \*

29 (c) Expunction of information.--All information identifying  
30 the subjects of any report of suspected child abuse [and of any

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

6 § 6338. Disposition of founded and indicated reports.

7 (a) General rule.--When a report of suspected child abuse  
8 [or a report under Subchapter C.1 (relating to students in  
9 public and private schools)] is determined by the appropriate  
10 county agency to be a founded report or an indicated report, the  
11 information concerning that report of suspected child abuse  
12 shall be expunged immediately from the pending complaint file,  
13 and an appropriate entry shall be made in the Statewide central  
14 register. Notice of the determination must be given to the  
15 subjects of the report, other than the abused child, and to the  
16 parent or guardian of the affected child or student along with  
17 an explanation of the implications of the determination. Notice  
18 given to perpetrators of child abuse [and to school employees  
19 who are subjects of indicated reports for school employees or  
20 founded reports for school employees] shall include notice that  
21 their ability to obtain employment in a child-care facility or  
22 program or a public or private school may be adversely affected  
23 by entry of the report in the Statewide central register. The  
24 notice shall also inform the recipient of his right, within 45  
25 days after being notified of the status of the report, to appeal  
26 an indicated report, and his right to a hearing if the request  
27 is denied.

28 \* \* \*

29 (c) Retention of information.--A subfile shall be  
30 established in the Statewide central register to indefinitely

1 retain the names of perpetrators of child abuse [and school  
2 employees] who are subjects of founded or indicated reports only  
3 if the individual's Social Security number or date of birth is  
4 known to the department. The subfile shall not include  
5 identifying information regarding other subjects of the report.

6 § 6340. Release of information in confidential reports.

7 (a) General rule.--Reports specified in section 6339  
8 (relating to confidentiality of reports) shall only be made  
9 available to:

10 \* \* \*

11 [(13) Persons required to make reports under Subchapter  
12 C.1 (relating to students in public and private schools).

13 Information under this paragraph shall be limited to the  
14 final status of the report following the investigation as to  
15 whether the report is indicated, founded or unfounded.]

16 \* \* \*

17 § 6341. Amendment or expunction of information.

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

19 (1) The secretary may amend or expunge any record under  
20 this chapter upon good cause shown and notice to the  
21 appropriate subjects of the report.

22 (2) Any person named as a perpetrator[, and any school  
23 employee named,] in an indicated report of child abuse may,  
24 within 45 days of being notified of the status of the report,  
25 request the secretary to amend or expunge an indicated report  
26 on the grounds that it is inaccurate or it is being  
27 maintained in a manner inconsistent with this chapter.

28 \* \* \*

29 (c) Review of refusal of request.--If the secretary refuses  
30 the request under subsection (a)(2) or does not act within a

1 reasonable time, but in no event later than 30 days after  
2 receipt of the request, the perpetrator [or school employee]  
3 shall have the right to a hearing before the secretary or a  
4 designated agent of the secretary to determine whether the  
5 summary of the indicated report in the Statewide central  
6 register should be amended or expunged on the grounds that it is  
7 inaccurate or that it is being maintained in a manner  
8 inconsistent with this chapter. The perpetrator [or school  
9 employee] shall have 45 days from the date of the letter giving  
10 notice of the decision to deny the request in which to request a  
11 hearing. The appropriate county agency and appropriate law  
12 enforcement officials shall be given notice of the hearing. The  
13 burden of proof in the hearing shall be on the appropriate  
14 county agency. The department shall assist the county agency as  
15 necessary.

16 \* \* \*

17 (f) Notice of expunction.--Written notice of an expunction  
18 of any child abuse record made pursuant to the provisions of  
19 this chapter shall be served upon the subject of the record who  
20 was responsible for the abuse or injury and the appropriate  
21 county agency. Except as provided in this subsection, the county  
22 agency, upon receipt of the notice, shall take appropriate,  
23 similar action in regard to the local child abuse [and school  
24 employee] records and inform, for the same purpose, the  
25 appropriate coroner if that officer has received reports  
26 pursuant to section 6367 (relating to reports to department and  
27 coroner). Whenever the county agency investigation reveals,  
28 within 60 days of receipt of the report of suspected child  
29 abuse, that the report is unfounded but that the subjects need  
30 services provided or arranged by the county agency, the county

1 agency shall retain those records and shall specifically  
2 identify that the report was an unfounded report of suspected  
3 child abuse. An unfounded report regarding subjects who receive  
4 services shall be expunged no later than 120 days following the  
5 expiration of one year after the termination or completion of  
6 services provided or arranged by the county agency.

