

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 726 Session of
2013

INTRODUCED BY PETRI, WATSON, BISHOP, R. BROWN, CONKLIN, EVERETT,
FABRIZIO, FARRY, GROVE, HARHART, C. HARRIS, HESS, KORTZ,
MARSICO, MILLARD, MURT, O'NEILL, ROZZI, SANTARSIERO, SAYLOR,
HARKINS, BIZZARRO, CALTAGIRONE AND DEASY, FEBRUARY 14, 2013

SENATOR MENSCH, AGING AND YOUTH, IN SENATE, AS AMENDED, DECEMBER
3, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions; AND providing for exclusions from <--
4 child abuse; and further providing for disposition of founded <--
5 and indicated reports, for release of information in
6 confidential reports and for investigation of reports.

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

9 ~~Section 1. The definitions of "child," "nonaccidental," <--~~
10 ~~"perpetrator," "person responsible for the child's welfare,"~~
11 ~~"recent acts or omissions," "serious physical injury" and~~
12 ~~"sexual abuse or exploitation" in section 6303(a) of Title 23 of~~
13 ~~the Pennsylvania Consolidated Statutes are amended, subsection~~
14 ~~(a) is amended by adding definitions, subsection (b) is amended~~
15 ~~and the section is amended by adding a subsection to read:~~

16 SECTION 1. THE DEFINITIONS OF "CHILD," "FOUNDED REPORT," <--
17 "INDICATED REPORT," "NONACCIDENTAL," "RECENT ACTS OR OMISSIONS,"
18 "SERIOUS PHYSICAL INJURY" AND "SEXUAL ABUSE OR EXPLOITATION" IN

1 SECTION 6303(A) OF TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED
2 STATUTES ARE AMENDED, SUBSECTION (A) IS AMENDED BY ADDING
3 DEFINITIONS, SUBSECTION (B) IS AMENDED AND THE SECTION IS
4 AMENDED BY ADDING SUBSECTIONS 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 "Bodily injury." Impairment of physical condition or
11 substantial pain.

12 "Child." [~~Includes~~] ~~An individual under 18 years of age. The~~ <--
13 ~~term includes a newborn.~~ [INCLUDES A NEWBORN.] AN INDIVIDUAL <--
14 UNDER 18 YEARS OF AGE.

15 * * *

16 "FOUNDED REPORT." [A CHILD ABUSE REPORT MADE PURSUANT TO <--
17 THIS CHAPTER IF THERE HAS BEEN ANY JUDICIAL ADJUDICATION BASED
18 ON A FINDING THAT A CHILD WHO IS A SUBJECT OF THE REPORT HAS
19 BEEN ABUSED, INCLUDING THE ENTRY OF A PLEA OF GUILTY OR NOLO
20 CONTENDERE OR A FINDING OF GUILT TO A CRIMINAL CHARGE INVOLVING
21 THE SAME FACTUAL CIRCUMSTANCES INVOLVED IN THE ALLEGATION OF
22 CHILD ABUSE.] A CHILD ABUSE REPORT INVOLVING A PERPETRATOR THAT
23 IS MADE PURSUANT TO THIS CHAPTER, IF ANY OF THE FOLLOWING
24 APPLIES:

25 (1) THERE HAS BEEN A JUDICIAL ADJUDICATION BASED ON A
26 FINDING THAT A CHILD WHO IS A SUBJECT OF THE REPORT HAS BEEN
27 ABUSED AND THE ADJUDICATION INVOLVES THE SAME FACTUAL
28 CIRCUMSTANCES INVOLVED IN THE ALLEGATION OF CHILD ABUSE. THE
29 JUDICIAL ADJUDICATION MAY INCLUDE ANY OF THE FOLLOWING:

30 (I) THE ENTRY OF A PLEA OF GUILTY OR NOLO

1 CONTENDERE.

2 (II) A FINDING OF GUILT TO A CRIMINAL CHARGE.

3 (III) A FINDING OF DEPENDENCY UNDER 42 PA.C.S. §
4 6341 (RELATING TO ADJUDICATION) IF THE COURT HAS ENTERED
5 A FINDING THAT A CHILD WHO IS THE SUBJECT OF THE REPORT
6 HAS BEEN ABUSED.

7 (IV) A FINDING OF DELINQUENCY UNDER 42 PA.C.S. §
8 6341 IF THE COURT HAS ENTERED A FINDING THAT THE CHILD
9 WHO IS THE SUBJECT OF THE REPORT HAS BEEN ABUSED BY THE
10 CHILD WHO WAS FOUND TO BE DELINQUENT.

