
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 31 Session of
2013

INTRODUCED BY FONTANA, FOLMER, WASHINGTON, ERICKSON, STACK,
BREWSTER, FERLO, TEPLITZ, BAKER, RAFFERTY, YUDICHAK, KASUNIC,
TARTAGLIONE, WILLIAMS, SMITH, FARNESE, WAUGH, MENSCH, HUGHES,
BROWNE, WARD, VANCE, PILEGGI AND BOSCOLA, MARCH 15, 2013

REFERRED TO EDUCATION, MARCH 15, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions, for persons required to report
4 suspected child abuse and for reporting procedure; and
5 repealing provisions relating to definitions, school
6 employees, administration, investigation, responsibilities of
7 county agency for child protective services and report
8 information.

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

11 Section 1. The definitions of "founded report for school
12 employee," "general protective services," "indicated report,"
13 "indicated report for school employee," "individual residing in
14 the same home as the child," "near fatality" and "school
15 employee" in section 6303(a) of Title 23 of the Pennsylvania
16 Consolidated Statutes are amended and the subsection is amended
17 by adding definitions 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

1 section unless the context clearly indicates otherwise:

2 * * *

3 "Bodily injury." Impairment of physical condition or
4 substantial pain.

5 * * *

6 "Child with a disability." A child:

7 (1) who meets the definition of child with a disability
8 under the Individuals with Disabilities Education Act (Public
9 Law 91-230, 20 U.S.C. § 1400 et seq.);

10 (2) who meets the definition of handicapped person under
11 section 504 of the Rehabilitation Act of 1973 (Public Law 93-
12 112, 29 U.S.C. § 794) and its implementing regulations at 34
13 CFR § 104.3 (relating to definitions);

14 (3) for whom an evaluation is pending under either the
15 Individuals with Disabilities Education Act or the
16 Rehabilitation Act of 1973; or

17 (4) who is not yet eligible for special education and
18 related services as described in section 615(k)(5)(A) of the
19 Individuals with Disabilities Education Act (20 U.S.C. § 1415
20 (k)(5)(A)).

21 * * *

22 "Disability." The term shall have the same meaning as the
23 term is given in section 3 of the Americans with Disabilities
24 Act of 1990 (Public Law 101-336, 42 U.S.C. § 12102(2)).

25 * * *

26 "Founded report." [A child abuse report made pursuant to
27 this chapter if there has been any judicial adjudication based
28 on a finding that a child who is a subject of the report has
29 been abused, including the entry of a plea of guilty or nolo
30 contendere or a finding of guilt to a criminal charge involving

1 the same factual circumstances involved in the allegation of
2 child abuse.] A child abuse report involving a perpetrator that
3 is made pursuant to this chapter, if any of the following
4 applies:

5 (1) There has been a judicial adjudication based on a
6 finding that a child who is a subject of the report has been
7 abused and the adjudication involves the same factual
8 circumstances involved in the allegation of child abuse. The
9 judicial adjudication may include any of the following:

10 (i) The entry of a plea of guilty or nolo
11 contendere.

12 (ii) A finding of guilt to a criminal charge.

13 (iii) A finding of dependency or delinquency under
14 42 Pa.C.S. § 6341 (relating to adjudication).

15 (2) There has been an acceptance into an accelerated
16 rehabilitative disposition program and the reason for the
17 acceptance involves the same factual circumstances involved
18 in the allegation of child abuse.

19 (3) There has been a consent decree entered in a
20 juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to
21 juvenile matters) and the decree involves the same factual
22 circumstances involved in the allegation of child abuse.

23 (4) A final protection from abuse order has been granted
24 under section 6108 (relating to relief), when the child who
25 is a subject of the report is also one of the individuals
26 protected under the protection from abuse order and:

27 (i) only one individual is charged with the abuse in
28 the protection from abuse action;

29 (ii) only that individual defends against the
30 charge; and

1 (iii) the protection from abuse adjudication finds
2 that the abuse occurred and prohibits further contact
3 between the individual and the child.

4 * * *

5 "General protective services." Those services and activities
6 provided by each county agency for [nonabuse] cases requiring
7 protective services, as defined by the [Department of Public
8 Welfare] department in regulations.

9 "Indicated report." [A child abuse report made pursuant to
10 this chapter if an investigation by the county agency or the
11 Department of Public Welfare determines that substantial
12 evidence of the alleged abuse exists based on any of the
13 following:

14 (1) Available medical evidence.

15 (2) The child protective service investigation.

16 (3) An admission of the acts of abuse by the
17 perpetrator.]

18 (1) Subject to paragraph (2), a report of child abuse
19 made pursuant to this chapter if an investigation by the
20 department or county agency determines that substantial
21 evidence of the alleged abuse by a perpetrator exists based
22 on any of the following:

23 (i) Available medical evidence.

