
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1844 Session of
2021

INTRODUCED BY STAATS, QUINN, RYAN, MIZGORSKI, GUENST, MILLARD,
ROZZI, KINSEY, KAUFFMAN, THOMAS, SCHLEGEL CULVER, STRUZZI,
FARRY, GILLEN, JAMES, McNEILL, POLINCHOCK, M. MACKENZIE AND
MOUL, SEPTEMBER 10, 2021

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, SEPTEMBER 10, 2021

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for disposition and expunction of unfounded reports
4 and general protective services reports and for disposition
5 of founded and indicated reports, repealing provisions
6 relating to expunction of information of perpetrator who was
7 under 18 years of age when child abuse was committed and
8 further providing for amendment or expunction of information;
9 and making editorial changes.

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

12 Section 1. Sections 6337 and 6338(b) and (c) of Title 23 of
13 the Pennsylvania Consolidated Statutes are amended to read:

14 § 6337. Disposition and expunction of unfounded reports and
15 general protective services reports.

16 (a) General rule.--When a report of suspected child abuse is
17 determined by the appropriate county agency to be an unfounded
18 report, the information concerning that report of suspected
19 child abuse shall be maintained for a period of [one year] 30
20 years. Following the expiration of [one year] 30 years after the

1 date the report was received by the department, the report shall
2 be expunged from the Statewide database, as soon as possible,
3 but no later than 120 days after the [~~one-year~~] 30-year period
4 following the date the report was received by the department,
5 and no information other than that authorized by subsection (b),
6 which shall not include any identifying information on any
7 subject of the report, shall be retained by the department. The
8 expunction shall be mandated and guaranteed by the department.

9 (b) Absence of other determination.--If an investigation of
10 a report of suspected child abuse conducted by the appropriate
11 county agency pursuant to this chapter does not determine within
12 60 days of the date of the initial report of the instance of
13 suspected child abuse that the report is a founded report, an
14 indicated report or an unfounded report, or unless within that
15 same 60-day period court action has been initiated and is
16 responsible for the delay, the report shall be considered to be
17 an unfounded report, and all information identifying the
18 subjects of the report shall be expunged no later than 120 days
19 following the expiration of [~~one year~~] 30 years after the date
20 the report was received by the department. The agency shall
21 advise the department that court action or an arrest has been
22 initiated so that the Statewide database is kept current
23 regarding the status of all legal proceedings and expunction is
24 delayed.

25 (c) Unfounded reports accepted for services.--Information on
26 an unfounded report shall be retained in the Statewide database
27 if the county agency has accepted the family for services and
28 the report of suspected child abuse is clearly identified as an
29 unfounded report. The county agency shall notify the department
30 immediately upon closure of the case, and the report shall be

1 expunged as soon as possible, but no later than 120 days after
2 the [~~one-year~~] 30-year period following the date the family case
3 was closed. [If the subject child of the unfounded report
4 becomes 23 years of age prior to the closure of the family case,
5 the unfounded report shall be expunged when the subject child
6 reaches 23 years of age.]

7 (d) Expunction of valid general protective services
8 reports.--Information concerning valid general protective
9 services reports shall be maintained in the Statewide database
10 as follows:

11 (1) Reports that are assessed by the county agency and
12 are determined to be valid, but are not accepted for
13 services, shall be reported to the department and entered
14 into the Statewide database. The reports shall be maintained
15 for a period of [~~ten~~] 30 years [~~or until the youngest child~~
16 ~~identified in the most recent general protective services~~
17 ~~report attains 23 years of age, whichever occurs first~~].
18 Following the expiration of [~~ten~~] 30 years after the date the
19 report was received by the department [~~or until the youngest~~
20 ~~child identified in the most recent general protective~~
21 ~~services report attains 23 years of age, whichever occurs~~
22 ~~first~~], the report shall be expunged from the Statewide
23 database as soon as possible, but no later than 120 days
24 after the [~~ten-year~~] 30-year period following the date the
25 report was received by the department [~~or the youngest child~~
26 ~~identified in the most recent general protective services~~
27 ~~report attains 23 years of age, whichever occurs first~~].

28 (2) Reports that are assessed by the county agency and
29 accepted for services shall be reported to the department,
30 except as otherwise provided in subsection (f) (2), and

1 entered into the Statewide database. The reports shall be
2 maintained for a period of [ten] 30 years after the closure
3 of services by the county agency [or until the youngest child
4 identified in the most recent general protective services
5 report attains 23 years of age, whichever occurs first].