11 (2) THERE HAS BEEN AN ACCEPTANCE INTO AN ACCELERATED
12 REHABILITATIVE DISPOSITION PROGRAM AND THE REASON FOR THE
13 ACCEPTANCE INVOLVES THE SAME FACTUAL CIRCUMSTANCES INVOLVED
14 IN THE ALLEGATION OF CHILD ABUSE.

15 (3) THERE HAS BEEN A CONSENT DECREE ENTERED IN A
16 JUVENILE PROCEEDING UNDER 42 PA.C.S. CH. 63 (RELATING TO
17 JUVENILE MATTERS), THE DECREE INVOLVES THE SAME FACTUAL
18 CIRCUMSTANCES INVOLVED IN THE ALLEGATION OF CHILD ABUSE AND
19 THE TERMS AND CONDITIONS OF THE ALLEGATION INCLUDE AN
20 ACKNOWLEDGMENT, ADMISSION OR FINDING THAT A CHILD WHO IS THE
21 SUBJECT OF THE REPORT HAS BEEN ABUSED BY THE CHILD WHO IS
22 ALLEGED TO BE DELINQUENT.

23 (4) A FINAL PROTECTION FROM ABUSE ORDER HAS BEEN GRANTED
24 UNDER SECTION 6108 (RELATING TO RELIEF), WHEN THE CHILD WHO
25 IS A SUBJECT OF THE REPORT IS ONE OF THE INDIVIDUALS
26 PROTECTED UNDER THE PROTECTION FROM ABUSE ORDER AND:

27 (I) ONLY ONE INDIVIDUAL IS CHARGED WITH THE ABUSE IN
28 THE PROTECTION FROM ABUSE ACTION;

29 (II) ONLY THAT INDIVIDUAL DEFENDS AGAINST THE
30 CHARGE;

1 (III) THE ADJUDICATION INVOLVES THE SAME FACTUAL
2 CIRCUMSTANCES INVOLVED IN THE ALLEGATION OF CHILD ABUSE;
3 AND

4 (IV) THE PROTECTION FROM ABUSE ADJUDICATION FINDS
5 THAT THE CHILD ABUSE OCCURRED.

6 * * *

7 "INDICATED REPORT." [A CHILD ABUSE REPORT MADE PURSUANT TO
8 THIS CHAPTER IF AN INVESTIGATION BY THE COUNTY AGENCY OR THE
9 DEPARTMENT OF PUBLIC WELFARE DETERMINES THAT SUBSTANTIAL
10 EVIDENCE OF THE ALLEGED ABUSE EXISTS BASED ON ANY OF THE
11 FOLLOWING:

- 12 (1) AVAILABLE MEDICAL EVIDENCE.
- 13 (2) THE CHILD PROTECTIVE SERVICE INVESTIGATION.
- 14 (3) AN ADMISSION OF THE ACTS OF ABUSE BY THE
15 PERPETRATOR.]

16 (1) SUBJECT TO PARAGRAPHS (2) AND (3), A REPORT OF CHILD
17 ABUSE MADE PURSUANT TO THIS CHAPTER IF AN INVESTIGATION BY
18 THE DEPARTMENT OF PUBLIC WELFARE OR COUNTY AGENCY DETERMINES
19 THAT SUBSTANTIAL EVIDENCE OF THE ALLEGED ABUSE BY A
20 PERPETRATOR EXISTS BASED ON ANY OF THE FOLLOWING:

- 21 (I) AVAILABLE MEDICAL EVIDENCE.
- 22 (II) THE CHILD PROTECTIVE SERVICE INVESTIGATION.
- 23 (III) AN ADMISSION OF THE ACTS OF ABUSE BY THE
24 PERPETRATOR.

25 (2) A REPORT MAY BE INDICATED UNDER PARAGRAPH (1) (I) OR
26 (II) FOR ANY CHILD WHO IS THE VICTIM OF CHILD ABUSE,
27 REGARDLESS OF THE NUMBER OF ALLEGED PERPETRATORS.

28 (3) A REPORT MAY BE INDICATED UNDER PARAGRAPH (1) (I) OR
29 (II) LISTING THE PERPETRATOR AS "UNKNOWN" IF SUBSTANTIAL
30 EVIDENCE OF ABUSE BY A PERPETRATOR EXISTS, BUT THE DEPARTMENT

1 OR COUNTY AGENCY IS UNABLE TO IDENTIFY THE SPECIFIC
2 PERPETRATOR.

3 * * *

4 "Intentionally." The term shall have the same meaning as
5 provided in 18 Pa.C.S. § 302 (relating to general requirements
6 of culpability).

7 "Knowingly." The term shall have the same meaning as
8 provided in 18 Pa.C.S. § 302 (relating to general requirements
9 of culpability).

10 * * *

11 ["Nonaccidental." An injury that is the result of an
12 intentional act that is committed with disregard of a
13 substantial and unjustifiable risk.]

