
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 21 Session of
2013

INTRODUCED BY WARD, BLAKE, SCARNATI, PILEGGI, WASHINGTON, STACK,
TEPLITZ, ERICKSON, BREWSTER, FONTANA, BAKER, RAFFERTY,
YUDICHAK, VULAKOVICH, KASUNIC, TARTAGLIONE, WILLIAMS, SMITH,
WAUGH, FARNESE, BROWNE AND SOLOBAY, MARCH 15, 2013

REFERRED TO AGING AND YOUTH, MARCH 15, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for persons required to report suspected child
4 abuse, for persons permitted to report suspected child abuse,
5 for reporting procedure, for documentary evidence on a child
6 subject to report and for taking child into protective
7 custody.

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

10 Section 1. Sections 6311, 6312, 6313 and 6314 of Title 23 of
11 the Pennsylvania Consolidated Statutes are amended to read:

12 § 6311. Persons required to report suspected child abuse.

13 [(a) General rule.--A person who, in the course of
14 employment, occupation or practice of a profession, comes into
15 contact with children shall report or cause a report to be made
16 in accordance with section 6313 (relating to reporting
17 procedure) when the person has reasonable cause to suspect, on
18 the basis of medical, professional or other training and
19 experience, that a child under the care, supervision, guidance

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

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

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

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

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

29 (a) Basis to report.--

30 (1) Subject to paragraphs (2) and (3) and subsection

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

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

9 (ii) the person is directly responsible for the
10 care, supervision, guidance or training of the child.

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

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

20 (b) Enumerated mandated reporters.--Subject to subsection
21 (a), the following persons shall make a report of suspected
22 child abuse, or cause a report of suspected child abuse to be
23 made, under this chapter:

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

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

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

30 (4) A school administrator, teacher, nurse, guidance

1 counselor, coach or other school employee or an independent
2 contractor of the school with direct responsibility for
3 children.

4 (5) A child-care services provider and employees with
5 direct responsibility for children.

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 direct responsibility for children, accepts
12 responsibility for a child.

13 (8) A social services worker.

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

15 (10) An emergency medical services provider certified by
16 the Department of Health.

17 (c) Disclosure of child abuse by individual.--

18 Notwithstanding subsection (a) (1), a mandated reporter shall
19 make a report of suspected child abuse or cause a report of
20 suspected child abuse to be made if:

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

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

26 (d) Reports by employees.--

27 (1) If a person is required to report under this
28 section, the person shall immediately report the suspected
29 child abuse directly to the department by telephone or
30 electronically. A mandated reporter may delegate the direct

1 reporting to the department by telephone to an employee. The
2 employee of a mandated reporter must notify the mandated
3 reporter of the completion of the report.

4 (2) A mandated reporter or his employee may not:

5 (i) obstruct, prevent or delay the forwarding of a
6 report of suspected child abuse; or

7 (ii) modify, edit or otherwise change the substance
8 of a report of suspected child abuse.

9 (3) Delegation to an employee under paragraph (1) shall
10 not relieve the mandatory reporter of the obligation as a
11 mandated reporter to make a report under section 6313
12 (relating to reporting procedure).

13 (4) Confirmation from the department that a report of
14 suspected child abuse has been filed shall relieve other
15 employees and independent contractors of the obligation to
16 make a report of suspected child abuse or cause a report of
17 suspected child abuse to be made.

18 (e) Privileged communications.--

19 (1) Subject to paragraphs (2) and (4), the privileged
20 communication between a mandated reporter and a patient or
21 client of the mandated reporter shall not:

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

23 (ii) constitute grounds for failure to make a report
24 of suspected child abuse or cause a report of suspected
25 child abuse to be made.

26 (2) Confidential communications made to a member of the
27 clergy are protected under 42 Pa.C.S. § 5943 (relating to
28 confidential communications to clergymen), but only to the
29 extent that the member of the clergy is authorized to hear
30 the communications under the disciplines, tenets or

1 traditions of the religion of the member of the clergy.

2 (3) Confidential communications made to an attorney that
3 are protected under 42 Pa.C.S. § 5916 (relating to
4 confidential communications to attorney) or 5928 (relating to
5 confidential communications to attorney) are privileged under
6 this chapter.

