

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 23 Session of 2013

INTRODUCED BY BAKER, TARTAGLIONE, TEPLITZ, WASHINGTON, ERICKSON, BREWSTER, FONTANA, RAFFERTY, YUDICHAK, VULAKOVICH, KASUNIC, WILLIAMS, SMITH, WAUGH, FARNESE, BROWNE, SOLOBAY, SCARNATI, WARD, PILEGGI, BOSCOLA, HUGHES, COSTA, ALLOWAY AND SCHWANK, MARCH 15, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, OCTOBER 1, 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 FOR DISPOSITION OF FOUNDED AND <--
4 INDICATED REPORTS; AND PROVIDING FOR EXPUNCTION OF
5 INFORMATION OF PERPETRATOR WHO WAS UNDER 18 YEARS OF AGE WHEN
6 CHILD ABUSE WAS COMMITTED.

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

9 Section 1. The definitions of "perpetrator" and "person
10 responsible for the child's welfare" in section 6303(a) of Title
11 23 of the Pennsylvania Consolidated Statutes are amended to
12 read:

13 § 6303. Definitions.

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

17 * * *

18 "Perpetrator." A person who has committed child abuse [and

1 is a parent of a child, a person responsible for the welfare of
2 a child, an individual residing in the same home as a child or a
3 paramour of a child's parent.] as defined in this section. The
4 following shall apply:

5 (1) The term includes only the following:

6 (i) A parent of the child.

7 (ii) A spouse or former spouse of the child's
8 parent.

9 (iii) A paramour or former paramour of the child's
10 parent.

11 (iv) A person 14 years of age or older and
12 responsible for the child's welfare.

13 (v) An individual who is 14 years of age or older
14 who resides in the same home as the child.

15 (vi) An individual 18 years of age or older who does
16 not reside in the same home as the child but is related
17 within the third degree of consanguinity or affinity by
18 birth or adoption to the child ~~or the spouse, former~~ <--
19 ~~spouse, paramour or former paramour of the child's~~
20 parent.

21 (2) Only the following may be considered a perpetrator
22 for failing to act, as provided in this section:

23 (i) A parent of the child.

24 (ii) A spouse or former spouse of the child's
25 parent.

26 (iii) A paramour or former paramour of the child's
27 parent.

28 (iv) A person 18 years of age or older and
29 responsible for the child's welfare.

30 (v) A person 18 years of age or older who resides in

1 the same home as the child.

2 "Person responsible for the child's welfare." A person who
3 provides permanent or temporary care, supervision, mental health
4 diagnosis or treatment, training or control of a child in lieu
5 of parental care, supervision and control. [The term does not
6 include a person who is employed by or provides services or
7 programs in any public or private school, intermediate unit or
8 area vocational-technical school.] The term includes an
9 individual who has direct or regular contact with a child
10 through any program, activity or service sponsored by a school,
11 for-profit organization or religious or other not-for-profit
12 organization, regardless of where the child abuse occurs.

13 * * *

14 ~~Section 2. This act shall take effect January 1, 2014.~~ <--

15 SECTION 2. SECTION 6338 OF TITLE 23 IS REPEALED: <--

16 [§ 6338. DISPOSITION OF FOUNDED AND INDICATED REPORTS.

17 (A) GENERAL RULE.--WHEN A REPORT OF SUSPECTED CHILD ABUSE OR
18 A REPORT UNDER SUBCHAPTER C.1 (RELATING TO STUDENTS IN PUBLIC
19 AND PRIVATE SCHOOLS) IS DETERMINED BY THE APPROPRIATE COUNTY
20 AGENCY TO BE A FOUNDED REPORT OR AN INDICATED REPORT, THE
21 INFORMATION CONCERNING THAT REPORT OF SUSPECTED CHILD ABUSE
22 SHALL BE EXPUNGED IMMEDIATELY FROM THE PENDING COMPLAINT FILE,
23 AND AN APPROPRIATE ENTRY SHALL BE MADE IN THE STATEWIDE CENTRAL
24 REGISTER. NOTICE OF THE DETERMINATION MUST BE GIVEN TO THE
25 SUBJECTS OF THE REPORT, OTHER THAN THE ABUSED CHILD, AND TO THE
26 PARENT OR GUARDIAN OF THE AFFECTED CHILD OR STUDENT ALONG WITH
27 AN EXPLANATION OF THE IMPLICATIONS OF THE DETERMINATION. NOTICE
28 GIVEN TO PERPETRATORS OF CHILD ABUSE AND TO SCHOOL EMPLOYEES WHO
29 ARE SUBJECTS OF INDICATED REPORTS FOR SCHOOL EMPLOYEES OR
30 FOUNDED REPORTS FOR SCHOOL EMPLOYEES SHALL INCLUDE NOTICE THAT