6 Following the expiration of [ten] 30 years after the closure
7 of services by the county agency [or until the youngest child
8 identified in the most recent general protective services
9 report attains 23 years of age, whichever occurs first], the
10 report shall be expunged from the Statewide database as soon
11 as possible, but no later than 120 days after the [ten-year]
12 30-year period following the closure of services by the
13 county agency [or the youngest child identified in the most
14 recent general protective services report attains 23 years of
15 age, whichever occurs first].

16 (3) The expunction of information on general protective
17 services under this subsection shall be mandated and
18 guaranteed by the department.

19 (e) Expunction of invalid general protective services
20 reports.--When a report alleging the need for general protective
21 services is determined by the appropriate county agency to be an
22 invalid report, the information concerning that report shall be
23 maintained for a period of [one year] 30 years. Following the
24 expiration of [one year] 30 years after the date the report was
25 received by the department, the report shall be expunged as soon
26 as possible, but no later than 120 days after the [one-year] 30-
27 year period following the date the report was received by the
28 department. The expunction shall be mandated and guaranteed by
29 the department.

30 (f) County agency records.--Information concerning

1 protective services reports shall be maintained by a county
2 agency as follows:

3 (1) County agency records of protective services shall
4 be used and maintained in a manner that is consistent with
5 the use and maintenance of information in the Statewide
6 database, as provided under this chapter, except as otherwise
7 provided in paragraph (2). If required under this chapter to
8 amend or expunge information in the Statewide database, the
9 department shall notify the appropriate county agency of the
10 amendment or expungement within ten days. The county agency
11 shall amend or expunge its records in a commensurate manner
12 within ten days of receiving notification from the
13 department.

14 (2) A county agency may maintain information regarding
15 protective services reports that have been expunged in the
16 Statewide database for access by the county agency to assist
17 in future risk and safety assessments and research.

18 § 6338. Disposition of founded and indicated reports.

19 * * *

20 [(b) Expunction of information when child attains 23 years
21 of age.--Except as provided in subsection (c), all information
22 which identifies the subjects of founded and indicated child
23 abuse reports shall be expunged when the subject child reaches
24 the age of 23. The expunction shall be mandated and guaranteed
25 by the department.]

26 (c) Retention of information.--The Statewide database shall
27 indefinitely retain the names of perpetrators of child abuse and
28 school employees who are subjects of unfounded, founded or
29 indicated reports only if the individual's Social Security
30 number or date of birth is known to the department. [The entry

1 in the Statewide database shall not include identifying
2 information regarding other subjects of the report.]

3 Section 2. Section 6338.1 of Title 23 is repealed:

4 [§ 6338.1. Expunction of information of perpetrator who was
5 under 18 years of age when child abuse was committed.

6 (a) General rule.--The name of a perpetrator who is the
7 subject of an indicated report of child abuse and who was under
8 18 years of age when the individual committed child abuse shall
9 be expunged from the Statewide database when the individual
10 reaches 21 years of age or when five years have elapsed since
11 the perpetrator's name was added to the database, whichever is
12 later, if the individual meets all of the following:

13 (1) The individual has not been named as a perpetrator
14 in any subsequent indicated report of child abuse and is not
15 named as an alleged perpetrator in a child abuse report
16 pending investigation.

17 (2) The individual has never been convicted or
18 adjudicated delinquent following a determination by the court
19 that the individual committed an offense under section
20 6344(c) (relating to employees having contact with children;
21 adoptive and foster parents), and no proceeding is pending
22 seeking such conviction or adjudication.

23 (3) The child abuse which resulted in the inclusion of
24 the perpetrator's name in the database did not involve the
25 use of a deadly weapon, as defined under 18 Pa.C.S. § 2301
26 (relating to definitions).

27 (b) Mandated expunction.--If the perpetrator meets all of
28 the requirements under subsection (a), the expunction shall be
29 mandated and guaranteed by the department.

30 (c) Nonapplicability.--The provisions of this section shall

1 not apply to any of the following cases:

2 (1) A perpetrator who is the subject of a founded report
3 of child abuse.

4 (2) A sexually violent delinquent child, as defined in
5 42 Pa.C.S. § 9799.12 (relating to definitions), who meets all
6 of the following:

7 (i) Is required to register under 42 Pa.C.S. Ch. 97
8 Subch. H (relating to registration of sexual offenders).

9 (ii) Was found delinquent as a result of the same
10 acts which resulted in the sexually violent delinquent
11 child being named a perpetrator of child abuse.

12 (3) A juvenile offender, as defined in 42 Pa.C.S. §
13 9799.12, who meets all of the following:

14 (i) Is required to register under 42 Pa.C.S. Ch. 97
15 Subch. H as a result of an adjudication of delinquency
16 for the same acts which resulted in the juvenile offender
17 being named a perpetrator of child abuse.