14 ~~"Peer." A person similar in age, grade level, physical~~ <--
15 ~~maturity and developmental ability to another.~~

16 ~~"Perpetrator." A person who has committed child abuse and is~~
17 ~~a parent of a child, a person responsible for the welfare of a~~
18 ~~child, an individual residing in the same home as a child, a~~
19 ~~relative of the child or a paramour, spouse, former paramour or~~
20 ~~former spouse of a child's parent.~~

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

28 "PARENT." A BIOLOGICAL PARENT, ADOPTIVE PARENT OR LEGAL <--
29 GUARDIAN.

30 * * *

1 "RECENT ACT." ANY ACT COMMITTED WITHIN TWO YEARS OF THE DATE <--
2 OF THE REPORT TO THE DEPARTMENT OF PUBLIC WELFARE OR COUNTY
3 AGENCY.

4 "Recent [acts or omissions." Acts or omissions] act or
5 failure to act." Any act or failure to act committed within two
6 years of the date of the report to the Department of Public
7 Welfare or county agency.

8 "Recklessly." The term shall have the same meaning as
9 provided in 18 Pa.C.S. § 302 (relating to general requirements
10 of culpability).

11 ~~"Relative." A person who is 14 years of age or older and is <--~~
12 ~~related to the child within the third degree of consanguinity or~~
13 ~~affinity, whether or not the individual lives in the same home~~
14 ~~as the child.~~

15 * * *

16 ["Serious physical injury." An injury that:

- 17 (1) causes a child severe pain; or
18 (2) significantly impairs a child's physical
19 functioning, either temporarily or permanently.]

20 "Serious physical neglect." Any of the following when
21 committed by a perpetrator that endangers a child's life or
22 health, threatens a child's well-being, causes bodily injury or
23 impairs a child's health, development or functioning:

24 (1) A repeated, prolonged or unconscionable EGREGIOUS <--
25 failure to supervise a child in a manner that is appropriate
26 considering the child's developmental age and abilities.

27 (2) The failure to provide a child with adequate
28 essentials of life, including food, shelter or medical care.

29 ["Sexual abuse or exploitation." Any of the following:

- 30 (1) The employment, use, persuasion, inducement,

1 enticement or coercion of a child to engage in or assist
2 another individual to engage in sexually explicit conduct.

3 (2) The employment, use, persuasion, inducement,
4 enticement or coercion of a child to engage in or assist
5 another individual to engage in simulation of sexually
6 explicit conduct for the purpose of producing visual
7 depiction, including photographing, videotaping, computer
8 depicting and filming.

9 (3) Any of the following offenses committed against a
10 child:

- 11 (i) Rape.
- 12 (ii) Sexual assault.
- 13 (iii) Involuntary deviate sexual intercourse.
- 14 (iv) Aggravated indecent assault.
- 15 (v) Molestation.
- 16 (vi) Incest.
- 17 (vii) Indecent exposure.
- 18 (viii) Prostitution.
- 19 (ix) Sexual abuse.
- 20 (x) Sexual exploitation.]

21 "Sexual abuse or exploitation." Any of the following:

22 (1) The employment, use, persuasion, inducement,
23 enticement or coercion of a child to engage in or assist
24 another individual to engage in sexually explicit conduct,
25 which includes, but is not limited to, the following:

26 (i) Looking at the sexual or other intimate parts of
27 a child or another individual for the purpose of arousing
28 or gratifying sexual desire in any individual.

29 (ii) Participating in sexually explicit conversation
30 either in person, by telephone, by computer or by a

1 computer-aided device for the purpose of sexual
2 stimulation or gratification of any individual.

3 (iii) Actual or simulated sexual activity or nudity
4 for the purpose of sexual stimulation or gratification of
5 any individual.

6 (iv) Actual or simulated sexual activity for the
7 purpose of producing visual depiction, including
8 photographing, videotaping, computer depicting or
9 filming.

10 This paragraph does not include consensual activities between
11 a child who is 14 years of age or older and another person
12 who is 14 years of age or older and whose age is within four
13 years of the child's age.

14 (2) Any of the following offenses committed against a
15 child:

16 (i) Rape, as defined in 18 Pa.C.S. § 3121 (relating
17 to rape).

18 (ii) Statutory sexual assault, as defined in
19 18 Pa.C.S. § 3122.1 (relating to statutory sexual
20 assault).

21 (iii) Involuntary deviate sexual intercourse, as
22 defined in 18 Pa.C.S. § 3123 (relating to involuntary
23 deviate sexual intercourse).

24 (iv) Sexual assault, as defined in
25 18 Pa.C.S. § 3124.1 (relating to sexual assault).

26 (v) Institutional sexual assault, as defined in
27 18 Pa.C.S. § 3124.2 (relating to institutional sexual
28 assault).

