

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 434** Session of
2013

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FEBRUARY 8, 2013

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 11, 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,"

1 "school employee," "student" and "subject of the report" in
2 section 6303(a) of Title 23 of the Pennsylvania Consolidated
3 Statutes are amended and the subsection is amended by adding
4 definitions to read:

5 § 6303. Definitions.

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

9 * * *

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

24 (1) CHILD DAY-CARE CENTERS.

25 (2) GROUP DAY-CARE HOMES.

26 (3) FAMILY DAY-CARE HOMES.

27 (4) FOSTER HOMES.

28 (5) ADOPTIVE PARENTS.

29 (6) BOARDING HOMES FOR CHILDREN.

30 (7) JUVENILE DETENTION CENTER SERVICES OR PROGRAMS FOR

1 DELINQUENT OR DEPENDENT CHILDREN.

2 (8) MENTAL HEALTH SERVICES FOR CHILDREN.

3 (9) SERVICES FOR CHILDREN WITH INTELLECTUAL
4 DISABILITIES.

5 (10) EARLY INTERVENTION SERVICES FOR CHILDREN.

6 (11) DRUG AND ALCOHOL SERVICES FOR CHILDREN.

7 (12) DAY-CARE SERVICES OR PROGRAMS THAT ARE OFFERED BY A
8 SCHOOL.

9 (13) OTHER COMPARABLE SERVICES THAT ARE PROVIDED BY OR
10 SUBJECT TO APPROVAL, LICENSURE, REGISTRATION OR CERTIFICATION
11 BY THE DEPARTMENT OF PUBLIC WELFARE OR A COUNTY SOCIAL
12 SERVICES AGENCY OR THAT ARE PROVIDED PURSUANT TO A CONTRACT
13 WITH THE DEPARTMENT OF PUBLIC WELFARE OR A COUNTY SOCIAL
14 SERVICES AGENCY.

15 * * *

16 "DIRECT CONTACT WITH CHILDREN." THE POSSIBILITY OF CARE,
17 SUPERVISION, GUIDANCE OR CONTROL OF CHILDREN OR ROUTINE
18 INTERACTION WITH CHILDREN.

19 * * *

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

28 * * *

29 "INDEPENDENT CONTRACTOR." AN INDIVIDUAL WHO PROVIDES A
30 PROGRAM, ACTIVITY OR SERVICE TO AN AGENCY, INSTITUTION,

<--

1 ORGANIZATION OR OTHER ENTITY, INCLUDING A SCHOOL OR REGULARLY
2 ESTABLISHED RELIGIOUS ORGANIZATION, THAT IS DIRECTLY RESPONSIBLE
3 FOR THE CARE, SUPERVISION, GUIDANCE OR CONTROL OF CHILDREN. THE
4 TERM EXCLUDES AN INDIVIDUAL WHO, IN HIS CAPACITY AS AN
5 INDEPENDENT CONTRACTOR, HAS NO DIRECT CONTACT WITH CHILDREN.

6 * * *

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

12 (1) Available medical evidence.

13 (2) The county agency's investigation.

14 (3) An admission of the acts of abuse by the school
15 employee.]

16 * * *

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

24 * * *

25 "Program, activity or service." A public or private
26 educational, athletic or other pursuit in which children
27 participate. The term includes, but is not limited to, the
28 following:

29 (1) A youth camp or program.

30 (2) A recreational camp or program.

1 (3) A sports or athletic program.

2 (4) An outreach program.

3 (5) An enrichment program.

4 (6) A troop, club or similar organization.

5 ~~An individual participating in a program, activity or service~~ <--
6 ~~may bear any title, including that of counselor, chaperone,~~
7 ~~coach, instructor, leader, mentor or other comparable title.~~

8 * * *

9 "School." A facility providing elementary, secondary or
10 post-secondary educational services. The term includes every
11 public, nonpublic, private and parochial school, including each
12 of the following:

13 (1) A school or a class within a school under the
14 supervision of the Department of Education of the
15 Commonwealth.

16 (2) A State-related and State-owned college or
17 university.

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

19 (4) A community college.

20 (5) A vocational-technical school.

21 (6) An intermediate unit.

