
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 434 Session of
2013

INTRODUCED BY MALONEY, WATSON, AUMENT, GINGRICH, MOUL, STEPHENS,
SCHLOSSBERG, HICKERNELL, MUNDY, ROCK, KORTZ, SACCONI, MAJOR,
CUTLER, KAUFFMAN, O'NEILL, BAKER, SWANGER, MILLARD, MILLER,
FLECK, SAYLOR, C. HARRIS, CLYMER AND MILNE, FEBRUARY 8, 2013

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 8, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions, for establishment of pending
4 complaint file, Statewide central register and file of
5 unfounded reports, for continuous availability of department,
6 for disposition of complaints received, for information in
7 pending complaint and unfounded report files, for information
8 in Statewide central register, for disposition of unfounded
9 reports, for disposition of founded and indicated reports,
10 for release of information in confidential reports, for
11 amendment or expunction of information, for information
12 relating to prospective child-care personnel, for information
13 relating to family day-care home residents, for information
14 relating to other persons having contact with children, for
15 cooperation of other agencies and for reports to Governor and
16 General Assembly; and repealing provisions relating to
17 students in public and private schools and for background
18 checks for employment in schools.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. The definitions of "child-care services,"
22 "founded report for school employee," "indicated report for
23 school employee," "person responsible for the child's welfare,"
24 "school employee," "student" and "subject of the report" in
25 section 6303(a) of Title 23 of the Pennsylvania Consolidated

1 Statutes are amended and the subsection is amended by adding
2 definitions to read:

3 § 6303. Definitions.

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

7 * * *

8 "Child-care services." Child day-care centers, group and
9 family day-care homes, foster homes, adoptive parents, boarding
10 homes for children, juvenile detention center services or
11 programs for delinquent or dependent children; mental health,
12 mental retardation, early intervention and drug and alcohol
13 services for children; and other child-care services which are
14 provided by or subject to approval, licensure, registration or
15 certification by the Department of Public Welfare or a county
16 social services agency or which are provided pursuant to a
17 contract with these departments or a county social services
18 agency. [The term does not include such services or programs
19 which may be offered by public and private schools, intermediate
20 units or area vocational-technical schools.]

21 * * *

22 ["Founded report for school employee." A report under
23 Subchapter C.1 (relating to students in public and private
24 schools) if there has been any judicial adjudication based on a
25 finding that the victim has suffered serious bodily injury or
26 sexual abuse or exploitation, including the entry of a plea of
27 guilty or nolo contendere or a finding of guilt to a criminal
28 charge involving the same factual circumstances involved in the
29 allegations of the report.]

30 * * *

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

- 6 (1) Available medical evidence.
7 (2) The county agency's investigation.
8 (3) An admission of the acts of abuse by the school
9 employee.]

10 * * *

11 "Person responsible for the child's welfare." A person who
12 provides permanent or temporary care, supervision, mental health
13 diagnosis or treatment, training or control of a child in lieu
14 of parental care, supervision and control. [The term does not
15 include a person who is employed by or provides services or
16 programs in any public or private school, intermediate unit or
17 area vocational-technical school.]

18 * * *

19 "Program, activity or service." A public or private
20 educational, athletic or other pursuit in which children
21 participate. The term includes, but is not limited to, the
22 following:

- 23 (1) A youth camp or program.
24 (2) A recreational camp or program.
25 (3) A sports or athletic program.
26 (4) An outreach program.
27 (5) An enrichment program.
28 (6) A troop, club or similar organization.

29 An individual participating in a program, activity or service
30 may bear any title, including that of counselor, chaperone,

1 coach, instructor, leader, mentor or other comparable title.

2 * * *

3 "School." A facility providing elementary, secondary or
4 post-secondary educational services. The term includes every
5 public, nonpublic, private and parochial school, including each
6 of the following:

7 (1) A school or a class within a school under the
8 supervision of the Department of Education of the
9 Commonwealth.

10 (2) A State-related and State-owned college or
11 university.

12 (3) A public or private college or university.

13 (4) A community college.

14 (5) A vocational-technical school.

15 (6) An intermediate unit.

16 (7) A charter or regional-charter school.

17 (8) A private school licensed under the act of January
18 28, 1988 (P.L.24, No.11), known as the Private Academic
19 Schools Act.