29 (vi) Aggravated indecent assault, as defined in
30 18 Pa.C.S. § 3125 (relating to aggravated indecent

1 assault).

2 (vii) Indecent assault, as defined in
3 18 Pa.C.S. § 3126 (relating to indecent assault).

4 (viii) Indecent exposure, as defined in
5 18 Pa.C.S. § 3127 (relating to indecent exposure).

6 (ix) Incest, as defined in 18 Pa.C.S. § 4302
7 (relating to incest).

8 (x) Prostitution, as defined in 18 Pa.C.S. § 5902
9 (relating to prostitution and related offenses).

10 (xi) Sexual abuse, as defined in 18 Pa.C.S. § 6312
11 (relating to sexual abuse of children).

12 (xii) Unlawful contact with a minor, as defined in
13 18 Pa.C.S. § 6318 (relating to unlawful contact with
14 minor).

15 (xiii) Sexual exploitation, as defined in
16 18 Pa.C.S. § 6320 (relating to sexual exploitation of
17 children).

18 * * *

19 [(b) Child abuse.--

<--

20 †(1) The term "child abuse" shall mean any of the
21 following:

<--

22 (i) Any recent act or failure to act by a
23 perpetrator which causes nonaccidental serious physical
24 injury to a child under 18 years of age.

25 (ii) An act or failure to act by a perpetrator which
26 causes nonaccidental serious mental injury to or sexual
27 abuse or sexual exploitation of a child under 18 years of
28 age.

29 (iii) Any recent act, failure to act or series of
30 such acts or failures to act by a perpetrator which

1 creates an imminent risk of serious physical injury to or
2 sexual abuse or sexual exploitation of a child under 18
3 years of age.

4 (iv) Serious physical neglect by a perpetrator
5 constituting prolonged or repeated lack of supervision or
6 the failure to provide essentials of life, including
7 adequate medical care, which endangers a child's life or
8 development or impairs the child's functioning.

9 (2) No child shall be deemed to be physically or
10 mentally abused based on injuries that result solely from
11 environmental factors that are beyond the control of the
12 parent or person responsible for the child's welfare, such as
13 inadequate housing, furnishings, income, clothing and medical
14 care.

15 (3) If, upon investigation, the county agency determines
16 that a child has not been provided needed medical or surgical
17 care because of seriously held religious beliefs of the
18 child's parents, guardian or person responsible for the
19 child's welfare, which beliefs are consistent with those of a
20 bona fide religion, the child shall not be deemed to be
21 physically or mentally abused. The county agency shall
22 closely monitor the child and shall seek court-ordered
23 medical intervention when the lack of medical or surgical
24 care threatens the child's life or long-term health. In cases
25 involving religious circumstances, all correspondence with a
26 subject of the report and the records of the Department of
27 Public Welfare and the county agency shall not reference
28 "child abuse" and shall acknowledge the religious basis for
29 the child's condition, and the family shall be referred for
30 general protective services, if appropriate.]

1 ~~The term "child abuse" shall mean intentionally, knowingly or~~ <--
2 (B.1) CHILD ABUSE.--THE TERM "CHILD ABUSE" SHALL MEAN <--
3 INTENTIONALLY, KNOWINGLY OR recklessly doing any of the
4 following:
5 (1) Causing bodily injury to a child through any recent
6 act or failure to act.
7 (2) FABRICATING, FEIGNING OR INTENTIONALLY EXAGGERATING <--
8 OR INDUCING A MEDICAL SYMPTOM OR DISEASE WHICH RESULTS IN A
9 POTENTIALLY HARMFUL MEDICAL EVALUATION OR TREATMENT TO THE
10 CHILD THROUGH ANY RECENT ACT.
11 ~~(2)~~ (3) Causing or substantially contributing to serious <--
12 mental injury to a child through any act or failure to act or
13 a series of such acts or failures to act.
14 ~~(3)~~ (4) Causing sexual abuse or exploitation of a child <--
15 through any act or failure to act.
16 ~~(4)~~ (5) Creating a reasonable likelihood of bodily <--
17 injury to a child through any recent act or failure to act.
18 ~~(5)~~ (6) Creating a likelihood of sexual abuse or <--
19 exploitation of a child through any recent act or failure to
20 act.
21 ~~(6)~~ (7) Causing serious physical neglect of a child. <--
22 ~~(7)~~ (8) Engaging in any of the following recent acts: <--
23 (i) Kicking, biting or, throwing, burning, stabbing <--
24 or cutting a child in a manner that endangers the child.
25 (ii) Unreasonably physically restraining RESTRAINING <--
26 OR CONFINING a child, based on consideration of the
27 method, location or the duration of the restraint OR <--
28 CONFINEMENT.
29 (iii) Forcefully shaking a child under one year of
30 age.

