

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

AS AMENDED ON THIRD CONSIDERATION, DECEMBER 10, 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 FURTHER PROVIDING FOR DISPOSITION OF FOUNDED AND INDICATED
8 REPORTS, FOR AMENDMENT OR EXPUNCTION OF INFORMATION, FOR
9 INVESTIGATION OF REPORTS AND FOR EVIDENCE IN COURT
10 PROCEEDINGS.

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

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

20 SECTION 1. THE DEFINITIONS OF "CHILD," "FOUNDED REPORT," <--

1 "INDICATED REPORT," "NONACCIDENTAL," "RECENT ACTS OR OMISSIONS,"
2 "SERIOUS PHYSICAL INJURY" AND "SEXUAL ABUSE OR EXPLOITATION" IN
3 SECTION 6303(A) OF TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED
4 STATUTES ARE AMENDED, SUBSECTION (A) IS AMENDED BY ADDING
5 DEFINITIONS, SUBSECTION (B) IS AMENDED AND THE SECTION IS
6 AMENDED BY ADDING SUBSECTIONS TO READ:

7 § 6303. Definitions.

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

11 * * *

12 "Bodily injury." Impairment of physical condition or
13 substantial pain.

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

17 * * *

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

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

1 JUDICIAL ADJUDICATION MAY INCLUDE ANY OF THE FOLLOWING:

2 (I) THE ENTRY OF A PLEA OF GUILTY OR NOLO
3 CONTENDERE.

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

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

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

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

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

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

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

1 (II) ONLY THAT INDIVIDUAL DEFENDS AGAINST THE
2 CHARGE;

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

6 (IV) THE PROTECTION FROM ABUSE ADJUDICATION FINDS
7 THAT THE CHILD ABUSE OCCURRED.

8 * * *

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

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

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

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

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

30 (3) A REPORT MAY BE INDICATED UNDER PARAGRAPH (1) (I) OR

1 (II) LISTING THE PERPETRATOR AS "UNKNOWN" IF SUBSTANTIAL
2 EVIDENCE OF ABUSE BY A PERPETRATOR EXISTS, BUT THE DEPARTMENT
3 OR COUNTY AGENCY IS UNABLE TO IDENTIFY THE SPECIFIC
4 PERPETRATOR.

5 * * *

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

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

12 * * *

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

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

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

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

30 "PARENT." A BIOLOGICAL PARENT, ADOPTIVE PARENT OR LEGAL <--

1 GUARDIAN.

2 * * *

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

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

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

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

17 * * *

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

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

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

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

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

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

2 (1) The employment, use, persuasion, inducement,
3 enticement or coercion of a child to engage in or assist
4 another individual to engage in sexually explicit conduct.

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

11 (3) Any of the following offenses committed against a
12 child:

13 (i) Rape.

14 (ii) Sexual assault.

15 (iii) Involuntary deviate sexual intercourse.

16 (iv) Aggravated indecent assault.

17 (v) Molestation.

18 (vi) Incest.

19 (vii) Indecent exposure.

20 (viii) Prostitution.

21 (ix) Sexual abuse.

22 (x) Sexual exploitation.]

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

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

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

1 (ii) Participating in sexually explicit conversation
2 either in person, by telephone, by computer or by a
3 computer-aided device for the purpose of sexual
4 stimulation or gratification of any individual.

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

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

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

16 (2) Any of the following offenses committed against a
17 child:

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

20 (ii) Statutory sexual assault, as defined in
21 18 Pa.C.S. § 3122.1 (relating to statutory sexual
22 assault).

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

26 (iv) Sexual assault, as defined in
27 18 Pa.C.S. § 3124.1 (relating to sexual assault).

28 (v) Institutional sexual assault, as defined in
29 18 Pa.C.S. § 3124.2 (relating to institutional sexual
30 assault).

1 (vi) Aggravated indecent assault, as defined in
2 18 Pa.C.S. § 3125 (relating to aggravated indecent
3 assault).

4 (vii) Indecent assault, as defined in
5 18 Pa.C.S. § 3126 (relating to indecent assault).

