

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 30 Session of 2013

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

SENATOR MENSCH, AGING AND YOUTH, AS AMENDED, SEPTEMBER 24, 2013

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; REPEALING PROVISIONS RELATING TO <--
6 IMMUNITY FROM LIABILITY; FURTHER PROVIDING FOR ESTABLISHMENT
7 OF PENDING COMPLAINT FILE, STATEWIDE CENTRAL REGISTER AND
8 FILE OF UNFOUNDED REPORTS; REPEALING PROVISIONS RELATING TO
9 AMENDMENT OR EXPUNCTION OF INFORMATION; AND PROVIDING FOR
10 DISPOSITION OF REPORTS UPON COMPLETION OF ASSESSMENT OR
11 INVESTIGATION, FOR APPEALS OF INDICATED REPORTS AND for
12 immunity from liability.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 6303(a) of Title 23 of the Pennsylvania
16 Consolidated Statutes is amended by adding definitions to read:
17 § 6303. Definitions.

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

21 * * *

22 ~~"Detention facility." A privately or publicly owned and <--~~

1 ~~operated facility that is designated by the court and approved~~
2 ~~by the Department of Public Welfare to detain a juvenile~~
3 ~~temporarily.~~

4 ~~"Detention facility employee." An individual employed by a~~
5 ~~detention facility. The term includes an independent contractor~~
6 ~~and employees.~~

7 * * *

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

12 ~~"Private residential rehabilitative institution employee."~~
13 ~~An individual employed by a private residential rehabilitative~~
14 ~~institution. The term includes an independent contractor and~~
15 ~~employees.~~

16 * * *

17 ~~"School." A facility providing elementary, secondary or~~
18 ~~postsecondary educational services. The term includes every~~
19 ~~public, nonpublic, private and parochial school, including each~~
20 ~~of the following:~~

21 ~~(1) A school or a class within a school under the~~
22 ~~supervision of the Department of Education.~~

23 ~~(2) A State related and State owned college or~~
24 ~~university.~~

25 ~~(3) A public or private college or university.~~

26 ~~(4) A community college.~~

27 ~~(5) A vocational technical school.~~

28 ~~(6) An intermediate unit.~~

29 ~~(7) A charter or regional charter school.~~

30 ~~(8) A private school licensed under the act of January~~

~~28, 1988 (P.L.24, No.11), known as the Private Academic
Schools Act.~~

~~(9) A nonprofit school located in this Commonwealth,
other than a public school, wherein a resident of this
Commonwealth may legally fulfill the compulsory school
attendance requirements of the act of March 10, 1949 (P.L.30,
No.14), known as the Public School Code of 1949, and which
meets the requirements of Title VI of the Civil Rights Act of
1964 (Public Law 88-352, 78 Stat. 241).~~

~~* * *~~

"CHILD-CARE SERVICES." AS FOLLOWS:

<--

(1) INCLUDES ANY OF THE FOLLOWING:

(I) CHILD DAY-CARE CENTERS.

(II) GROUP DAY-CARE HOMES.

(III) FAMILY DAY-CARE HOMES.

(IV) FOSTER HOMES.

(V) ADOPTIVE PARENTS.

(VI) BOARDING HOMES FOR CHILDREN.

(VII) JUVENILE DETENTION CENTER SERVICES OR PROGRAMS
FOR DELINQUENT OR DEPENDENT CHILDREN.

(VIII) MENTAL HEALTH SERVICES FOR CHILDREN.

(IX) SERVICES FOR CHILDREN WITH INTELLECTUAL
DISABILITIES.

(X) EARLY INTERVENTION SERVICES FOR CHILDREN.

(XI) DRUG AND ALCOHOL SERVICES FOR CHILDREN.

(XII) DAY-CARE SERVICES OR PROGRAMS THAT ARE OFFERED
BY A SCHOOL.

(XIII) OTHER CHILD-CARE SERVICES THAT ARE PROVIDED
BY OR SUBJECT TO APPROVAL, LICENSURE, REGISTRATION OR
CERTIFICATION BY THE DEPARTMENT OF PUBLIC WELFARE OR A

1 COUNTY SOCIAL SERVICES AGENCY OR THAT ARE PROVIDED
2 PURSUANT TO A CONTRACT WITH THE DEPARTMENT OF PUBLIC
3 WELFARE OR A COUNTY SOCIAL SERVICES AGENCY.

4 (2) THE TERM DOES NOT INCLUDE CHILD-CARE SERVICES OR
5 PROGRAMS WHICH MAY BE OFFERED BY PUBLIC AND PRIVATE SCHOOLS,
6 INTERMEDIATE UNITS OR AREA-VOCATIONAL-TECHNICAL SCHOOLS.

7 * * *

8 "SCHOOL." A FACILITY PROVIDING ELEMENTARY, SECONDARY OR
9 POSTSECONDARY EDUCATIONAL SERVICES. THE TERM INCLUDES THE
10 FOLLOWING:

11 (1) ANY SCHOOL OF A SCHOOL DISTRICT.

12 (2) AN AREA VOCATIONAL-TECHNICAL SCHOOL.

13 (3) A JOINT SCHOOL.

14 (4) AN INTERMEDIATE UNIT.

15 (5) A CHARTER SCHOOL OR REGIONAL CHARTER SCHOOL.

16 (6) A CYBER CHARTER SCHOOL.

17 (7) A PRIVATE SCHOOL LICENSED UNDER THE ACT OF JANUARY
18 28, 1988 (P.L.24, NO.11), KNOWN AS THE PRIVATE ACADEMIC
19 SCHOOLS ACT.

20 (8) A PRIVATE SCHOOL ACCREDITED BY AN ACCREDITING
21 ASSOCIATION APPROVED BY THE STATE BOARD OF EDUCATION.

