
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 436 Session of
2013

INTRODUCED BY STEPHENS, WATSON, AUMENT, GINGRICH, MALONEY, MOUL,
YOUNGBLOOD, SCHLOSSBERG, HICKERNELL, MUNDY, ROCK, KORTZ,
SACCONE, MAJOR, CUTLER, KAUFFMAN, O'NEILL, BAKER, SWANGER,
MILLER, FLECK, C. HARRIS, CLYMER, MILNE, BENNINGHOFF AND
MURT, FEBRUARY 14, 2013

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 14, 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 persons required to report
4 suspected child abuse and for persons permitted to report
5 suspected child abuse; providing for required posting of
6 signs; further providing for reporting procedure; and
7 providing for penalties.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definition of "school employee" in section
11 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes is
12 amended and the section is amended by adding definitions to
13 read:

14 § 6303. Definitions.

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

18 * * *

19 "Business establishment." Includes:

1 (1) A retail store, facility or entity in which
2 commercial film or photographic print processing takes place.

3 (2) A retail store, facility or entity in which
4 computers, electronics or other information technology
5 equipment and devices are repaired or serviced.

6 * * *

7 "Direct contact with children." The possibility of care,
8 supervision, guidance or control of children or routine
9 interaction with children.

10 * * *

11 "Independent contractor." An individual who provides a
12 program, activity or service to an agency, institution,
13 organization or other entity, including a school or regularly
14 established religious organization, that is directly responsible
15 for the care, supervision, guidance or control of children. The
16 term excludes an individual who, in his capacity as an
17 independent contractor, has no direct contact with children.

18 * * *

19 "Mandated reporter." A person who is required by this
20 chapter to make a report of suspected child abuse.

21 * * *

22 "School." A facility providing elementary, secondary or
23 postsecondary educational services. The term includes every
24 public, nonpublic, private and parochial school, including each
25 of the following:

26 (1) A school or class within a school under the
27 supervision of the Department of Education.

28 (2) A State-related and State-owned college or
29 university.

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

1 (4) A community college.
2 (5) A vocational-technical school.
3 (6) An intermediate unit.
4 (7) A charter or regional-charter school.
5 (8) A private school licensed under the act of January
6 28, 1988 (P.L.24, No.11), known as the Private Academic
7 Schools Act.

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

15 "School employee." An individual who is employed by a
16 [public or private school, intermediate unit or area vocational-
17 technical school. The term includes an independent contractor
18 and employees] school or who provides a program, activity or
19 service in a school. The term excludes an individual who has no
20 direct contact with students.

21 * * *

22 Section 2. Sections 6311 and 6312 of Title 23 are amended to
23 read:

24 § 6311. Persons required to report suspected child abuse.

25 [(a) General rule.--A person who, in the course of
26 employment, occupation or practice of a profession, comes into
27 contact with children shall report or cause a report to be made
28 in accordance with section 6313 (relating to reporting
29 procedure) when the person has reasonable cause to suspect, on
30 the basis of medical, professional or other training and

1 experience, that a child under the care, supervision, guidance
2 or training of that person or of an agency, institution,
3 organization or other entity with which that person is
4 affiliated is a victim of child abuse, including child abuse by
5 an individual who is not a perpetrator. Except with respect to
6 confidential communications made to a member of the clergy which
7 are protected under 42 Pa.C.S. § 5943 (relating to confidential
8 communications to clergymen), and except with respect to
9 confidential communications made to an attorney which are
10 protected by 42 Pa.C.S. § 5916 (relating to confidential
11 communications to attorney) or 5928 (relating to confidential
12 communications to attorney), the privileged communication
13 between any professional person required to report and the
14 patient or client of that person shall not apply to situations
15 involving child abuse and shall not constitute grounds for
16 failure to report as required by this chapter.

17 (b) Enumeration of persons required to report.--Persons
18 required to report under subsection (a) include, but are not
19 limited to, any licensed physician, osteopath, medical examiner,
20 coroner, funeral director, dentist, optometrist, chiropractor,
21 podiatrist, intern, registered nurse, licensed practical nurse,
22 hospital personnel engaged in the admission, examination, care
23 or treatment of persons, Christian Science practitioner, member
24 of the clergy, school administrator, school teacher, school
25 nurse, social services worker, day-care center worker or any
26 other child-care or foster-care worker, mental health
27 professional, peace officer or law enforcement official.