24 (ii) The child protective service investigation.

25 (iii) An admission of the acts of abuse by the
26 perpetrator.

27 (2) A report may be indicated under paragraph (1)(i) or
28 (ii) for any child in need of child protective services,
29 regardless of the number of alleged perpetrators or the
30 inability to identify the specific perpetrator among two or

1 more alleged perpetrators.

2 ["Indicated report for school employee." A report made under
3 Subchapter C.1 (relating to students in public and private
4 schools) if an investigation by the county agency determines
5 that substantial evidence of serious bodily injury or sexual
6 abuse or exploitation exists based on any of the following:

7 (1) Available medical evidence.

8 (2) The county agency's investigation.

9 (3) An admission of the acts of abuse by the school
10 employee.

11 "Individual residing in the same home as the child." An
12 individual who is 14 years of age or older and who resides in
13 the same home as the child.]

14 "Mandated reporter." A person required to report suspected
15 child abuse under section 6311 (relating to persons required to
16 report suspected child abuse).

17 "Near fatality." [An act that, as certified by a physician,
18 places a child in serious or critical condition.] A child's
19 serious or critical condition, as certified by a physician,
20 where that child is a subject of the report of child abuse.

21 * * *

22 "School." A facility providing elementary, secondary or
23 postsecondary educational services. The term includes every
24 public, nonpublic, private and parochial school, including each
25 of the following:

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

28 (2) A State-related and State-owned college or
29 university.

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

1 (4) A community college.
2 (5) A vocational-technical school.
3 (6) An intermediate unit.
4 (7) A charter, regional charter school or cyber charter
5 school.

6 (8) A private school licensed under the act of January
7 28, 1988 (P.L.24, No.11), known as the Private Academic
8 Schools Act.

9 (9) A nonprofit school located in this Commonwealth,
10 other than a public school, wherein a resident of this
11 Commonwealth may legally fulfill the compulsory school
12 attendance requirements of the act of March 10, 1949 (P.L.30,
13 No.14), known as the Public School Code of 1949, and which
14 meets the requirements of Title VI of the Civil Rights Act of
15 1964 (Public Law 88-352, 78 Stat. 241).

16 "School employee." An individual who is employed by a
17 [public or private school, intermediate unit or area vocational-
18 technical] school or who provides a program, activity or service
19 in a school. The term includes an independent contractor that
20 provides a program, activity or service in a school and the
21 employees of the independent contractor that is directly
22 responsible for the care, supervision, guidance or training of
23 the child. [The term excludes an individual who has no direct
24 contact with students.]

25 * * *

26 Section 2. Section 6311(c) of Title 23 is amended and the
27 section is amended by adding a subsection to read:

28 § 6311. Persons required to report suspected child abuse.

29 * * *

30 (c) Staff members of institutions, etc.--Whenever a person

1 is required to report under subsection (b) in the capacity as a
2 member of the staff of a medical or other public or private
3 institution, school, facility or agency, that person shall
4 immediately report or cause a report to be made in accordance
5 with section 6313. The person required to report shall also
6 notify the person in charge of the institution, school, facility
7 or agency or the designated agent of the person in charge. [Upon
8 notification, the person in charge or the designated agent, if
9 any, shall assume the responsibility and have the legal
10 obligation to report or cause a report to be made in accordance
11 with section 6313.] This chapter does not require more than one
12 report from any such institution, school, facility or agency.

13 (c.1) School employees.--A school employee who has
14 reasonable cause to suspect, on the basis of professional or
15 other training or expertise, that a student coming before the
16 school employee in the employee's professional or official
17 capacity is a victim of bodily injury, sexual abuse or sexual
18 exploitation shall immediately report or cause a report to be
19 made in accordance with section 6313. The person mandated to
20 report shall also notify the administrator.

21 * * *

22 Section 3. Section 6313(c) of Title 23 is amended to read:
23 § 6313. Reporting procedure.

24 * * *

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

30 (1) The [names and addresses of the child and the

1 parents or other person responsible for the care of the child
2 if known.] name, age, gender, address, school and status of
3 the child with a disability.

4 (1.1) The name and address of the child's parent or
5 guardian.

6 (2) Where the suspected abuse occurred and the nature of
7 the alleged offense.

8 [(3) The age and sex of the subjects of the report.]

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

12 (5) The name [and relationship], relationship, home
13 address and work address of the person or persons responsible
14 for causing the suspected abuse, if known, and any evidence
15 of prior abuse by that person or persons.

16 (6) Family composition.

17 (7) The source of the report.

