

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

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 19, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions; ~~repealing provisions relating to~~ <--
4 ~~immunity from liability; further providing for establishment~~
5 ~~of pending complaint file, Statewide central register and~~
6 ~~file of unfounded reports; repealing provisions relating to~~
7 ~~amendment or expunction of information; and providing for~~
8 ~~disposition of reports upon completion of investigation, for~~
9 ~~requests for reviews of indicated reports for requests for~~
10 ~~appeals of indicated reports and for immunity from liability~~
11 AND FURTHER PROVIDING FOR AMENDMENT OR EXPUNCTION OF <--
12 INFORMATION.

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 A <--
17 DEFINITION to read:

18 § 6303. Definitions.

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

1 * * *

2 "Child care services." As follows: <--

3 (1) Includes any of the following:

4 (i) Child day care centers.

5 (ii) Group day care homes.

6 (iii) Family day care homes.

7 (iv) Foster homes.

8 (v) Adoptive parents.

9 (vi) Boarding homes for children.

10 (vii) Juvenile detention center services or programs
11 for delinquent or dependent children.

12 (viii) Mental health services for children.

13 (ix) Services for children with intellectual
14 disabilities.

15 (x) Early intervention services for children.

16 (xi) Drug and alcohol services for children.

17 (xii) Day care services or programs that are offered
18 by a school.

19 (xiii) Other child care services that are provided
20 by or subject to approval, licensure, registration or
21 certification by the Department of Public Welfare or a
22 county social services agency or that are provided
23 pursuant to a contract with the Department of Public
24 Welfare or a county social services agency.

25 (2) The term does not include child care services or
26 programs which may be offered by public and private schools,
27 intermediate units or area vocational technical schools.

28 "CHILD-CARE SERVICES." INCLUDES ANY OF THE FOLLOWING: <--

29 (1) CHILD DAY-CARE CENTERS.

30 (2) GROUP DAY-CARE HOMES.

- 1 (3) FAMILY DAY-CARE HOMES.
- 2 (4) FOSTER HOMES.
- 3 (5) ADOPTIVE PARENTS.
- 4 (6) BOARDING HOMES FOR CHILDREN.
- 5 (7) JUVENILE DETENTION CENTER SERVICES OR PROGRAMS FOR
6 DELINQUENT OR DEPENDENT CHILDREN.
- 7 (8) MENTAL HEALTH SERVICES FOR CHILDREN.
- 8 (9) SERVICES FOR CHILDREN WITH INTELLECTUAL
9 DISABILITIES.
- 10 (10) EARLY INTERVENTION SERVICES FOR CHILDREN.
- 11 (11) DRUG AND ALCOHOL SERVICES FOR CHILDREN.
- 12 (12) DAY-CARE SERVICES OR PROGRAMS THAT ARE OFFERED BY A
13 SCHOOL.
- 14 (13) OTHER CHILD-CARE SERVICES THAT ARE PROVIDED BY OR
15 SUBJECT TO APPROVAL, LICENSURE, REGISTRATION OR CERTIFICATION
16 BY THE DEPARTMENT OF PUBLIC WELFARE OR A COUNTY SOCIAL
17 SERVICES AGENCY OR THAT ARE PROVIDED PURSUANT TO A CONTRACT
18 WITH THE DEPARTMENT OF PUBLIC WELFARE OR A COUNTY SOCIAL
19 SERVICES AGENCY.

20 * * *

21 ~~"School." A facility providing elementary, secondary or~~ <--
22 ~~postsecondary educational services. The term includes the~~
23 ~~following:~~

- 24 ~~(1) Any school of a school district.~~
- 25 ~~(2) An area vocational technical school.~~
- 26 ~~(3) A joint school.~~
- 27 ~~(4) An intermediate unit.~~
- 28 ~~(5) A charter school or regional charter school.~~
- 29 ~~(6) A cyber charter school.~~
- 30 ~~(7) A private school licensed under the act of January~~

1 ~~28, 1988 (P.L.24, No.11), known as the Private Academic~~
2 ~~Schools Act.~~

3 ~~(8) A private school accredited by an accrediting~~
4 ~~association approved by the State Board of Education.~~

