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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1243 Session of  
2010

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INTRODUCED BY FONTANA, LOGAN, MELLOW, O'PAKE, STOUT,  
TARTAGLIONE, WASHINGTON, BOSCOLA, FARNESE, MENSCH, ORIE,  
WARD, ARGALL, BROWNE, COSTA, RAFFERTY, MUSTO, HUGHES,  
KASUNIC, BAKER, WAUGH, ALLOWAY, EICHELBERGER, LEACH, VANCE,  
WILLIAMS, WOZNIAK, GREENLEAF, PIPPY, YAW, D. WHITE, KITCHEN,  
DINNIMAN AND STACK, FEBRUARY 26, 2010

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REFERRED TO AGING AND YOUTH, FEBRUARY 26, 2010

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, further providing, in child protective  
3 services, for definitions, for persons required to report  
4 suspected child abuse and for reporting procedure; providing  
5 for immunity; and further providing 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 cooperation of other agencies, for  
13 reports to Governor and General Assembly, for students in  
14 public and private schools and for responsibilities of county  
15 agency for child protective status.

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

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

1 § 6303. Definitions.

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

5 \* \* \*

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

14 \* \* \*

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

21 (1) Available medical evidence.

22 (2) The county agency's investigation.

23 (3) An admission of the acts of abuse by the school  
24 employee.

25 \* \* \*

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

1 programs in any public or private school, intermediate unit or  
2 area vocational-technical school] includes a school employee.

3 \* \* \*

4 ["Student." An individual enrolled in a public or private  
5 school, intermediate unit or area vocational-technical school  
6 who is under 18 years of age.]

7 \* \* \*

8 Section 2. Sections 6311(c) and 6313(c) (1) of Title 23 are  
9 amended to read:

10 § 6311. Persons required to report suspected child abuse.

11 \* \* \*

12 (c) Staff members of institutions, etc.--Whenever a person  
13 is required to report under subsection (b) in the capacity as a  
14 member of the staff of a medical or other public or private  
15 institution, school, facility or agency, that person shall  
16 immediately notify the person in charge of the institution,  
17 school, facility or agency or the designated agent of the person  
18 in charge, unless the person suspected of child abuse is the  
19 person in charge or the designated agent of the person in  
20 charge. Upon notification, the person in charge or the  
21 designated agent, if any, shall assume the responsibility and  
22 have the legal obligation to report or cause a report to be made  
23 in accordance with section 6313. This chapter does not require  
24 more than one report from any such institution, school, facility  
25 or agency.

26 \* \* \*

27 § 6313. Reporting procedure.

28 \* \* \*

29 (c) Written reports.--Written reports from persons required  
30 to report under section 6311 shall be made to the appropriate

1 county agency in a manner and on forms the department prescribes  
2 by regulation. The written reports shall include the following  
3 information if available:

4 (1) The names and addresses of the child and the parents  
5 or other person responsible for the care of the child if  
6 known, and the child's disability status.

7 \* \* \*

8 Section 3. Title 23 is amended by adding a section to read:  
9 § 6320. Immunity.

10 Nothing in this chapter may change the sovereign immunity  
11 provisions under 42 Pa.C.S. Ch. 85 (relating to matters  
12 affecting government units).

13 Section 4. Sections 6331, 6333, 6334(c), 6335(a), 6337(c),  
14 6338(a), 6340(a)(13), 6346(b) and (c) and 6347 of Title 23 are  
15 amended to read:

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

18 There shall be established in the department:

19 (1) A pending complaint file of child abuse reports  
20 under investigation [and a file of reports under  
21 investigation pursuant to Subchapter C.1 (relating to  
22 students in public and private schools)].

23 (2) A Statewide central register of child abuse which  
24 shall consist of founded and indicated reports and former  
25 founded reports for school employee and indicated reports for  
26 school employee under former Subchapter C.1 (relating to  
27 students in public and private schools).

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

29 § 6333. Continuous availability of department.

30 The department shall be capable of receiving oral reports of

1 child abuse made pursuant to this chapter[, reports under  
2 section 6353.2 (relating to responsibilities of county agency)]  
3 and report summaries of child abuse from county agencies and  
4 shall be capable of immediately identifying prior reports of  
5 child abuse [and prior reports of abuse or injury under  
6 Subchapter C.1 (relating to students in public and private  
7 schools)] in the Statewide central register and reports under  
8 investigation in the pending complaint file and of monitoring  
9 the provision of child protective services 24 hours a day, seven  
10 days a week.

