

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, SACCONI, MAJOR, CUTLER, KAUFFMAN, O'NEILL, BAKER, SWANGER, R. MILLER, FLECK, C. HARRIS, CLYMER, MILNE, BENNINGHOFF, MURT, EVERETT, GIBBONS, QUINN, HARKINS, BIZZARRO AND FARRY, FEBRUARY 14, 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 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. AND FOR PERSONS REQUIRED TO REPORT <--
8 SUSPECTED CHILD ABUSE; PROVIDING FOR SPECIFIC PERSONS
9 REQUIRED TO REPORT AND FOR REQUIRED POSTING OF SIGNS; AND
10 FURTHER PROVIDING FOR PENALTIES FOR FAILURE TO REPORT OR TO
11 REFER.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definition of "school employee" in section
15 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes is
16 amended and the section SUBSECTION (A) is amended by adding <--
17 definitions to read:

18 § 6303. Definitions.

19 (a) General rule.--The following words and phrases when used
20 in this chapter shall have the meanings given to them in this

1 section unless the context clearly indicates otherwise:

2 \* \* \*

3 "AFFILIATE," "AFFILIATE OF" OR "PERSON AFFILIATED WITH." A <--  
4 PERSON THAT DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE  
5 INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON  
6 CONTROL WITH A SPECIFIED PERSON.

7 "Business establishment." Includes:

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

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

13 \* \* \*

14 "Direct contact with children." The possibility of care,  
15 supervision, guidance or control of children or routine  
16 interaction with children.

17 \* \* \*

18 "HEALTH CARE FACILITY." AS DEFINED IN SECTION 802.1 OF THE <--  
19 ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE  
20 FACILITIES ACT.

21 "Independent contractor." An individual who provides a  
22 program, activity or service to an agency, institution,  
23 organization or other entity, including a school or regularly  
24 established religious organization, that is directly responsible  
25 for the care, supervision, guidance or control of children. The  
26 term excludes an individual who, in his capacity as an  
27 independent contractor, has no direct contact with children.

28 \* \* \*

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

1 \* \* \*

2 "PROGRAM, ACTIVITY OR SERVICE." A PUBLIC OR PRIVATE <--  
3 EDUCATIONAL, ATHLETIC OR OTHER PURSUIT IN WHICH CHILDREN  
4 PARTICIPATE. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE  
5 FOLLOWING:

- 6 (1) A YOUTH CAMP OR PROGRAM.
- 7 (2) A RECREATIONAL CAMP OR PROGRAM.
- 8 (3) A SPORTS OR ATHLETIC PROGRAM.
- 9 (4) AN OUTREACH PROGRAM.
- 10 (5) AN ENRICHMENT PROGRAM.
- 11 (6) A TROOP, CLUB OR SIMILAR ORGANIZATION.

12 \* \* \*

13 "School." A facility providing elementary, secondary or  
14 postsecondary educational services. The term includes every  
15 public, nonpublic, private and parochial school, including each  
16 of the following:

- 17 (1) A school or class within a school under the  
18 supervision of the Department of Education.
- 19 (2) A State-related and State-owned college or  
20 university.
- 21 (3) A public or private college or university.
- 22 (4) A community college.
- 23 (5) A vocational-technical school.
- 24 (6) An intermediate unit.
- 25 (7) A charter ~~or regional charter~~, CYBER CHARTER OR <--  
26 REGIONAL CHARTER school.
- 27 (8) A private school licensed under the act of January  
28 28, 1988 (P.L.24, No.11), known as the Private Academic  
29 Schools Act.
- 30 (9) A nonprofit school located in this Commonwealth,

1 other than a public school, wherein a resident of this  
2 Commonwealth may legally fulfill the compulsory school  
3 attendance requirements of the act of March 10, 1949 (P.L.30,  
4 No.14), known as the Public School Code of 1949, and which  
5 meets the requirements of Title VI of the Civil Rights Act of  
6 1964 (Public Law 88-352, 78 Stat. 241).

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

13 \* \* \*

14 ~~Section 2. Sections 6311 and 6312 of Title 23 are amended to~~ <--  
15 ~~read:~~

16 SECTION 2. SECTION 6311 OF TITLE 23 IS AMENDED TO READ: <--

17 § 6311. Persons required to report suspected child abuse.