7 § 6346. Cooperation of other agencies.

8 \* \* \*

9 (b) Willful failure to cooperate.--Any agency, school  
10 district or facility or any person acting on behalf of an  
11 agency, school district or facility that violates this section  
12 by willfully failing to cooperate with the department or a  
13 county agency when investigating a report of suspected child  
14 abuse [or a report under Subchapter C.1 (relating to students in  
15 public and private schools)] or when assessing risk to a child  
16 commits a summary offense for a first violation and a  
17 misdemeanor of the third degree for subsequent violations.

18 (c) Cooperation of county agency and law enforcement  
19 agencies.--Consistent with the provisions of this chapter, the  
20 county agency and law enforcement agencies shall cooperate and  
21 coordinate, to the fullest extent possible, their efforts to  
22 respond to and investigate reports of suspected child abuse [and  
23 to reports under Subchapter C.1].

24 \* \* \*

25 § 6347. Reports to Governor and General Assembly.

26 (a) General rule.--No later than May 1 of every year, the  
27 secretary shall prepare and transmit to the Governor and the  
28 General Assembly a report on the operations of the central  
29 register of child abuse and child protective services provided  
30 by county agencies. The report shall include a full statistical

1 analysis of the reports of suspected child abuse made to the  
2 department [and the reports under Subchapter C.1 (relating to  
3 students in public and private schools), together] with a report  
4 on the implementation of this chapter and its total cost to the  
5 Commonwealth, the evaluation of the secretary of services  
6 offered under this chapter and recommendations for repeal or for  
7 additional legislation to fulfill the purposes of this chapter.  
8 All such recommendations should contain an estimate of increased  
9 or decreased costs resulting therefrom. The report shall also  
10 include an explanation of services provided to children who were  
11 the subjects of founded or indicated reports while receiving  
12 child-care services. The department shall also describe its  
13 actions in respect to the perpetrators of the abuse.

14 (b) Reports from county agencies.--To assist the department  
15 in preparing its annual report and the quarterly reports  
16 required under subsection (c), each county agency shall submit a  
17 quarterly report to the department, including, at a minimum, the  
18 following information, on an aggregate basis, regarding general  
19 protective services[, ] and child protective services [and action  
20 under Subchapter C.1]:

21 (1) The number of referrals received and referrals  
22 accepted.

23 (2) The number of children over whom the agency  
24 maintains continuing supervision.

25 (3) The number of cases which have been closed by the  
26 agency.

27 (4) The services provided to children and their  
28 families.

29 (5) A summary of the findings with nonidentifying  
30 information about each case of child abuse or neglect which

1 has resulted in a child fatality or near fatality.

2 \* \* \*

3 Section 3. Subchapter C.1 of Chapter 63 of Title 23 is  
4 repealed:

5 [SUBCHAPTER C.1  
6 STUDENTS IN PUBLIC AND PRIVATE SCHOOLS

7 Sec.

8 6351. Definitions.

9 6352. School employees.

10 6353. Administration.

11 6353.1. Investigation.

12 6353.2. Responsibilities of county agency.

13 6353.3. Information in Statewide central register.

14 6353.4. Other provisions.

15 § 6351. Definitions.

16 The following words and phrases when used in this subchapter  
17 shall have the meanings given to them in this section unless the  
18 context clearly indicates otherwise:

19 "Administrator." The person responsible for the  
20 administration of a public or private school, intermediate unit  
21 or area vocational-technical school. The term includes an  
22 independent contractor.

23 § 6352. School employees.

24 (a) Requirement.--

25 (1) Except as provided in paragraph (2), a school  
26 employee who has reasonable cause to suspect, on the basis of  
27 professional or other training and experience, that a student  
28 coming before the school employee in the employee's  
29 professional or official capacity is a victim of serious  
30 bodily injury or sexual abuse or sexual exploitation by a

1 school employee shall immediately contact the administrator.