28 (c) Staff members of institutions, etc.--Whenever a person
29 is required to report under subsection (b) in the capacity as a
30 member of the staff of a medical or other public or private

1 institution, school, facility or agency, that person shall
2 immediately notify the person in charge of the institution,
3 school, facility or agency or the designated agent of the person
4 in charge. Upon notification, the person in charge or the
5 designated agent, if any, shall assume the responsibility and
6 have the legal obligation to report or cause a report to be made
7 in accordance with section 6313. This chapter does not require
8 more than one report from any such institution, school, facility
9 or agency.

10 (d) Civil action for discrimination against person filing
11 report.--Any person who, under this section, is required to
12 report or cause a report of suspected child abuse to be made and
13 who, in good faith, makes or causes the report to be made and,
14 as a result thereof, is discharged from his employment or in any
15 other manner is discriminated against with respect to
16 compensation, hire, tenure, terms, conditions or privileges of
17 employment, may commence an action in the court of common pleas
18 of the county in which the alleged unlawful discharge or
19 discrimination occurred for appropriate relief. If the court
20 finds that the person is an individual who, under this section,
21 is required to report or cause a report of suspected child abuse
22 to be made and who, in good faith, made or caused to be made a
23 report of suspected child abuse and, as a result thereof, was
24 discharged or discriminated against with respect to
25 compensation, hire, tenure, terms, conditions or privileges of
26 employment, it may issue an order granting appropriate relief,
27 including, but not limited to, reinstatement with back pay. The
28 department may intervene in any action commenced under this
29 subsection.]

30 (e) Basis to report.--

1 (1) Subject to paragraphs (2) and (3) and subsection
2 (f), a person under subsection (f) shall make a report of
3 suspected child abuse or cause a report of suspected child
4 abuse to be made under this chapter if the person has
5 reasonable cause to suspect that the child is a victim of
6 child abuse and:

7 (i) In the course of employment, occupation or
8 practice of a profession, the person comes in contact
9 with the child.

10 (ii) The person is affiliated with an agency,
11 institution, organization or other entity, including a
12 school or regularly established religious organization
13 that is directly responsible for the care, supervision,
14 guidance or training of the child.

15 (2) The child need not come before the person in order
16 for the person to make a report of suspected child abuse or
17 cause a report of suspected child abuse to be made.

18 (3) The identity of the perpetrator of child abuse need
19 not be known by the person required to make a report of
20 suspected child abuse or cause a report of suspected child
21 abuse to be made. The person shall not be required to attempt
22 to identify the perpetrator prior to making the report or
23 causing the report to be made.

24 (f) Enumerated mandated reporters.--Subject to subsection
25 (e), the following persons shall make a report of suspected
26 child abuse or cause a report of suspected child abuse to be
27 made under this chapter:

28 (1) A person licensed to practice in any health-related
29 field under the jurisdiction of the Department of State of
30 the Commonwealth.

1 (2) A medical examiner, coroner or funeral director.

2 (3) A health care facility or provider licensed by the
3 Department of Health and its employees engaged in the
4 admission, examination, care or treatment of individuals.

5 (4) A school administrator, teacher, nurse, guidance
6 counselor, coach or other school employee.

7 (5) A child-care services provider.

8 (6) A clergyman, priest, rabbi, minister, Christian
9 Science practitioner, religious healer or spiritual leader of
10 any regularly established church or other religious
11 organization.

12 (7) An individual, paid or unpaid, who, on the basis of
13 the individual's role as an integral part of a regularly
14 scheduled program, activity or service, accepts
15 responsibility for a child.

16 (8) A social services worker.

17 (9) A peace officer or law enforcement official.

18 (10) An attorney.

19 (11) A librarian at a public library.

20 (12) An emergency medical services provider certified by
21 the Department of Health.

22 (13) An employee of any person listed under paragraphs
23 (1) through (12) who has direct contact with children.

24 (14) An independent contractor of any person listed
25 under paragraphs (1) through (12).