1 (iv) Forcefully SLAPPING OR OTHERWISE striking a <--
2 child under one year of age.

3 (v) Interfering with the breathing of a child.

4 (vi) Causing a child to be present at a location
5 where any of the following offenses has occurred: <--

6 (A) A violation of 18 Pa.C.S. § 7508.2 (relating
7 to operation of methamphetamine laboratory) resulting
8 in a conviction.

9 (B) A felony violation of the act of April 14,
10 1972, known as The Controlled Substance, Drug, Device
11 and Cosmetics Act, resulting in a conviction.

12 (C) A violation of 75 Pa.C.S. § 3802 (relating
13 to driving under the influence of alcohol or a
14 controlled substance), where the child is a
15 passenger, resulting in a conviction. WHILE A <--
16 VIOLATION OF 18 PA.C.S. § 7508.2 (RELATING TO
17 OPERATION OF METHAMPHETAMINE LABORATORY) IS
18 OCCURRING, PROVIDED THAT THE VIOLATION IS BEING
19 INVESTIGATED BY LAW ENFORCEMENT.

20 (VII) LEAVING A CHILD UNSUPERVISED WITH AN
21 INDIVIDUAL, OTHER THAN THE CHILD'S PARENT, WHO THE ACTOR
22 KNOWS OR REASONABLY SHOULD HAVE KNOWN:

23 (A) IS REQUIRED TO REGISTER AS A TIER II OR TIER
24 III SEXUAL OFFENDER UNDER 42 PA.C.S. CH. 97 SUBCH. H
25 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS), WHERE
26 THE VICTIM OF THE SEXUAL OFFENSE WAS UNDER 18 YEARS
27 OF AGE WHEN THE CRIME WAS COMMITTED.

28 (B) HAS BEEN DETERMINED TO BE A SEXUALLY VIOLENT
29 PREDATOR UNDER 42 PA.C.S. § 9799.24 (RELATING TO
30 ASSESSMENTS) OR ANY OF ITS PREDECESSORS.

1 (C) HAS BEEN DETERMINED TO BE A SEXUALLY VIOLENT
2 DELINQUENT CHILD AS DEFINED IN 42 PA.C.S. § 9799.12
3 (RELATING TO DEFINITIONS).

4 ~~(8)~~ (9) Causing the death of the child through any act <--
5 or failure to act.

6 (C) RESTATEMENT OF CULPABILITY.--CONDUCT THAT CAUSES <--
7 INJURY OR HARM TO A CHILD OR CREATES A RISK OF INJURY OR HARM
8 TO A CHILD SHALL NOT BE CONSIDERED CHILD ABUSE IF THERE IS NO
9 EVIDENCE THAT THE PERSON ACTED INTENTIONALLY, KNOWINGLY OR
10 RECKLESSLY WHEN CAUSING THE INJURY OR HARM TO THE CHILD OR
11 CREATING A RISK OF INJURY OR HARM TO THE CHILD.

12 ~~(e)~~ (D) Child abuse exclusions.--The term "child abuse" does <--
13 not include any conduct for which an exclusion is provided in
14 section 6304 (relating to exclusions from child abuse).

15 Section 2. Title 23 is amended by adding a section to read:
16 § 6304. Exclusions from child abuse.

17 (a) Environmental factors.--No child shall be deemed to be
18 physically or mentally abused based on injuries that result
19 solely from environmental factors that are beyond the control of <--
20 the parent or guardian, such as inadequate housing, furnishings,
21 income, clothing and medical care., SUCH AS INADEQUATE HOUSING, <--
22 FURNISHINGS, INCOME, CLOTHING AND MEDICAL CARE, THAT ARE BEYOND
23 THE CONTROL OF THE PARENT OR PERSON RESPONSIBLE FOR THE CHILD'S
24 WELFARE WITH WHOM THE CHILD RESIDES. THIS SUBSECTION SHALL NOT
25 APPLY TO ANY CHILD-CARE SERVICE AS DEFINED IN THIS CHAPTER,
26 EXCLUDING AN ADOPTIVE PARENT.

27 (b) Practice of religious beliefs.--If, upon investigation,
28 the county agency determines that a child has not been provided
29 needed medical or surgical care because of sincerely held
30 religious beliefs of the child's parents or ~~guardian~~ RELATIVE <--

1 WITHIN THE THIRD DEGREE OF CONSANGUINITY AND WITH WHOM THE CHILD
2 RESIDES, which beliefs are consistent with those of a bona fide
3 religion, the child shall not be deemed to be physically or
4 mentally abused. In such cases the following shall apply:

5 (1) The county agency shall closely monitor the child
6 and the child's family and shall seek court-ordered medical
7 intervention when the lack of medical or surgical care
8 threatens the child's life or long-term health.