5 ~~(9) A nonpublic school.~~

6 ~~(10) A community college which is an institution now or~~
7 ~~hereafter created pursuant to Article XIX A of the act of~~
8 ~~March 10, 1949 (P.L.30, No.14), known as the Public School~~
9 ~~Code of 1949, or the former act of August 24, 1963 (P.L.1132,~~
10 ~~No.484), known as the Community College Act of 1963.~~

11 ~~(11) An independent institution of higher education~~
12 ~~which is an institution of higher education which is operated~~
13 ~~not for profit, located in and incorporated or chartered by~~
14 ~~the Commonwealth, entitled to confer degrees as set forth in~~
15 ~~24 Pa.C.S. § 6505 (relating to power to confer degrees) and~~
16 ~~entitled to apply to itself the designation "college" or~~
17 ~~"university" as provided for by standards and qualifications~~
18 ~~prescribed by the State Board of Education pursuant to 24-~~
19 ~~Pa.C.S. Ch. 65 (relating to private colleges, universities~~
20 ~~and seminaries).~~

21 ~~(12) A State owned university.~~

22 ~~(13) A State related university.~~

23 ~~(14) A private school licensed under the act of December~~
24 ~~15, 1986 (P.L.1585, No.174), known as the Private Licensed~~
25 ~~Schools Act.~~

26 ~~(15) The Hiram G. Andrews Center.~~

27 ~~(16) A private residential rehabilitative institution as~~
28 ~~defined in section 914.1 A(c) of the Public School Code of~~
29 ~~1949.~~

30 * * *

1 ~~Section 2. Section 6318 of Title 23 is repealed:~~

2 ~~§ 6318. Immunity from liability.~~

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

17 ~~(b) Presumption of good faith. For the purpose of any civil~~
18 ~~or criminal proceeding, the good faith of a person required to~~
19 ~~report pursuant to section 6311 (relating to persons required to~~
20 ~~report suspected child abuse) and of any person required to make~~
21 ~~a referral to law enforcement officers under this chapter shall~~
22 ~~be presumed.]~~

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

24 ~~§ 6331. Establishment of pending complaint file, Statewide~~
25 ~~central register and file of unfounded reports.~~

26 ~~There shall be established in the department:~~

27 ~~* * *~~

28 ~~(2) A Statewide central register of child abuse which~~
29 ~~shall consist of founded and indicated reports[.] and which~~
30 ~~contains the following subfiles that shall be retained~~

1 ~~indefinitely:~~

2 ~~(i) A subfile of the names of perpetrators of~~
3 ~~indicated and founded reports of child abuse if the~~
4 ~~individual's Social Security number or date of birth is~~
5 ~~known to the department.~~

6 ~~(ii) A subfile of the names of the persons who made~~
7 ~~an intentionally false report of suspected child abuse~~
8 ~~under 18 Pa.C.S. § 4906.1 (relating to false reports of~~
9 ~~child abuse), including the name of the subject child,~~
10 ~~which shall only be made available to law enforcement,~~
11 ~~the department or the county agency investigating new~~
12 ~~allegations of suspected child abuse at child care~~
13 ~~services, facility or school to determine the existence~~
14 ~~of a pattern of false reports of suspected child abuse on~~
15 ~~behalf of any one person or subject child.~~

16 * * *

17 Section 4. Section 6341 of Title 23 is repealed:

18 ~~§ 6341. Amendment or expunction of information.~~

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

20 ~~(1) The secretary may amend or expunge any record under~~
21 ~~this chapter upon good cause shown and notice to the~~
22 ~~appropriate subjects of the report.~~

23 ~~(2) Any person named as a perpetrator, and any school~~
24 ~~employee named, in an indicated report of child abuse may,~~
25 ~~within 45 days of being notified of the status of the report,~~
26 ~~request the secretary to amend or expunge an indicated report~~
27 ~~on the grounds that it is inaccurate or it is being~~
28 ~~maintained in a manner inconsistent with this chapter.~~