18 [(a) General rule.--A person who, in the course of  
19 employment, occupation or practice of a profession, comes into  
20 contact with children shall report or cause a report to be made  
21 in accordance with section 6313 (relating to reporting  
22 procedure) when the person has reasonable cause to suspect, on  
23 the basis of medical, professional or other training and  
24 experience, that a child under the care, supervision, guidance  
25 or training of that person or of an agency, institution,  
26 organization or other entity with which that person is  
27 affiliated is a victim of child abuse, including child abuse by  
28 an individual who is not a perpetrator. Except with respect to  
29 confidential communications made to a member of the clergy which  
30 are protected under 42 Pa.C.S. § 5943 (relating to confidential

1 communications to clergymen), and except with respect to  
2 confidential communications made to an attorney which are  
3 protected by 42 Pa.C.S. § 5916 (relating to confidential  
4 communications to attorney) or 5928 (relating to confidential  
5 communications to attorney), the privileged communication  
6 between any professional person required to report and the  
7 patient or client of that person shall not apply to situations  
8 involving child abuse and shall not constitute grounds for  
9 failure to report as required by this chapter.

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

21 (A) MANDATED REPORTERS.--THE FOLLOWING INDIVIDUALS, 18 YEARS  
22 OF AGE OR OLDER, SHALL MAKE A REPORT OF SUSPECTED CHILD ABUSE OR  
23 CAUSE A REPORT OF SUSPECTED CHILD ABUSE TO BE MADE, SUBJECT TO  
24 SUBSECTION (B), IF THE PERSON HAS REASONABLE CAUSE TO SUSPECT,  
25 ON THE BASIS OF MEDICAL, PROFESSIONAL OR OTHER TRAINING AND  
26 EXPERIENCE, THAT A CHILD IS A VICTIM OF CHILD ABUSE:

27 (1) A PERSON LICENSED OR CERTIFIED TO PRACTICE IN ANY  
28 HEALTH-RELATED FIELD UNDER THE JURISDICTION OF THE DEPARTMENT  
29 OF STATE.

30 (2) A MEDICAL EXAMINER, CORONER OR FUNERAL DIRECTOR.

1           (3) AN EMPLOYEE OF A HEALTH CARE FACILITY OR PROVIDER  
2 LICENSED BY THE DEPARTMENT OF HEALTH, WHO IS ENGAGED IN THE  
3 ADMISSION, EXAMINATION, CARE OR TREATMENT OF INDIVIDUALS.

4           (4) A SCHOOL EMPLOYEE.

5           (5) AN EMPLOYEE OF A CHILD-CARE SERVICE.

6           (6) A CLERGYMAN, PRIEST, RABBI, MINISTER, CHRISTIAN  
7 SCIENCE PRACTITIONER, RELIGIOUS HEALER OR SPIRITUAL LEADER OF  
8 ANY REGULARLY ESTABLISHED CHURCH OR OTHER RELIGIOUS  
9 ORGANIZATION.

10           (7) AN INDIVIDUAL PAID OR UNPAID, WHO, ON THE BASIS OF  
11 THE INDIVIDUAL'S ROLE AS AN INTEGRAL PART OF A REGULARLY  
12 SCHEDULED PROGRAM, ACTIVITY OR SERVICE, ACCEPTS  
13 RESPONSIBILITY FOR A CHILD.

14           (8) AN EMPLOYEE OF A SOCIAL SERVICES AGENCY.

15           (9) A PEACE OFFICER OR LAW ENFORCEMENT OFFICIAL.

16           (10) AN ATTORNEY.

17           (11) AN EMPLOYEE OF A PUBLIC LIBRARY.

18           (12) AN EMERGENCY MEDICAL SERVICES PROVIDER CERTIFIED BY  
19 THE DEPARTMENT OF HEALTH.

20           (13) AN EMPLOYEE SUPERVISED OR MANAGED BY A PERSON  
21 LISTED UNDER PARAGRAPHS (1) THROUGH (12), WHO HAS DIRECT  
22 CONTACT WITH CHILDREN IN THE COURSE OF EMPLOYMENT.

23           (14) AN INDEPENDENT CONTRACTOR.

24           (A.1) LIMITED EXEMPTION FOR CERTAIN REPORTERS.--A SEXUAL  
25 ASSAULT COUNSELOR AT A RAPE CRISIS CENTER AS DEFINED UNDER 42  
26 PA.C.S. § 5945.1(A) (RELATING TO CONFIDENTIAL COMMUNICATIONS  
27 WITH SEXUAL ASSAULT COUNSELORS) OR A DOMESTIC VIOLENCE  
28 COUNSELOR/ADVOCATE AS DEFINED UNDER SECTION 6102 (RELATING TO  
29 DEFINITIONS) SHALL NOT BE REQUIRED TO REPORT A VIOLATION OF 18  
30 PA.C.S. § 3122.1(A) (1) (RELATING TO STATUTORY SEXUAL ASSAULT) AS

1 CHILD ABUSE UNDER THIS CHAPTER IF THE CHILD WHO WOULD OTHERWISE  
2 BE THE SUBJECT OF A REPORT OF SUSPECTED CHILD ABUSE IS 14 YEARS  
3 OF AGE OR OLDER.