20 (9) A nonprofit school located in this Commonwealth,
21 other than a public school, wherein a resident of this
22 Commonwealth may legally fulfill the compulsory school
23 attendance requirements of the act of March 10, 1949 (P.L.30,
24 No.14), known as the Public School Code of 1949, and which
25 meets the requirements of Title VI of the Civil Rights Act of
26 1964 (Public Law 88-352, 78 Stat. 241).

27 "School employee." An individual who is employed by a
28 [public or private school, intermediate unit or area vocational-
29 technical] school or who provides a program, activity or service
30 in a school. The term includes an independent contractor that

1 provides a program, activity or service in a school and the
2 employees of the independent contractor. [The term excludes an
3 individual who has no direct contact with students.]

4 * * *

5 "Student." [An individual enrolled in a public or private
6 school, intermediate unit or area vocational-technical school
7 who is under 18 years of age.] A child who is enrolled in a
8 school or participating in a program, activity or service at a
9 school.

10 "Subject of the report." Any child, parent, guardian or other
11 person responsible for the welfare of a child or any alleged or
12 actual perpetrator [or school employee named] in a report made
13 to the Department of Public Welfare or a county agency under
14 this chapter.

15 * * *

16 Section 2. Sections 6331, 6333, 6334(c), 6335(a), 6336(a)
17 (11), 6337(c), 6338(a) and (c), 6340(a)(13), 6341(a)(2), (c) and
18 (f), 6344(b)(2), (c)(1), (o) and (p) and 6344.1(b) of Title 23
19 are amended to read:

20 § 6331. Establishment of pending complaint file, Statewide
21 central register and file of unfounded reports.

22 There shall be established in the department:

23 (1) A pending complaint file of child abuse reports
24 under investigation [and a file of reports under
25 investigation pursuant to Subchapter C.1 (relating to
26 students in public and private schools)].

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

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

30 § 6333. Continuous availability of department.

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

12 § 6334. Disposition of complaints received.

13 * * *

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

23 * * *

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

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

1 shall be limited to the information required by section 6336
2 (relating to information in Statewide central register).

3 * * *

4 § 6336. Information in Statewide central register.

5 (a) Information authorized.--The Statewide central register
6 shall include and shall be limited to the following information:

7 * * *

8 (11) Information obtained by the department in relation
9 to a perpetrator's [or school employee's] request to release,
10 amend or expunge information retained by the department or
11 the county agency.

12 * * *

13 § 6337. Disposition of unfounded reports.

14 * * *

15 (c) Expunction of information.--All information identifying
16 the subjects of any report of suspected child abuse [and of any
17 report under Subchapter C.1 (relating to students in public and
18 private schools)] determined to be an unfounded report shall be
19 expunged from the pending complaint file pursuant to this
20 section. The expunction shall be mandated and guaranteed by the
21 department.

22 § 6338. Disposition of founded and indicated reports.

23 (a) General rule.--When a report of suspected child abuse
24 [or a report under Subchapter C.1 (relating to students in
25 public and private schools)] is determined by the appropriate
26 county agency to be a founded report or an indicated report, the
27 information concerning that report of suspected child abuse
28 shall be expunged immediately from the pending complaint file,
29 and an appropriate entry shall be made in the Statewide central
30 register. Notice of the determination must be given to the

1 subjects of the report, other than the abused child, and to the
2 parent or guardian of the affected child or student along with
3 an explanation of the implications of the determination. Notice
4 given to perpetrators of child abuse [and to school employees
5 who are subjects of indicated reports for school employees or
6 founded reports for school employees] shall include notice that
7 their ability to obtain employment in a child-care facility or
8 program or a public or private school may be adversely affected
9 by entry of the report in the Statewide central register. The
10 notice shall also inform the recipient of his right, within 45
11 days after being notified of the status of the report, to appeal
12 an indicated report, and his right to a hearing if the request
13 is denied.

14 * * *

15 (c) Retention of information.--A subfile shall be
16 established in the Statewide central register to indefinitely
17 retain the names of perpetrators of child abuse [and school
18 employees who are subjects of founded or indicated reports] only
19 if the individual's Social Security number or date of birth is
20 known to the department. The subfile shall not include
21 identifying information regarding other subjects of the report.
22 § 6340. Release of information in confidential reports.