22 (7) A charter, CYBER CHARTER or regional charter <--
23 REGIONAL CHARTER school. <--

24 (8) A private school licensed under the act of January
25 28, 1988 (P.L.24, No.11), known as the Private Academic
26 Schools Act.

27 (9) A nonprofit school located in this Commonwealth,
28 other than a public school, wherein a resident of this
29 Commonwealth may legally fulfill the compulsory school
30 attendance requirements of the act of March 10, 1949 (P.L.30,

1 No.14), known as the Public School Code of 1949, and which
2 meets the requirements of Title VI of the Civil Rights Act of
3 1964 (Public Law 88-352, 78 Stat. 241).

4 ~~"School employee." An individual who is employed by a~~ <--
5 ~~[public or private school, intermediate unit or area vocational-~~
6 ~~technical] school or who provides a program, activity or service~~
7 ~~in a school. The term includes an independent contractor that~~
8 ~~provides a program, activity or service in a school and the~~
9 ~~employees of the independent contractor. [The term excludes an-~~
10 ~~individual who has no direct contact with students.]~~

11 "SCHOOL EMPLOYEE." AN INDIVIDUAL WHO IS EMPLOYED BY A <--
12 [PUBLIC OR PRIVATE SCHOOL, INTERMEDIATE UNIT OR AREA VOCATIONAL-

13 TECHNICAL SCHOOL. THE TERM INCLUDES AN INDEPENDENT CONTRACTOR
14 AND EMPLOYEES] SCHOOL OR WHO PROVIDES A PROGRAM, ACTIVITY OR
15 SERVICE SPONSORED BY A SCHOOL. THE TERM EXCLUDES AN INDIVIDUAL
16 WHO HAS NO DIRECT CONTACT WITH [STUDENTS] CHILDREN.

17 * * *

18 "Student." [An individual enrolled in a public or private
19 school, intermediate unit or area vocational-technical school
20 who is under 18 years of age.] A child who is enrolled in a
21 school or participating in a program, activity or service at <--
22 SPONSORED BY a school. <--

23 "Subject of the report." Any child, parent, guardian or other
24 person responsible for the welfare of a child or any alleged or
25 actual perpetrator [or school employee named] in a report made
26 to the Department of Public Welfare or a county agency under
27 this chapter.

28 * * *

29 Section 2. Sections 6331, 6333, 6334(c), 6335(a), 6336(a)
30 (11), 6337(c), 6338(a) and (c), 6340(a) (13), 6341(a) (2), (c) and

1 (f), 6344(b)(2), (c)(1), (o) and (p) and 6344.1(b) of Title 23
2 are amended to read:

3 § 6331. Establishment of pending complaint file, Statewide
4 central register and file of unfounded reports.

5 There shall be established in the department:

6 (1) A pending complaint file of child abuse reports
7 under investigation [and a file of reports under
8 investigation pursuant to Subchapter C.1 (relating to
9 students in public and private schools)].

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

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

13 § 6333. Continuous availability of department.

14 The department shall be capable of receiving oral reports of
15 child abuse made pursuant to this chapter[, reports under
16 section 6353.2 (relating to responsibilities of county agency)]
17 and report summaries of child abuse from county agencies and
18 shall be capable of immediately identifying prior reports of
19 child abuse [and prior reports of abuse or injury under
20 Subchapter C.1 (relating to students in public and private
21 schools)] in the Statewide central register and reports under
22 investigation in the pending complaint file and of monitoring
23 the provision of child protective services 24 hours a day, seven
24 days a week.

25 § 6334. Disposition of complaints received.

26 * * *

27 (c) Recording in pending complaint file.--Upon receipt of a
28 complaint of suspected child abuse, the department shall
29 maintain a record of the complaint of suspected child abuse in
30 the pending complaint file. [Upon receipt of a report under

1 section 6353.2 (relating to responsibilities of county agency),
2 the department shall maintain a record of the report in the
3 report file under section 6331 (relating to establishment of
4 pending complaint file, Statewide central register and file of
5 unfounded reports).]

6 * * *

7 § 6335. Information in pending complaint and unfounded report
8 files.