4 (B) BASIS TO REPORT.--A MANDATED REPORTER ENUMERATED IN  
5 SUBSECTION (A) SHALL MAKE A REPORT OF SUSPECTED CHILD ABUSE OR  
6 CAUSE A REPORT TO BE MADE IN ACCORDANCE WITH SECTION 6313  
7 (RELATING TO REPORTING PROCEDURE), IF THE MANDATED REPORTER HAS  
8 REASONABLE CAUSE TO SUSPECT THAT A CHILD IS A VICTIM OF CHILD  
9 ABUSE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

10 (1) THE MANDATED REPORTER COMES INTO CONTACT WITH THE  
11 CHILD IN THE COURSE OF EMPLOYMENT, OCCUPATION, PRACTICE OF A  
12 PROFESSION OR THROUGH A REGULARLY SCHEDULED PROGRAM, ACTIVITY  
13 OR SERVICE.

14 (2) THE MANDATED REPORTER IS DIRECTLY RESPONSIBLE FOR  
15 THE CARE SUPERVISION, GUIDANCE OR TRAINING OF THE CHILD, OR  
16 IS AFFILIATED WITH AN AGENCY, INSTITUTION, ORGANIZATION,  
17 SCHOOL, REGULARLY ESTABLISHED CHURCH OR RELIGIOUS  
18 ORGANIZATION OR OTHER ENTITY THAT IS DIRECTLY RESPONSIBLE FOR  
19 THE CARE SUPERVISION, GUIDANCE OR TRAINING OF THE CHILD.

20 (3) A PERSON MAKES A SPECIFIC DISCLOSURE TO THE MANDATED  
21 REPORTER THAT AN IDENTIFIABLE CHILD IS THE VICTIM OF CHILD  
22 ABUSE.

23 (4) AN INDIVIDUAL 14 YEARS OF AGE OR OLDER MAKES A  
24 SPECIFIC DISCLOSURE TO THE MANDATED REPORTER THAT THE  
25 INDIVIDUAL HAS COMMITTED CHILD ABUSE.

26 (B.1) PRIVILEGED COMMUNICATIONS.--

27 (1) SUBJECT TO PARAGRAPHS (2), (3), (4) AND (5), THE  
28 PRIVILEGED COMMUNICATIONS BETWEEN A MANDATED REPORTER AND A  
29 PATIENT OR CLIENT OF THE MANDATED REPORTER SHALL NOT:

30 (I) APPLY TO A SITUATION INVOLVING CHILD ABUSE.

1           (II) RELIEVE THE MANDATED REPORTER OF THE DUTY TO  
2           MAKE A REPORT OF SUSPECTED CHILD ABUSE OR CAUSE A REPORT  
3           OF SUSPECTED CHILD ABUSE TO BE MADE.

4           (2) CONFIDENTIAL COMMUNICATIONS MADE TO A MEMBER OF THE  
5           CLERGY ARE PROTECTED UNDER 42 PA.C.S. § 5943 (RELATING TO  
6           CONFIDENTIAL COMMUNICATIONS TO CLERGYMEN), BUT ONLY TO THE  
7           EXTENT THAT THE MEMBER OF THE CLERGY IS AUTHORIZED TO HEAR  
8           THE COMMUNICATIONS UNDER THE DISCIPLINES, TENETS OR  
9           TRADITIONS OF THE RELIGION OF THE MEMBER OF THE CLERGY.

10           (3) CONFIDENTIAL COMMUNICATIONS MADE TO AN ATTORNEY ARE  
11           SUBJECT TO 42 PA.C.S. §§ 5916 (RELATING TO CONFIDENTIAL  
12           COMMUNICATIONS TO ATTORNEY) AND 5928 (RELATING TO  
13           CONFIDENTIAL COMMUNICATIONS TO ATTORNEY). WHEN AN ATTORNEY  
14           REPRESENTING A NONORGANIZATIONAL CLIENT IS REQUIRED TO REPORT  
15           SUSPECTED CHILD ABUSE UNDER THE BASIS PROVIDED IN SUBSECTION  
16           (B) (3) OR (4), THE FOLLOWING SHALL ALSO APPLY:

17           (I) WHEN MAKING A REPORT OF SUSPECTED CHILD ABUSE,  
18           AN ATTORNEY SHALL IDENTIFY INFORMATION THE ATTORNEY DEEMS  
19           TO BE CONFIDENTIAL UNDER THE RULES OF PROFESSIONAL  
20           CONDUCT FOR ATTORNEYS. NOTWITHSTANDING THE PROVISIONS OF  
21           SECTION 6340 (RELATING TO RELEASE OF INFORMATION IN  
22           CONFIDENTIAL REPORTS), THE INFORMATION THE ATTORNEY  
23           DEEMED TO BE CONFIDENTIAL SHALL NOT BE DISCLOSED TO ANY  
24           PERSON OTHER THAN THOSE RESPONSIBLE FOR INVESTIGATING THE  
25           REPORT AND PROVIDING FOR THE CHILD'S SAFETY, OR THOSE  
26           INVESTIGATING OR PROSECUTING A FAILURE TO REPORT UNDER  
27           SECTION 6319 (RELATING TO PENALTIES FOR FAILURE TO REPORT  
28           OR TO REFER).