29 ~~(b) Review of grant of request. If the secretary grants the~~
30 ~~request under subsection (a) (2), the Statewide central register,~~

1 ~~appropriate county agency, appropriate law enforcement officials~~
2 ~~and all subjects shall be so advised of the decision. The county~~
3 ~~agency and any subject have 45 days in which to file an~~
4 ~~administrative appeal with the secretary. If an administrative~~
5 ~~appeal is received, the secretary or his designated agent shall~~
6 ~~schedule a hearing pursuant to Article IV of the act of June 13,~~
7 ~~1967 (P.L.31, No.21), known as the Public Welfare Code, and~~
8 ~~attending departmental regulations. If no administrative appeal~~
9 ~~is received within the designated time period, the Statewide~~
10 ~~central register shall comply with the decision of the secretary~~
11 ~~and advise the county agency to amend or expunge the information~~
12 ~~in their records so that the records are consistent at both the~~
13 ~~State and local levels.~~

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

30 ~~(d) Stay of proceedings. Any administrative appeal~~

1 ~~proceeding pursuant to subsection (b) shall be automatically~~
2 ~~stayed upon notice to the department by either of the parties~~
3 ~~when there is a pending criminal proceeding or a dependency or~~
4 ~~delinquency proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating~~
5 ~~to juvenile matters), including any appeal thereof, involving~~
6 ~~the same factual circumstances as the administrative appeal.~~

7 ~~(e) Order. The secretary or designated agent may make any~~
8 ~~appropriate order respecting the amendment or expunction of such~~
9 ~~records to make them accurate or consistent with the~~
10 ~~requirements of this chapter.~~

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

1 Section 5. Title 23 is amended by adding sections to read:
2 ~~§ 6341.1. Disposition of reports upon completion of~~
3 ~~investigation.~~

4 ~~(a) Final determination.~~

5 ~~(1) Upon completion of an investigation by a county~~
6 ~~agency, the county agency shall:~~

7 ~~(i) inform the department that:~~

8 ~~(A) the child abuse report or complaint has been~~
9 ~~determined to be unfounded, indicated or founded; and~~

10 ~~(B) whether there is any acceptance for~~
11 ~~services; and~~

12 ~~(ii) if there is no acceptance for services, state~~
13 ~~whether the family was referred for other community~~
14 ~~services.~~

15 ~~(2) Each case shall bear a notation as to the effect of~~
16 ~~its outcome.~~

17 ~~(b) Review of indicated reports. A final determination that~~
18 ~~a report of suspected child abuse is indicated shall be made:~~

19 ~~(1) if the county is the investigating agency, by the~~
20 ~~county administrator or a designee and the county solicitor;~~
21 ~~or~~

22 ~~(2) if the department is the investigating agency, by~~
23 ~~the secretary or a designee and legal counsel for the~~
24 ~~department.~~

25 ~~(c) Failure to make determination.~~

26 ~~(1) Subject to paragraph (2), a report of suspected~~
27 ~~child abuse shall be considered to be an unfounded report if~~
28 ~~within 60 days of the date of the initial report an~~
29 ~~investigation of the report by the county agency does not~~
30 ~~determine that the report is a founded report, indicated~~

1 ~~report or unfounded report.~~

2 ~~(2) If court action has been initiated but the court has~~
3 ~~not determined that the report is a founded report, and the~~
4 ~~lack of such a determination results in the county agency not~~
5 ~~being able to make its determination under paragraph (1), the~~
6 ~~report shall be identified in the Statewide database as~~
7 ~~pending and the status of the report shall be updated in the~~
8 ~~Statewide database following the court determination.~~

9 ~~(d) Notification of court action. The county agency shall~~
10 ~~advise the department that court action or an arrest has been~~
11 ~~initiated so that the database is kept current regarding the~~
12 ~~status of all legal proceedings.~~