22 (9) A NONPUBLIC SCHOOL.

23 (10) A COMMUNITY COLLEGE WHICH IS AN INSTITUTION NOW OR
24 HEREAFTER CREATED PURSUANT TO ARTICLE XIX-A OF THE ACT OF
25 MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL
26 CODE OF 1949, OR THE FORMER ACT OF AUGUST 24, 1963 (P.L.1132,
27 NO.484), KNOWN AS THE COMMUNITY COLLEGE ACT OF 1963.

28 (11) AN INDEPENDENT INSTITUTION OF HIGHER EDUCATION
29 WHICH IS AN INSTITUTION OF HIGHER EDUCATION WHICH IS OPERATED
30 NOT FOR PROFIT, LOCATED IN AND INCORPORATED OR CHARTERED BY

1 THE COMMONWEALTH, ENTITLED TO CONFER DEGREES AS SET FORTH IN
2 24 PA.C.S. § 6505 (RELATING TO POWER TO CONFER DEGREES) AND
3 ENTITLED TO APPLY TO ITSELF THE DESIGNATION "COLLEGE" OR
4 "UNIVERSITY" AS PROVIDED FOR BY STANDARDS AND QUALIFICATIONS
5 PRESCRIBED BY THE STATE BOARD OF EDUCATION PURSUANT TO 24
6 PA.C.S. CH. 65 (RELATING TO PRIVATE COLLEGES, UNIVERSITIES
7 AND SEMINARIES).

8 (12) A STATE-OWNED UNIVERSITY.

9 (13) A STATE-RELATED UNIVERSITY.

10 (14) A PRIVATE SCHOOL LICENSED UNDER THE ACT OF DECEMBER
11 15, 1986 (P.L.1585, NO.174), KNOWN AS THE PRIVATE LICENSED
12 SCHOOLS ACT.

13 (15) THE HIRAM G. ANDREWS CENTER.

14 (16) A PRIVATE RESIDENTIAL REHABILITATIVE INSTITUTION AS
15 DEFINED IN SECTION 914.1-A(C) OF THE PUBLIC SCHOOL CODE OF
16 1949.

17 * * *

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

19 [§ 6318. Immunity from liability.

20 (a) General rule.--A person, hospital, institution, school,
21 facility, agency or agency employee that participates in good
22 faith in the making of a report, whether required or not,
23 cooperating with an investigation, including providing
24 information to a child fatality or near fatality review team,
25 testifying in a proceeding arising out of an instance of
26 suspected child abuse, the taking of photographs or the removal
27 or keeping of a child pursuant to section 6315 (relating to
28 taking child into protective custody), and any official or
29 employee of a county agency who refers a report of suspected
30 abuse to law enforcement authorities or provides services under

1 this chapter, shall have immunity from civil and criminal
2 liability that might otherwise result by reason of those
3 actions.

4 (b) Presumption of good faith.--For the purpose of any civil
5 or criminal proceeding, the good faith of a person required to
6 report pursuant to section 6311 (relating to persons required to
7 report suspected child abuse) and of any person required to make
8 a referral to law enforcement officers under this chapter shall
9 be presumed.]

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

11 § 6331. Establishment of pending complaint file, Statewide
12 central register and file of unfounded reports.

13 There shall be established in the department:

14 * * *

15 (2) A Statewide central register of child abuse which
16 shall consist of founded and indicated reports[.] and which
17 contains the following subfiles that shall be retained
18 indefinitely:

19 (i) A subfile of the names of perpetrators of
20 indicated and founded reports of child abuse if the
21 individual's Social Security number or date of birth is
22 known to the department.

23 (ii) A subfile of the names of the persons who made
24 an intentionally false report of suspected child abuse
25 under section 6379(d) (relating to immunity from <--
26 liability) 18 PA.C.S. § 4906.1 (RELATING TO FALSE REPORTS <--
27 OF CHILD ABUSE), including the name of the subject child,
28 which shall only be made available to law enforcement,
29 the department or the county agency investigating new
30 allegations of suspected child abuse at a school, a <--

1 ~~private residential rehabilitative institution or a~~
2 ~~detention facility~~ CHILD-CARE SERVICES to determine the <--
3 ~~existence of a pattern of false reports of suspected~~
4 ~~child abuse on behalf of any one person or subject child.~~

5 * * *

6 Section 4. ~~Section 6341(a)(2), (c) and (f) of Title 23 are~~ <--
7 ~~amended and the section is amended by adding a subsection to~~
8 ~~read:~~

9 ~~§ 6341. Amendment or expunction of information.~~

10 ~~(a) General rule. At any time:~~

11 * * *

12 ~~(2) Any person named as a perpetrator, and any school~~
13 ~~employee, private residential rehabilitative institution~~
14 ~~employee or detention facility employee named, in an~~
15 ~~indicated report of child abuse may, within 45 days of being~~
16 ~~notified of the status of the report, request the secretary~~
17 ~~to amend or expunge an indicated report on the grounds that~~
18 ~~it is inaccurate or it is being maintained in a manner~~
19 ~~inconsistent with this chapter.~~

20 * * *

21 ~~(c) Review of refusal of request. If the secretary refuses~~
22 ~~the request under subsection (a)(2) or does not act within a~~
23 ~~reasonable time, but in no event later than 30 days after~~
24 ~~receipt of the request, the perpetrator [or], school employee,~~
25 ~~private residential rehabilitative institution employee or~~
26 ~~detention facility employee shall have the right to a hearing~~
27 ~~before the secretary or a designated agent of the secretary to~~
28 ~~determine whether the summary of the indicated report in the~~
29 ~~Statewide central register should be amended or expunged on the~~
30 ~~grounds that it is inaccurate or that it is being maintained in~~

1 a manner inconsistent with this chapter. The perpetrator [or],
2 school employee, private residential rehabilitative institution
3 employee or detention facility employee shall have 45 days from
4 the date of the letter giving notice of the decision to deny the
5 request in which to request a hearing. The appropriate county
6 agency and appropriate law enforcement officials shall be given
7 notice of the hearing. The burden of proof in the hearing shall
8 be on the appropriate county agency. The department shall assist
9 the county agency as necessary.