23 (a) General rule.--Reports specified in section 6339
24 (relating to confidentiality of reports) shall only be made
25 available to:

26 * * *

27 [(13) Persons required to make reports under Subchapter
28 C.1 (relating to students in public and private schools).
29 Information under this paragraph shall be limited to the
30 final status of the report following the investigation as to

1 whether the report is indicated, founded or unfounded.]

2 * * *

3 § 6341. Amendment or expunction of information.

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

5 * * *

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

12 * * *

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

30 * * *

1 (f) Notice of expunction.--Written notice of an expunction
2 of any child abuse record made pursuant to the provisions of
3 this chapter shall be served upon the subject of the record who
4 was responsible for the abuse or injury and the appropriate
5 county agency. Except as provided in this subsection, the county
6 agency, upon receipt of the notice, shall take appropriate,
7 similar action in regard to the local child abuse [and school
8 employee] records and inform, for the same purpose, the
9 appropriate coroner if that officer has received reports
10 pursuant to section 6367 (relating to reports to department and
11 coroner). Whenever the county agency investigation reveals,
12 within 60 days of receipt of the report of suspected child
13 abuse, that the report is unfounded but that the subjects need
14 services provided or arranged by the county agency, the county
15 agency shall retain those records and shall specifically
16 identify that the report was an unfounded report of suspected
17 child abuse. An unfounded report regarding subjects who receive
18 services shall be expunged no later than 120 days following the
19 expiration of one year after the termination or completion of
20 services provided or arranged by the county agency.

21 § 6344. Information relating to prospective child-care
22 personnel.

23 * * *

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

28 * * *

29 (2) A certification from the department as to whether
30 the applicant is named in the central register as the

1 perpetrator of a founded report of child abuse[, or an
2 indicated report of child abuse[, founded report for school
3 employee or indicated report for school employee].

4 * * *

5 (c) Grounds for denying employment.--

6 (1) In no case shall an administrator hire an applicant
7 where the department has verified that the applicant is named
8 in the central register as the perpetrator of a founded
9 report of child abuse committed within the five-year period
10 immediately preceding verification pursuant to this section
11 [or is named in the central register as the perpetrator of a
12 founded report for a school employee committed within the
13 five-year period immediately preceding verification pursuant
14 to this section].

15 * * *

16 (o) Use of information.--A foster family care agency may not
17 approve a prospective foster parent if the prospective foster
18 parent or an individual 14 years of age or older who resides for
19 at least 30 days in a calendar year with the prospective foster
20 parent meets either of the following:

21 (1) Is named in the central register as the perpetrator
22 of a founded report of child abuse committed within the five-
23 year period immediately preceding verification pursuant to
24 this section [or is named in the central register as the
25 perpetrator of a founded report for a school employee
26 committed within the five-year period immediately preceding
27 verification pursuant to this section].

28 (2) Has been found guilty of an offense listed in
29 subsection (c) (2).

30 (p) Use of information.--A prospective adoptive parent may

1 not be approved if the prospective adoptive parent or an
2 individual 14 years of age or older who resides for at least 30
3 days in a calendar year with the prospective adoptive parent
4 meets either of the following:

5 (1) Is named in the central register as the perpetrator
6 of a founded report of child abuse committed within the five-
7 year period immediately preceding verification pursuant to
8 this section [or is named in the central register as the
9 perpetrator of a founded report for a school employee
10 committed within the five-year period immediately preceding
11 verification pursuant to this section].

12 (2) Has been found guilty of an offense listed in
13 subsection (c) (2).

14 § 6344.1. Information relating to family day-care home
15 residents.

16 * * *

17 (b) Required information.--Child abuse record information
18 required under subsection (a) shall include certification by the
19 department as to whether the applicant is named in the central
20 register as the perpetrator of a founded report[, or an
21 indicated report[, founded report for school employee or
22 indicated report for school employee].

23 * * *

24 Section 3. Section 6344.2 of Title 23 is amended by adding a
25 subsection to read:

26 § 6344.2. Information relating to other persons having contact
27 with children.