6 (viii) Indecent exposure, as defined in
7 18 Pa.C.S. § 3127 (relating to indecent exposure).

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

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

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

14 (xii) Unlawful contact with a minor, as defined in
15 18 Pa.C.S. § 6318 (relating to unlawful contact with
16 minor).

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

20 * * *

21 [(b) Child abuse.--

<--

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

<--

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

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

1 (iii) Any recent act, failure to act or series of
2 such acts or failures to act by a perpetrator which
3 creates an imminent risk of serious physical injury to or
4 sexual abuse or sexual exploitation of a child under 18
5 years of age.

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

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

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

1 the child's condition, and the family shall be referred for
2 general protective services, if appropriate.]

3 ~~The term "child abuse" shall mean intentionally, knowingly or~~ <--
4 (B.1) CHILD ABUSE.--THE TERM "CHILD ABUSE" SHALL MEAN <--
5 INTENTIONALLY, KNOWINGLY OR recklessly doing any of the
6 following:

7 (1) Causing bodily injury to a child through any recent
8 act or failure to act.

9 (2) FABRICATING, FEIGNING OR INTENTIONALLY EXAGGERATING <--
10 OR INDUCING A MEDICAL SYMPTOM OR DISEASE WHICH RESULTS IN A
11 POTENTIALLY HARMFUL MEDICAL EVALUATION OR TREATMENT TO THE
12 CHILD THROUGH ANY RECENT ACT.

13 ~~(2)~~ (3) Causing or substantially contributing to serious <--
14 mental injury to a child through any act or failure to act or
15 a series of such acts or failures to act.

16 ~~(3)~~ (4) Causing sexual abuse or exploitation of a child <--
17 through any act or failure to act.

18 ~~(4)~~ (5) Creating a reasonable likelihood of bodily <--
19 injury to a child through any recent act or failure to act.

20 ~~(5)~~ (6) Creating a likelihood of sexual abuse or <--
21 exploitation of a child through any recent act or failure to
22 act.

23 ~~(6)~~ (7) Causing serious physical neglect of a child. <--

24 ~~(7)~~ (8) Engaging in any of the following recent acts: <--

25 (i) Kicking, biting or, throwing, burning, stabbing <--
26 or cutting a child in a manner that endangers the child.

27 (ii) Unreasonably physically restraining RESTRAINING <--
28 OR CONFINING a child, based on consideration of the
29 method, location or the duration of the restraint OR <--
30 CONFINEMENT.

1 (iii) Forcefully shaking a child under one year of
2 age.

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

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

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

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

11 (B) A felony violation of the act of April 14,
12 1972, known as The Controlled Substance, Drug, Device
13 and Cosmetics Act, resulting in a conviction.

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

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

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

30 (B) HAS BEEN DETERMINED TO BE A SEXUALLY VIOLENT

1 PREDATOR UNDER 42 PA.C.S. § 9799.24 (RELATING TO
2 ASSESSMENTS) OR ANY OF ITS PREDECESSORS.

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

6 ~~(8)~~ (9) Causing the death of the child through any act <--
7 or failure to act.

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

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

17 Section 2. Title 23 is amended by adding a section to read:
18 § 6304. Exclusions from child abuse.

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

29 (b) Practice of religious beliefs.--If, upon investigation,
30 the county agency determines that a child has not been provided

1 needed medical or surgical care because of sincerely held
2 religious beliefs of the child's parents or ~~guardian~~ RELATIVE <--
3 WITHIN THE THIRD DEGREE OF CONSANGUINITY AND WITH WHOM THE CHILD
4 RESIDES, which beliefs are consistent with those of a bona fide
5 religion, the child shall not be deemed to be physically or
6 mentally abused. In such cases the following shall apply:

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

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

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

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

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

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

30 (1) The use of reasonable force constitutes incidental,

1 minor or reasonable physical contact with the child or other
2 actions that are designed to maintain order and control.