13 ~~(e) Notice of final determination. Within 24 business hours~~
14 ~~of entering of the information into the Statewide central~~
15 ~~registry, the department shall send notice of the final~~
16 ~~determination to the subjects of the report, other than the~~
17 ~~abused child, and the mandated reporter if a report was made~~
18 ~~under section 6313 (relating to reporting procedure). For the~~
19 ~~purpose of this section, notice of the report shall be deemed~~
20 ~~received by the intended recipient if the report was mailed to~~
21 ~~the recipient's last known post office address and was not~~
22 ~~returned to the department as undeliverable by the postal~~
23 ~~service. The notice shall include in following information:~~

24 ~~(1) The status of the report.~~

25 ~~(2) The perpetrator's right to request the secretary to~~
26 ~~amend the report.~~

27 ~~(3) The right of the subjects of the report to services~~
28 ~~from the county agency.~~

29 ~~(4) The effect of the report upon future employment~~
30 ~~opportunities involving children.~~

1 ~~(5) The fact that the name of the perpetrator, the~~
2 ~~nature of the abuse and the final status of the report will~~
3 ~~be kept on file indefinitely if the Social Security number or~~
4 ~~date of birth is known.~~

5 ~~(6) The perpetrator's right to appeal an indicated~~
6 ~~finding of abuse within 45 days of the conclusion of the~~
7 ~~investigation that determined the report to be indicated.~~

8 ~~(7) The perpetrator's right to a fair hearing on the~~
9 ~~merits on an appeal of an indicated report.~~

10 ~~(8) The burden on the investigative agency to prove its~~
11 ~~case by substantial evidence in an appeal of an indicated~~
12 ~~report.~~

13 ~~§ 6341.2. Requests for reviews of indicated reports.~~

14 ~~(a) Request by perpetrator. A person named as a perpetrator~~
15 ~~in an indicated report may request the secretary to amend the~~
16 ~~report on the grounds that it is inaccurate or is being~~
17 ~~maintained in a manner inconsistent with this chapter. The~~
18 ~~request must be filed within 45 days of the date of the notice~~
19 ~~of the final determination that the report is indicated.~~

20 ~~(b) Amendment by secretary. At any time the secretary may~~
21 ~~amend any record under this chapter upon good cause shown and~~
22 ~~notice to the appropriate subjects of the report and the county~~
23 ~~agency having jurisdiction over the report.~~

24 ~~(c) Review of refusal of request. If the secretary refuses~~
25 ~~the request under subsection (a) or does not act within a~~
26 ~~reasonable time, but in no event later than 30 days after~~
27 ~~receipt of the request, the perpetrator shall have the right to~~
28 ~~a hearing before the secretary or a designated agent of the~~
29 ~~secretary to determine whether the summary of the indicated~~
30 ~~report in the Statewide central register should be amended or~~

~~1 expunged on the grounds that it is inaccurate or that it is
2 being maintained in a manner inconsistent with this chapter. The
3 perpetrator shall have 45 days from the date of the letter
4 giving notice of the decision to deny the request in which to
5 request a hearing. The appropriate county agency and appropriate
6 law enforcement officials shall be given notice of the hearing.
7 The burden of proof in the hearing shall be on the appropriate
8 county agency. The department shall assist the county agency as
9 necessary.~~

~~10 (d) Appeal. Subject to the provisions of section 6341.3
11 (relating to requests for appeals of indicated reports), the
12 perpetrator may appeal a denial of the request under subsection
13 (c), and the county may appeal the granting of the request.~~

~~14 (e) Order. The secretary or designated agent may make any
15 appropriate order respecting the amendment of an indicated
16 report to make it accurate or consistent with the requirements
17 of this chapter.~~

~~18 § 6341.3. Requests for appeals of indicated reports.~~

~~19 (a) Request by perpetrator. A person named as a perpetrator
20 in an indicated report may request a hearing to appeal the
21 determination. The request must be filed within 45 days of the
22 date of the notice of the final determination that the report is
23 indicated.~~

~~24 (b) Time to appeal. Appeals made under section 6341.2
25 (relating to requests for reviews of indicated reports) must be
26 received by the secretary within 45 days of the conclusion of
27 the investigation determining that the report of suspected child
28 abuse is an indicated report. Failure to timely file an appeal
29 shall preclude any appeal of the indicated finding of child
30 abuse.~~