1 THEIR ABILITY TO OBTAIN EMPLOYMENT IN A CHILD-CARE FACILITY OR
2 PROGRAM OR A PUBLIC OR PRIVATE SCHOOL MAY BE ADVERSELY AFFECTED
3 BY ENTRY OF THE REPORT IN THE STATEWIDE CENTRAL REGISTER. THE
4 NOTICE SHALL ALSO INFORM THE RECIPIENT OF HIS RIGHT, WITHIN 45
5 DAYS AFTER BEING NOTIFIED OF THE STATUS OF THE REPORT, TO APPEAL
6 AN INDICATED REPORT, AND HIS RIGHT TO A HEARING IF THE REQUEST
7 IS DENIED.

8 (B) EXPUNCTION OF INFORMATION WHEN CHILD ATTAINS 23 YEARS OF
9 AGE.--EXCEPT AS PROVIDED IN SUBSECTION (C), ALL INFORMATION
10 WHICH IDENTIFIES THE SUBJECTS OF FOUNDED AND INDICATED CHILD
11 ABUSE REPORTS SHALL BE EXPUNGED WHEN THE SUBJECT CHILD REACHES
12 THE AGE OF 23. THE EXPUNCTION SHALL BE MANDATED AND GUARANTEED
13 BY THE DEPARTMENT.

14 (C) RETENTION OF INFORMATION.--A SUBFILE SHALL BE
15 ESTABLISHED IN THE STATEWIDE CENTRAL REGISTER TO INDEFINITELY
16 RETAIN THE NAMES OF PERPETRATORS OF CHILD ABUSE AND SCHOOL
17 EMPLOYEES WHO ARE SUBJECTS OF FOUNDED OR INDICATED REPORTS ONLY
18 IF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER OR DATE OF BIRTH IS
19 KNOWN TO THE DEPARTMENT. THE SUBFILE SHALL NOT INCLUDE
20 IDENTIFYING INFORMATION REGARDING OTHER SUBJECTS OF THE REPORT.]

21 SECTION 3. TITLE 23 IS AMENDED BY ADDING A SECTION TO READ:

22 § 6338.1. EXPUNCTION OF INFORMATION OF PERPETRATOR WHO WAS
23 UNDER 18 YEARS OF AGE WHEN CHILD ABUSE WAS COMMITTED.

24 (A) GENERAL RULE.--THE NAME OF A PERPETRATOR WHO IS THE
25 SUBJECT OF AN INDICATED REPORT OF CHILD ABUSE AND WHO WAS UNDER
26 18 YEARS OF AGE WHEN THE INDIVIDUAL COMMITTED CHILD ABUSE SHALL
27 BE EXPUNGED FROM THE STATEWIDE CENTRAL REGISTER WHEN THE
28 INDIVIDUAL REACHES 21 YEARS OF AGE OR WHEN FIVE YEARS HAVE
29 ELAPSED SINCE THE PERPETRATOR'S NAME WAS ADDED TO THE CENTRAL
30 REGISTER, WHICHEVER IS LATER, IF THE INDIVIDUAL MEETS ALL OF THE

1 FOLLOWING:

2 (1) THE INDIVIDUAL HAS NOT BEEN NAMED AS A PERPETRATOR
3 IN ANY SUBSEQUENT FOUNDED OR INDICATED REPORT OF CHILD ABUSE
4 AND IS NOT THE SUBJECT OF A CHILD ABUSE REPORT IN THE PENDING
5 COMPLAINT FILE.