10 ~~(c.1) Appeals from refusal of request.~~

11 ~~(1) A school employee, private residential~~
12 ~~rehabilitative institution employee or detention facility~~
13 ~~employee who is named in an indicated report of suspected~~
14 ~~child abuse and who, under subsection (c), files an appeal,~~
15 ~~shall be entitled to an initial hearing and ruling on the~~
16 ~~matter within 45 days of the date the appeal was received by~~
17 ~~the secretary. If a ruling on the matter is not issued within~~
18 ~~45 days, the report shall be marked unfounded and expunction~~
19 ~~shall be granted in accordance with the terms of this~~
20 ~~chapter.~~

21 ~~(2) The initial hearing shall be conducted before the~~
22 ~~secretary or the designated agent of the secretary for the~~
23 ~~purpose of determining whether credible and substantial~~
24 ~~evidence exists to support the determination made by the~~
25 ~~department or the county agency. All evidence gathered by the~~
26 ~~department or county agency as part of its investigation~~
27 ~~leading to a determination shall be disclosed to the~~
28 ~~appellant employee sufficiently in advance of the hearing so~~
29 ~~as to make the disclosure meaningful and shall be subject to~~
30 ~~cross examination at the hearing. If the secretary or~~

~~designee concludes that insufficient evidence exists to support the determination, the report shall be marked unfounded and expunction shall be granted in accordance with the terms of this chapter. If the secretary or designee concludes that sufficient evidence has been presented, the matter shall be scheduled for a full hearing on the merits. If a full hearing is necessary and the appellant is a private residential rehabilitative institution employee or detention facility employee, the secretary or designee shall also determine whether the appellant shall continue to work with children and under what, if any, restrictions shall be imposed based on the nature and extent of the evidence presented. Restrictions may only be imposed if, based on evidence presented, the appellant presents a danger to the subject child or other minors under his or her care.~~

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

~~* * *~~

~~(f) Notice of expunction. Written notice of an expunction of any child abuse record made pursuant to the provisions of this chapter shall be served upon the subject of the record who was responsible for the abuse or injury and the appropriate county agency. Except as provided in this subsection, the county agency, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse and school employee, private residential rehabilitative institution employee or detention facility employee records and inform, for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating to reports~~

1 ~~to department and coroner). Whenever the county agency~~
2 ~~investigation reveals, within 60 days of receipt of the report~~
3 ~~of suspected child abuse, that the report is unfounded but that~~
4 ~~the subjects need services provided or arranged by the county~~
5 ~~agency, the county agency shall retain those records and shall~~
6 ~~specifically identify that the report was an unfounded report of~~
7 ~~suspected child abuse. An unfounded report regarding subjects~~
8 ~~who receive services shall be expunged no later than 120 days~~
9 ~~following the expiration of one year after the termination or~~
10 ~~completion of services provided or arranged by the county~~
11 ~~agency.~~

12 SECTION 4. SECTION 6341 OF TITLE 23 IS REPEALED: <--

13 [§ 6341. AMENDMENT OR EXPUNCTION OF INFORMATION.

14 (A) GENERAL RULE.--AT ANY TIME:

15 (1) THE SECRETARY MAY AMEND OR EXPUNGE ANY RECORD UNDER
16 THIS CHAPTER UPON GOOD CAUSE SHOWN AND NOTICE TO THE
17 APPROPRIATE SUBJECTS OF THE REPORT.

18 (2) ANY PERSON NAMED AS A PERPETRATOR, AND ANY SCHOOL
19 EMPLOYEE NAMED, IN AN INDICATED REPORT OF CHILD ABUSE MAY,
20 WITHIN 45 DAYS OF BEING NOTIFIED OF THE STATUS OF THE REPORT,
21 REQUEST THE SECRETARY TO AMEND OR EXPUNGE AN INDICATED REPORT
22 ON THE GROUNDS THAT IT IS INACCURATE OR IT IS BEING
23 MAINTAINED IN A MANNER INCONSISTENT WITH THIS CHAPTER.

24 (B) REVIEW OF GRANT OF REQUEST.--IF THE SECRETARY GRANTS THE
25 REQUEST UNDER SUBSECTION (A) (2), THE STATEWIDE CENTRAL REGISTER,
26 APPROPRIATE COUNTY AGENCY, APPROPRIATE LAW ENFORCEMENT OFFICIALS
27 AND ALL SUBJECTS SHALL BE SO ADVISED OF THE DECISION. THE COUNTY
28 AGENCY AND ANY SUBJECT HAVE 45 DAYS IN WHICH TO FILE AN
29 ADMINISTRATIVE APPEAL WITH THE SECRETARY. IF AN ADMINISTRATIVE
30 APPEAL IS RECEIVED, THE SECRETARY OR HIS DESIGNATED AGENT SHALL

1 SCHEDULE A HEARING PURSUANT TO ARTICLE IV OF THE ACT OF JUNE 13,
2 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE, AND
3 ATTENDING DEPARTMENTAL REGULATIONS. IF NO ADMINISTRATIVE APPEAL
4 IS RECEIVED WITHIN THE DESIGNATED TIME PERIOD, THE STATEWIDE
5 CENTRAL REGISTER SHALL COMPLY WITH THE DECISION OF THE SECRETARY
6 AND ADVISE THE COUNTY AGENCY TO AMEND OR EXPUNGE THE INFORMATION
7 IN THEIR RECORDS SO THAT THE RECORDS ARE CONSISTENT AT BOTH THE
8 STATE AND LOCAL LEVELS.