9 (2) All correspondence with a subject of the report and
10 the records of the department and the county agency shall not
11 reference child abuse and shall acknowledge the religious
12 basis for the child's condition.

13 (3) The family shall be referred for general protective
14 services, if appropriate.

15 (4) This subsection shall not apply if the failure to
16 provide needed medical or surgical care causes the death of
17 the child.

18 (5) THIS SUBSECTION SHALL NOT APPLY TO ANY CHILD-CARE <--
19 SERVICE AS DEFINED IN THIS CHAPTER, EXCLUDING AN ADOPTIVE
20 PARENT.

21 (c) Use of force for supervision, control and safety
22 purposes.--Subject to subsection (d), the use of reasonable
23 force on or against a child by a person responsible for <--
24 supervision, control or safety of the child <--
25 THE CHILD'S OWN
26 PARENT OR PERSON RESPONSIBLE FOR THE CHILD'S WELFARE shall not
27 be considered child abuse if any of the following conditions
28 apply:

29 (1) The use of reasonable force constitutes incidental,
30 minor or reasonable physical contact with the child or other
actions that are designed to maintain order and control.

1 (2) The use of reasonable force is necessary:

2 (i) to quell a disturbance or remove the child from
3 the scene of a disturbance that threatens physical injury
4 to persons or damage to property;

5 (ii) to prevent the child from self-inflicted
6 physical harm;

7 (iii) for self-defense or the defense of another
8 individual; or

9 (iv) to obtain possession of weapons or other
10 dangerous objects or controlled substances or
11 paraphernalia that are on the child or within the control
12 of the child.

13 ~~(d) Reasonable force by parents and guardians and other~~ <--
14 ~~authorized persons. Notwithstanding subsection (c), this~~
15 ~~chapter does not restrict the generally recognized existing~~
16 ~~rights of parents, guardians and persons authorized by a parent~~
17 ~~or guardian to use reasonable force for supervision, control and~~
18 ~~discipline when raising children. Such force shall not be~~
19 ~~considered child abuse, provided that force is used in a~~
20 ~~reasonable and controlled manner. When determining whether such~~
21 ~~force is reasonable, the intent of the parent, guardian or other~~
22 ~~authorized person, the circumstances, the physical and mental~~
23 ~~maturity of the child and the physical and mental condition of~~
24 ~~the child are factors to be considered. This subsection shall~~
25 ~~not be construed to supersede any law or regulation prohibiting~~
26 ~~or regulating the use of disciplinary force or physical~~
27 ~~punishment by certain individuals who are not parents or~~
28 ~~guardians, including, but not limited to, foster parents, school~~
29 ~~employees, child care employees and employees of residential~~
30 ~~facilities.~~

1 (D) RIGHTS OF PARENTS.--NOTHING IN THIS CHAPTER SHALL BE <--
2 CONSTRUED TO RESTRICT THE GENERALLY RECOGNIZED EXISTING RIGHTS
3 OF PARENTS TO USE REASONABLE FORCE ON OR AGAINST THEIR CHILDREN
4 FOR THE PURPOSES OF SUPERVISION, CONTROL AND DISCIPLINE OF THEIR
5 CHILDREN. SUCH REASONABLE FORCE SHALL NOT CONSTITUTE CHILD
6 ABUSE.

7 (e) Participation in events that involve physical contact
8 with child.--An individual participating in a practice or
9 competition in an interscholastic sport, physical education, a
10 recreational activity or an extracurricular activity that
11 involves physical contact with a child does not, in itself,
12 constitute contact that is subject to the reporting requirements
13 of this chapter.

14 ~~(f) Peer on peer contact. No child shall be deemed to be~~ <--
15 ~~physically or mentally abused based on injuries that result from~~
16 ~~a dispute, fight or scuffle with a peer.~~

17 (F) CHILD-ON-CHILD CONTACT.-- <--

18 (1) HARM OR INJURY TO A CHILD THAT RESULTS FROM THE ACT
19 OF ANOTHER CHILD SHALL NOT CONSTITUTE CHILD ABUSE UNLESS THE
20 CHILD WHO CAUSED THE HARM OR INJURY IS A PERPETRATOR.