29           (II) NEITHER THE CLIENT'S DISCLOSURE TO THE ATTORNEY  
30           NOR THE INFORMATION THE ATTORNEY DEEMED CONFIDENTIAL WHEN



1 REPORTING TO THE DEPARTMENT SHALL BE USED AS EVIDENCE IN  
2 ANY DETERMINATION MADE UNDER SECTION 6368 (RELATING TO  
3 INVESTIGATION OF REPORTS), AND THE ATTORNEY SHALL NOT BE  
4 REQUIRED TO PROVIDE ANY INFORMATION THAT IS ASSERTED AS  
5 CONFIDENTIAL UNDER SUBPARAGRAPH (I) FOR ANY CIVIL,  
6 CRIMINAL OR ADMINISTRATIVE PROCEEDING WHICH RESULTS FROM  
7 OR RELATES TO THE REPORT OF SUSPECTED CHILD ABUSE.  
8 NOTHING IN THIS SUBSECTION SHALL PROHIBIT THE USE OF  
9 INFORMATION PROVIDED BY ANOTHER SOURCE, EVEN IF IT IS  
10 SUBSTANTIALLY SIMILAR TO THAT WHICH WAS PROVIDED BY THE  
11 ATTORNEY IN THE REPORT TO THE DEPARTMENT.

12 (4) CONFIDENTIAL COMMUNICATIONS MADE TO A PSYCHIATRIST  
13 OR LICENSED PSYCHOLOGIST ARE PROTECTED UNDER 42 PA.C.S. §  
14 5944 (RELATING TO CONFIDENTIAL COMMUNICATIONS TO  
15 PSYCHIATRISTS AND LICENSED PSYCHOLOGISTS). WHEN A REPORT IS  
16 REQUIRED UNDER THE BASIS PROVIDED IN SUBSECTION (B) (3) OR  
17 (4), THE FOLLOWING SHALL ALSO APPLY:

18 (I) WHEN MAKING A REPORT OF SUSPECTED CHILD ABUSE, A  
19 PSYCHIATRIST OR LICENSED PSYCHOLOGIST SHALL IDENTIFY THE  
20 INFORMATION THE PSYCHIATRIST OR LICENSED PSYCHOLOGIST  
21 DEEMS TO BE CONFIDENTIAL. NOTWITHSTANDING THE PROVISIONS  
22 OF SECTION 6340, THE INFORMATION THE PSYCHIATRIST OR  
23 LICENSED PSYCHOLOGIST DEEMED TO BE CONFIDENTIAL SHALL NOT  
24 BE DISCLOSED TO ANY PERSON OTHER THAN THOSE RESPONSIBLE  
25 FOR INVESTIGATING THE REPORT AND PROVIDING FOR THE  
26 CHILD'S SAFETY, OR THOSE INVESTIGATING OR PROSECUTING A  
27 FAILURE TO REPORT UNDER SECTION 6319.

28 (II) NEITHER THE CLIENT'S DISCLOSURE TO THE  
29 PSYCHIATRIST OR LICENSED PSYCHOLOGIST NOR THE INFORMATION  
30 THE PSYCHIATRIST OR LICENSED PSYCHOLOGIST DEEMED

1 CONFIDENTIAL WHEN REPORTING TO THE DEPARTMENT SHALL BE  
2 USED AS EVIDENCE IN ANY DETERMINATION MADE UNDER SECTION  
3 6368, AND THE PSYCHIATRIST OR LICENSED PSYCHOLOGIST SHALL  
4 NOT BE REQUIRED TO PROVIDE ANY INFORMATION THAT IS  
5 ASSERTED AS CONFIDENTIAL UNDER SUBPARAGRAPH (I) FOR ANY  
6 CIVIL, CRIMINAL OR ADMINISTRATIVE PROCEEDING WHICH  
7 RESULTS FROM OR RELATES TO THE REPORT OF SUSPECTED CHILD  
8 ABUSE. NOTHING IN THIS SUBSECTION SHALL PROHIBIT THE USE  
9 OF INFORMATION PROVIDED BY ANOTHER SOURCE, EVEN IF IT IS  
10 SUBSTANTIALLY SIMILAR TO THAT WHICH WAS PROVIDED BY THE  
11 PSYCHIATRIST OR LICENSED PSYCHOLOGIST IN THE REPORT TO  
12 THE DEPARTMENT.