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

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

7 (ii) to prevent the child from self-inflicted
8 physical harm;

9 (iii) for self-defense or the defense of another
10 individual; or

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

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

1 ~~employees, child care employees and employees of residential~~
2 ~~facilities.~~

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

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

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

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

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

23 (2) NOTWITHSTANDING PARAGRAPH (1), THE FOLLOWING SHALL
24 APPLY:

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

28 (A) RAPE AS DEFINED IN 18 PA.C.S. § 3121

29 (RELATING TO RAPE);

30 (B) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE AS

1 DEFINED IN 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY
2 DEVIATE SEXUAL INTERCOURSE);

3 (C) SEXUAL ASSAULT AS DEFINED IN 18 PA.C.S. §
4 3124.1 (RELATING TO SEXUAL ASSAULT);

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

8 (E) INDECENT ASSAULT, AS DEFINED IN 18 PA.C.S. §
9 3126 (RELATING TO INDECENT ASSAULT);

10 (F) INDECENT EXPOSURE, AS DEFINED IN 18 PA.C.S.
11 § 3127 (RELATING TO INDECENT EXPOSURE).

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

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

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

28 ~~(h) Accidental conduct. Conduct that causes injury or harm~~ <--
29 ~~to a child or creates a risk of injury or harm to a child shall~~
30 ~~not be considered child abuse if there is no evidence that the~~

1 ~~person acted intentionally, knowingly or recklessly when causing~~
2 ~~the injury or harm to the child or creating a risk of injury or~~
3 ~~harm to the child.~~

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

6 ~~§ 6338. Disposition of founded and indicated reports.~~

7 * * *

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

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

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

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

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

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

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

30 ~~(ii) is required to register under 42 Pa.C.S. Ch. 97~~

1 ~~Subch. H as a result of an adjudication of delinquency~~
2 ~~for the same acts which resulted in the juvenile~~
3 ~~offender's being named a perpetrator of child abuse; and~~
4 ~~(iii) has not been removed from the Statewide~~
5 ~~Registry of Sexual Offenders pursuant to 42 Pa.C.S. §~~
6 ~~9799.17 (relating to termination of period of~~
7 ~~registration for juvenile offenders).~~

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

10 ~~§ 6340. Release of information in confidential reports.~~

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

14 * * *

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

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

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

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

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

30 ~~(10) The district attorney or his designee or other law~~

1 ~~enforcement official, as set forth in the county protocols~~
2 ~~for investigative teams required in section 6365(e) (relating~~
3 ~~to services for prevention, investigation and treatment of~~
4 ~~child abuse), shall receive, immediately after the county~~
5 ~~agency has ensured the safety of the child, reports of abuse,~~
6 ~~either orally or in writing, according to regulations~~
7 ~~promulgated by the department, from the county agency in~~
8 ~~which the initial report of suspected child abuse or initial~~
9 ~~inquiry into the report gives evidence that the abuse is:~~

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

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

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

25 ~~* * *~~

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

1 ~~report following the investigation as to whether the report~~
2 ~~is indicated, founded or unfounded. Information disclosed~~
3 ~~pursuant to this paragraph shall be provided to the school~~
4 ~~administrator within ten days of the completion of the~~
5 ~~investigation.~~

6 * * *

7 ~~§ 6368. Investigation of reports.~~

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

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

20 * * *

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

22 SECTION 3. SECTION 6338(A) OF TITLE 23 IS AMENDED TO READ: <--

23 § 6338. DISPOSITION OF FOUNDED AND INDICATED REPORTS.

24 (A) GENERAL RULE.--WHEN A REPORT OF SUSPECTED CHILD ABUSE OR
25 A REPORT UNDER SUBCHAPTER C.1 (RELATING TO STUDENTS IN PUBLIC
26 AND PRIVATE SCHOOLS) IS DETERMINED BY THE APPROPRIATE COUNTY
27 AGENCY TO BE A FOUNDED REPORT OR AN INDICATED REPORT, THE
28 INFORMATION CONCERNING THAT REPORT OF SUSPECTED CHILD ABUSE
29 SHALL BE EXPUNGED IMMEDIATELY FROM THE PENDING COMPLAINT FILE,
30 AND AN APPROPRIATE ENTRY SHALL BE MADE IN THE STATEWIDE CENTRAL