11 § 6334. Disposition of complaints received.

12 \* \* \*

13 (c) Recording in pending complaint file.--Upon receipt of a  
14 complaint of suspected child abuse, the department shall  
15 maintain a record of the complaint of suspected child abuse in  
16 the pending complaint file. [Upon receipt of a report under  
17 section 6353.2 (relating to responsibilities of county agency),  
18 the department shall maintain a record of the report in the  
19 report file under section 6331 (relating to establishment of  
20 pending complaint file, Statewide central register and file of  
21 unfounded reports).]

22 \* \* \*

23 § 6335. Information in pending complaint and unfounded report  
24 files.

25 (a) Information authorized.--The information contained in  
26 the pending complaint file shall be limited to the information  
27 required in [sections] section 6313(c) (relating to reporting  
28 procedure) [and 6353.2 (relating to responsibilities of county  
29 agency)]. The information contained in the file for unfounded  
30 reports shall be limited to the information required by section

1 6336 (relating to information in Statewide central register).

2 \* \* \*

3 § 6337. Disposition of unfounded reports.

4 \* \* \*

5 (c) Expunction of information.--All information identifying  
6 the subjects of any report of suspected child abuse [and of any  
7 report under Subchapter C.1 (relating to students in public and  
8 private schools)] determined to be an unfounded report shall be  
9 expunged from the pending complaint file pursuant to this  
10 section. The expunction shall be mandated and guaranteed by the  
11 department.

12 § 6338. Disposition of founded and indicated reports.

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

1 within 45 days after being notified of the status of the report,  
2 to appeal an indicated report, and [his] the right to a hearing  
3 if the request is denied.

4 \* \* \*

5 § 6340. Release of information in confidential reports.

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

9 \* \* \*

10 [(13) Persons required to make reports under Subchapter  
11 C.1 (relating to students in public and private schools).  
12 Information under this paragraph shall be limited to the  
13 final status of the report following the investigation as to  
14 whether the report is indicated, founded or unfounded.]

15 \* \* \*

16 § 6346. Cooperation of other agencies.

17 \* \* \*

18 (b) Willful failure to cooperate.--Any agency, school  
19 district or facility or any person acting on behalf of an  
20 agency, school district or facility that violates this section  
21 by willfully failing to cooperate with the department or a  
22 county agency when investigating a report of suspected child  
23 abuse [or a report under Subchapter C.1 (relating to students in  
24 public and private schools)] or when assessing risk to a child  
25 commits a summary offense for a first violation and a  
26 misdemeanor of the third degree for subsequent violations.

27 (c) Cooperation of county agency and law enforcement  
28 agencies.--Consistent with the provisions of this chapter, the  
29 county agency and law enforcement agencies shall cooperate and  
30 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 § 6347. Reports to Governor and General Assembly.

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

23 (b) Reports from county agencies.--To assist the department  
24 in preparing its annual report and the quarterly reports  
25 required under subsection (c), each county agency shall submit a  
26 quarterly report to the department, including, at a minimum, the  
27 following information, on an aggregate basis, regarding general  
28 protective services[, ] and child protective services [and action  
29 under Subchapter C.1]:

30 (1) The number of referrals received and referrals

1 accepted.

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

4 (3) The number of cases which have been closed by the  
5 agency.

6 (4) The services provided to children and their  
7 families.

8 (5) A summary of the findings with nonidentifying  
9 information about each case of child abuse or neglect which  
10 has resulted in a child fatality or near fatality.

11 (c) Quarterly reports.--The department shall prepare and  
12 transmit to the Governor and the General Assembly a quarterly  
13 report that includes a summary of the findings with  
14 nonidentifying information about each case of child abuse or  
15 neglect that has resulted in a child fatality or near fatality.  
16 One of the quarterly reports may be included within the annual  
17 report required under subsection (a).

18 Section 5. Subchapter C.1 of Chapter 63 of Title 23 is  
19 repealed:

20 [SUBCHAPTER C.1

21 STUDENTS IN PUBLIC AND PRIVATE SCHOOLS

22 § 6351. Definitions.