28 * * *

29 (a.1) School employees.--School employees governed by the
30 provisions of the act of March 10, 1949 (P.L.30, No.14), known

1 as the Public School Code of 1949, shall be subject to the
2 provisions of section 111 of the Public School Code of 1949.

3 * * *

4 Section 4. Sections 6346(b) and (c) and 6347(a) and (b) of
5 Title 23 are amended to read:

6 § 6346. Cooperation of other agencies.

7 * * *

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

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

23 * * *

24 § 6347. Reports to Governor and General Assembly.

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

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

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

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

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

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

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

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

1 * * *

2 Section 5. Subchapter C.1 heading of Chapter 63 of Title 23
3 is repealed:

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

6 Section 6. Sections 6351, 6352, 6353, 6353.1, 6353.2, 6353.3
7 and 6353.4 of Title 23 are repealed:

8 [§ 6351. Definitions.

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

12 "Administrator." The person responsible for the
13 administration of a public or private school, intermediate unit
14 or area vocational-technical school. The term includes an
15 independent contractor.

16 § 6352. School employees.

17 (a) Requirement.--

18 (1) Except as provided in paragraph (2), a school
19 employee who has reasonable cause to suspect, on the basis of
20 professional or other training and experience, that a student
21 coming before the school employee in the employee's
22 professional or official capacity is a victim of serious
23 bodily injury or sexual abuse or sexual exploitation by a
24 school employee shall immediately contact the administrator.

25 (2) If the school employee accused of seriously injuring
26 or sexually abusing or exploiting a student is the
27 administrator, the school employee who has reasonable cause
28 to suspect, on the basis of professional or other training
29 and experience, that a student coming before the school
30 employee in the employee's professional or official capacity

1 is a victim of serious bodily injury or sexual abuse or
2 sexual exploitation shall immediately report to law
3 enforcement officials and the district attorney under section
4 6353(a) (relating to administration). If an administrator is
5 the school employee who suspects injury or abuse, the
6 administrator shall make a report under section 6353(a).

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

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

12 (c) Criminal penalty.--

13 (1) A school employee who willfully violates subsection
14 (a) commits a summary offense.

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

18 § 6353. Administration.

19 (a) Requirement.--An administrator and a school employee
20 governed by section 6352(a)(2) (relating to school employees)
21 shall report immediately to law enforcement officials and the
22 appropriate district attorney any report of serious bodily
23 injury or sexual abuse or sexual exploitation alleged to have
24 been committed by a school employee against a student.

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

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

28 (2) Name and address of the student's parent or
29 guardian.

30 (3) Name and address of the administrator.

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

2 (5) Nature of the alleged offense.

3 (6) Any specific comments or observations that are
4 directly related to the alleged incident and the individuals
5 involved.

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

9 (d) Criminal penalty.--An administrator who willfully
10 violates subsection (a) commits a misdemeanor of the third
11 degree.

12 § 6353.1. Investigation.

13 (a) General rule.--Upon receipt of a report under section
14 6353 (relating to administration), an investigation shall be
15 conducted by law enforcement officials, in cooperation with the
16 district attorney, and a determination made as to what criminal
17 charges, if any, will be filed against the school employee.

18 (b) Referral to county agency.--

19 (1) If local law enforcement officials have reasonable
20 cause to suspect on the basis of initial review that there is
21 evidence of serious bodily injury, sexual abuse or sexual
22 exploitation committed by a school employee against a
23 student, local law enforcement officials shall notify the
24 county agency in the county where the alleged abuse or injury
25 occurred for the purpose of the agency conducting an
26 investigation of the alleged abuse or injury.

27 (2) To the fullest extent possible, law enforcement
28 officials and the county agency shall coordinate their
29 respective investigations. In respect to interviews with the
30 student, law enforcement officials and the county agency

1 shall conduct joint interviews. In respect to interviews with
2 the school employee, law enforcement officials shall be given
3 an opportunity to interview the school employee prior to the
4 employee having any contact with the county agency.

5 (3) The county agency and law enforcement officials have
6 the authority to arrange for photographs, medical tests or X-
7 rays of a student alleged to have been abused or injured by a
8 school employee. The county agency and law enforcement
9 officials shall coordinate their efforts in this regard and,
10 to the fullest extent possible, avoid the duplication of any
11 photographs, medical tests or X-rays.