9 (a) Information authorized.--The information contained in
10 the pending complaint file shall be limited to the information
11 required in sections 6313(c) (relating to reporting procedure)
12 [and 6353.2 (relating to responsibilities of county agency)].
13 The information contained in the file for unfounded reports
14 shall be limited to the information required by section 6336
15 (relating to information in Statewide central register).

16 * * *

17 § 6336. Information in Statewide central register.

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

20 * * *

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

25 * * *

26 § 6337. Disposition of unfounded reports.

27 * * *

28 (c) Expunction of information.--All information identifying
29 the subjects of any report of suspected child abuse [and of any
30 report under Subchapter C.1 (relating to students in public and

1 private schools)] determined to be an unfounded report shall be
2 expunged from the pending complaint file pursuant to this
3 section. The expunction shall be mandated and guaranteed by the
4 department.

5 § 6338. Disposition of founded and indicated reports.

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

27 * * *

28 (c) Retention of information.--A subfile shall be
29 established in the Statewide central register to indefinitely
30 retain the names of perpetrators of child abuse [and school

1 employees who are subjects of founded or indicated reports] only
2 if the individual's Social Security number or date of birth is
3 known to the department. The subfile shall not include
4 identifying information regarding other subjects of the report.
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 (13) [PERSONS REQUIRED TO MAKE REPORTS UNDER SUBCHAPTER <--
16 C.1 (RELATING TO STUDENTS IN PUBLIC AND PRIVATE SCHOOLS).
17 INFORMATION UNDER THIS PARAGRAPH SHALL BE] IF THE ALLEGED
18 PERPETRATOR IS A SCHOOL EMPLOYEE, THE SCHOOL ADMINISTRATOR
19 SHALL RECEIVE INFORMATION LIMITED TO THE FINAL STATUS OF THE
20 REPORT FOLLOWING THE INVESTIGATION AS TO WHETHER THE REPORT
21 IS INDICATED, FOUNDED OR UNFOUNDED. INFORMATION DISCLOSED
22 PURSUANT TO THIS PARAGRAPH SHALL BE PROVIDED TO THE SCHOOL
23 ADMINISTRATOR WITHIN TEN DAYS OF THE COMPLETION OF THE
24 INVESTIGATION.

25 * * *

26 § 6341. Amendment or expunction of information.

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

28 * * *

29 (2) Any person named as a perpetrator[, and any school
30 employee named,] in an indicated report of child abuse may,

1 within 45 days of being notified of the status of the report,
2 request the secretary to amend or expunge an indicated report
3 on the grounds that it is inaccurate or it is being
4 maintained in a manner inconsistent with this chapter.

5 * * *

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

23 * * *

24 (f) Notice of expunction.--Written notice of an expunction
25 of any child abuse record made pursuant to the provisions of
26 this chapter shall be served upon the subject of the record who
27 was responsible for the abuse or injury and the appropriate
28 county agency. Except as provided in this subsection, the county
29 agency, upon receipt of the notice, shall take appropriate,
30 similar action in regard to the local child abuse [and school

1 employee] records and inform, for the same purpose, the
2 appropriate coroner if that officer has received reports
3 pursuant to section 6367 (relating to reports to department and
4 coroner). Whenever the county agency investigation reveals,
5 within 60 days of receipt of the report of suspected child
6 abuse, that the report is unfounded but that the subjects need
7 services provided or arranged by the county agency, the county
8 agency shall retain those records and shall specifically
9 identify that the report was an unfounded report of suspected
10 child abuse. An unfounded report regarding subjects who receive
11 services shall be expunged no later than 120 days following the
12 expiration of one year after the termination or completion of
13 services provided or arranged by the county agency.

14 § 6344. Information relating to prospective child-care
15 personnel.

16 * * *

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

21 * * *

22 (2) A certification from the department as to whether
23 the applicant is named in the central register as the
24 perpetrator of a founded report of child abuse[,] or an
25 indicated report of child abuse[,] founded report for school
26 employee or indicated report for school employee].

27 * * *

28 (c) Grounds for denying employment.--

29 (1) In no case shall an administrator hire an applicant
30 where the department has verified that the applicant is named

1 in the central register as the perpetrator of a founded
2 report of child abuse committed within the five-year period
3 immediately preceding verification pursuant to this section
4 [or is named in the central register as the perpetrator of a
5 founded report for a school employee committed within the
6 five-year period immediately preceding verification pursuant
7 to this section].