1 REGISTER. [NOTICE OF THE DETERMINATION MUST BE GIVEN TO THE
2 SUBJECTS OF THE REPORT, OTHER THAN THE ABUSED CHILD, AND TO THE
3 PARENT OR GUARDIAN OF THE AFFECTED CHILD OR STUDENT ALONG WITH
4 AN EXPLANATION OF THE IMPLICATIONS OF THE DETERMINATION. NOTICE
5 GIVEN TO PERPETRATORS OF CHILD ABUSE AND TO SCHOOL EMPLOYEES WHO
6 ARE SUBJECTS OF INDICATED REPORTS FOR SCHOOL EMPLOYEES OR
7 FOUNDED REPORTS FOR SCHOOL EMPLOYEES SHALL INCLUDE NOTICE THAT
8 THEIR ABILITY TO OBTAIN EMPLOYMENT IN A CHILD-CARE FACILITY OR
9 PROGRAM OR A PUBLIC OR PRIVATE SCHOOL MAY BE ADVERSELY AFFECTED
10 BY ENTRY OF THE REPORT IN THE STATEWIDE CENTRAL REGISTER. THE
11 NOTICE SHALL ALSO INFORM THE RECIPIENT OF HIS RIGHT, WITHIN 45
12 DAYS AFTER BEING NOTIFIED OF THE STATUS OF THE REPORT, TO APPEAL
13 AN INDICATED REPORT, AND HIS RIGHT TO A HEARING IF THE REQUEST
14 IS DENIED.] NOTICE OF THE DETERMINATION THAT A REPORT IS A
15 FOUNDED, INDICATED OR UNFOUNDED REPORT SHALL BE MADE AS PROVIDED
16 IN SECTION 6368(F) (RELATING TO INVESTIGATION OF REPORTS).

17 * * *

18 SECTION 4. SECTION 6341(A), (B) AND (C) OF TITLE 23 ARE
19 AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
20 READ:

21 § 6341. AMENDMENT OR EXPUNCTION OF INFORMATION.

22 (A) GENERAL RULE.--[AT ANY TIME:] NOTWITHSTANDING SECTION
23 6338.1 (RELATING TO EXPUNCTION OF INFORMATION OF PERPETRATOR WHO
24 WAS UNDER 18 YEARS OF AGE WHEN CHILD ABUSE WAS COMMITTED):

25 (1) [THE] AT ANY TIME, THE SECRETARY MAY AMEND OR
26 EXPUNGE ANY RECORD IN THE STATEWIDE DATABASE UNDER THIS
27 CHAPTER UPON GOOD CAUSE SHOWN AND NOTICE TO THE APPROPRIATE
28 SUBJECTS OF THE REPORT. THE REQUEST SHALL BE IN WRITING IN A
29 MANNER PRESCRIBED BY THE DEPARTMENT. FOR PURPOSES OF THIS
30 PARAGRAPH, GOOD CAUSE SHALL INCLUDE, BUT IS NOT LIMITED TO,

1 THE FOLLOWING:

2 (I) NEWLY DISCOVERED EVIDENCE THAT AN INDICATED
3 REPORT OF CHILD ABUSE IS INACCURATE OR IS BEING
4 MAINTAINED IN A MANNER INCONSISTENT WITH THIS CHAPTER.

5 (II) A DETERMINATION THAT THE PERPETRATOR IN AN
6 INDICATED REPORT OF ABUSE NO LONGER REPRESENTS A RISK OF
7 CHILD ABUSE AND THAT NO SIGNIFICANT PUBLIC PURPOSE WOULD
8 BE SERVED BY THE CONTINUED LISTING OF THE PERSON AS A
9 PERPETRATOR IN THE STATEWIDE DATABASE.