13 (5) CONFIDENTIAL COMMUNICATIONS BETWEEN SPOUSES SHALL  
14 NOT BE PRIVILEGED UNDER THIS CHAPTER, NOTWITHSTANDING ANY  
15 GRANT OF PRIVILEGE UNDER 42 PA.C.S. § 5914 (RELATING TO  
16 CONFIDENTIAL COMMUNICATIONS BETWEEN SPOUSES) OR 5923  
17 (RELATING TO CONFIDENTIAL COMMUNICATIONS BETWEEN SPOUSES).

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

30 (d) Civil action for discrimination against person filing

1 report.--Any person who, under this section, is required to  
2 report or cause a report of suspected child abuse to be made and  
3 who, in good faith, makes or causes the report to be made and,  
4 as a result thereof, is discharged from his employment or in any  
5 other manner is discriminated against with respect to  
6 compensation, hire, tenure, terms, conditions or privileges of  
7 employment, may commence an action in the court of common pleas  
8 of the county in which the alleged unlawful discharge or  
9 discrimination occurred for appropriate relief. If the court  
10 finds that the person is an individual who, under this section,  
11 is required to report or cause a report of suspected child abuse  
12 to be made and who, in good faith, made or caused to be made a  
13 report of suspected child abuse and, as a result thereof, was  
14 discharged or discriminated against with respect to  
15 compensation, hire, tenure, terms, conditions or privileges of  
16 employment, it may issue an order granting appropriate relief,  
17 including, but not limited to, reinstatement with back pay. The  
18 department may intervene in any action commenced under this  
19 subsection.†

<--

20 ~~(e) Basis to report.~~

21 ~~(1) Subject to paragraphs (2) and (3) and subsection~~  
22 ~~(f), a person under subsection (f) shall make a report of~~  
23 ~~suspected child abuse or cause a report of suspected child~~  
24 ~~abuse to be made under this chapter if the person has~~  
25 ~~reasonable cause to suspect that the child is a victim of~~  
26 ~~child abuse and:~~

27 ~~(i) In the course of employment, occupation or~~  
28 ~~practice of a profession, the person comes in contact~~  
29 ~~with the child.~~

30 ~~(ii) The person is affiliated with an agency,~~

~~institution, organization or other entity, including a school or regularly established religious organization that is directly responsible for the care, supervision, guidance or training of the child.~~

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

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

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

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

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

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

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

~~(5) A child care services provider.~~

~~(6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious~~

1 ~~organization.~~

2 ~~(7) An individual, paid or unpaid, who, on the basis of~~  
3 ~~the individual's role as an integral part of a regularly~~  
4 ~~scheduled program, activity or service, accepts~~  
5 ~~responsibility for a child.~~

6 ~~(8) A social services worker.~~

7 ~~(9) A peace officer or law enforcement official.~~

8 ~~(10) An attorney.~~

9 ~~(11) A librarian at a public library.~~

10 ~~(12) An emergency medical services provider certified by~~  
11 ~~the Department of Health.~~

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

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

16 ~~(g) Disclosure of child abuse by child. Notwithstanding~~  
17 ~~subsection (e) (1) (i) and (ii), a mandated reporter shall make a~~  
18 ~~report of suspected child abuse or cause a report of suspected~~  
19 ~~child abuse to be made if:-~~

20 ~~(1) a child makes a specific disclosure to the mandated~~  
21 ~~reporter that the child or a relative or friend of the child~~  
22 ~~is the victim of child abuse; and~~

23 ~~(2) the mandated reporter has reasonable cause to~~  
24 ~~suspect that the child abuse has occurred.~~

25 ~~(h) Disclosure of child abuse by individual. Subject to~~  
26 ~~subsection (j), a mandated reporter shall make a report of~~  
27 ~~suspected child abuse or cause a report of suspected child abuse~~  
28 ~~to be made if:-~~

29 ~~(1) an individual who is 14 years of age or older makes~~  
30 ~~a specific disclosure to the mandated reporter that the~~

~~individual has committed child abuse; and~~

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

~~(i) Reports by employees, independent contractors and staff members.~~

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

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

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

~~(2) The person notified under paragraph (1) (i) or (ii) may not:~~

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

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

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

~~(3) Notice to a person under paragraph (1) (i) or (ii) shall not relieve the employee, independent contractor or~~

~~1 staff member of the duty, as a mandated reporter, to make a~~  
~~2 report of suspected child abuse or cause a report of~~  
~~3 suspected child abuse to be made.~~

~~4 (4) A person who receives notice under paragraph (1)(i)~~  
~~5 or (ii) shall facilitate the cooperation of the person's~~  
~~6 institution, school, facility or agency with the child abuse~~  
~~7 investigation.~~