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 SHALL
13 HAVE THE RIGHT TO A HEARING BEFORE THE SECRETARY OR A DESIGNATED
14 AGENT OF THE SECRETARY TO DETERMINE WHETHER THE SUMMARY OF THE
15 INDICATED REPORT IN THE STATEWIDE CENTRAL REGISTER SHOULD BE
16 AMENDED OR EXPUNGED ON THE GROUNDS THAT IT IS INACCURATE OR THAT
17 IT IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS
18 CHAPTER. THE PERPETRATOR OR SCHOOL EMPLOYEE SHALL HAVE 45 DAYS
19 FROM THE DATE OF THE LETTER GIVING NOTICE OF THE DECISION TO
20 DENY THE REQUEST IN WHICH TO REQUEST A HEARING. THE APPROPRIATE
21 COUNTY AGENCY AND APPROPRIATE LAW ENFORCEMENT OFFICIALS SHALL BE
22 GIVEN NOTICE OF THE HEARING. THE BURDEN OF PROOF IN THE HEARING
23 SHALL BE ON THE APPROPRIATE COUNTY AGENCY. THE DEPARTMENT SHALL
24 ASSIST THE COUNTY AGENCY AS NECESSARY.

25 (D) STAY OF PROCEEDINGS.--ANY ADMINISTRATIVE APPEAL
26 PROCEEDING PURSUANT TO SUBSECTION (B) SHALL BE AUTOMATICALLY
27 STAYED UPON NOTICE TO THE DEPARTMENT BY EITHER OF THE PARTIES
28 WHEN THERE IS A PENDING CRIMINAL PROCEEDING OR A DEPENDENCY OR
29 DELINQUENCY PROCEEDING PURSUANT TO 42 PA.C.S. CH. 63 (RELATING
30 TO JUVENILE MATTERS), INCLUDING ANY APPEAL THEREOF, INVOLVING

1 THE SAME FACTUAL CIRCUMSTANCES AS THE ADMINISTRATIVE APPEAL.

2 (E) ORDER.--THE SECRETARY OR DESIGNATED AGENT MAY MAKE ANY
3 APPROPRIATE ORDER RESPECTING THE AMENDMENT OR EXPUNCTION OF SUCH
4 RECORDS TO MAKE THEM ACCURATE OR CONSISTENT WITH THE
5 REQUIREMENTS OF THIS CHAPTER.

6 (F) NOTICE OF EXPUNCTION.--WRITTEN NOTICE OF AN EXPUNCTION
7 OF ANY CHILD ABUSE RECORD MADE PURSUANT TO THE PROVISIONS OF
8 THIS CHAPTER SHALL BE SERVED UPON THE SUBJECT OF THE RECORD WHO
9 WAS RESPONSIBLE FOR THE ABUSE OR INJURY AND THE APPROPRIATE
10 COUNTY AGENCY. EXCEPT AS PROVIDED IN THIS SUBSECTION, THE COUNTY
11 AGENCY, UPON RECEIPT OF THE NOTICE, SHALL TAKE APPROPRIATE,
12 SIMILAR ACTION IN REGARD TO THE LOCAL CHILD ABUSE AND SCHOOL
13 EMPLOYEE RECORDS AND INFORM, FOR THE SAME PURPOSE, THE
14 APPROPRIATE CORONER IF THAT OFFICER HAS RECEIVED REPORTS
15 PURSUANT TO SECTION 6367 (RELATING TO REPORTS TO DEPARTMENT AND
16 CORONER). WHENEVER THE COUNTY AGENCY INVESTIGATION REVEALS,
17 WITHIN 60 DAYS OF RECEIPT OF THE REPORT OF SUSPECTED CHILD
18 ABUSE, THAT THE REPORT IS UNFOUNDED BUT THAT THE SUBJECTS NEED
19 SERVICES PROVIDED OR ARRANGED BY THE COUNTY AGENCY, THE COUNTY
20 AGENCY SHALL RETAIN THOSE RECORDS AND SHALL SPECIFICALLY
21 IDENTIFY THAT THE REPORT WAS AN UNFOUNDED REPORT OF SUSPECTED
22 CHILD ABUSE. AN UNFOUNDED REPORT REGARDING SUBJECTS WHO RECEIVE
23 SERVICES SHALL BE EXPUNGED NO LATER THAN 120 DAYS FOLLOWING THE
24 EXPIRATION OF ONE YEAR AFTER THE TERMINATION OR COMPLETION OF
25 SERVICES PROVIDED OR ARRANGED BY THE COUNTY AGENCY.]

26 Section 5. Title 23 is amended by adding ~~a section~~ SECTIONS <--
27 to read:

28 § 6341.1. DISPOSITION OF REPORTS UPON COMPLETION OF <--
29 INVESTIGATION.

30 (A) FINAL DETERMINATION.--

1 (1) UPON COMPLETION OF AN INVESTIGATION BY A COUNTY
2 AGENCY, THE COUNTY AGENCY SHALL:

3 (I) INFORM THE DEPARTMENT THAT:

4 (A) THE CHILD ABUSE REPORT OR COMPLAINT HAS BEEN
5 DETERMINED TO BE UNFOUNDED, INDICATED OR FOUNDED; AND

6 (B) WHETHER THERE IS ANY ACCEPTANCE FOR
7 SERVICES; AND

8 (II) IF THERE IS NO ACCEPTANCE FOR SERVICES, STATE
9 WHETHER THE FAMILY WAS REFERRED FOR OTHER COMMUNITY
10 SERVICES.