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

15 § 6353.2. Responsibilities of county agency.

16 (a) Information for the pending complaint file.--Immediately
17 after receiving a report under section 6353.1 (relating to
18 investigation), the county agency shall notify the department of
19 the receipt of the report, which is to be filed in the pending
20 complaint file as provided in section 6331(1) (relating to
21 establishment of pending complaint file, Statewide central
22 register and file of unfounded reports). The oral report shall
23 include the following information:

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

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

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

28 (4) The nature and extent of the suspected abuse or
29 injury.

30 (5) The name and home address of the school employee

1 alleged to have committed the abuse or injury.

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

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

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

9 (b) Investigation of reports.--Upon receipt of a report
10 under section 6353.1, the county agency shall commence, within
11 the time frames established in department regulations, an
12 investigation of the nature, extent and cause of any alleged
13 abuse or injury enumerated in the report. The county agency
14 shall coordinate its investigation to the fullest extent
15 possible with law enforcement officials as provided in section
16 6353.1(b).

17 (c) Completion of investigation.--The investigation by the
18 county agency to determine whether the report is an indicated
19 report for school employee or an unfounded report shall be
20 completed within 60 days.

21 (d) Notice to subject of a report.--Prior to interviewing a
22 subject of the report, the county agency shall orally notify the
23 subject of the report of the existence of the report and the
24 subject's rights under this chapter in regard to amendment or
25 expungement. Within 72 hours following oral notification to the
26 subject, the county agency shall give written notice to the
27 subject. The notice may be reasonably delayed if notification is
28 likely to threaten the safety of the student or the county
29 agency worker, to cause the school employee to abscond or to
30 significantly interfere with the conduct of a criminal

1 investigation.

2 (e) Reliance on factual investigation.--The county agency
3 may rely on a factual investigation of substantially the same
4 allegations by a law enforcement officials to support the
5 agency's finding. This reliance shall not relieve the county
6 agency of its responsibilities relating to the investigation of
7 reports under this subchapter.

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

17 § 6353.3. Information in Statewide central register.

18 The Statewide central register established under section 6331
19 (relating to establishment of pending complaint file, Statewide
20 central register and file of unfounded reports) shall retain
21 only the following information relating to reports of abuse or
22 injury of a student by a school employee which have been
23 determined to be a founded report for school employee or an
24 indicated report for school employee:

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

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

28 (3) The date and the nature and extent of the alleged
29 abuse or injury.

30 (4) The county and state where the abuse or injury

1 occurred.

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

3 (6) The source of the report.

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

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

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

10 (10) Whether a criminal investigation has been
11 undertaken and the result of the investigation and of any
12 criminal prosecution.

13 § 6353.4. Other provisions.

14 The following provisions shall apply to the release and
15 retention of information by the department and the county agency
16 concerning reports of abuse or injury committed by a school
17 employee as provided by this subchapter:

18 Section 6336(b) and (c) (relating to information in Statewide
19 central register).

20 Section 6337 (relating to disposition of unfounded reports).

21 Section 6338(a) and (b) (relating to disposition of founded
22 and indicated reports).

23 Section 6339 (relating to confidentiality of reports).

24 Section 6340 (relating to release of information in
25 confidential reports).

26 Section 6341(a) through (f) (relating to amendment or
27 expunction of information).

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

29 Section 7. Subchapter C.2 heading of Chapter 63 of Title 23
30 is repealed:

2 BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS]

3 Section 8. Sections 6354, 6355, 6356, 6357 and 6358 are
4 repealed:

5 [§ 6354. Definitions.

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

9 "Applicant." An individual who applies for a position as a
10 school employee. The term includes an individual who transfers
11 from one position as a school employee to another position as a
12 school employee.

13 "Administrator." The person responsible for the
14 administration of a public or private school, intermediate unit
15 or area vocational-technical school. The term includes a person
16 responsible for employment decisions in a school and an
17 independent contractor.

18 § 6355. Requirement.

19 (a) Investigation.--

20 (1) Except as provided in paragraph (2), an
21 administrator shall require each applicant to submit an
22 official clearance statement obtained from the department
23 within the immediately preceding year as to whether the
24 applicant is named as the perpetrator of an indicated or a
25 founded report or is named as the individual responsible for
26 injury or abuse in an indicated report for school employee or
27 a founded report for school employee.