1 ~~(c) Stay of proceedings. An administrative appeal~~
2 ~~proceeding under this section shall be automatically stayed upon~~
3 ~~notice to the department by either of the parties when there is~~
4 ~~a pending criminal proceeding or a dependency or delinquency~~
5 ~~proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile~~
6 ~~matters), including any appeal thereof, involving the same~~
7 ~~factual circumstances as the administrative appeal.~~

8 ~~(d) Hearing. The appeal hearing shall be scheduled~~
9 ~~according to the following procedures:~~

10 ~~(1) Within ten days of receipt of an appeal pursuant to~~
11 ~~this section, the department shall schedule a hearing on the~~
12 ~~merits of the appeal.~~

13 ~~(2) The department shall make reasonable efforts to~~
14 ~~coordinate the hearing date with both the appellee and~~
15 ~~appellant.~~

16 ~~(3) Proceedings before the Bureau of Hearings and~~
17 ~~Appeals shall commence within 90 days of the date the~~
18 ~~scheduling order is entered. Proceedings and hearings shall~~
19 ~~be scheduled to be heard on consecutive days whenever~~
20 ~~possible, but if not on consecutive days, then the proceeding~~
21 ~~or hearing shall be concluded no later than 30 days from~~
22 ~~commencement.~~

23 ~~(4) The investigative agency shall bear the burden of~~
24 ~~proving by substantial evidence that the report should remain~~
25 ~~categorized as an indicated report.~~

26 ~~(5) Evidence that a child has suffered child abuse of~~
27 ~~such a nature as would ordinarily not be sustained or exist~~
28 ~~except by reason of the act or failure to act of the alleged~~
29 ~~perpetrator shall be prima facie evidence of child abuse by~~
30 ~~either or both of the parents or any other person responsible~~

1 ~~for the child's welfare. Once the investigative agency has~~
2 ~~established that prima facie evidence of child abuse exists,~~
3 ~~the burden shall shift to the appellee to establish that the~~
4 ~~appellee was not the individual responsible for the welfare~~
5 ~~of the child or that the child was not the victim of child~~
6 ~~abuse by a perpetrator.~~

7 ~~(e) Testimony by closed circuit television when available.~~

8 ~~At the request of the investigative agency, the administrative~~
9 ~~law judge or hearing officer shall order that the testimony of~~
10 ~~the child victim or child material witness be taken under oath~~
11 ~~or affirmation in a room other than the hearing room and~~
12 ~~televised by close circuit equipment to be viewed by the~~
13 ~~tribunal. Only the attorneys for the appellant and appellee, the~~
14 ~~court reporter, the administrative law judge or hearing officer,~~
15 ~~persons necessary to operate the equipment and any person whose~~
16 ~~presence would contribute to the welfare and well being of the~~
17 ~~child may be present in the room with the child during the~~
18 ~~child's testimony. The administrative law judge or hearing~~
19 ~~officer shall permit the appellee to observe and hear the~~
20 ~~testimony of the child but shall ensure that the child cannot~~
21 ~~hear or see the appellee. The administrative law judge or~~
22 ~~hearing officer shall make certain that the appellee has~~
23 ~~adequate opportunity to communicate with counsel for the~~
24 ~~purposes of providing an effective examination.~~

25 ~~(f) Admissibility of certain statements. An out of court~~
26 ~~statement, including a video, audio or other recorded statement,~~
27 ~~not otherwise admissible by statute or rule of evidence is~~
28 ~~admissible in evidence in a proceeding under this section if the~~
29 ~~following apply:~~

30 ~~(1) The statement was made by a child under ten years of~~

~~age or by a child ten years of age or older who is
intellectually disabled.~~

~~(2) The statement alleges, explains, denies or describes
any of the following:~~

~~(i) An act of sexual penetration or contact
performed with or on the child.~~

~~(ii) An act of sexual penetration or contact with or
on another child observed by the child making the
statement.~~

~~(iii) An act involving bodily injury or serious
physical neglect of the child by another.~~

~~(iv) An act involving bodily injury or serious
physical neglect of another child observed by the child
making the statement.~~