8 * * *

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

14 (1) Is named in the central register as the perpetrator
15 of a founded report of child abuse committed within the five-
16 year period immediately preceding verification pursuant to
17 this section [or is named in the central register as the
18 perpetrator of a founded report for a school employee
19 committed within the five-year period immediately preceding
20 verification pursuant to this section].

21 (2) Has been found guilty of an offense listed in
22 subsection (c) (2).

23 (p) Use of information.--A prospective adoptive parent may
24 not be approved if the prospective adoptive parent or an
25 individual ~~[14]~~ 18 years of age or older who resides for at <--
26 least 30 days in a calendar year with the prospective adoptive
27 parent meets either of the following:

28 (1) Is named in the central register as the perpetrator
29 of a founded report of child abuse committed within the five-
30 year period immediately preceding verification pursuant to

1 this section [or is named in the central register as the
2 perpetrator of a founded report for a school employee
3 committed within the five-year period immediately preceding
4 verification pursuant to this section].

5 (2) Has been found guilty of an offense listed in
6 subsection (c)(2).

7 § 6344.1. Information relating to family day-care home
8 residents.

9 * * *

10 (b) Required information.--Child abuse record information
11 required under subsection (a) shall include certification by the
12 department as to whether the applicant is named in the central
13 register as the perpetrator of a founded report[,] or an
14 indicated report[, founded report for school employee or
15 indicated report for school employee].

16 * * *

17 Section 3. Section ~~6344.2~~ 6344.2(B) of Title 23 is amended <--

18 AND THE SECTION IS AMENDED by adding a subsection to read: <--

19 § 6344.2. Information relating to other persons having contact
20 with children.

21 * * *

22 ~~(a.1) School employees. School employees governed by the~~ <--
23 ~~provisions of the act of March 10, 1949 (P.L.30, No.14), known~~
24 ~~as the Public School Code of 1949, shall be subject to the~~
25 ~~provisions of section 111 of the Public School Code of 1949.~~

26 (A.1) SCHOOL EMPLOYEES.--THIS SECTION SHALL APPLY TO SCHOOL <--
27 EMPLOYEES AS FOLLOWS:

28 (1) SCHOOL EMPLOYEES GOVERNED BY THE PROVISIONS OF THE
29 ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC
30 SCHOOL CODE OF 1949, SHALL BE SUBJECT TO THE PROVISIONS OF

1 SECTION 111 OF THE PUBLIC SCHOOL CODE OF 1949, EXCEPT THAT
2 THIS SECTION SHALL APPLY WITH REGARD TO THE INFORMATION
3 REQUIRED UNDER SECTION 6344(B) (2) (RELATING TO INFORMATION
4 RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL).

5 (2) SCHOOL EMPLOYEES NOT GOVERNED BY THE PROVISIONS OF
6 THE PUBLIC SCHOOL CODE OF 1949 SHALL BE GOVERNED BY THIS
7 SECTION.

8 (3) THIS SECTION SHALL NOT APPLY TO ANY OF THE
9 FOLLOWING:

10 (I) A SCHOOL EMPLOYEE WHO IS:

11 (A) UNDER 21 YEARS OF AGE;

12 (B) PARTICIPATING IN A JOB DEVELOPMENT OR JOB
13 TRAINING PROGRAM; AND

14 (C) EMPLOYED FOR NOT MORE THAN 90 DAYS.

15 (II) A SCHOOL EMPLOYEE HIRED ON A PROVISIONAL BASIS
16 PENDING RECEIPT OF ANY INFORMATION REQUIRED UNDER THIS
17 SECTION IF ALL OF THE FOLLOWING APPLY:

18 (A) THE APPLICANT DEMONSTRATES APPLICATION FOR
19 ANY INFORMATION REQUIRED BY THIS SECTION.

20 (B) THE APPLICANT ATTESTS IN WRITING BY OATH OR
21 AFFIRMATION THAT THE APPLICANT IS NOT DISQUALIFIED
22 UNDER THIS CHAPTER.