~~8 (5) Confirmation from the department that a report of~~  
~~9 suspected child abuse has been filed shall relieve other~~  
~~10 employees, independent contractors and staff members of the~~  
~~11 duty, as a mandated reporter, to make a report of suspected~~  
~~12 child abuse or cause a report of suspected child abuse to be~~  
~~13 made.~~

~~14 (j) Privileged communications.~~

~~15 (1) Subject to paragraphs (2), (3) and (4), the~~  
~~16 privileged communication between a mandated reporter and a~~  
~~17 patient or client of the mandated reporter shall not:~~

~~18 (i) apply to a situation involving child abuse; and~~

~~19 (ii) constitute relieving the mandated reporter of~~  
~~20 the duty to make a report of suspected child abuse or~~  
~~21 cause a report of suspected child abuse to be made.~~

~~22 (2) Confidential communications made to a member of the~~  
~~23 clergy are protected under 42 Pa.C.S. § 5943 (relating to~~  
~~24 confidential communications to clergymen), but only to the~~  
~~25 extent that the member of the clergy is authorized to hear~~  
~~26 the communications under the disciplines, tenets or~~  
~~27 traditions of the religion of the member of the clergy.~~

~~28 (3) Confidential communications made to an attorney are~~  
~~29 protected under 42 Pa.C.S. § 5916 (relating to confidential~~  
~~30 communications to attorney) or 5928 (relating to confidential~~

~~communications to attorney), but only to the extent that such communications are protected under the rules of professional conduct for attorneys.~~

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

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

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

~~[In addition to those persons and officials required to report suspected child abuse, any] (a) General rule. Any person may make [such] a report of suspected child abuse, or cause a report of suspected child abuse to be made, if that person has reasonable cause to suspect that a child is an abused child.~~

SECTION 3. TITLE 23 IS AMENDED BY ADDING SECTIONS TO READ: <--

§ 6312.1. SPECIFIC PERSONS ENCOURAGED TO REPORT.

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



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

4       (2) A person who repairs or services computer,  
5 electronic or other information technology equipment and  
6 devices and discovers any depiction of child abuse, sexual  
7 abuse or exploitation during the provision of those repairs  
8 or services.

9       ~~Section 3. Title 23 is amended by adding a section to read:~~ <--  
10 ~~§ 6312.1. § 6312.2. Required posting of signs.~~ <--

11       (a) General rule.--A business establishment shall post a  
12 sign containing information regarding the Childline and Abuse  
13 Registry Intake Unit and any other establishment or business may <--  
14 post such sign.

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

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

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

21       (2) The ~~Department of Public Welfare~~ DEPARTMENT shall <--  
22 design the sign to include the hotline or phone number for  
23 reporting suspected child abuse.

24       (3) The ~~Department of Public Welfare~~ DEPARTMENT may <--  
25 consult with child advocates to determine other information  
26 that may be included in the sign.

27       (4) The ~~Department of Public Welfare~~ DEPARTMENT shall <--  
28 design the sign to draw attention to the telephone number of  
29 the Childline and Abuse Registry Intake by showing the number <--  
30 in bold type and large font.

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

5 ~~(d) Availability of sign on Internet. The Department of~~ <--  
6 ~~Public Welfare~~

7       (6) THE DEPARTMENT shall make the sign required by <--  
8 subsection (a) available on its publicly accessible Internet  
9 website for business establishments to print as needed.

10 ~~(D) VIOLATION.--IT IS A VIOLATION OF THIS SECTION FOR A~~ <--  
11 ~~BUSINESS ESTABLISHMENT TO FAIL TO POST A SIGN IN THE MANNER~~  
12 ~~REQUIRED BY SUBSECTION (B). THE OWNER, OPERATOR OR MANAGER OF~~  
13 ~~THE BUSINESS ESTABLISHMENT IS RESPONSIBLE FOR VIOLATIONS OF THIS~~  
14 ~~SECTION.~~

15 ~~(E) COMPLAINTS.--A COMPLAINT REGARDING A POSSIBLE VIOLATION~~  
16 ~~OF THIS SECTION MAY BE MADE TO THE APPROPRIATE LAW ENFORCEMENT~~  
17 ~~AGENCY.~~

18 ~~(F) PENALTIES.--A PERSON THAT VIOLATES THE POSTING~~  
19 ~~REQUIREMENTS OF THIS SECTION COMMITS A SUMMARY OFFENSE, AND~~  
20 ~~SHALL, UPON CONVICTION OF A FIRST OFFENSE, BE SENTENCED TO PAY A~~  
21 ~~FINE OF NOT MORE THAN \$100. A PERSON CONVICTED OF A SECOND OR~~  
22 ~~SUBSEQUENT VIOLATION OF THIS SECTION SHALL BE SENTENCED TO PAY A~~  
23 ~~FINE OF NOT MORE THAN \$250.~~