~~(3) The administrative law judge or hearing officer
finds that the time, content and circumstances of the
statement and the reliability of the person to whom the
statement is made provide sufficient indicia of reliability.~~

~~(4) The proponent of the statement notifies other
parties of an intent to offer the statement and the
particulars of the statement sufficiently in advance of the
proceeding at which the proponent intends to offer the
statement into evidence to provide the parties with a fair
opportunity to meet the statement.~~

~~(g) Prompt decision. The administrative law judge or
hearing officer's decision shall be entered, filed and served
upon the parties within 15 days of the date upon which the
proceeding or hearing is concluded unless, within that time, the
tribunal extends the date for the decision by order entered of
record showing good cause for the extension. In no event shall~~

1 ~~an extension delay the entry of the decision more than 45 days~~
2 ~~after the conclusion of the proceeding or hearing.~~

3 ~~(h) Reconsideration and appeal. Parties to a proceeding or~~
4 ~~hearing held under this section have 15 calendar days from the~~
5 ~~mailing date of the final order of the Bureau of Hearings and~~
6 ~~Appeals to request the secretary to reconsider the decision or~~
7 ~~appeal to Commonwealth Court. Parties to a proceeding or hearing~~
8 ~~held under this section have 30 calendar days from the mailing~~
9 ~~date of the final order of the Bureau of Hearings and Appeals to~~
10 ~~perfect an appeal to the Commonwealth Court. The filing for~~
11 ~~reconsideration shall not toll the 30 days provided.~~

12 ~~(i) Notice of decision. Notice of the decision shall be~~
13 ~~made to the Statewide database, the appropriate county agency,~~
14 ~~any appropriate law enforcement officials and all subjects of~~
15 ~~the report.~~

16 ~~(j) Notice of expunction. Written notice of an expunction~~
17 ~~of any child abuse record made pursuant to the provisions of~~
18 ~~this chapter shall be served upon the subject of the record who~~
19 ~~was responsible for the abuse or injury and the appropriate~~
20 ~~county agency. Except as provided in this subsection, the county~~
21 ~~agency, upon receipt of the notice, shall take appropriate,~~
22 ~~similar action in regard to the local child abuse and school~~
23 ~~employee or child care services employee records and inform, for~~
24 ~~the same purpose, the appropriate coroner if that officer has~~
25 ~~received reports pursuant to section 6367 (relating to reports~~
26 ~~to department and coroner). Whenever the county agency~~
27 ~~investigation reveals, within 60 days of receipt of the report~~
28 ~~of suspected child abuse, that the report is unfounded but that~~
29 ~~the subjects need services provided or arranged by the county~~
30 ~~agency, the county agency shall retain those records and shall~~

1 ~~specifically identify that the report was an unfounded report of~~
2 ~~suspected child abuse. An unfounded report regarding subjects~~
3 ~~who receive services shall be expunged no later than 120 days~~
4 ~~following the expiration of one year after the termination or~~
5 ~~completion of services provided or arranged by the county~~
6 ~~agency.~~

7 ~~§ 6379. Immunity from liability.~~

8 ~~(a) General rule. A person, hospital, institution, school,~~
9 ~~facility, agency or agency employee acting in good faith and~~
10 ~~without actual malice shall have immunity from civil and~~
11 ~~criminal liability that might otherwise result from any of the~~
12 ~~following:~~

13 ~~(1) Making a report of suspected child abuse or making a~~
14 ~~referral for general protective services, regardless of~~
15 ~~whether the report is required to be made under this chapter.~~

16 ~~(2) Cooperating or consulting with an investigation~~
17 ~~under this chapter, including providing information to a~~
18 ~~child fatality or near fatality review team.~~

19 ~~(3) Testifying in a proceeding arising out of an~~
20 ~~instance of suspected child abuse or general protective~~
21 ~~services.~~

22 ~~(4) Engaging in any action taken under section 6314~~
23 ~~(relating to photographs, medical tests and X rays of child~~
24 ~~subject to report), 6315 (relating to taking child into~~
25 ~~protective custody), 6316 (relating to admission to private~~
26 ~~and public hospitals) or 6317 (relating to mandatory~~
27 ~~reporting and postmortem investigation of deaths).~~