2 (2) If the school employee accused of seriously injuring  
3 or sexually abusing or exploiting a student is the  
4 administrator, the school employee who has reasonable cause  
5 to suspect, on the basis of professional or other training  
6 and experience, that a student coming before the school  
7 employee in the employee's professional or official capacity  
8 is a victim of serious bodily injury or sexual abuse or  
9 sexual exploitation shall immediately report to law  
10 enforcement officials and the district attorney under section  
11 6353(a) (relating to administration). If an administrator is  
12 the school employee who suspects injury or abuse, the  
13 administrator shall make a report under section 6353(a).

14 (3) The school employee may not reveal the existence or  
15 content of the report to any other person.

16 (b) Immunity.--A school employee who refers a report under  
17 subsection (a) shall be immune from civil and criminal liability  
18 arising out of the report.

19 (c) Criminal penalty.--

20 (1) A school employee who willfully violates subsection  
21 (a) commits a summary offense.

22 (2) A school employee who, after being sentenced under  
23 paragraph (1), violates subsection (a) commits a misdemeanor  
24 of the third degree.

25 § 6353. Administration.

26 (a) Requirement.--An administrator and a school employee  
27 governed by section 6352(a)(2) (relating to school employees)  
28 shall report immediately to law enforcement officials and the  
29 appropriate district attorney any report of serious bodily  
30 injury or sexual abuse or sexual exploitation alleged to have

1 been committed by a school employee against a student.

2 (b) Report.--A report under subsection (a) shall include the  
3 following information:

4 (1) Name, age, address and school of the student.

5 (2) Name and address of the student's parent or  
6 guardian.

7 (3) Name and address of the administrator.

8 (4) Name, work and home address of the school employee.

9 (5) Nature of the alleged offense.

10 (6) Any specific comments or observations that are  
11 directly related to the alleged incident and the individuals  
12 involved.

13 (c) Immunity.--An administrator who makes a report under  
14 subsection (a) shall be immune from civil or criminal liability  
15 arising out of the report.

16 (d) Criminal penalty.--An administrator who willfully  
17 violates subsection (a) commits a misdemeanor of the third  
18 degree.

19 § 6353.1. Investigation.

20 (a) General rule.--Upon receipt of a report under section  
21 6353 (relating to administration), an investigation shall be  
22 conducted by law enforcement officials, in cooperation with the  
23 district attorney, and a determination made as to what criminal  
24 charges, if any, will be filed against the school employee.

25 (b) Referral to county agency.--

26 (1) If local law enforcement officials have reasonable  
27 cause to suspect on the basis of initial review that there is  
28 evidence of serious bodily injury, sexual abuse or sexual  
29 exploitation committed by a school employee against a  
30 student, local law enforcement officials shall notify the

1 county agency in the county where the alleged abuse or injury  
2 occurred for the purpose of the agency conducting an  
3 investigation of the alleged abuse or injury.

4 (2) To the fullest extent possible, law enforcement  
5 officials and the county agency shall coordinate their  
6 respective investigations. In respect to interviews with the  
7 student, law enforcement officials and the county agency  
8 shall conduct joint interviews. In respect to interviews with  
9 the school employee, law enforcement officials shall be given  
10 an opportunity to interview the school employee prior to the  
11 employee having any contact with the county agency.

12 (3) The county agency and law enforcement officials have  
13 the authority to arrange for photographs, medical tests or X-  
14 rays of a student alleged to have been abused or injured by a  
15 school employee. The county agency and law enforcement  
16 officials shall coordinate their efforts in this regard and,  
17 to the fullest extent possible, avoid the duplication of any  
18 photographs, medical tests or X-rays.

19 (4) Law enforcement officials and the county agency  
20 shall advise each other of the status and findings of their  
21 respective investigations on an ongoing basis.

22 § 6353.2. Responsibilities of county agency.