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

26 "Administrator." The person responsible for the  
27 administration of a public or private school, intermediate unit  
28 or area vocational-technical school. The term includes an  
29 independent contractor.

30 § 6352. School employees.

1 (a) Requirement.--

2 (1) Except as provided in paragraph (2), a school  
3 employee who has reasonable cause to suspect, on the basis of  
4 professional or other training and experience, that a student  
5 coming before the school employee in the employee's  
6 professional or official capacity is a victim of serious  
7 bodily injury or sexual abuse or sexual exploitation by a  
8 school employee shall immediately contact the administrator.

9 (2) If the school employee accused of seriously injuring  
10 or sexually abusing or exploiting a student is the  
11 administrator, the school employee who has reasonable cause  
12 to suspect, on the basis of professional or other training  
13 and experience, that a student coming before the school  
14 employee in the employee's professional or official capacity  
15 is a victim of serious bodily injury or sexual abuse or  
16 sexual exploitation shall immediately report to law  
17 enforcement officials and the district attorney under section  
18 6353(a) (relating to administration). If an administrator is  
19 the school employee who suspects injury or abuse, the  
20 administrator shall make a report under section 6353(a).

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

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

26 (c) Criminal penalty.--

27 (1) A school employee who willfully violates subsection  
28 (a) commits a summary offense.

29 (2) A school employee who, after being sentenced under  
30 paragraph (1), violates subsection (a) commits a misdemeanor

1 of the third degree.

2 § 6353. Administration.

3 (a) Requirement.--An administrator and a school employee  
4 governed by section 6352(a)(2) (relating to school employees)  
5 shall report immediately to law enforcement officials and the  
6 appropriate district attorney any report of serious bodily  
7 injury or sexual abuse or sexual exploitation alleged to have  
8 been committed by a school employee against a student.

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

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

12 (2) Name and address of the student's parent or  
13 guardian.

14 (3) Name and address of the administrator.

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

16 (5) Nature of the alleged offense.

17 (6) Any specific comments or observations that are  
18 directly related to the alleged incident and the individuals  
19 involved.

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

23 (d) Criminal penalty.--An administrator who willfully  
24 violates subsection (a) commits a misdemeanor of the third  
25 degree.

26 § 6353.1. Investigation.

27 (a) General rule.--Upon receipt of a report under section  
28 6353 (relating to administration), an investigation shall be  
29 conducted by law enforcement officials, in cooperation with the  
30 district attorney, and a determination made as to what criminal

1 charges, if any, will be filed against the school employee.

2 (b) Referral to county agency.--

3 (1) If local law enforcement officials have reasonable  
4 cause to suspect on the basis of initial review that there is  
5 evidence of serious bodily injury, sexual abuse or sexual  
6 exploitation committed by a school employee against a  
7 student, local law enforcement officials shall notify the  
8 county agency in the county where the alleged abuse or injury  
9 occurred for the purpose of the agency conducting an  
10 investigation of the alleged abuse or injury.

11 (2) To the fullest extent possible, law enforcement  
12 officials and the county agency shall coordinate their  
13 respective investigations. In respect to interviews with the  
14 student, law enforcement officials and the county agency  
15 shall conduct joint interviews. In respect to interviews with  
16 the school employee, law enforcement officials shall be given  
17 an opportunity to interview the school employee prior to the  
18 employee having any contact with the county agency.

19 (3) The county agency and law enforcement officials have  
20 the authority to arrange for photographs, medical tests or X-  
21 rays of a student alleged to have been abused or injured by a  
22 school employee. The county agency and law enforcement  
23 officials shall coordinate their efforts in this regard and,  
24 to the fullest extent possible, avoid the duplication of any  
25 photographs, medical tests or X-rays.

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

29 § 6353.2. Responsibilities of county agency.

30 (a) Information for the pending complaint file.--Immediately

1 after receiving a report under section 6353.1 (relating to  
2 investigation), the county agency shall notify the department of  
3 the receipt of the report, which is to be filed in the pending  
4 complaint file as provided in section 6331(1) (relating to  
5 establishment of pending complaint file, Statewide central  
6 register and file of unfounded reports). The oral report shall  
7 include the following information:

8 (1) The name and address of the student and the  
9 student's parent or guardian.

10 (2) Where the suspected abuse or injury occurred.