28 ~~(b) Departmental and county agency immunity. An official or~~
29 ~~employee of the department or county agency who refers a report~~
30 ~~of suspected child abuse or general protective services to law~~

1 ~~enforcement authorities or provides services under this chapter~~
2 ~~shall have immunity from civil and criminal liability that might~~
3 ~~otherwise result from the action.~~

4 ~~(c) 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 unless actual malice is proven.~~

10 ~~(d) False reports. Any person who intentionally makes a~~
11 ~~false report of suspected child abuse pursuant to 18 Pa.C.S. §~~
12 ~~4906.1 (relating to false reports of child abuse) against a~~
13 ~~person, school employee, private residential rehabilitative~~
14 ~~institution employee, detention facility employee or child care~~
15 ~~services employee commits a misdemeanor of the second degree.~~

16 Section 6. This act shall take effect January 1, 2014.

17 SECTION 2. SECTION 6341(C) OF TITLE 23 IS AMENDED AND THE <--
18 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

19 (B.2) HEARING.--A PERSON MAKING AN APPEAL UNDER SUBSECTION
20 (A) (3) SHALL HAVE THE RIGHT TO A TIMELY HEARING TO DETERMINE THE
21 MERITS OF THE APPEAL. A HEARING ON THE APPEAL OF A PERSON NAMED
22 AS A PERPETRATOR AUTHORIZED UNDER SUBSECTION (A) (3) SHALL BE
23 SCHEDULED ACCORDING TO THE FOLLOWING PROCEDURES:

24 (1) WITHIN 10 DAYS OF RECEIPT OF AN APPEAL PURSUANT TO
25 THIS SECTION, THE DEPARTMENT SHALL SCHEDULE A HEARING ON THE
26 MERITS OF THE APPEAL.

27 (2) THE DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO
28 COORDINATE THE HEARING DATE WITH BOTH THE APPELLEE AND
29 APPELLANT.

30 (3) AFTER REASONABLE EFFORTS REQUIRED BY PARAGRAPH (2)

1 HAVE BEEN MADE, THE DEPARTMENT SHALL ENTER A SCHEDULING
2 ORDER, AND PROCEEDINGS BEFORE THE BUREAU OF HEARINGS AND
3 APPEALS SHALL COMMENCE WITHIN 90 DAYS OF THE DATE THE
4 SCHEDULING ORDER IS ENTERED, UNLESS ALL PARTIES HAVE AGREED
5 TO A CONTINUANCE. PROCEEDINGS AND HEARINGS SHALL BE SCHEDULED
6 TO BE HEARD ON CONSECUTIVE DAYS WHENEVER POSSIBLE, BUT IF NOT
7 ON CONSECUTIVE DAYS, THEN THE PROCEEDING OR HEARING SHALL BE
8 CONCLUDED NOT LATER THAN 30 DAYS FROM COMMENCEMENT.

9 (4) THE DEPARTMENT OR COUNTY AGENCY SHALL PROVIDE A
10 PERSON MAKING AN APPEAL WITH ALL EVIDENCE GATHERED DURING THE
11 CHILD ABUSE INVESTIGATION THAT IS RELEVANT TO THE
12 DETERMINATION, INCLUDING POTENTIALLY EXCULPATORY EVIDENCE.
13 THE EVIDENCE SHALL BE PROVIDED NOT LATER THAN 10 DAYS
14 FOLLOWING THE ENTRY OF A SCHEDULING ORDER.

15 (5) THE DEPARTMENT OR COUNTY AGENCY SHALL BEAR THE
16 BURDEN OF PROVING BY SUBSTANTIAL EVIDENCE THAT THE REPORT
17 SHOULD REMAIN CATEGORIZED AS AN INDICATED REPORT.