23 (a) Information for the pending complaint file.--Immediately  
24 after receiving a report under section 6353.1 (relating to  
25 investigation), the county agency shall notify the department of  
26 the receipt of the report, which is to be filed in the pending  
27 complaint file as provided in section 6331(1) (relating to  
28 establishment of pending complaint file, Statewide central  
29 register and file of unfounded reports). The oral report shall  
30 include the following information:

- 1           (1) The name and address of the student and the  
2 student's parent or guardian.
- 3           (2) Where the suspected abuse or injury occurred.
- 4           (3) The age and sex of the student.
- 5           (4) The nature and extent of the suspected abuse or  
6 injury.
- 7           (5) The name and home address of the school employee  
8 alleged to have committed the abuse or injury.
- 9           (6) The relationship of the student to the school  
10 employee alleged to have committed the abuse or injury.
- 11          (7) The source of the report to the county agency.
- 12          (8) The actions taken by the county agency, law  
13 enforcement officials, parents, guardians, school officials  
14 or other persons, including the taking of photographs,  
15 medical tests and X-rays.

16          (b) Investigation of reports.--Upon receipt of a report  
17 under section 6353.1, the county agency shall commence, within  
18 the time frames established in department regulations, an  
19 investigation of the nature, extent and cause of any alleged  
20 abuse or injury enumerated in the report. The county agency  
21 shall coordinate its investigation to the fullest extent  
22 possible with law enforcement officials as provided in section  
23 6353.1(b).

24          (c) Completion of investigation.--The investigation by the  
25 county agency to determine whether the report is an indicated  
26 report for school employee or an unfounded report shall be  
27 completed within 60 days.

28          (d) Notice to subject of a report.--Prior to interviewing a  
29 subject of the report, the county agency shall orally notify the  
30 subject of the report of the existence of the report and the

1 subject's rights under this chapter in regard to amendment or  
2 expungement. Within 72 hours following oral notification to the  
3 subject, the county agency shall give written notice to the  
4 subject. The notice may be reasonably delayed if notification is  
5 likely to threaten the safety of the student or the county  
6 agency worker, to cause the school employee to abscond or to  
7 significantly interfere with the conduct of a criminal  
8 investigation.

9 (e) Reliance on factual investigation.--The county agency  
10 may rely on a factual investigation of substantially the same  
11 allegations by a law enforcement officials to support the  
12 agency's finding. This reliance shall not relieve the county  
13 agency of its responsibilities relating to the investigation of  
14 reports under this subchapter.

15 (f) Notice to the department of the county agency's  
16 determination.--As soon as the county agency has completed its  
17 investigation, the county agency shall advise the department and  
18 law enforcement officials of its determination of the report as  
19 an indicated report for school employee or an unfounded report.  
20 Supplemental reports shall be made at regular intervals  
21 thereafter in a manner and form the department prescribes by  
22 regulation to the end that the department is kept fully informed  
23 and up-to-date concerning the status of the report.

24 § 6353.3. Information in Statewide central register.

25 The Statewide central register established under section 6331  
26 (relating to establishment of pending complaint file, Statewide  
27 central register and file of unfounded reports) shall retain  
28 only the following information relating to reports of abuse or  
29 injury of a student by a school employee which have been  
30 determined to be a founded report for school employee or an

1 indicated report for school employee:

2 (1) The names, Social Security numbers, age and sex of  
3 the subjects of the report.

4 (2) The home address of the subjects of the report.

5 (3) The date and the nature and extent of the alleged  
6 abuse or injury.

7 (4) The county and state where the abuse or injury  
8 occurred.

9 (5) Factors contributing to the abuse or injury.

10 (6) The source of the report.

11 (7) Whether the report is a founded or indicated report.

12 (8) Information obtained by the department in relation  
13 to the school employee's request to release, amend or expunge  
14 information retained by the department or the county agency.

15 (9) The progress of any legal proceedings brought on the  
16 basis of the report.

17 (10) Whether a criminal investigation has been  
18 undertaken and the result of the investigation and of any  
19 criminal prosecution.

20 § 6353.4. Other provisions.

21 The following provisions shall apply to the release and  
22 retention of information by the department and the county agency  
23 concerning reports of abuse or injury committed by a school  
24 employee as provided by this subchapter:

25 Section 6336(b) and (c) (relating to information in  
26 Statewide central register).

27 Section 6337 (relating to disposition of unfounded  
28 reports).

29 Section 6338(a) and (b) (relating to disposition of  
30 founded and indicated reports).

1           Section 6339 (relating to confidentiality of reports).

2           Section 6340 (relating to release of information in  
3 confidential reports).

4           Section 6341(a) through (f) (relating to amendment or  
5 expunction of information).

6           Section 6342 (relating to studies of data in records).]

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