26 (g) Disclosure of child abuse by child.--Notwithstanding
27 subsection (e) (1) (i) and (ii), a mandated reporter shall make a
28 report of suspected child abuse or cause a report of suspected
29 child abuse to be made if:

30 (1) a child makes a specific disclosure to the mandated

1 reporter that the child or a relative or friend of the child
2 is the victim of child abuse; and

3 (2) the mandated reporter has reasonable cause to
4 suspect that the child abuse has occurred.

5 (h) Disclosure of child abuse by individual.--Subject to
6 subsection (j), a mandated reporter shall make a report of
7 suspected child abuse or cause a report of suspected child abuse
8 to be made if:

9 (1) an individual who is 14 years of age or older makes
10 a specific disclosure to the mandated reporter that the
11 individual has committed child abuse; and

12 (2) the mandated reporter has reasonable cause to
13 suspect that the child abuse has occurred.

14 (i) Reports by employees, independent contractors and staff
15 members.--

16 (1) A mandated reporter to whom subsection (f)(13) or
17 (14) applies or a staff member of a medical or other public
18 or private institution, school, facility or agency shall
19 immediately report the suspected child abuse directly to the
20 department by telephone or advanced communications
21 technologies and:

22 (i) In the case of an employee or independent
23 contractor of a mandated reporter, notify the mandated
24 reporter and the person directly responsible for the
25 supervision of the employee or independent contractor.

26 (ii) In the case of a staff member of an
27 institution, school, facility or agency, notify the
28 person in charge of the institution, school, facility or
29 agency or the designated agent of the person in charge.

30 (2) The person notified under paragraph (1)(i) or (ii)

1 may not:

2 (i) control or restrain another person from making a
3 report of suspected child abuse or causing a report of
4 suspected child abuse to be made;

5 (ii) modify, edit or otherwise change the substance
6 of a report of suspected child abuse; or

7 (iii) obstruct, prevent or delay the forwarding of a
8 report of suspected child abuse.

9 (3) Notice to a person under paragraph (1)(i) or (ii)
10 shall not relieve the employee, independent contractor or
11 staff member of the duty, as a mandated reporter, to make a
12 report of suspected child abuse or cause a report of
13 suspected child abuse to be made.

14 (4) A person who receives notice under paragraph (1)(i)
15 or (ii) shall facilitate the cooperation of the person's
16 institution, school, facility or agency with the child abuse
17 investigation.

18 (5) Confirmation from the department that a report of
19 suspected child abuse has been filed shall relieve other
20 employees, independent contractors and staff members of the
21 duty, as a mandated reporter, to make a report of suspected
22 child abuse or cause a report of suspected child abuse to be
23 made.

24 (j) Privileged communications.--

25 (1) Subject to paragraphs (2), (3) and (4), the
26 privileged communication between a mandated reporter and a
27 patient or client of the mandated reporter shall not:

28 (i) apply to a situation involving child abuse; and

29 (ii) constitute relieving the mandated reporter of
30 the duty to make a report of suspected child abuse or

1 cause a report of suspected child abuse to be made.

2 (2) Confidential communications made to a member of the
3 clergy are protected under 42 Pa.C.S. § 5943 (relating to
4 confidential communications to clergymen), but only to the
5 extent that the member of the clergy is authorized to hear
6 the communications under the disciplines, tenets or
7 traditions of the religion of the member of the clergy.

8 (3) Confidential communications made to an attorney are
9 protected under 42 Pa.C.S. § 5916 (relating to confidential
10 communications to attorney) or 5928 (relating to confidential
11 communications to attorney), but only to the extent that such
12 communications are protected under the rules of professional
13 conduct for attorneys.

14 (4) Confidential communications between spouses shall
15 not be privileged under this chapter, notwithstanding any
16 grant of privilege under 42 Pa.C.S. § 5914 (relating to
17 confidential communications between spouses) or 5923
18 (relating to confidential communications between spouses).

19 (k) Limited exemption for certain reporters.--A sexual
20 assault counselor at a rape crisis center as defined under 42
21 Pa.C.S. § 5945.1(a) (relating to confidential communications
22 with sexual assault counselors) shall not be required to report
23 a violation of 18 Pa.C.S. § 3122.1(a)(1) (relating to statutory
24 sexual assault) as child abuse under this chapter if the child
25 who would otherwise be the subject of a report of suspected
26 child abuse is 14 years of age or older.

27 § 6312. Persons [permitted] encouraged to report suspected
28 child abuse.