23 (C) THE ADMINISTRATOR HAS NO KNOWLEDGE OF
24 INFORMATION WHICH WOULD DISQUALIFY THE APPLICANT
25 UNDER THIS CHAPTER.

26 (D) THE ADMINISTRATOR REQUIRES THAT THE
27 APPLICANT NOT BE PERMITTED TO WORK ALONE WITH
28 CHILDREN AND THE APPLICANT WORK IN THE IMMEDIATE
29 VICINITY OF A PERMANENT EMPLOYEE.

30 (E) THE PROVISIONAL PERIOD DOES NOT EXCEED:

1 (I) 90 DAYS FOR AN APPLICANT FROM ANOTHER
2 STATE; AND

3 (II) 30 DAYS FOR ALL OTHER APPLICANTS.

4 (F) THE HIRING DOES NOT TAKE PLACE DURING A
5 STRIKE UNDER THE ACT OF JULY 23, 1970 (P.L.563,
6 NO.195), KNOWN AS THE PUBLIC EMPLOYE RELATIONS ACT.

7 (III) A SCHOOL EMPLOYEE WHO TRANSFERS FROM ONE
8 POSITION TO ANOTHER IN THE SAME SCHOOL OR SCHOOL DISTRICT
9 AND:

10 (A) HAS, PRIOR TO THE TRANSFER, ALREADY PROVIDED
11 ANY INFORMATION REQUIRED BY THIS CHAPTER; AND

12 (B) IS NOT DISQUALIFIED FROM EMPLOYMENT UNDER
13 THIS CHAPTER.

14 (B) INVESTIGATION.--EMPLOYERS, ADMINISTRATORS OR SUPERVISORS
15 SHALL REQUIRE AN APPLICANT TO SUBMIT TO ALL REQUIREMENTS SET
16 FORTH IN SECTION 6344(B) [(RELATING TO INFORMATION RELATING TO
17 PROSPECTIVE CHILD-CARE PERSONNEL)]. AN EMPLOYER, ADMINISTRATOR,
18 SUPERVISOR OR OTHER PERSON RESPONSIBLE FOR EMPLOYMENT DECISIONS
19 REGARDING AN APPLICABLE PROSPECTIVE EMPLOYEE UNDER THIS SECTION
20 THAT INTENTIONALLY FAILS TO REQUIRE THE SUBMISSIONS BEFORE
21 HIRING THAT INDIVIDUAL COMMITS A MISDEMEANOR OF THE THIRD
22 DEGREE.

23 * * *

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

26 § 6346. Cooperation of other agencies.

27 * * *

28 (b) Willful failure to cooperate.--Any agency, school
29 [district] or facility or any person acting on behalf of an <--
30 agency, school [district] or facility that violates this section <--

1 by willfully failing to cooperate with the department or a
2 county agency when investigating a report of suspected child
3 abuse [or a report under Subchapter C.1 (relating to students in
4 public and private schools)] or when assessing risk to a child
5 commits a summary offense for a first violation and a
6 misdemeanor of the third degree for subsequent violations.

7 (c) Cooperation of county agency and law enforcement
8 agencies.--Consistent with the provisions of this chapter, the
9 county agency and law enforcement agencies shall cooperate and
10 coordinate, to the fullest extent possible, their efforts to
11 respond to and investigate reports of suspected child abuse [and
12 to reports under Subchapter C.1].

13 * * *

14 § 6347. Reports to Governor and General Assembly.

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

1 child-care services. The department shall also describe its
2 actions in respect to the perpetrators of the abuse.

3 (b) Reports from county agencies.--To assist the department
4 in preparing its annual report and the quarterly reports
5 required under subsection (c), each county agency shall submit a
6 quarterly report to the department, including, at a minimum, the
7 following information, on an aggregate basis, regarding general
8 protective services[, and child protective services [and action
9 under Subchapter C.1]:

10 (1) The number of referrals received and referrals
11 accepted.

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

14 (3) The number of cases which have been closed by the
15 agency.

16 (4) The services provided to children and their
17 families.