21 (2) NOTWITHSTANDING PARAGRAPH (1), THE FOLLOWING SHALL
22 APPLY:

23 (I) ACTS CONSTITUTING ANY OF THE FOLLOWING CRIMES
24 AGAINST A CHILD SHALL BE SUBJECT TO THE REPORTING
25 REQUIREMENTS OF THIS CHAPTER:

26 (A) RAPE AS DEFINED IN 18 PA.C.S. § 3121
27 (RELATING TO RAPE);

28 (B) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE AS
29 DEFINED IN 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY
30 DEVIATE SEXUAL INTERCOURSE);

1 (C) SEXUAL ASSAULT AS DEFINED IN 18 PA.C.S. §
2 3124.1 (RELATING TO SEXUAL ASSAULT);

3 (D) AGGRAVATED INDECENT ASSAULT AS DEFINED IN 18
4 PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT
5 ASSAULT);

6 (E) INDECENT ASSAULT, AS DEFINED IN 18 PA.C.S. §
7 3126 (RELATING TO INDECENT ASSAULT);

8 (F) INDECENT EXPOSURE, AS DEFINED IN 18 PA.C.S.
9 § 3127 (RELATING TO INDECENT EXPOSURE).

10 (II) NO CHILD SHALL BE DEEMED TO BE A PERPETRATOR OF
11 CHILD ABUSE BASED SOLELY ON PHYSICAL OR MENTAL INJURIES
12 CAUSED TO ANOTHER CHILD IN THE COURSE OF A DISPUTE, FIGHT
13 OR SCUFFLE ENTERED INTO BY MUTUAL CONSENT.

14 (III) A LAW ENFORCEMENT OFFICIAL WHO RECEIVES A
15 REPORT OF SUSPECTED CHILD ABUSE IS NOT REQUIRED TO MAKE A
16 REPORT TO THE DEPARTMENT UNDER SECTION 6334(A) (RELATING
17 TO DISPOSITION OF COMPLAINTS RECEIVED), IF THE PERSON
18 ALLEGEDLY RESPONSIBLE FOR THE CHILD ABUSE IS A
19 NONPERPETRATOR CHILD.

20 (g) Defensive force.--Reasonable force for self-defense or
21 the defense of another individual, consistent with the
22 provisions of with 18 Pa.C.S. §§ 505 (relating to use of force
23 for self-protection) and 506 (relating to use of force for the
24 protection of other persons), shall not be considered child
25 abuse.

26 ~~(h) Accidental conduct. Conduct that causes injury or harm <--~~
27 ~~to a child or creates a risk of injury or harm to a child shall~~
28 ~~not be considered child abuse if there is no evidence that the~~
29 ~~person acted intentionally, knowingly or recklessly when causing~~
30 ~~the injury or harm to the child or creating a risk of injury or~~

1 ~~harm to the child.~~

2 Section 3. ~~Section 6338 of Title 23 is amended by adding~~
3 ~~subsections to to read:~~

4 ~~§ 6338. Disposition of founded and indicated reports.~~

5 * * *

6 ~~(d) Expunction of information when a perpetrator attains 21~~
7 ~~years of age. Notwithstanding subsection (c), the name of a~~
8 ~~perpetrator of child abuse who was under 18 years of age when~~
9 ~~the individual committed child abuse shall be expunged from the~~
10 ~~Statewide central register when the individual reaches 21 years~~
11 ~~of age, if the individual has not been named as a perpetrator in~~
12 ~~any subsequent founded or indicated report of child abuse. The~~
13 ~~expunction shall be mandated and guaranteed by the department.~~

14 ~~(e) Nonapplicability. The provisions of subsection (d)~~
15 ~~shall not apply in the case of a:~~

16 ~~(1) sexually violent delinquent child as defined in 42~~
17 ~~Pa.C.S. § 9799.12 (relating to definitions) who:~~

18 ~~(i) is required to register under 42 Pa.C.S. Ch. 97~~
19 ~~Subch. H (relating to registration of sexual offenders);~~
20 ~~and~~

21 ~~(ii) was found delinquent as a result of the same~~
22 ~~acts which resulted in the sexually violent delinquent~~
23 ~~child being named a perpetrator of child abuse; or~~

24 ~~(2) juvenile offender as defined in 42 Pa.C.S. § 9799.12~~
25 ~~who:~~

26 ~~(i) is required to register under 42 Pa.C.S. Ch. 97~~
27 ~~Subch. H;~~

28 ~~(ii) is required to register under 42 Pa.C.S. Ch. 97~~
29 ~~Subch. H as a result of an adjudication of delinquency~~
30 ~~for the same acts which resulted in the juvenile~~

~~offender's being named a perpetrator of child abuse; and
(iii) has not been removed from the Statewide
Registry of Sexual Offenders pursuant to 42 Pa.C.S. §
9799.17 (relating to termination of period of
registration for juvenile offenders).~~

~~Section 4. Sections 6340(a)(9), (10) and (13) and 6368(a) of
Title 23 are amended to read:~~

~~§ 6340. Release of information in confidential reports.~~

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

~~* * *~~

~~(9) Law enforcement officials of any jurisdiction, as
long as the information is relevant in the course of
investigating cases of:~~