29 [In addition to those persons and officials required to
30 report suspected child abuse, any] (a) General rule.--Any

1 person may make [such] a report of suspected child abuse, or
2 cause a report of suspected child abuse to be made, if that
3 person has reasonable cause to suspect that a child is an abused
4 child.

5 (b) Specific persons.--The following persons are encouraged
6 to make a report of suspected child abuse, sexual abuse or
7 exploitation or cause a report of suspected child abuse, sexual
8 abuse or exploitation to be made under this chapter:

9 (1) A commercial film or photographic print processor
10 who discovers any depiction of child abuse, sexual abuse or
11 exploitation in material presented for processing.

12 (2) A person who repairs or services computer,
13 electronic or other information technology equipment and
14 devices and discovers any depiction of child abuse, sexual
15 abuse or exploitation during the provision of those repairs
16 or services.

17 Section 3. Title 23 is amended by adding a section to read:
18 § 6312.1. Required posting of signs.

19 (a) General rule.--A business establishment shall post a
20 sign containing information regarding the Childline and Abuse
21 Registry Intake Unit and any other establishment or business may
22 post such sign.

23 (b) Manner of posting.--A business establishment shall post
24 at least one sign in a conspicuous manner clearly visible to the
25 employees of the business establishment.

26 (c) Size, information and design.--

27 (1) The sign shall be at least 8 1/2 by 11 inches in
28 size.

29 (2) The Department of Public Welfare shall design the
30 sign to include the hotline or phone number for reporting

1 suspected child abuse.

2 (3) The Department of Public Welfare may consult with
3 child advocates to determine other information that may be
4 included in the sign.

5 (4) The Department of Public Welfare shall design the
6 sign to draw attention to the telephone number of the
7 Childline and Abuse Registry Intake by showing the number in
8 bold type and large font.

9 (5) The sign shall be posted in English, Spanish and any
10 other language mandated by the Voting Rights Act of 1965
11 (Public Law 89-110, 42 U.S.C. § 1973 et seq.) in the county
12 where the sign is required to be posted.

13 (d) Availability of sign on Internet.--The Department of
14 Public Welfare shall make the sign required by subsection (a)
15 available on its publicly accessible Internet website for
16 business establishments to print as needed.

17 Section 4. Section 6313 of Title 23 is amended to read:
18 § 6313. Reporting procedure.

19 [(a) General rule.--Reports from persons required to report
20 under section 6311 (relating to persons required to report
21 suspected child abuse) shall be made immediately by telephone
22 and in writing within 48 hours after the oral report.

23 (b) Oral reports.--Oral reports shall be made to the
24 department pursuant to Subchapter C (relating to powers and
25 duties of department) and may be made to the appropriate county
26 agency. When oral reports of suspected child abuse are initially
27 received at the county agency, the protective services staff
28 shall, after seeing to the immediate safety of the child and
29 other children in the home, immediately notify the department of
30 the receipt of the report, which is to be held in the pending

1 complaint file as provided in Subchapter C. The initial child
2 abuse report summary shall be supplemented with a written report
3 when a determination is made as to whether a report of suspected
4 child abuse is a founded report, an unfounded report or an
5 indicated report.

6 (c) Written reports.--Written reports from persons required
7 to report under section 6311 shall be made to the appropriate
8 county agency in a manner and on forms the department prescribes
9 by regulation. The written reports shall include the following
10 information if available:

11 (1) The names and addresses of the child and the parents
12 or other person responsible for the care of the child if
13 known.

14 (2) Where the suspected abuse occurred.

15 (3) The age and sex of the subjects of the report.

16 (4) The nature and extent of the suspected child abuse,
17 including any evidence of prior abuse to the child or
18 siblings of the child.

19 (5) The name and relationship of the person or persons
20 responsible for causing the suspected abuse, if known, and
21 any evidence of prior abuse by that person or persons.

22 (6) Family composition.

23 (7) The source of the report.

24 (8) The person making the report and where that person
25 can be reached.

26 (9) The actions taken by the reporting source, including
27 the taking of photographs and X-rays, removal or keeping of
28 the child or notifying the medical examiner or coroner.

29 (10) Any other information which the department may
30 require by regulation.