24 ~~(G) AFFIRMATIVE DEFENSE.--ANY OF THE FOLLOWING SHALL BE AN~~  
25 ~~AFFIRMATIVE DEFENSE BY AN OWNER, OPERATOR OR MANAGER TO A~~  
26 ~~PROSECUTION UNDER THIS SECTION:~~

27       (1) WHEN THE VIOLATION OCCURRED, THE ACTUAL CONTROL OF  
28 THE BUSINESS ESTABLISHMENT WAS NOT EXERCISED BY THE OWNER,  
29 OPERATOR OR MANAGER, BUT BY A LESSEE.

30       (2) THE OWNER, OPERATOR OR MANAGER MADE A GOOD FAITH

1 EFFORT TO POST THE REQUIRED SIGNS.

2 ~~Section 4. Section 6313 of Title 23 is amended to read:~~ <--

3 ~~§ 6313. Reporting procedure.~~

4 ~~{(a) General rule. Reports from persons required to report~~  
5 ~~under section 6311 (relating to persons required to report~~  
6 ~~suspected child abuse) shall be made immediately by telephone~~  
7 ~~and in writing within 48 hours after the oral report.~~

8 ~~(b) Oral reports. Oral reports shall be made to the~~  
9 ~~department pursuant to Subchapter C (relating to powers and~~  
10 ~~duties of department) and may be made to the appropriate county~~  
11 ~~agency. When oral reports of suspected child abuse are initially~~  
12 ~~received at the county agency, the protective services staff~~  
13 ~~shall, after seeing to the immediate safety of the child and~~  
14 ~~other children in the home, immediately notify the department of~~  
15 ~~the receipt of the report, which is to be held in the pending~~  
16 ~~complaint file as provided in Subchapter C. The initial child~~  
17 ~~abuse report summary shall be supplemented with a written report~~  
18 ~~when a determination is made as to whether a report of suspected~~  
19 ~~child abuse is a founded report, an unfounded report or an~~  
20 ~~indicated report.~~

21 ~~(c) Written reports. Written reports from persons required~~  
22 ~~to report under section 6311 shall be made to the appropriate~~  
23 ~~county agency in a manner and on forms the department prescribes~~  
24 ~~by regulation. The written reports shall include the following~~  
25 ~~information if available:~~

26 ~~(1) The names and addresses of the child and the parents~~  
27 ~~or other person responsible for the care of the child if~~  
28 ~~known.~~

29 ~~(2) Where the suspected abuse occurred.~~

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

1           ~~(4) The nature and extent of the suspected child abuse,~~  
2 ~~including any evidence of prior abuse to the child or~~  
3 ~~siblings of the child.~~

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

7           ~~(6) Family composition.~~

8           ~~(7) The source of the report.~~

9           ~~(8) The person making the report and where that person~~  
10 ~~can be reached.~~

11           ~~(9) The actions taken by the reporting source, including~~  
12 ~~the taking of photographs and X rays, removal or keeping of~~  
13 ~~the child or notifying the medical examiner or coroner.~~

14           ~~(10) Any other information which the department may~~  
15 ~~require by regulation.~~

16           ~~(d) Failure to confirm oral report. The failure of a person~~  
17 ~~reporting cases of suspected child abuse to confirm an oral~~  
18 ~~report in writing within 48 hours shall not relieve the county~~  
19 ~~agency from any duties prescribed by this chapter. In such~~  
20 ~~event, the county agency shall proceed as if a written report~~  
21 ~~were actually made.]~~

22           ~~(e) Report by mandated reporter.~~

23           ~~(1) A report of suspected child abuse by or on behalf of~~  
24 ~~a mandated reporter shall be made immediately to the~~  
25 ~~department by telephone or advanced communication~~  
26 ~~technologies.~~

27           ~~(2) A mandated reporter making an oral report of~~  
28 ~~suspected child abuse shall also make a report in writing or~~  
29 ~~by advanced communication technologies within 48 hours to the~~  
30 ~~county agency assigned to the case in a manner and format~~

1 ~~that the department prescribes by regulation.~~

2 ~~(3) The failure of a mandated reporter to file the~~  
3 ~~report in writing or by advanced communication technologies~~  
4 ~~as required by paragraph (2) shall not relieve the county~~  
5 ~~agency from any duty under this chapter and the county agency~~  
6 ~~shall proceed as though the mandated reporter complied with~~  
7 ~~paragraph (2).~~