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

21 * * *

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

24 [SUBCHAPTER C.1
25 STUDENTS IN PUBLIC AND PRIVATE SCHOOLS]

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

28 [§ 6351. Definitions.

29 The following words and phrases when used in this subchapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Administrator." The person responsible for the
3 administration of a public or private school, intermediate unit
4 or area vocational-technical school. The term includes an
5 independent contractor.

6 § 6352. School employees.

7 (a) Requirement.--

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

15 (2) If the school employee accused of seriously injuring
16 or sexually abusing or exploiting a student is the
17 administrator, the school employee who has reasonable cause
18 to suspect, on the basis of professional or other training
19 and experience, that a student coming before the school
20 employee in the employee's professional or official capacity
21 is a victim of serious bodily injury or sexual abuse or
22 sexual exploitation shall immediately report to law
23 enforcement officials and the district attorney under section
24 6353(a) (relating to administration). If an administrator is
25 the school employee who suspects injury or abuse, the
26 administrator shall make a report under section 6353(a).

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

29 (b) Immunity.--A school employee who refers a report under
30 subsection (a) shall be immune from civil and criminal liability

1 arising out of the report.

2 (c) Criminal penalty.--

3 (1) A school employee who willfully violates subsection
4 (a) commits a summary offense.

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

8 § 6353. Administration.

9 (a) Requirement.--An administrator and a school employee
10 governed by section 6352(a)(2) (relating to school employees)
11 shall report immediately to law enforcement officials and the
12 appropriate district attorney any report of serious bodily
13 injury or sexual abuse or sexual exploitation alleged to have
14 been committed by a school employee against a student.

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

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

18 (2) Name and address of the student's parent or
19 guardian.

20 (3) Name and address of the administrator.

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

22 (5) Nature of the alleged offense.

23 (6) Any specific comments or observations that are
24 directly related to the alleged incident and the individuals
25 involved.

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

29 (d) Criminal penalty.--An administrator who willfully
30 violates subsection (a) commits a misdemeanor of the third

1 degree.

2 § 6353.1. Investigation.

3 (a) General rule.--Upon receipt of a report under section
4 6353 (relating to administration), an investigation shall be
5 conducted by law enforcement officials, in cooperation with the
6 district attorney, and a determination made as to what criminal
7 charges, if any, will be filed against the school employee.

8 (b) Referral to county agency.--

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

17 (2) To the fullest extent possible, law enforcement
18 officials and the county agency shall coordinate their
19 respective investigations. In respect to interviews with the
20 student, law enforcement officials and the county agency
21 shall conduct joint interviews. In respect to interviews with
22 the school employee, law enforcement officials shall be given
23 an opportunity to interview the school employee prior to the
24 employee having any contact with the county agency.

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

1 photographs, medical tests or X-rays.

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

5 § 6353.2. Responsibilities of county agency.

6 (a) Information for the pending complaint file.--Immediately
7 after receiving a report under section 6353.1 (relating to
8 investigation), the county agency shall notify the department of
9 the receipt of the report, which is to be filed in the pending
10 complaint file as provided in section 6331(1) (relating to
11 establishment of pending complaint file, Statewide central
12 register and file of unfounded reports). The oral report shall
13 include the following information:

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

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

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

18 (4) The nature and extent of the suspected abuse or
19 injury.

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

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

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

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

29 (b) Investigation of reports.--Upon receipt of a report
30 under section 6353.1, the county agency shall commence, within

1 the time frames established in department regulations, an
2 investigation of the nature, extent and cause of any alleged
3 abuse or injury enumerated in the report. The county agency
4 shall coordinate its investigation to the fullest extent
5 possible with law enforcement officials as provided in section
6 6353.1(b).

7 (c) Completion of investigation.--The investigation by the
8 county agency to determine whether the report is an indicated
9 report for school employee or an unfounded report shall be
10 completed within 60 days.

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

22 (e) Reliance on factual investigation.--The county agency
23 may rely on a factual investigation of substantially the same
24 allegations by a law enforcement officials to support the
25 agency's finding. This reliance shall not relieve the county
26 agency of its responsibilities relating to the investigation of
27 reports under this subchapter.