1 (d) Failure to confirm oral report.--The failure of a person
2 reporting cases of suspected child abuse to confirm an oral
3 report in writing within 48 hours shall not relieve the county
4 agency from any duties prescribed by this chapter. In such
5 event, the county agency shall proceed as if a written report
6 were actually made.]

7 (e) Report by mandated reporter.--

8 (1) A report of suspected child abuse by or on behalf of
9 a mandated reporter shall be made immediately to the
10 department by telephone or advanced communication
11 technologies.

12 (2) A mandated reporter making an oral report of
13 suspected child abuse shall also make a report in writing or
14 by advanced communication technologies within 48 hours to the
15 county agency assigned to the case in a manner and format
16 that the department prescribes by regulation.

17 (3) The failure of a mandated reporter to file the
18 report in writing or by advanced communication technologies
19 as required by paragraph (2) shall not relieve the county
20 agency from any duty under this chapter and the county agency
21 shall proceed as though the mandated reporter complied with
22 paragraph (2).

23 (f) Permissive report.--A report of suspected child abuse by
24 a person under section 6312 (relating to persons encouraged to
25 report suspected child abuse) may be made orally or by advanced
26 communication technologies to the department, county agency or
27 law enforcement.

28 (g) Contents of report.--A report of suspected child abuse
29 that is made in writing or by advanced communication
30 technologies shall include the following information, if known:

1 (1) The names and addresses of the child, the child's
2 parents and any other person responsible for the child's
3 welfare.

4 (2) The location where the suspected abuse occurred.

5 (3) The age and sex of each subject of the report.

6 (4) The nature and extent of the suspected child abuse,
7 including any evidence of prior abuse to the child or any
8 sibling of the child.

9 (5) The name and relationship of each individual
10 responsible for causing the suspected abuse and any evidence
11 of prior abuse by each such individual.

12 (6) Family composition.

13 (7) The source of the report.

14 (8) The person making the report and the location where
15 that person may be contacted.

16 (9) The actions taken by the person making the report,
17 including those actions taken under section 6314 (relating to
18 photographs, medical tests and X-rays of child subject to
19 report), 6315 (relating to taking child into protective
20 custody), 6316 (relating to admission to private and public
21 hospitals) or 6317 (relating to mandatory reporting and
22 postmortem investigation of deaths).

23 (10) Any other information that the department requires
24 by regulation.

25 Section 5. Title 23 is amended by adding a section to read:
26 § 6379. Penalties.

27 (a) Failure to report or refer.--A person or official
28 required by this chapter to report a case of suspected child
29 abuse or to make a referral to the appropriate authorities
30 commits a misdemeanor of the second degree if the person or

1 official willfully fails to do so, except that if the child
2 abuse constitutes a felony of the first degree or higher, the
3 person or official commits a felony of the third degree.

4 (b) Interference with making report or referral.--A person
5 who intentionally or knowingly prevents or interferes with the
6 making of a report or referral of suspected child abuse commits
7 a misdemeanor of the first degree, except that if the child
8 abuse constitutes a felony of the first degree or higher, the
9 person commits a felony of the second degree.

10 (c) Concealment of abuse to protect another.--A person who
11 intentionally or knowingly acts to prevent the discovery under
12 this chapter of child abuse in order to protect or insulate any
13 person or entity from prosecution or liability for the child
14 abuse commits a felony of the third degree, except if the child
15 abuse constitutes a felony of the first degree or higher, the
16 person commits a felony of the first degree.

17 (d) Continuing course of action.--If a person's willful
18 failure under subsection (a) continues while the person knows or
19 has reasonable cause to believe the child is actively being
20 subjected to child abuse, the person commits a felony of the
21 third degree, except that if the child abuse constitutes a
22 felony of the first degree or higher, the person commits a
23 felony of the first degree.

24 (e) Multiple offenses.--A person who commits a second or
25 subsequent offense under subsections (a), (b), (c) or (d)
26 commits a felony of the second degree, except that if the child
27 abuse constitutes a felony of the first degree or higher, the
28 penalty for the second or subsequent offenses is a felony of the
29 first degree.

30 (f) Statute of limitations.--The statute of limitations for

1 an offense under subsections (a), (b), (c), (d) and (e) shall be
2 either the statute of limitations for the crime committed
3 against the minor child or five years, whichever is greater.

4 Section 6. This act shall take effect in 60 days.