11 (3) The age and sex of the student.

12 (4) The nature and extent of the suspected abuse or  
13 injury.

14 (5) The name and home address of the school employee  
15 alleged to have committed the abuse or injury.

16 (6) The relationship of the student to the school  
17 employee alleged to have committed the abuse or injury.

18 (7) The source of the report to the county agency.

19 (8) The actions taken by the county agency, law  
20 enforcement officials, parents, guardians, school officials  
21 or other persons, including the taking of photographs,  
22 medical tests and X-rays.

23 (b) Investigation of reports.--Upon receipt of a report  
24 under section 6353.1, the county agency shall commence, within  
25 the time frames established in department regulations, an  
26 investigation of the nature, extent and cause of any alleged  
27 abuse or injury enumerated in the report. The county agency  
28 shall coordinate its investigation to the fullest extent  
29 possible with law enforcement officials as provided in section  
30 6353.1(b).

1 (c) Completion of investigation.--The investigation by the  
2 county agency to determine whether the report is an indicated  
3 report for school employee or an unfounded report shall be  
4 completed within 60 days.

5 (d) Notice to subject of a report.--Prior to interviewing a  
6 subject of the report, the county agency shall orally notify the  
7 subject of the report of the existence of the report and the  
8 subject's rights under this chapter in regard to amendment or  
9 expungement. Within 72 hours following oral notification to the  
10 subject, the county agency shall give written notice to the  
11 subject. The notice may be reasonably delayed if notification is  
12 likely to threaten the safety of the student or the county  
13 agency worker, to cause the school employee to abscond or to  
14 significantly interfere with the conduct of a criminal  
15 investigation.

16 (e) Reliance on factual investigation.--The county agency  
17 may rely on a factual investigation of substantially the same  
18 allegations by a law enforcement officials to support the  
19 agency's finding. This reliance shall not relieve the county  
20 agency of its responsibilities relating to the investigation of  
21 reports under this subchapter.

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

1 § 6353.3. Information in Statewide central register.

2 The Statewide central register established under section 6331  
3 (relating to establishment of pending complaint file, Statewide  
4 central register and file of unfounded reports) shall retain  
5 only the following information relating to reports of abuse or  
6 injury of a student by a school employee which have been  
7 determined to be a founded report for school employee or an  
8 indicated report for school employee:

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

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

12 (3) The date and the nature and extent of the alleged  
13 abuse or injury.

14 (4) The county and state where the abuse or injury  
15 occurred.

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

17 (6) The source of the report.

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

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

22 (9) The progress of any legal proceedings brought on the  
23 basis of the report.

24 (10) Whether a criminal investigation has been  
25 undertaken and the result of the investigation and of any  
26 criminal prosecution.

27 § 6353.4. Other provisions.

28 The following provisions shall apply to the release and  
29 retention of information by the department and the county agency  
30 concerning reports of abuse or injury committed by a school

1 employee as provided by this subchapter:

2 Section 6336(b) and (c) (relating to information in  
3 Statewide central register).

4 Section 6337 (relating to disposition of unfounded  
5 reports).

6 Section 6338(a) and (b) (relating to disposition of  
7 founded and indicated reports).

8 Section 6339 (relating to confidentiality of reports).

9 Section 6340 (relating to release of information in  
10 confidential reports).

11 Section 6341(a) through (f) (relating to amendment or  
12 expunction of information).

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

14 Section 6. Section 6362(c) of Title 23 is amended to read:  
15 § 6362. Responsibilities of county agency for child protective  
16 services.

17 \* \* \*

18 (c) Action by agencies for abuse by agents or employees.--  
19 Where suspected child abuse has occurred and an employee or  
20 agent of the department or the county agency or a private or  
21 public institution is a subject of the report, the department,  
22 agency or institution shall be informed of the investigation so  
23 that it may take appropriate action. When the suspected abuse  
24 concerns a child with a disability, the county agency shall  
25 additionally inform the State protection and advocacy system of  
26 the investigation and the substance of the complaint.

27 \* \* \*

28 Section 7. Reports made to a law enforcement agency or a  
29 county agency prior to the effective date of this section shall  
30 be investigated under the former provisions of 23 Pa.C.S. Ch. 63

1 Subch. C.1.

2 Section 8. This act shall take effect in 180 days.