28 (f) Notice to the department of the county agency's
29 determination.--As soon as the county agency has completed its
30 investigation, the county agency shall advise the department and

1 law enforcement officials of its determination of the report as
2 an indicated report for school employee or an unfounded report.
3 Supplemental reports shall be made at regular intervals
4 thereafter in a manner and form the department prescribes by
5 regulation to the end that the department is kept fully informed
6 and up-to-date concerning the status of the report.

7 § 6353.3. Information in Statewide central register.

8 The Statewide central register established under section 6331
9 (relating to establishment of pending complaint file, Statewide
10 central register and file of unfounded reports) shall retain
11 only the following information relating to reports of abuse or
12 injury of a student by a school employee which have been
13 determined to be a founded report for school employee or an
14 indicated report for school employee:

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

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

18 (3) The date and the nature and extent of the alleged
19 abuse or injury.

20 (4) The county and state where the abuse or injury
21 occurred.

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

23 (6) The source of the report.

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

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

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

30 (10) Whether a criminal investigation has been

1 from one position as a school employee to another position as a
2 school employee.

3 "Administrator." The person responsible for the
4 administration of a public or private school, intermediate unit
5 or area vocational-technical school. The term includes a person
6 responsible for employment decisions in a school and an
7 independent contractor.

8 § 6355. Requirement.

9 (a) Investigation.--

10 (1) Except as provided in paragraph (2), an
11 administrator shall require each applicant to submit an
12 official clearance statement obtained from the department
13 within the immediately preceding year as to whether the
14 applicant is named as the perpetrator of an indicated or a
15 founded report or is named as the individual responsible for
16 injury or abuse in an indicated report for school employee or
17 a founded report for school employee.

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

20 (i) transfers from one position as a school employee
21 to another position as a school employee of the same
22 school district or of the same organization; and

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

25 (b) Grounds for denying employment.--Except as provided in
26 section 6356 (relating to exceptions), an administrator shall
27 not hire an applicant if the department verifies that the
28 applicant is named as the perpetrator of a founded report or is
29 named as the individual responsible for injury or abuse in a
30 founded report for school employee. No individual who is a

1 school employee on the effective date of this subchapter shall
2 be required to obtain an official clearance statement under
3 subsection (a)(1) as a condition of continued employment.

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

10 § 6356. Exceptions.

11 Section 6355 (relating to requirement) shall not apply to any
12 of the following:

13 (1) A school employee who is:

14 (i) under 21 years of age;

15 (ii) participating in a job development or job
16 training program; and

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

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

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

23 (ii) The applicant attests in writing by oath or
24 affirmation that the applicant is not disqualified under
25 section 6355(b).

26 (iii) The administrator has no knowledge of
27 information which would disqualify the applicant under
28 section 6355(b).

29 (iv) The provisional period does not exceed:

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

1 and

2 (B) 30 days for all other applicants.

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

6 § 6357. Fee.

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

10 § 6358. Time limit for official clearance statement.

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

14 Section 9. The following apply:

15 (1) The amendment of 23 Pa.C.S. §§ 6331, 6333, 6334(c),
16 6335(a), 6337(c), 6338(c), 6344(b)(2), (c)(1), (o) and (p),
17 6344.1(b), 6346(b) and (c) and 6347(a) and (b) shall not affect
18 any report, complaint, information or record created or
19 initiated prior to the effective date of this section.

20 (2) The amendment of 23 Pa.C.S. §§ 6336(a)(11), 6338(c) and
21 6341(a)(2) and (c) is necessary as a result of the repeal of 23
22 Pa.C.S. Ch. 63 Subch. C.1. Any reference to "perpetrator" in 23
23 Pa.C.S. §§ 6336(a)(11), 6338(c) and 6341(a)(2) and (c), as
24 amended, is intended to include a school employee who was the
25 subject of an indicated or founded report prior to the effective
26 date of this section.

27 (3) The amendment of 23 Pa.C.S. § 6341(f) is necessary as a
28 result of the repeal of 23 Pa.C.S. Ch. 63 Subch. C.1. Any
29 reference to "local child abuse record" in 23 Pa.C.S. § 6341(f),
30 as amended, is intended to include school employee records that

1 included reports of child abuse recorded prior to the effective
2 date of this section.

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

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