10 (2) ANY PERSON NAMED AS A PERPETRATOR, AND ANY SCHOOL
11 EMPLOYEE NAMED, IN AN INDICATED REPORT OF CHILD ABUSE MAY,
12 WITHIN [45] 90 DAYS OF BEING NOTIFIED OF THE STATUS OF THE
13 REPORT, REQUEST AN ADMINISTRATIVE REVIEW BY, OR APPEAL AND
14 REQUEST A HEARING BEFORE, THE SECRETARY TO AMEND OR EXPUNGE
15 AN INDICATED REPORT ON THE GROUNDS THAT IT IS INACCURATE OR
16 IT IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS
17 CHAPTER. THE REQUEST SHALL BE IN WRITING IN A MANNER
18 PRESCRIBED BY THE DEPARTMENT.

19 (3) WITHIN 60 DAYS OF A REQUEST UNDER PARAGRAPH (1) OR A
20 REQUEST FOR ADMINISTRATIVE REVIEW UNDER PARAGRAPH (2), THE
21 DEPARTMENT SHALL SEND NOTICE OF THE SECRETARY'S DECISION.

22 (B) REVIEW OF GRANT OF REQUEST.--IF THE SECRETARY GRANTS THE
23 REQUEST UNDER SUBSECTION (A) (2), THE STATEWIDE [CENTRAL
24 REGISTER] DATABASE, APPROPRIATE COUNTY AGENCY, APPROPRIATE LAW
25 ENFORCEMENT OFFICIALS AND ALL SUBJECTS SHALL BE SO ADVISED OF
26 THE DECISION. THE COUNTY AGENCY AND ANY SUBJECT HAVE [45] 90
27 DAYS IN WHICH TO FILE AN ADMINISTRATIVE APPEAL WITH THE
28 SECRETARY. IF AN ADMINISTRATIVE APPEAL IS RECEIVED, THE
29 SECRETARY OR HIS DESIGNATED AGENT SHALL SCHEDULE A HEARING
30 PURSUANT TO ARTICLE IV OF THE ACT OF JUNE 13, 1967 (P.L.31,

1 NO.21), KNOWN AS THE PUBLIC WELFARE CODE, [AND] ATTENDING
2 DEPARTMENTAL REGULATIONS. IF NO ADMINISTRATIVE APPEAL IS
3 RECEIVED WITHIN THE DESIGNATED TIME PERIOD, THE STATEWIDE
4 [CENTRAL REGISTER] DATABASE SHALL COMPLY WITH THE DECISION OF
5 THE SECRETARY AND ADVISE THE COUNTY AGENCY TO AMEND OR EXPUNGE
6 THE INFORMATION IN THEIR RECORDS SO THAT THE RECORDS ARE
7 CONSISTENT AT BOTH THE STATE AND LOCAL LEVELS.

8 (C) REVIEW OF REFUSAL OF REQUEST.--[IF THE SECRETARY REFUSES
9 THE REQUEST UNDER SUBSECTION (A) (2) OR DOES NOT ACT WITHIN A
10 REASONABLE TIME, BUT IN NO EVENT LATER THAN 30 DAYS AFTER
11 RECEIPT OF THE REQUEST, THE PERPETRATOR OR SCHOOL EMPLOYEE SHALL
12 HAVE THE RIGHT TO A HEARING BEFORE THE SECRETARY OR A DESIGNATED
13 AGENT OF THE SECRETARY TO DETERMINE WHETHER THE SUMMARY OF THE
14 INDICATED REPORT IN THE STATEWIDE CENTRAL REGISTER SHOULD BE
15 AMENDED OR EXPUNGED ON THE GROUNDS THAT IT IS INACCURATE OR THAT
16 IT IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS
17 CHAPTER. THE PERPETRATOR OR SCHOOL EMPLOYEE SHALL HAVE 45 DAYS
18 FROM THE DATE OF THE LETTER GIVING NOTICE OF THE DECISION TO
19 DENY THE REQUEST IN WHICH TO REQUEST A HEARING.] SUBJECT TO
20 SUBSECTION (C.1), IF THE SECRETARY REFUSES A REQUEST UNDER
21 SUBSECTION (A) (1) OR A REQUEST FOR ADMINISTRATIVE REVIEW UNDER
22 SUBSECTION (A) (2), OR DOES NOT ACT WITHIN THE PRESCRIBED TIME,
23 THE PERPETRATOR OR SCHOOL EMPLOYEE SHALL HAVE THE RIGHT TO
24 APPEAL AND REQUEST A HEARING BEFORE THE SECRETARY TO AMEND OR
25 EXPUNGE AN INDICATED REPORT ON THE GROUNDS THAT IT IS INACCURATE
26 OR IT IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS
27 CHAPTER. THE REQUEST FOR HEARING MUST BE MADE WITHIN 90 DAYS OF
28 NOTICE OF THE RESULTS OF THE INVESTIGATION. THE APPROPRIATE
29 COUNTY AGENCY AND APPROPRIATE LAW ENFORCEMENT OFFICIALS SHALL BE
30 GIVEN NOTICE OF THE HEARING. THE BURDEN OF PROOF IN THE HEARING