11 (2) EACH CASE SHALL BEAR A NOTATION AS TO THE EFFECT OF
12 ITS OUTCOME.

13 (B) REVIEW OF INDICATED REPORTS.--A FINAL DETERMINATION THAT
14 A REPORT OF SUSPECTED CHILD ABUSE IS INDICATED SHALL BE MADE BY
15 THE COUNTY AGENCY SOLICITOR AND THE COUNTY ADMINISTRATOR OR THE
16 DESIGNEE OF THE ADMINISTRATOR.

17 (C) FAILURE TO MAKE DETERMINATION.--

18 (1) SUBJECT TO PARAGRAPH (2), A REPORT OF SUSPECTED
19 CHILD ABUSE SHALL BE CONSIDERED TO BE AN UNFOUNDED REPORT IF
20 WITHIN 60 DAYS OF THE DATE OF THE INITIAL REPORT AN
21 INVESTIGATION OF THE REPORT BY THE COUNTY AGENCY DOES NOT
22 DETERMINE THAT THE REPORT IS A FOUNDED REPORT, INDICATED
23 REPORT OR UNFOUNDED REPORT.

24 (2) IF COURT ACTION HAS BEEN INITIATED BUT THE COURT HAS
25 NOT DETERMINED THAT THE REPORT IS A FOUNDED REPORT, AND THE
26 LACK OF SUCH A DETERMINATION RESULTS IN THE COUNTY AGENCY NOT
27 BEING ABLE TO MAKE ITS DETERMINATION UNDER PARAGRAPH (1), THE
28 REPORT SHALL BE IDENTIFIED IN THE STATEWIDE DATABASE AS
29 PENDING AND THE STATUS OF THE REPORT SHALL BE UPDATED IN THE
30 STATEWIDE DATABASE FOLLOWING THE COURT DETERMINATION.

1 (D) NOTIFICATION OF COURT ACTION.--THE COUNTY AGENCY SHALL
2 ADVISE THE DEPARTMENT THAT COURT ACTION OR AN ARREST HAS BEEN
3 INITIATED SO THAT THE DATABASE IS KEPT CURRENT REGARDING THE
4 STATUS OF ALL LEGAL PROCEEDINGS.

5 (E) NOTICE OF FINAL DETERMINATION.--WITHIN 24 BUSINESS HOURS
6 OF ENTERING OF THE INFORMATION INTO THE STATEWIDE CENTRAL
7 REGISTRY, THE DEPARTMENT SHALL SEND NOTICE OF THE FINAL
8 DETERMINATION TO THE SUBJECTS OF THE REPORT, OTHER THAN THE
9 ABUSED CHILD, AND THE MANDATED REPORTER IF A REPORT WAS MADE
10 UNDER SECTION 6313 (RELATING TO REPORTING PROCEDURE). FOR THE
11 PURPOSE OF THIS SECTION, NOTICE OF THE REPORT SHALL BE DEEMED
12 RECEIVED BY THE INTENDED RECIPIENT IF THE REPORT WAS MAILED TO
13 THE RECIPIENT'S LAST KNOWN POST OFFICE ADDRESS AND WAS NOT
14 RETURNED TO THE DEPARTMENT AS UNDELIVERABLE BY THE POSTAL
15 SERVICE. THE NOTICE SHALL INCLUDE IN FOLLOWING INFORMATION:

16 (1) THE STATUS OF THE REPORT.

17 (2) THE PERPETRATOR'S RIGHT TO REQUEST THE SECRETARY TO
18 AMEND THE REPORT.

19 (3) THE RIGHT OF THE SUBJECTS OF THE REPORT TO SERVICES
20 FROM THE COUNTY AGENCY.

21 (4) THE EFFECT OF THE REPORT UPON FUTURE EMPLOYMENT
22 OPPORTUNITIES INVOLVING CHILDREN.

23 (5) THE FACT THAT THE NAME OF THE PERPETRATOR, THE
24 NATURE OF THE ABUSE AND THE FINAL STATUS OF THE REPORT WILL
25 BE KEPT ON FILE INDEFINITELY IF THE SOCIAL SECURITY NUMBER OR
26 DATE OF BIRTH IS KNOWN.

27 (6) THE PERPETRATOR'S RIGHT TO APPEAL AN INDICATED
28 FINDING OF ABUSE WITHIN 45 DAYS OF THE CONCLUSION OF THE
29 INVESTIGATION THAT DETERMINED THE REPORT TO BE INDICATED.

30 (7) THE PERPETRATOR'S RIGHT TO A FAIR HEARING ON THE

1 MERITS ON AN APPEAL OF AN INDICATED REPORT.

2 (8) THE BURDEN ON THE INVESTIGATIVE AGENCY TO PROVE ITS
3 CASE BY SUBSTANTIAL EVIDENCE IN AN APPEAL OF AN INDICATED
4 REPORT.

5 (F) AMENDMENT BY SECRETARY.--AT ANY TIME THE SECRETARY MAY
6 AMEND ANY RECORD UNDER THIS CHAPTER UPON GOOD CAUSE SHOWN AND
7 NOTICE TO THE APPROPRIATE SUBJECTS OF THE REPORT AND THE COUNTY
8 AGENCY HAVING JURISDICTION OVER THE REPORT.

9 (G) REQUEST BY PERPETRATOR.--ANY PERSON NAMED AS A
10 PERPETRATOR IN AN INDICATED REPORT MAY REQUEST THE SECRETARY TO
11 AMEND THE REPORT ON THE GROUNDS THAT IT IS INACCURATE OR IS
12 BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS CHAPTER. THE
13 REQUEST SHALL BE FILED WITHIN 45 DAYS OF THE DATE OF THE NOTICE
14 OF THE FINAL DETERMINATION THAT THE REPORT IS INDICATED.