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

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

23 (9.1) Any specific comments or observations that are
24 directly related to the alleged incident and the individuals
25 involved.

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

28 * * *

29 Section 4. Subchapter C.1 of Chapter 63 of Title 23 is
30 repealed:

3 Sec.

4 6351. Definitions.

5 6352. School employees.

6 6353. Administration.

7 6353.1. Investigation.

8 6353.2. Responsibilities of county agency.

9 6353.3. Information in Statewide central register.

10 6353.4. Other provisions.

11 § 6351. Definitions.

12 The following words and phrases when used in this subchapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Administrator." The person responsible for the
16 administration of a public or private school, intermediate unit
17 or area vocational-technical school. The term includes an
18 independent contractor.

19 § 6352. School employees.

20 (a) Requirement.--

21 (1) Except as provided in paragraph (2), a school
22 employee who has reasonable cause to suspect, on the basis of
23 professional or other training and experience, that a student
24 coming before the school employee in the employee's
25 professional or official capacity is a victim of serious
26 bodily injury or sexual abuse or sexual exploitation by a
27 school employee shall immediately contact the administrator.

28 (2) If the school employee accused of seriously injuring
29 or sexually abusing or exploiting a student is the
30 administrator, the school employee who has reasonable cause

1 to suspect, on the basis of professional or other training
2 and experience, that a student coming before the school
3 employee in the employee's professional or official capacity
4 is a victim of serious bodily injury or sexual abuse or
5 sexual exploitation shall immediately report to law
6 enforcement officials and the district attorney under section
7 6353(a) (relating to administration). If an administrator is
8 the school employee who suspects injury or abuse, the
9 administrator shall make a report under section 6353(a).

10 (3) The school employee may not reveal the existence or
11 content of the report to any other person.

12 (b) Immunity.--A school employee who refers a report under
13 subsection (a) shall be immune from civil and criminal liability
14 arising out of the report.

15 (c) Criminal penalty.--

16 (1) A school employee who willfully violates subsection
17 (a) commits a summary offense.

18 (2) A school employee who, after being sentenced under
19 paragraph (1), violates subsection (a) commits a misdemeanor
20 of the third degree.

21 § 6353. Administration.

22 (a) Requirement.--An administrator and a school employee
23 governed by section 6352(a)(2) (relating to school employees)
24 shall report immediately to law enforcement officials and the
25 appropriate district attorney any report of serious bodily
26 injury or sexual abuse or sexual exploitation alleged to have
27 been committed by a school employee against a student.

28 (b) Report.--A report under subsection (a) shall include the
29 following information:

30 (1) Name, age, address and school of the student.

- 1 (2) Name and address of the student's parent or
2 guardian.
- 3 (3) Name and address of the administrator.
- 4 (4) Name, work and home address of the school employee.
- 5 (5) Nature of the alleged offense.
- 6 (6) Any specific comments or observations that are
7 directly related to the alleged incident and the individuals
8 involved.

9 (c) Immunity.--An administrator who makes a report under
10 subsection (a) shall be immune from civil or criminal liability
11 arising out of the report.

12 (d) Criminal penalty.--An administrator who willfully
13 violates subsection (a) commits a misdemeanor of the third
14 degree.

15 § 6353.1. Investigation.

16 (a) General rule.--Upon receipt of a report under section
17 6353 (relating to administration), an investigation shall be
18 conducted by law enforcement officials, in cooperation with the
19 district attorney, and a determination made as to what criminal
20 charges, if any, will be filed against the school employee.

21 (b) Referral to county agency.--

22 (1) If local law enforcement officials have reasonable
23 cause to suspect on the basis of initial review that there is
24 evidence of serious bodily injury, sexual abuse or sexual
25 exploitation committed by a school employee against a
26 student, local law enforcement officials shall notify the
27 county agency in the county where the alleged abuse or injury
28 occurred for the purpose of the agency conducting an
29 investigation of the alleged abuse or injury.

30 (2) To the fullest extent possible, law enforcement

1 officials and the county agency shall coordinate their
2 respective investigations. In respect to interviews with the
3 student, law enforcement officials and the county agency
4 shall conduct joint interviews. In respect to interviews with
5 the school employee, law enforcement officials shall be given
6 an opportunity to interview the school employee prior to the
7 employee having any contact with the county agency.

8 (3) The county agency and law enforcement officials have
9 the authority to arrange for photographs, medical tests or X-
10 rays of a student alleged to have been abused or injured by a
11 school employee. The county agency and law enforcement
12 officials shall coordinate their efforts in this regard and,
13 to the fullest extent possible, avoid the duplication of any
14 photographs, medical tests or X-rays.

15 (4) Law enforcement officials and the county agency
16 shall advise each other of the status and findings of their
17 respective investigations on an ongoing basis.

