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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 30 Session of  
2013

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INTRODUCED BY ERICKSON, KASUNIC, FONTANA, WASHINGTON, TEPLITZ,  
BAKER, YUDICHAK, TARTAGLIONE, WAUGH, MENSCH, BROWNE,  
SCARNATI, WARD, PILEGGI AND BOSCOLA, MARCH 15, 2013

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REFERRED TO AGING AND YOUTH, MARCH 15, 2013

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AN ACT

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

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

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

10 § 6303. Definitions.

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

14 \* \* \*

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

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

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

3 \* \* \*

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

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

12 \* \* \*

13 "School." A facility providing elementary, secondary or  
14 postsecondary educational services. The term includes every  
15 public, nonpublic, private and parochial school, including each  
16 of the following:

17 (1) A school or a class within a school under the  
18 supervision of the Department of Education.

19 (2) A State-related and State-owned college or  
20 university.

21 (3) A public or private college or university.

22 (4) A community college.

23 (5) A vocational-technical school.

24 (6) An intermediate unit.

25 (7) A charter or regional charter school.

26 (8) A private school licensed under the act of January  
27 28, 1988 (P.L.24, No.11), known as the Private Academic  
28 Schools Act.

29 (9) A nonprofit school located in this Commonwealth,  
30 other than a public school, wherein a resident of this

1 Commonwealth may legally fulfill the compulsory school  
2 attendance requirements of the act of March 10, 1949 (P.L.30,  
3 No.14), known as the Public School Code of 1949, and which  
4 meets the requirements of Title VI of the Civil Rights Act of  
5 1964 (Public Law 88-352, 78 Stat. 241).

6 \* \* \*

7 Section 2. Section 6318 of Title 23 is repealed:

8 [§ 6318. Immunity from liability.

9 (a) General rule.--A person, hospital, institution, school,  
10 facility, agency or agency employee that participates in good  
11 faith in the making of a report, whether required or not,  
12 cooperating with an investigation, including providing  
13 information to a child fatality or near fatality review team,  
14 testifying in a proceeding arising out of an instance of  
15 suspected child abuse, the taking of photographs or the removal  
16 or keeping of a child pursuant to section 6315 (relating to  
17 taking child into protective custody), and any official or  
18 employee of a county agency who refers a report of suspected  
19 abuse to law enforcement authorities or provides services under  
20 this chapter, shall have immunity from civil and criminal  
21 liability that might otherwise result by reason of those  
22 actions.

23 (b) Presumption of good faith.--For the purpose of any civil  
24 or criminal proceeding, the good faith of a person required to  
25 report pursuant to section 6311 (relating to persons required to  
26 report suspected child abuse) and of any person required to make  
27 a referral to law enforcement officers under this chapter shall  
28 be presumed.]

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

30 § 6331. Establishment of pending complaint file, Statewide

1 central register and file of unfounded reports.

2 There shall be established in the department:

3 \* \* \*

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

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

12 (ii) A subfile of the names of the persons who made  
13 an intentionally false report of suspected child abuse  
14 under section 6379(d) (relating to immunity from  
15 liability), including the name of the subject child,  
16 which shall only be made available to law enforcement,  
17 the department or the county agency investigating new  
18 allegations of suspected child abuse at a school, a  
19 private residential rehabilitative institution or a  
20 detention facility to determine the existence of a  
21 pattern of false reports of suspected child abuse on  
22 behalf of any one person or subject child.

23 \* \* \*

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

27 § 6341. Amendment or expunction of information.

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

29 \* \* \*

30 (2) Any person named as a perpetrator, and any school

1 employee, private residential rehabilitative institution  
2 employee or detention facility employee named, in an  
3 indicated report of child abuse may, within 45 days of being  
4 notified of the status of the report, request the secretary  
5 to amend or expunge an indicated report on the grounds that  
6 it is inaccurate or it is being maintained in a manner  
7 inconsistent with this chapter.

8 \* \* \*

9 (c) Review of refusal of request.--If the secretary refuses  
10 the request under subsection (a) (2) or does not act within a  
11 reasonable time, but in no event later than 30 days after  
12 receipt of the request, the perpetrator [or], school employee,  
13 private residential rehabilitative institution employee or  
14 detention facility employee shall have the right to a hearing  
15 before the secretary or a designated agent of the secretary to  
16 determine whether the summary of the indicated report in the  
17 Statewide central register should be amended or expunged on the  
18 grounds that it is inaccurate or that it is being maintained in  
19 a manner inconsistent with this chapter. The perpetrator [or],  
20 school employee, private residential rehabilitative institution  
21 employee or detention facility employee shall have 45 days from  
22 the date of the letter giving notice of the decision to deny the  
23 request in which to request a hearing. The appropriate county  
24 agency and appropriate law enforcement officials shall be given  
25 notice of the hearing. The burden of proof in the hearing shall  
26 be on the appropriate county agency. The department shall assist  
27 the county agency as necessary.

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

29 (1) A school employee, private residential  
30 rehabilitative institution employee or detention facility

1 employee who is named in an indicated report of suspected  
2 child abuse and who, under subsection (c), files an appeal,  
3 shall be entitled to an initial hearing and ruling on the  
4 matter within 45 days of the date the appeal was received by  
5 the secretary. If a ruling on the matter is not issued within  
6 45 days, the report shall be marked unfounded and expunction  
7 shall be granted in accordance with the terms of this  
8 chapter.

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

1 presented. Restrictions may only be imposed if, based on  
2 evidence presented, the appellant presents a danger to the  
3 subject child or other minors under his or her care.

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

7 \* \* \*

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

30 Section 5. Title 23 is amended by adding a section to read:

1 § 6379. Immunity from liability.

2 (a) General rule.--A person, hospital, institution, school,  
3 facility, agency or agency employee acting in good faith and  
4 without actual malice shall have immunity from civil and  
5 criminal liability that might otherwise result from any of the  
6 following:

7 (1) Making a report of suspected child abuse or causing  
8 a report of suspected child abuse to be made, or making a  
9 referral for general protective services, regardless of  
10 whether the report is required to be made under this chapter.

11 (2) Cooperating or consulting with an investigation  
12 under this chapter, including providing information to a  
13 child fatality or near-fatality review team.

14 (3) Testifying in a proceeding arising out of an  
15 instance of suspected child abuse.

16 (4) Engaging in any action taken under section 6314  
17 (relating to photographs, medical tests and X-rays of child  
18 subject to report), 6315 (relating to taking child into  
19 protective custody), 6316 (relating to admission to private  
20 and public hospitals) or 6317 (relating to mandatory  
21 reporting and postmortem investigation of deaths).

22 (b) Departmental and county agency immunity.--An official or  
23 employee of the department or county agency who refers a report  
24 of suspected child abuse to law enforcement authorities or  
25 provides services under this chapter shall have immunity from  
26 civil and criminal liability that might otherwise result from  
27 the action.

28 (c) Presumption of good faith.--For the purpose of any civil  
29 or criminal proceeding, the good faith of a person required to  
30 report pursuant to section 6311 (relating to persons required to



1 report suspected child abuse) and of any person required to make  
2 a referral to law enforcement officers under this chapter shall  
3 be presumed unless actual malice is proven.

4 (d) False reports.--Any person who intentionally makes a  
5 false report of suspected child abuse against a school, private  
6 residential rehabilitative institution, detention facility,  
7 school employee, private residential rehabilitative institution  
8 employee or detention facility employee commits a misdemeanor of  
9 the second degree.

10 Section 6. This act shall take effect in 60 days.