15 (H) REVIEW OF REFUSAL OF REQUEST.--IF THE SECRETARY REFUSES
16 THE REQUEST UNDER SUBSECTION (F) OR DOES NOT ACT WITHIN A
17 REASONABLE TIME, BUT IN NO EVENT LATER THAN 30 DAYS AFTER
18 RECEIPT OF THE REQUEST, THE PERPETRATOR SHALL HAVE THE RIGHT TO
19 A HEARING BEFORE THE SECRETARY OR A DESIGNATED AGENT OF THE
20 SECRETARY TO DETERMINE WHETHER THE SUMMARY OF THE INDICATED
21 REPORT IN THE STATEWIDE CENTRAL REGISTER SHOULD BE AMENDED OR
22 EXPUNGED ON THE GROUNDS THAT IT IS INACCURATE OR THAT IT IS
23 BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS CHAPTER. THE
24 PERPETRATOR SHALL HAVE 45 DAYS FROM THE DATE OF THE LETTER
25 GIVING NOTICE OF THE DECISION TO DENY THE REQUEST IN WHICH TO
26 REQUEST A HEARING. THE APPROPRIATE COUNTY AGENCY AND APPROPRIATE
27 LAW ENFORCEMENT OFFICIALS SHALL BE GIVEN NOTICE OF THE HEARING.
28 THE BURDEN OF PROOF IN THE HEARING SHALL BE ON THE APPROPRIATE
29 COUNTY AGENCY. THE DEPARTMENT SHALL ASSIST THE COUNTY AGENCY AS
30 NECESSARY.

1 (I) APPEAL.--SUBJECT TO THE PROVISIONS OF SECTION 6341.2
2 (RELATING TO APPEALS OF INDICATED REPORTS), THE PERPETRATOR MAY
3 APPEAL A DENIAL OF THE REQUEST UNDER SUBSECTION (G), AND THE
4 COUNTY MAY APPEAL THE GRANTING OF THE REQUEST.

5 (J) ORDER.--THE SECRETARY OR DESIGNATED AGENT MAY MAKE ANY
6 APPROPRIATE ORDER RESPECTING THE AMENDMENT OF AN INDICATED
7 REPORT TO MAKE IT ACCURATE OR CONSISTENT WITH THE REQUIREMENTS
8 OF THIS CHAPTER.

9 § 6341.2. APPEALS OF INDICATED REPORTS.

10 (A) TIME TO APPEAL.--APPEALS MADE UNDER SECTION 6341.1(J)
11 (RELATING TO DISPOSITION OF REPORTS UPON COMPLETION OF
12 INVESTIGATION) MUST BE RECEIVED BY THE SECRETARY WITHIN 45 DAYS
13 OF THE CONCLUSION OF THE INVESTIGATION DETERMINING THAT THE
14 REPORT OF SUSPECTED CHILD ABUSE IS AN INDICATED REPORT. FAILURE
15 TO TIMELY FILE AN APPEAL SHALL PRECLUDE ANY APPEAL OF THE
16 INDICATED FINDING OF CHILD ABUSE.

17 (B) STAY OF PROCEEDINGS.--AN ADMINISTRATIVE APPEAL
18 PROCEEDING UNDER THIS SECTION SHALL BE AUTOMATICALLY STAYED UPON
19 NOTICE TO THE DEPARTMENT BY EITHER OF THE PARTIES WHEN THERE IS
20 A PENDING CRIMINAL PROCEEDING OR A DEPENDENCY OR DELINQUENCY
21 PROCEEDING PURSUANT TO 42 PA.C.S. CH. 63 (RELATING TO JUVENILE
22 MATTERS), INCLUDING ANY APPEAL THEREOF, INVOLVING THE SAME
23 FACTUAL CIRCUMSTANCES AS THE ADMINISTRATIVE APPEAL.

24 (C) HEARING.--THE APPEAL HEARING SHALL BE SCHEDULED
25 ACCORDING TO THE FOLLOWING PROCEDURES:

26 (1) WITHIN TEN DAYS OF RECEIPT OF AN APPEAL PURSUANT TO
27 THIS SECTION, THE DEPARTMENT SHALL SCHEDULE A HEARING ON THE
28 MERITS OF THE APPEAL.

29 (2) THE DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO
30 COORDINATE THE HEARING DATE WITH BOTH THE APPELLEE AND

1 APPELLANT.

2 (3) PROCEEDINGS BEFORE THE BUREAU OF HEARINGS AND
3 APPEALS SHALL COMMENCE WITHIN 90 DAYS OF THE DATE THE
4 SCHEDULING ORDER IS ENTERED. PROCEEDINGS AND HEARINGS SHALL
5 BE SCHEDULED TO BE HEARD ON CONSECUTIVE DAYS WHENEVER
6 POSSIBLE, BUT IF NOT ON CONSECUTIVE DAYS, THEN THE PROCEEDING
7 OR HEARING SHALL BE CONCLUDED NO LATER THAN 30 DAYS FROM
8 COMMENCEMENT.

9 (4) THE INVESTIGATIVE AGENCY SHALL BEAR THE BURDEN OF
10 PROVING BY SUBSTANTIAL EVIDENCE THAT THE REPORT SHOULD REMAIN
11 CATEGORIZED AS AN INDICATED REPORT.