18 § 6353.2. Responsibilities of county agency.

19 (a) Information for the pending complaint file.--Immediately
20 after receiving a report under section 6353.1 (relating to
21 investigation), the county agency shall notify the department of
22 the receipt of the report, which is to be filed in the pending
23 complaint file as provided in section 6331(1) (relating to
24 establishment of pending complaint file, Statewide central
25 register and file of unfounded reports). The oral report shall
26 include the following information:

27 (1) The name and address of the student and the
28 student's parent or guardian.

29 (2) Where the suspected abuse or injury occurred.

30 (3) The age and sex of the student.

1 (4) The nature and extent of the suspected abuse or
2 injury.

3 (5) The name and home address of the school employee
4 alleged to have committed the abuse or injury.

5 (6) The relationship of the student to the school
6 employee alleged to have committed the abuse or injury.

7 (7) The source of the report to the county agency.

8 (8) The actions taken by the county agency, law
9 enforcement officials, parents, guardians, school officials
10 or other persons, including the taking of photographs,
11 medical tests and X-rays.

12 (b) Investigation of reports.--Upon receipt of a report
13 under section 6353.1, the county agency shall commence, within
14 the time frames established in department regulations, an
15 investigation of the nature, extent and cause of any alleged
16 abuse or injury enumerated in the report. The county agency
17 shall coordinate its investigation to the fullest extent
18 possible with law enforcement officials as provided in section
19 6353.1(b).

20 (c) Completion of investigation.--The investigation by the
21 county agency to determine whether the report is an indicated
22 report for school employee or an unfounded report shall be
23 completed within 60 days.

24 (d) Notice to subject of a report.--Prior to interviewing a
25 subject of the report, the county agency shall orally notify the
26 subject of the report of the existence of the report and the
27 subject's rights under this chapter in regard to amendment or
28 expungement. Within 72 hours following oral notification to the
29 subject, the county agency shall give written notice to the
30 subject. The notice may be reasonably delayed if notification is

1 likely to threaten the safety of the student or the county
2 agency worker, to cause the school employee to abscond or to
3 significantly interfere with the conduct of a criminal
4 investigation.

5 (e) Reliance on factual investigation.--The county agency
6 may rely on a factual investigation of substantially the same
7 allegations by a law enforcement officials to support the
8 agency's finding. This reliance shall not relieve the county
9 agency of its responsibilities relating to the investigation of
10 reports under this subchapter.

11 (f) Notice to the department of the county agency's
12 determination.--As soon as the county agency has completed its
13 investigation, the county agency shall advise the department and
14 law enforcement officials of its determination of the report as
15 an indicated report for school employee or an unfounded report.
16 Supplemental reports shall be made at regular intervals
17 thereafter in a manner and form the department prescribes by
18 regulation to the end that the department is kept fully informed
19 and up-to-date concerning the status of the report.

20 § 6353.3. Information in Statewide central register.

21 The Statewide central register established under section 6331
22 (relating to establishment of pending complaint file, Statewide
23 central register and file of unfounded reports) shall retain
24 only the following information relating to reports of abuse or
25 injury of a student by a school employee which have been
26 determined to be a founded report for school employee or an
27 indicated report for school employee:

28 (1) The names, Social Security numbers, age and sex of
29 the subjects of the report.

30 (2) The home address of the subjects of the report.

1 (3) The date and the nature and extent of the alleged
2 abuse or injury.

3 (4) The county and state where the abuse or injury
4 occurred.

5 (5) Factors contributing to the abuse or injury.

6 (6) The source of the report.

7 (7) Whether the report is a founded or indicated report.

8 (8) Information obtained by the department in relation
9 to the school employee's request to release, amend or expunge
10 information retained by the department or the county agency.

11 (9) The progress of any legal proceedings brought on the
12 basis of the report.

13 (10) Whether a criminal investigation has been
14 undertaken and the result of the investigation and of any
15 criminal prosecution.

16 § 6353.4. Other provisions.

17 The following provisions shall apply to the release and
18 retention of information by the department and the county agency
19 concerning reports of abuse or injury committed by a school
20 employee as provided by this subchapter:

21 Section 6336(b) and (c) (relating to information in Statewide
22 central register).

23 Section 6337 (relating to disposition of unfounded reports).

24 Section 6338(a) and (b) (relating to disposition of founded
25 and indicated reports).

26 Section 6339 (relating to confidentiality of reports).

27 Section 6340 (relating to release of information in
28 confidential reports).

29 Section 6341(a) through (f) (relating to amendment or
30 expunction of information).

1 Section 6342 (relating to studies of data in records).]

2 Section 5. This act shall take effect in 60 days.