18 (B.3) PROMPT DECISION.--THE ADMINISTRATIVE LAW JUDGE'S OR
19 HEARING OFFICER'S DECISION IN A HEARING UNDER SUBSECTION (B.2)
20 SHALL BE ENTERED, FILED AND SERVED UPON THE PARTIES WITHIN 45
21 DAYS OF THE DATE UPON WHICH THE PROCEEDING OR HEARING IS
22 CONCLUDED UNLESS, WITHIN THAT TIME, THE TRIBUNAL EXTENDS THE
23 DATE FOR THE DECISION BY ORDER ENTERED OF RECORD SHOWING GOOD
24 CAUSE FOR THE EXTENSION. IN NO EVENT SHALL AN EXTENSION DELAY
25 THE ENTRY OF THE DECISION MORE THAN 60 DAYS AFTER THE CONCLUSION
26 OF THE PROCEEDING OR HEARING.

27 (B.4) NOTICE OF DECISION.--NOTICE OF THE DECISION SHALL BE
28 MADE TO THE STATEWIDE DATABASE, THE APPROPRIATE COUNTY AGENCY,
29 ANY APPROPRIATE LAW ENFORCEMENT OFFICIALS AND ALL SUBJECTS OF
30 THE REPORT, EXCEPT FOR THE ABUSED CHILD.

1 (C) [REVIEW OF REFUSAL OF REQUEST.--IF THE SECRETARY REFUSES
2 THE REQUEST UNDER SUBSECTION (A) (2) OR DOES NOT ACT WITHIN A
3 REASONABLE TIME, BUT IN NO EVENT LATER THAN 30 DAYS AFTER
4 RECEIPT OF THE REQUEST, THE PERPETRATOR OR SCHOOL EMPLOYEE SHALL
5 HAVE THE RIGHT TO A HEARING BEFORE THE SECRETARY OR A DESIGNATED
6 AGENT OF THE SECRETARY TO DETERMINE WHETHER THE SUMMARY OF THE
7 INDICATED REPORT IN THE STATEWIDE CENTRAL REGISTER SHOULD BE
8 AMENDED OR EXPUNGED ON THE GROUNDS THAT IT IS INACCURATE OR THAT
9 IT IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS
10 CHAPTER. THE PERPETRATOR OR SCHOOL EMPLOYEE SHALL HAVE 45 DAYS
11 FROM THE DATE OF THE LETTER GIVING NOTICE OF THE DECISION TO
12 DENY THE REQUEST IN WHICH TO REQUEST A HEARING. THE APPROPRIATE
13 COUNTY AGENCY AND APPROPRIATE LAW ENFORCEMENT OFFICIALS SHALL BE
14 GIVEN NOTICE OF THE HEARING. THE BURDEN OF PROOF IN THE HEARING
15 SHALL BE ON THE APPROPRIATE COUNTY AGENCY. THE DEPARTMENT SHALL
16 ASSIST THE COUNTY AGENCY AS NECESSARY.] RECONSIDERATION AND
17 APPEAL.--PARTIES TO A PROCEEDING OR HEARING HELD UNDER
18 SUBSECTION (B.2) HAVE 15 CALENDAR DAYS FROM THE MAILING DATE OF
19 THE FINAL ORDER OF THE BUREAU OF HEARINGS AND APPEALS TO REQUEST
20 THE SECRETARY TO RECONSIDER THE DECISION OR APPEAL TO
21 COMMONWEALTH COURT. PARTIES TO A PROCEEDING OR HEARING HELD
22 UNDER THIS SECTION HAVE 30 CALENDAR DAYS FROM THE MAILING DATE
23 OF THE FINAL ORDER OF THE BUREAU OF HEARINGS AND APPEALS TO
24 PERFECT AN APPEAL TO COMMONWEALTH COURT. THE FILING FOR
25 RECONSIDERATION SHALL NOT TOLL THE 30 DAYS PROVIDED.

26 * * *

27 SECTION 3. THE AMENDMENT OF 23 PA.C.S. §§ 6303(A) AND 6341
28 SHALL APPLY TO APPEALS FILED ON OR AFTER THE EFFECTIVE DATE OF
29 THIS SECTION.

30 SECTION 4. THIS ACT SHALL TAKE EFFECT JULY 1, 2014.