12 (5) EVIDENCE THAT A CHILD HAS SUFFERED CHILD ABUSE OF
13 SUCH A NATURE AS WOULD ORDINARILY NOT BE SUSTAINED OR EXIST
14 EXCEPT BY REASON OF THE ACT OR FAILURE TO ACT OF THE ALLEGED
15 PERPETRATOR SHALL BE PRIMA FACIE EVIDENCE OF CHILD ABUSE BY
16 EITHER OR BOTH OF THE PARENTS OR ANY OTHER PERSON RESPONSIBLE
17 FOR THE CHILD'S WELFARE. ONCE THE INVESTIGATIVE AGENCY HAS
18 ESTABLISHED THAT PRIMA FACIE EVIDENCE OF CHILD ABUSE EXISTS,
19 THE BURDEN SHALL SHIFT TO THE APPELLEE TO ESTABLISH THAT THE
20 APPELLEE WAS NOT THE INDIVIDUAL RESPONSIBLE FOR THE WELFARE
21 OF THE CHILD OR THAT THE CHILD WAS NOT THE VICTIM OF CHILD
22 ABUSE BY A PERPETRATOR.

23 (D) TESTIMONY BY CLOSED-CIRCUIT TELEVISION WHEN AVAILABLE.--
24 AT THE REQUEST OF THE INVESTIGATIVE AGENCY, THE ADMINISTRATIVE
25 LAW JUDGE OR HEARING OFFICER SHALL ORDER THAT THE TESTIMONY OF
26 THE CHILD VICTIM OR CHILD MATERIAL WITNESS BE TAKEN UNDER OATH
27 OR AFFIRMATION IN A ROOM OTHER THAN THE HEARING ROOM AND
28 TELEVISED BY CLOSE-CIRCUIT EQUIPMENT TO BE VIEWED BY THE
29 TRIBUNAL. ONLY THE ATTORNEYS FOR THE APPELLANT AND APPELLEE, THE
30 COURT REPORTER, THE ADMINISTRATIVE LAW JUDGE OR HEARING OFFICER,

1 PERSONS NECESSARY TO OPERATE THE EQUIPMENT AND ANY PERSON WHOSE
2 PRESENCE WOULD CONTRIBUTE TO THE WELFARE AND WELL-BEING OF THE
3 CHILD MAY BE PRESENT IN THE ROOM WITH THE CHILD DURING THE
4 CHILD'S TESTIMONY. THE ADMINISTRATIVE LAW JUDGE OR HEARING
5 OFFICER SHALL PERMIT THE APPELLEE TO OBSERVE AND HEAR THE
6 TESTIMONY OF THE CHILD BUT SHALL ENSURE THAT THE CHILD CANNOT
7 HEAR OR SEE THE APPELLEE. THE ADMINISTRATIVE LAW JUDGE OR
8 HEARING OFFICER SHALL MAKE CERTAIN THAT THE APPELLEE HAS
9 ADEQUATE OPPORTUNITY TO COMMUNICATE WITH COUNSEL FOR THE
10 PURPOSES OF PROVIDING AN EFFECTIVE EXAMINATION.

11 (E) ADMISSIBILITY OF CERTAIN STATEMENTS.--AN OUT-OF-COURT
12 STATEMENT, INCLUDING A VIDEO, AUDIO OR OTHER RECORDED STATEMENT,
13 NOT OTHERWISE ADMISSIBLE BY STATUTE OR RULE OF EVIDENCE IS
14 ADMISSIBLE IN EVIDENCE IN A PROCEEDING UNDER THIS SECTION IF THE
15 FOLLOWING APPLY:

16 (1) THE STATEMENT WAS MADE BY A CHILD UNDER TEN YEARS OF
17 AGE OR BY A CHILD TEN YEARS OF AGE OR OLDER WHO IS
18 INTELLECTUALLY DISABLED.

19 (2) THE STATEMENT ALLEGES, EXPLAINS, DENIES OR DESCRIBES
20 ANY OF THE FOLLOWING:

21 (I) AN ACT OF SEXUAL PENETRATION OR CONTACT
22 PERFORMED WITH OR ON THE CHILD.

23 (II) AN ACT OF SEXUAL PENETRATION OR CONTACT WITH OR
24 ON ANOTHER CHILD OBSERVED BY THE CHILD MAKING THE
25 STATEMENT.

26 (III) AN ACT INVOLVING BODILY INJURY OR SERIOUS
27 PHYSICAL NEGLIGENCE OF THE CHILD BY ANOTHER.

28 (IV) AN ACT INVOLVING BODILY INJURY OR SERIOUS
29 PHYSICAL NEGLIGENCE OF ANOTHER CHILD OBSERVED BY THE CHILD
30 MAKING THE STATEMENT.

1 (3) THE ADMINISTRATIVE LAW JUDGE OR HEARING OFFICER
2 FINDS THAT THE TIME, CONTENT AND CIRCUMSTANCES OF THE
3 STATEMENT AND THE RELIABILITY OF THE PERSON TO WHOM THE
4 STATEMENT IS MADE PROVIDE SUFFICIENT INDICIA OF RELIABILITY.

5 (4) THE PROPONENT OF THE STATEMENT NOTIFIES OTHER
6 PARTIES OF AN INTENT TO OFFER THE STATEMENT AND THE
7 PARTICULARS OF THE STATEMENT SUFFICIENTLY IN ADVANCE OF THE
8 PROCEEDING AT WHICH THE PROPONENT INTENDS TO OFFER THE
9 STATEMENT INTO EVIDENCE TO PROVIDE THE PARTIES WITH A FAIR
10 OPPORTUNITY TO MEET THE STATEMENT.

11 (F) PROMPT DECISION.--THE ADMINISTRATIVE LAW JUDGE OR
12 HEARING OFFICER'S DECISION SHALL BE ENTERED, FILED AND SERVED
13 UPON THE PARTIES WITHIN 15 DAYS OF THE DATE UPON WHICH THE
14 PROCEEDING OR HEARING IS CONCLUDED UNLESS, WITHIN THAT TIME, THE
15 TRIBUNAL EXTENDS THE DATE FOR THE DECISION BY ORDER ENTERED OF
16 RECORD SHOWING GOOD CAUSE FOR THE EXTENSION. IN NO EVENT SHALL
17 AN EXTENSION DELAY THE ENTRY OF THE DECISION MORE THAN 45 DAYS
18 AFTER THE CONCLUSION OF THE PROCEEDING OR HEARING.