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

12 (f) Limited exemption.--A sexual assault counselor at a rape
13 crisis center, as defined under 42 Pa.C.S. § 5945.1(a) (relating
14 to confidential communications with sexual assault counselors),
15 shall not be required to report a violation of 18 Pa.C.S. §
16 3122.1(a)(1) (relating to statutory sexual assault) as child
17 abuse under this chapter when the child who would otherwise be
18 the subject of a report of suspected child abuse is 14 years of
19 age or older.

20 § 6312. Persons [permitted] encouraged to report suspected
21 child abuse.

22 [In addition to those persons and officials required to
23 report suspected child abuse, any] Any person may make [such a
24 report] an oral or electronic report of suspected child abuse,
25 or cause an oral or electronic report of suspected child abuse
26 to be made to the department, county or law enforcement, if that
27 person has reasonable cause to suspect that a child is an abused
28 child.

29 § 6313. Reporting procedure.

30 [(a) General rule.--Reports from persons required to report

1 under section 6311 (relating to persons required to report
2 suspected child abuse) shall be made immediately by telephone
3 and in writing within 48 hours after the oral report.

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

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

22 (1) The names and addresses of the child and the parents
23 or other person responsible for the care of the child if
24 known.

25 (2) Where the suspected abuse occurred.

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

27 (4) The nature and extent of the suspected child abuse,
28 including any evidence of prior abuse to the child or
29 siblings of the child.

30 (5) The name and relationship of the person or persons

1 responsible for causing the suspected abuse, if known, and
2 any evidence of prior abuse by that person or persons.

3 (6) Family composition.

4 (7) The source of the report.

5 (8) The person making the report and where that person
6 can be reached.

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

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

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

18 (a) Report by mandated reporter.--

19 (1) A report of suspected child abuse by or on behalf of
20 a mandated reporter shall be made immediately to the
21 department by telephone or electronically.

22 (2) A mandated reporter making a report under paragraph
23 (1) of suspected child abuse shall also make a report in
24 writing or electronically within 48 hours to the county
25 agency assigned to the case in a manner and format that the
26 department prescribes by regulation.

27 (3) The failure of the mandated reporter to file the
28 report in writing or electronically under paragraph (2) shall
29 not relieve the county agency from any duty under this
30 chapter, and the county agency shall proceed as though the

1 mandated reporter complied with paragraph (2).

2 (b) Contents of report.--A report of suspected child abuse
3 that is made in writing or electronically shall include the
4 following information, if known:

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

8 (2) Where the suspected abuse occurred.

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

10 (4) The nature and extent of the suspected child abuse,
11 including any evidence of prior abuse to the child or any
12 sibling of the child.

13 (5) The name and relationship of each individual
14 responsible for causing the suspected abuse and any evidence
15 of prior abuse by each individual.

16 (6) Family composition.

17 (7) The source of the report.

18 (8) The person making the report and where that person
19 can be reached.

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

27 (10) Any other information that the department requires
28 by regulation.

29 § 6314. Photographs, medical tests and X-rays of child subject
30 to report.

1 A person or official required to report cases of suspected
2 child abuse may take or cause to be taken photographs of the
3 child who is subject to a report and, if clinically indicated,
4 cause to be performed a radiological examination and other
5 medical tests on the child. Medical summaries or reports of the
6 photographs, X-rays and relevant medical tests taken shall be
7 sent to the county agency at the time the written report is sent
8 or within 48 hours after a report is made by advanced
9 communication technologies or as soon thereafter as possible.
10 The county agency shall have access to actual photographs or
11 duplicates and X-rays and may obtain them or duplicates of them
12 upon request.

13 Section 2. Section 6315(a) of Title 23 is amended by adding
14 a paragraph to read:

15 § 6315. Taking child into protective custody.

16 (a) General rule.--A child may be taken into protective
17 custody:

18 * * *

19 (4) Subject to this section and after receipt of a court
20 order, the county agency shall take a child into protective
21 custody for protection from abuse. No county agency worker
22 may take custody of the child without judicial authorization
23 based on the merits of the situation.

24 * * *

25 Section 3. This act shall take effect in 60 days.