1 SHALL BE ON THE APPROPRIATE COUNTY AGENCY. THE DEPARTMENT SHALL
2 ASSIST THE COUNTY AGENCY AS NECESSARY.

3 (C.1) FOUNDED REPORTS.--A PERSON NAMED AS A PERPETRATOR IN A
4 FOUNDED REPORT OF CHILD ABUSE MUST PROVIDE TO THE DEPARTMENT A
5 COURT ORDER INDICATING THAT THE UNDERLYING ADJUDICATION THAT
6 FORMED THE BASIS OF THE FOUNDED REPORT HAS BEEN REVERSED OR
7 VACATED.

8 * * *

9 SECTION 5. SECTION 6368 OF TITLE 23 IS AMENDED BY ADDING
10 SUBSECTIONS TO READ:

11 § 6368. INVESTIGATION OF REPORTS.

12 * * *

13 (E) REVIEW OF INDICATED REPORTS.--A FINAL DETERMINATION THAT
14 A REPORT OF SUSPECTED CHILD ABUSE IS INDICATED SHALL BE
15 APPROVED BY:

16 (1) THE COUNTY AGENCY ADMINISTRATOR OR A DESIGNEE AND
17 REVIEWED BY A COUNTY AGENCY SOLICITOR, WHEN THE COUNTY AGENCY
18 IS INVESTIGATING; OR

19 (2) THE SECRETARY OR A DESIGNEE AND REVIEWED BY LEGAL
20 COUNSEL FOR THE DEPARTMENT, WHEN THE DEPARTMENT IS
21 INVESTIGATING.

22 (F) FINAL DETERMINATION.--IMMEDIATELY UPON CONCLUSION OF THE
23 CHILD ABUSE INVESTIGATION, THE COUNTY AGENCY SHALL PROVIDE THE
24 RESULTS OF ITS INVESTIGATION TO THE DEPARTMENT, IN A MANNER
25 PRESCRIBED BY THE DEPARTMENT. WITHIN THREE BUSINESS DAYS OF
26 RECEIPT OF THE RESULTS OF THE INVESTIGATION FROM THE COUNTY
27 AGENCY, THE DEPARTMENT SHALL SEND NOTICE OF THE FINAL
28 DETERMINATION TO THE SUBJECTS OF THE REPORT, OTHER THAN THE
29 ABUSED CHILD. THE DETERMINATION SHALL INCLUDE THE FOLLOWING
30 INFORMATION:

1 (1) THE STATUS OF THE REPORT.

2 (2) THE PERPETRATOR'S RIGHT TO REQUEST THE SECRETARY TO
3 AMEND OR EXPUNGE THE REPORT.

4 (3) THE RIGHT OF THE SUBJECTS OF THE REPORT TO SERVICES
5 FROM THE COUNTY AGENCY.

6 (4) THE EFFECT OF THE REPORT UPON FUTURE EMPLOYMENT
7 OPPORTUNITIES INVOLVING CHILDREN.

8 (5) THE FACT THAT THE NAME OF THE PERPETRATOR, THE
9 NATURE OF THE ABUSE AND THE FINAL STATUS OF A FOUNDED OR
10 INDICATED REPORT WILL BE ENTERED IN THE STATEWIDE DATABASE,
11 IF THE PERPETRATOR'S SOCIAL SECURITY NUMBER OR DATE OF BIRTH
12 ARE KNOWN.