19 (G) RECONSIDERATION AND APPEAL.--PARTIES TO A PROCEEDING OR
20 HEARING HELD UNDER THIS SECTION HAVE 15 CALENDAR DAYS FROM THE
21 MAILING DATE OF THE FINAL ORDER OF THE BUREAU OF HEARINGS AND
22 APPEALS TO REQUEST THE SECRETARY TO RECONSIDER THE DECISION OR
23 APPEAL TO COMMONWEALTH COURT. PARTIES TO A PROCEEDING OR HEARING
24 HELD UNDER THIS SECTION HAVE 30 CALENDAR DAYS FROM THE MAILING
25 DATE OF THE FINAL ORDER OF THE BUREAU OF HEARINGS AND APPEALS TO
26 PERFECT AN APPEAL TO THE COMMONWEALTH COURT. THE FILING FOR
27 RECONSIDERATION SHALL NOT TOLL THE 30 DAYS PROVIDED.

28 (H) NOTICE OF DECISION.--NOTICE OF THE DECISION SHALL BE
29 MADE TO THE STATEWIDE DATABASE, THE APPROPRIATE COUNTY AGENCY,
30 ANY APPROPRIATE LAW ENFORCEMENT OFFICIALS AND ALL SUBJECTS OF

1 THE REPORT.

2 (I) NOTICE OF EXPUNCTION.--WRITTEN NOTICE OF AN EXPUNCTION
3 OF ANY CHILD ABUSE RECORD MADE PURSUANT TO THE PROVISIONS OF
4 THIS CHAPTER SHALL BE SERVED UPON THE SUBJECT OF THE RECORD WHO
5 WAS RESPONSIBLE FOR THE ABUSE OR INJURY AND THE APPROPRIATE
6 COUNTY AGENCY. EXCEPT AS PROVIDED IN THIS SUBSECTION, THE COUNTY
7 AGENCY, UPON RECEIPT OF THE NOTICE, SHALL TAKE APPROPRIATE,
8 SIMILAR ACTION IN REGARD TO THE LOCAL CHILD ABUSE AND SCHOOL
9 EMPLOYEE OR CHILD-CARE SERVICES EMPLOYEE RECORDS AND INFORM, FOR
10 THE SAME PURPOSE, THE APPROPRIATE CORONER IF THAT OFFICER HAS
11 RECEIVED REPORTS PURSUANT TO SECTION 6367 (RELATING TO REPORTS
12 TO DEPARTMENT AND CORONER). WHENEVER THE COUNTY AGENCY
13 INVESTIGATION REVEALS, WITHIN 60 DAYS OF RECEIPT OF THE REPORT
14 OF SUSPECTED CHILD ABUSE, THAT THE REPORT IS UNFOUNDED BUT THAT
15 THE SUBJECTS NEED SERVICES PROVIDED OR ARRANGED BY THE COUNTY
16 AGENCY, THE COUNTY AGENCY SHALL RETAIN THOSE RECORDS AND SHALL
17 SPECIFICALLY IDENTIFY THAT THE REPORT WAS AN UNFOUNDED REPORT OF
18 SUSPECTED CHILD ABUSE. AN UNFOUNDED REPORT REGARDING SUBJECTS
19 WHO RECEIVE SERVICES SHALL BE EXPUNGED NO LATER THAN 120 DAYS
20 FOLLOWING THE EXPIRATION OF ONE YEAR AFTER THE TERMINATION OR
21 COMPLETION OF SERVICES PROVIDED OR ARRANGED BY THE COUNTY
22 AGENCY.

23 § 6379. Immunity from liability.

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

29 (1) Making a report of suspected child abuse ~~or causing~~ <--
30 a report of suspected child abuse to be made, or making a

1 referral for general protective services, regardless of
2 whether the report is required to be made under this chapter.

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

6 (3) Testifying in a proceeding arising out of an
7 instance of suspected child abuse OR GENERAL PROTECTIVE <--
8 SERVICES.

9 (4) Engaging in any action taken under section 6314
10 (relating to photographs, medical tests and X-rays of child
11 subject to report), 6315 (relating to taking child into
12 protective custody), 6316 (relating to admission to private
13 and public hospitals) or 6317 (relating to mandatory
14 reporting and postmortem investigation of deaths).

15 (b) Departmental and county agency immunity.--An official or
16 employee of the department or county agency who refers a report
17 of suspected child abuse OR GENERAL PROTECTIVE SERVICES to law <--
18 enforcement authorities or provides services under this chapter
19 shall have immunity from civil and criminal liability that might
20 otherwise result from the action.

21 (c) Presumption of good faith.--For the purpose of any civil
22 or criminal proceeding, the good faith of a person required to
23 report pursuant to section 6311 (relating to persons required to
24 report suspected child abuse) and of any person required to make
25 a referral to law enforcement officers under this chapter shall
26 be presumed unless actual malice is proven.

27 (d) False reports.--Any person who intentionally makes a
28 false report of suspected child abuse PURSUANT TO 18 PA.C.S. § <--
29 4906.1 (RELATING TO FALSE REPORTS OF CHILD ABUSE) against a
30 school, private residential rehabilitative institution, <--

1 ~~detention facility,~~ PERSON, school employee, private residential <--
2 rehabilitative institution employee or, detention facility <--
3 employee OR CHILD-CARE SERVICES EMPLOYEE commits a misdemeanor <--
4 of the second degree.

5 Section 6. This act shall take effect ~~in 60 days~~ JANUARY 1, <--
6 2014.