6 (2) THE INDIVIDUAL HAS NEVER BEEN CONVICTED OR
7 ADJUDICATED DELINQUENT FOLLOWING A DETERMINATION BY THE COURT
8 THAT THE INDIVIDUAL COMMITTED AN OFFENSE UNDER SECTION
9 6344(C) (RELATING TO GROUNDS FOR DENYING EMPLOYMENT) AND NO
10 PROCEEDING IS PENDING SEEKING SUCH CONVICTION OR
11 ADJUDICATION.

12 (3) THE CHILD ABUSE WHICH RESULTED IN THE INCLUSION OF
13 THE PERPETRATOR'S NAME IN THE CENTRAL REGISTER DID NOT
14 INVOLVE THE USE OF A DEADLY WEAPON, AS DEFINED UNDER 18
15 PA.C.S. § 2301 (RELATING TO DEFINITIONS).

16 (B) MANDATED EXPUNCTION.--IF THE PERPETRATOR MEETS ALL OF
17 THE REQUIREMENTS UNDER SUBSECTION (A), THE EXPUNCTION SHALL BE
18 MANDATED AND GUARANTEED BY THE DEPARTMENT.

19 (C) NONAPPLICABILITY.--THE PROVISIONS OF THIS SECTION SHALL
20 NOT APPLY TO ANY OF THE FOLLOWING CASES:

21 (1) A PERPETRATOR WHO IS THE SUBJECT OF A FOUNDED REPORT
22 OF CHILD ABUSE.

23 (2) A SEXUALLY VIOLENT DELINQUENT CHILD, AS DEFINED IN
24 42 PA.C.S. § 9799.12 (RELATING TO DEFINITIONS), WHO MEETS ALL
25 OF THE FOLLOWING:

26 (I) IS REQUIRED TO REGISTER UNDER 42 PA.C.S. CH. 97
27 SUBCH. H (RELATING TO REGISTRATION OF SEXUAL OFFENDERS).

28 (II) WAS FOUND DELINQUENT AS A RESULT OF THE SAME
29 ACTS WHICH RESULTED IN THE SEXUALLY VIOLENT DELINQUENT
30 CHILD BEING NAMED A PERPETRATOR OF CHILD ABUSE.

1 (3) A JUVENILE OFFENDER, AS DEFINED IN 42 PA.C.S. §
2 9799.12 WHO MEETS ALL OF THE FOLLOWING:

3 (I) IS REQUIRED TO REGISTER UNDER 42 PA.C.S. CH. 97
4 SUBCH. H AS A RESULT OF AN ADJUDICATION OF DELINQUENCY
5 FOR THE SAME ACTS WHICH RESULTED IN THE JUVENILE OFFENDER
6 BEING NAMED A PERPETRATOR OF CHILD ABUSE.

7 (II) HAS NOT BEEN REMOVED FROM THE STATEWIDE
8 REGISTRY OF SEXUAL OFFENDERS PURSUANT TO 42 PA.C.S. §
9 9799.17 (RELATING TO TERMINATION OF PERIOD OF
10 REGISTRATION FOR JUVENILE OFFENDERS).

11 (4) A SEXUAL OFFENDER, AS DEFINED IN 42 PA.C.S. §
12 9799.12, WHO MEETS ALL OF THE FOLLOWING:

13 (I) IS REQUIRED TO REGISTER UNDER 42 PA.C.S. CH. 97
14 SUBCH. H AS A RESULT OF A CRIMINAL CONVICTION FOR THE
15 SAME ACTS WHICH RESULTED IN THE SEXUAL OFFENDER BEING
16 NAMED A PERPETRATOR OF CHILD ABUSE.

17 (II) HAS NOT COMPLETED THE PERIOD OF REGISTRATION
18 REQUIRED UNDER 42 PA.C.S. § 9799.15 (RELATING TO PERIOD
19 OF REGISTRATION).

20 SECTION 4. THIS ACT SHALL TAKE EFFECT JANUARY 1, 2014.