

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 476 Session of 2013

INTRODUCED BY KILLION, D. COSTA, MICOZZIE, O'NEILL, SAYLOR, FABRIZIO, KORTZ, WATSON, HALUSKA, BAKER, FLECK, MILLER, C. HARRIS, MILNE, DENLINGER AND GILLEN, JANUARY 30, 2013

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 30, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
 2 Consolidated Statutes, further providing for definitions, for  
 3 immunity from liability, for complaint files and for  
 4 amendment or expunction of information.

5 The General Assembly of the Commonwealth of Pennsylvania  
 6 hereby enacts as follows:

7 Section 1. Section 6303(a) of Title 23 of the Pennsylvania  
 8 Consolidated Statutes is amended by adding definitions to read:

9 § 6303. Definitions.

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

13 \* \* \*

14 "Detention facility." A privately or publicly owned and  
 15 operated facility that is designated by the court and approved  
 16 by the Department of Public Welfare to detain a juvenile  
 17 temporarily.

18 "Detention facility employee." An individual employed by a

1 detention facility. The term includes an independent contractor  
2 and employees.

3 \* \* \*

4 "Private residential rehabilitative institution." The term  
5 shall have the same meaning as given to it in section 914.1-A(c)  
6 of the act of March 10, 1949 (P.L.30, No.14), known as the  
7 Public School Code of 1949.

8 "Private residential rehabilitative institution employee."  
9 An individual employed by a private residential rehabilitative  
10 institution. The term includes an independent contractor and  
11 employees.

12 \* \* \*

13 "School." A public or private school, intermediate unit or  
14 area vocational-technical school.

15 \* \* \*

16 Section 2. Section 6318 of Title 23 is amended by adding a  
17 subsection to read:

18 § 6318. Immunity from liability.

19 \* \* \*

20 (c) False reports.--Any person who intentionally makes a  
21 false report of suspected child abuse against a school, private  
22 residential rehabilitative institution, detention facility,  
23 school employee, private residential rehabilitative institution  
24 employee or detention facility employee commits a misdemeanor of  
25 the third degree.

26 Section 3. Section 6331(2) of Title 23 is amended to read:

27 § 6331. Establishment of pending complaint file, Statewide  
28 central register and file of unfounded reports.

29 There shall be established in the department:

30 \* \* \*

1 (2) A Statewide central register of child abuse which  
2 shall consist of founded and indicated reports[.] and which  
3 contains the following subfiles that shall be retained  
4 indefinitely:

5 (i) A subfile of the names of perpetrators of  
6 indicated and founded reports of child abuse if the  
7 individual's Social Security number or date of birth is  
8 known to the department.

9 (ii) A subfile of the names of the persons who made  
10 an intentionally false report of suspected child abuse  
11 under section 6318(c) (relating to immunity from  
12 liability), including the name of the subject child,  
13 which shall only be made available to law enforcement,  
14 the department or the county agency investigating new  
15 allegations of suspected child abuse at a school, a  
16 private residential rehabilitative institution or a  
17 detention facility to determine the existence of a  
18 pattern of false reports of suspected child abuse on  
19 behalf of any one person or subject child.

20 \* \* \*

21 Section 4. Section 6341(a)(2), (c) and (f) of Title 23 are  
22 amended and the section is amended by adding a subsection to  
23 read:

24 § 6341. Amendment or expunction of information.

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

26 \* \* \*

27 (2) Any person named as a perpetrator, and any school  
28 employee, private residential rehabilitative institution  
29 employee or detention facility employee named, in an  
30 indicated report of child abuse may, within 45 days of being

1 notified of the status of the report, request the secretary  
2 to amend or expunge an indicated report on the grounds that  
3 it is inaccurate or it is being maintained in a manner  
4 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 private residential rehabilitative institution employee or  
11 detention facility employee shall have the right to a hearing  
12 before the secretary or a designated agent of the secretary to  
13 determine whether the summary of the indicated report in the  
14 Statewide central register should be amended or expunged on the  
15 grounds that it is inaccurate or that it is being maintained in  
16 a manner inconsistent with this chapter. The perpetrator [or], school employee,  
17 private residential rehabilitative institution  
18 employee or detention facility employee shall have 45 days from  
19 the date of the letter giving notice of the decision to deny the  
20 request in which to request a hearing. The appropriate county  
21 agency and appropriate law enforcement officials shall be given  
22 notice of the hearing. The burden of proof in the hearing shall  
23 be on the appropriate county agency. The department shall assist  
24 the county agency as necessary.

25 (c.1) Appeals from refusal of request.--

26 (1) A school employee, private residential  
27 rehabilitative institution employee or detention facility  
28 employee who is named in an indicated report of suspected  
29 child abuse and who, under subsection (c), files an appeal  
30 shall be entitled to an initial hearing and ruling on the

1 matter within 45 days of the date the appeal was received by  
2 the secretary. If a ruling on the matter is not issued within  
3 45 days the report shall be marked unfounded and expunction  
4 shall be granted in accordance with the terms of this  
5 chapter.

6 (2) The initial hearing shall be conducted before the  
7 secretary or the designated agent of the secretary for the  
8 purpose of determining whether credible and substantial  
9 evidence exists to support the determination made by the  
10 department or the county agency. All evidence gathered by the  
11 department or county agency as part of its investigation  
12 leading to a determination shall be disclosed to the  
13 appellant employee sufficiently in advance of the hearing so  
14 as to make the disclosure meaningful and shall be subject to  
15 cross-examination at the hearing. If the secretary or  
16 designee concludes that insufficient evidence exists to  
17 support the determination, the report shall be marked  
18 unfounded and expunction shall be granted in accordance with  
19 the terms of this chapter. If the secretary or designee  
20 concludes that sufficient evidence has been presented, the  
21 matter shall be scheduled for a full hearing on the merits.  
22 If a full hearing is necessary and the appellant is a private  
23 residential rehabilitative institution employee or detention  
24 facility employee, the secretary or designee shall also  
25 determine whether the appellant shall continue to work with  
26 children and under what, if any, restrictions shall be  
27 imposed based on the nature and extent of the evidence  
28 presented. Restrictions may only be imposed if, based on  
29 evidence presented, the appellant presents a danger to the  
30 subject child or other minors under his or her care.

1           (3) The department or county agency shall bear the  
2           burden of proof at any hearing conducted before the secretary  
3           or designee.

4           \* \* \*

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

27           Section 5. This act shall take effect in 60 days.