13 (6) THE PERPETRATOR'S RIGHT TO FILE AN APPEAL OF AN
14 INDICATED FINDING OF ABUSE PURSUANT TO SECTION 6341 (RELATING
15 TO AMENDMENT OR EXPUNCTION OF INFORMATION) WITHIN 90 DAYS OF
16 THE DATE OF NOTICE.

17 (7) THE PERPETRATOR'S RIGHT TO A FAIR HEARING ON THE
18 MERITS ON AN APPEAL OF AN INDICATED REPORT FILED PURSUANT TO
19 SECTION 6341.

20 (8) THE BURDEN ON THE INVESTIGATIVE AGENCY TO PROVE ITS
21 CASE BY SUBSTANTIAL EVIDENCE IN AN APPEAL OF AN INDICATED
22 REPORT.

23 (G) NOTICE.--NOTICE UNDER SUBSECTION (F) SHALL CONSTITUTE
24 MAILING OF THE FINAL DETERMINATION TO THE RECIPIENT'S LAST KNOWN
25 ADDRESS. THE DETERMINATION IS PRESUMED RECEIVED WHEN NOT
26 RETURNED BY THE POSTAL AUTHORITIES AS UNDELIVERABLE. IF THE
27 DETERMINATION IS RETURNED AS UNDELIVERABLE, THE ENTRY IN THE
28 STATEWIDE DATABASE SHALL INCLUDE INFORMATION THAT THE DEPARTMENT
29 WAS UNABLE TO PROVIDE NOTICE. NO FURTHER EFFORTS TO PROVIDE
30 NOTICE SHALL BE REQUIRED, EXCEPT THAT THE DEPARTMENT SHALL

1 RESUME REASONABLE EFFORTS TO PROVIDE NOTICE IF NEW INFORMATION
2 IS RECEIVED REGARDING THE WHEREABOUTS OF AN INDIVIDUAL WHO IS
3 ENTITLED TO RECEIVE NOTICE UNDER SUBSECTION (F).

4 (H) NOTICE TO MANDATED REPORTER.--IF A REPORT WAS MADE BY A
5 MANDATED REPORTER UNDER SECTION 6313 (RELATING TO REPORTING
6 PROCEDURE), THE DEPARTMENT SHALL NOTIFY THE MANDATED REPORTER
7 WHO MADE THE REPORT OF SUSPECTED CHILD ABUSE OF ALL OF THE
8 FOLLOWING WITHIN THREE BUSINESS DAYS OF THE DEPARTMENT'S RECEIPT
9 OF THE RESULTS OF THE INVESTIGATION:

10 (1) WHETHER THE CHILD ABUSE REPORT IS FOUNDED, INDICATED
11 OR UNFOUNDED.

12 (2) ANY SERVICES PROVIDED, ARRANGED FOR OR TO BE
13 PROVIDED BY THE COUNTY AGENCY TO PROTECT THE CHILD.

14 SECTION 6. SECTION 6381 OF TITLE 23 IS AMENDED BY ADDING A
15 SUBSECTION TO READ:

16 § 6381. EVIDENCE IN COURT PROCEEDINGS.

17 * * *

18 (E) CHILD VICTIMS AND WITNESSES.--IN ADDITION TO THE
19 PROVISIONS OF THIS SECTION, ANY CONSIDERATION AFFORDED TO A
20 CHILD VICTIM OR WITNESS PURSUANT TO 42 PA.C.S. CH. 59, SUBCH. D
21 (RELATING TO CHILD VICTIMS AND WITNESSES) IN ANY PROSECUTION OR
22 ADJUDICATION SHALL BE AFFORDED TO A CHILD IN CHILD ABUSE
23 PROCEEDINGS IN COURT OR IN ANY DEPARTMENT ADMINISTRATIVE HEARING
24 PURSUANT TO SECTION 6341 (RELATING TO AMENDMENT OR EXPUNCTION OF
25 INFORMATION).

26 SECTION 7. THIS ACT SHALL TAKE EFFECT DECEMBER 31, 2014. <--