28 (2) The official clearance statement under paragraph (1)
29 shall not be required for an applicant who:

30 (i) transfers from one position as a school employee

1 to another position as a school employee of the same
2 school district or of the same organization; and

3 (ii) has, prior to the transfer, already obtained
4 the official clearance statement under paragraph (1).

5 (b) Grounds for denying employment.--Except as provided in
6 section 6356 (relating to exceptions), an administrator shall
7 not hire an applicant if the department verifies that the
8 applicant is named as the perpetrator of a founded report or is
9 named as the individual responsible for injury or abuse in a
10 founded report for school employee. No individual who is a
11 school employee on the effective date of this subchapter shall
12 be required to obtain an official clearance statement under
13 subsection (a) (1) as a condition of continued employment.

14 (c) Penalty.--An administrator who willfully violates this
15 section shall be subject to an administrative penalty of \$2,500.
16 An action under this subsection is governed by 2 Pa.C.S. Ch. 5
17 Subch. A (relating to practice and procedure of Commonwealth
18 agencies) and Ch. 7 Subch. A (relating to judicial review of
19 Commonwealth agency action).

20 § 6356. Exceptions.

21 Section 6355 (relating to requirement) shall not apply to any
22 of the following:

23 (1) A school employee who is:

24 (i) under 21 years of age;

25 (ii) participating in a job development or job
26 training program; and

27 (iii) employed for not more than 90 days.

28 (2) A school employee hired on a provisional basis
29 pending receipt of information under section 6355(a) if all
30 of the following apply:

1 (i) The applicant demonstrates application for the
2 official clearance statement under section 6355(a).

3 (ii) The applicant attests in writing by oath or
4 affirmation that the applicant is not disqualified under
5 section 6355(b).

6 (iii) The administrator has no knowledge of
7 information which would disqualify the applicant under
8 section 6355(b).

9 (iv) The provisional period does not exceed:

10 (A) 90 days for an applicant from another state;

11 and

12 (B) 30 days for all other applicants.

13 (v) The hiring does not take place during a strike
14 under the act of July 23, 1970 (P.L.563, No.195), known
15 as the Public Employe Relations Act.

16 § 6357. Fee.

17 The department may charge a fee of not more than \$10 for the
18 official clearance statement required under section 6355(a)
19 (relating to requirement).

20 § 6358. Time limit for official clearance statement.

21 The department shall comply with the official clearance
22 statement requests under section 6355(a) (relating to
23 requirement) within 14 days of receipt of the request.]

24 Section 9. The following apply:

25 (1) The amendment of 23 Pa.C.S. §§ 6331, 6333, 6334(c),
26 6335(a), 6337(c), 6338(c), 6344(b)(2), (c)(1), (o) and (p),
27 6344.1(b), 6346(b) and (c) and 6347(a) and (b) shall not affect
28 any report, complaint, information or record created or
29 initiated prior to the effective date of this section.

30 (2) The amendment of 23 Pa.C.S. §§ 6336(a)(11), 6338(c) and

1 6341(a)(2) and (c) is necessary as a result of the repeal of 23
2 Pa.C.S. Ch. 63 Subch. C.1. Any reference to "perpetrator" in 23
3 Pa.C.S. §§ 6336(a)(11), 6338(c) and 6341(a)(2) and (c), as
4 amended, is intended to include a school employee who was the
5 subject of an indicated or founded report prior to the effective
6 date of this section.

7 (3) The amendment of 23 Pa.C.S. § 6341(f) is necessary as a
8 result of the repeal of 23 Pa.C.S. Ch. 63 Subch. C.1. Any
9 reference to "local child abuse record" in 23 Pa.C.S. § 6341(f),
10 as amended, is intended to include school employee records that
11 included reports of child abuse recorded prior to the effective
12 date of this section.

13 (4) The repeal of 23 Pa.C.S. Ch. 63 Subchs. C.1 and C.2 is
14 not intended to affect any procedure, disposition or other
15 action taken or initiated prior to the effective date of this
16 section.

17 Section 10. This act shall take effect in 60 days.