~~(i) Homicide or other criminal offense set forth in
section 6344(c) (relating to information relating to
prospective child care personnel), sexual abuse, sexual
exploitation, serious bodily injury or [serious physical
injury] bodily injury perpetrated by persons whether or
not related to the victim.~~

~~(ii) Child abuse perpetrated by persons who are not
family members.~~

~~(iii) Repeated physical injury to a child under
circumstances which indicate that the child's health,
safety or welfare is harmed or threatened.~~

~~(iv) A missing child report.~~

~~(10) The district attorney or his designee or other law
enforcement official, as set forth in the county protocols
for investigative teams required in section 6365(c) (relating~~

1 ~~to services for prevention, investigation and treatment of~~
2 ~~child abuse), shall receive, immediately after the county~~
3 ~~agency has ensured the safety of the child, reports of abuse,~~
4 ~~either orally or in writing, according to regulations~~
5 ~~promulgated by the department, from the county agency in~~
6 ~~which the initial report of suspected child abuse or initial~~
7 ~~inquiry into the report gives evidence that the abuse is:~~

8 ~~(i) a criminal offense set forth in section 6344(c),~~
9 ~~not including an offense under 18 Pa.C.S. § 4304~~
10 ~~(relating to endangering welfare of children) or an~~
11 ~~equivalent crime under Federal law or the law of another~~
12 ~~state, sexual abuse, sexual exploitation or serious~~
13 ~~bodily injury perpetrated by persons, whether or not~~
14 ~~related to the victim;~~

15 ~~(ii) child abuse perpetrated by persons who are not~~
16 ~~family members; or~~

17 ~~(iii) [serious physical injury] bodily injury~~
18 ~~involving extensive and severe bruising, burns, broken~~
19 ~~bones, lacerations, internal bleeding, shaken baby~~
20 ~~syndrome or choking or an injury that significantly~~
21 ~~impairs a child's physical functioning, either~~
22 ~~temporarily or permanently.~~

23 * * *

24 ~~(13) [Persons required to make reports under Subchapter~~
25 ~~C.1 (relating to students in public and private schools).~~
26 ~~Information under this paragraph shall be] If the alleged~~
27 ~~perpetrator is a school employee, the school administrator~~
28 ~~shall receive information limited to the final status of the~~
29 ~~report following the investigation as to whether the report~~
30 ~~is indicated, founded or unfounded. Information disclosed~~

~~pursuant to this paragraph shall be provided to the school administrator within ten days of the completion of the investigation.~~

~~* * *~~

~~§ 6368. Investigation of reports.~~

~~(a) General rule. Upon receipt of each report of suspected child abuse, the county agency shall immediately commence an appropriate investigation and see the child immediately if emergency protective custody is required or has been or shall be taken or if it cannot be determined from the report whether emergency protective custody is needed. Otherwise, the county agency shall commence an appropriate investigation and see the child within 24 hours of receipt of the report. The investigation shall include a determination of the risk of harm to the child or children if they continue to remain in the existing home environment, as well as a determination of the nature, extent and cause of any condition enumerated in the report, any action necessary to provide for the safety of the child or children and the taking of photographic identification of the child or children to be maintained with the file. During the investigation, the county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination pursuant to this section. If the investigation indicates [serious physical injury] bodily injury, a medical examination shall be performed on the subject child by a certified medical practitioner. Where there is reasonable cause to suspect there is a history of prior or current abuse, the medical practitioner has the authority to arrange for further medical tests or the county agency has the authority to request further medical tests. The investigation shall include~~

1 ~~communication with the department's service under section 6332-~~
2 ~~(relating to establishment of Statewide toll free telephone-~~
3 ~~number). Prior to interviewing a subject of the report, the-~~
4 ~~county agency shall orally notify the subject who is about to be-~~
5 ~~interviewed of the existence of the report, the subject's rights-~~
6 ~~under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338-~~
7 ~~(relating to other basic rights) and the subject's rights-~~
8 ~~pursuant to this chapter in regard to amendment or expungement.-~~
9 ~~Within 72 hours following oral notification to the subject, the-~~
10 ~~county agency shall give written notice to the subject. The-~~
11 ~~notice may be reasonably delayed if notification is likely to-~~
12 ~~threaten the safety of the victim, a nonperpetrator subject or-~~
13 ~~the investigating county agency worker, to cause the perpetrator-~~
14 ~~to abscond or to significantly interfere with the conduct of a-~~
15 ~~criminal investigation. However, the written notice must be-~~
16 ~~provided to all subjects prior to the county agency's reaching a-~~
17 ~~finding on the validity of the report.~~

18 ~~* * *~~

19 ~~Section 5. This act shall take effect in 60 days.~~

20 SECTION 3. THIS ACT SHALL TAKE EFFECT DECEMBER 31, 2014. <--