8 ~~(f) Permissive report. A report of suspected child abuse by~~  
9 ~~a person under section 6312 (relating to persons encouraged to~~  
10 ~~report suspected child abuse) may be made orally or by advanced~~  
11 ~~communication technologies to the department, county agency or~~  
12 ~~law enforcement.~~

13 ~~(g) Contents of report. A report of suspected child abuse~~  
14 ~~that is made in writing or by advanced communication~~  
15 ~~technologies shall include the following information, if known:~~

16 ~~(1) The names and addresses of the child, the child's~~  
17 ~~parents and any other person responsible for the child's~~  
18 ~~welfare.~~

19 ~~(2) The location where the suspected abuse occurred.~~

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

21 ~~(4) The nature and extent of the suspected child abuse,~~  
22 ~~including any evidence of prior abuse to the child or any~~  
23 ~~sibling of the child.~~

24 ~~(5) The name and relationship of each individual~~  
25 ~~responsible for causing the suspected abuse and any evidence~~  
26 ~~of prior abuse by each such individual.~~

27 ~~(6) Family composition.~~

28 ~~(7) The source of the report.~~

29 ~~(8) The person making the report and the location where~~  
30 ~~that person may be contacted.~~

1 ~~(9) The actions taken by the person making the report,~~  
2 ~~including those actions taken under section 6314 (relating to~~  
3 ~~photographs, medical tests and X rays of child subject to~~  
4 ~~report), 6315 (relating to taking child into protective~~  
5 ~~custody), 6316 (relating to admission to private and public~~  
6 ~~hospitals) or 6317 (relating to mandatory reporting and~~  
7 ~~postmortem investigation of deaths).~~

8 ~~(10) Any other information that the department requires~~  
9 ~~by regulation.~~

10 Section 5. Title 23 is amended by adding a section to read:  
11 ~~§ 6379. Penalties.~~

12 SECTION 4. SECTION 6319 OF TITLE 23 IS AMENDED TO READ: <--

13 § 6319. PENALTIES [FOR FAILURE TO REPORT OR TO REFER].

14 [A PERSON OR OFFICIAL REQUIRED BY THIS CHAPTER TO REPORT A  
15 CASE OF SUSPECTED CHILD ABUSE OR TO MAKE A REFERRAL TO THE  
16 APPROPRIATE AUTHORITIES WHO WILLFULLY FAILS TO DO SO COMMITS A  
17 MISDEMEANOR OF THE THIRD DEGREE FOR THE FIRST VIOLATION AND A  
18 MISDEMEANOR OF THE SECOND DEGREE FOR A SECOND OR SUBSEQUENT  
19 VIOLATION.]

20 ~~(a) Failure to report or refer.--A person or official~~  
21 ~~required by this chapter to report a case of suspected child~~  
22 ~~abuse or to make a referral to the appropriate authorities~~  
23 ~~commits a misdemeanor of the second degree if the person or~~  
24 ~~official willfully fails to do so, except that if the child~~  
25 ~~abuse constitutes a felony of the first degree or higher, the~~  
26 ~~person or official commits a felony of the third degree.~~

27 ~~(b) Interference with PREVENTION OF making report or~~ <--  
28 ~~referral.--A person who intentionally or knowingly prevents or~~  
29 ~~interferes with ATTEMPTS TO PREVENT the making of a report or~~ <--  
30 ~~referral of suspected child abuse commits a misdemeanor of the~~

1 first degree, except that if the child abuse constitutes a  
2 felony of the first degree or higher, the person commits a  
3 felony of the second degree.

4 (c) Concealment of abuse to protect another.--A person who  
5 intentionally or knowingly acts to prevent the discovery under  
6 this chapter of child abuse in order to protect or insulate any  
7 person or entity from prosecution or liability for the child  
8 abuse commits a felony of the third degree, except if the child  
9 abuse constitutes a felony of the first degree or higher, the  
10 person commits a felony of the first degree.

11 (d) Continuing course of action.--If a person's willful  
12 failure under subsection (a) continues while the person knows or  
13 has reasonable cause to believe the child is actively being  
14 subjected to child abuse, the person commits a felony of the  
15 third degree, except that if the child abuse constitutes a  
16 felony of the first degree or higher, the person commits a  
17 felony of the first degree.

18 (e) Multiple offenses.--A person who commits a second or  
19 subsequent offense under subsections (a), (b), (c) or (d)  
20 commits a felony of the second degree, except that if the child  
21 abuse constitutes a felony of the first degree or higher, the  
22 penalty for the second or subsequent offenses is a felony of the  
23 first degree.

24 (f) Statute of limitations.--The statute of limitations for  
25 an offense under subsections (a), (b), (c), (d) and (e) shall be  
26 either the statute of limitations for the crime committed  
27 against the minor child or five years, whichever is greater.

28 Section 6 5. This act shall take effect in 60 days.

<--