18 (ii) Has not been removed from the Statewide
19 Registry of Sexual Offenders pursuant to 42 Pa.C.S. §
20 9799.17 (relating to termination of period of
21 registration for juvenile offenders).

22 (4) An individual who:

23 (i) Is required to register under 42 Pa.C.S. Ch. 97
24 Subch. H or I (relating to continued registration of
25 sexual offenders) as a result of a criminal conviction
26 for the same acts which resulted in the sexual offender
27 being named a perpetrator of child abuse.

28 (ii) Has not completed the period of registration
29 required under 42 Pa.C.S. Subch. H or I.]

30 Section 3. Sections 6340(d), 6341 heading, (a), (b), (c),

1 (e) and (f), 6368(f)(6) and 6381(a) of Title 23 are amended to
2 read:

3 § 6340. Release of information in confidential reports.

4 * * *

5 (d) Exclusion of information.--Except as provided under
6 section 6341(c.2)(4) (relating to amendment [or expunction] of
7 information), information maintained in the Statewide database
8 obtained from an investigating agency in relation to an appeal
9 request shall not be released to any person except a department
10 official. Information in the Statewide database or a
11 confidential report provided under section 6341(c.2)(4) shall be
12 subject to subsection (c).

13 § 6341. Amendment [or expunction] of information.

14 (a) General rule.--Notwithstanding [section 6338.1 (relating
15 to expunction of information of perpetrator who was under 18
16 years of age when child abuse was committed)] the provisions of
17 this chapter:

18 (1) At any time, the secretary may amend [or expunge]
19 any record in the Statewide database under this chapter upon
20 good cause shown and notice to the appropriate subjects of
21 the report. The request shall be in writing in a manner
22 prescribed by the department. For purposes of this paragraph,
23 good cause shall include, but is not limited to, [the
24 following:

25 (i) Newly] newly discovered evidence that an
26 indicated report of child abuse is inaccurate or is being
27 maintained in a manner inconsistent with this chapter.

28 [(ii) A determination that the perpetrator in an
29 indicated report of abuse no longer represents a risk of
30 child abuse and that no significant public purpose would

1 be served by the continued listing of the person as a
2 perpetrator in the Statewide database.]

3 (2) Any person named as a perpetrator, and any school
4 employee named, in an indicated report of child abuse may,
5 within 90 days of being notified of the status of the report,
6 request an administrative review by, or appeal and request a
7 hearing before, the secretary to amend [or expunge] an
8 indicated report on the grounds that it is inaccurate or it
9 is being maintained in a manner inconsistent with this
10 chapter. The request shall be in writing in a manner
11 prescribed by the department.

12 (3) Within 60 days of a request under paragraph (1) or a
13 request for administrative review under paragraph (2), the
14 department shall send notice of the secretary's decision.

15 (b) Review of grant of request.--If the secretary grants the
16 request under subsection (a) (2), the Statewide database,
17 appropriate county agency, appropriate law enforcement officials
18 and all subjects shall be so advised of the decision. The county
19 agency and any subject have 90 days in which to file an
20 administrative appeal with the secretary. If an administrative
21 appeal is received, the secretary or his designated agent shall
22 schedule a hearing pursuant to Article IV of the act of June 13,
23 1967 (P.L.31, No.21), known as the Public Welfare Code,
24 attending departmental regulations. If no administrative appeal
25 is received within the designated time period, the Statewide
26 database shall comply with the decision of the secretary and
27 advise the county agency to amend [or expunge] the information
28 in their records so that the records are consistent at both the
29 State and local levels.

30 (c) Review of refusal of request.--Subject to subsection

1 (c.1), if the secretary refuses a request under subsection (a)
2 (1) or a request for administrative review under subsection (a)
3 (2), or does not act within the prescribed time, the perpetrator
4 or school employee shall have the right to appeal and request a
5 hearing before the secretary to amend [or expunge] an indicated
6 report on the grounds that it is inaccurate or it is being
7 maintained in a manner inconsistent with this chapter. The
8 request for hearing must be made within 90 days of notice of the
9 decision. The appropriate county agency and appropriate law
10 enforcement officials shall be given notice of the hearing. The
11 burden of proof in the hearing shall be on the appropriate
12 county agency. The department shall assist the county agency as
13 necessary.

14 * * *

15 (e) Order.--The secretary or designated agent may make any
16 appropriate order respecting the amendment [or expunction] of
17 such records to make them accurate or consistent with the
18 requirements of this chapter.

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

1 but that the subjects need services provided or arranged by the
2 county agency, the county agency shall retain those records and
3 shall specifically identify that the report was an unfounded
4 report of suspected child abuse. An unfounded report regarding
5 subjects who receive services shall be expunged no later than
6 120 days following the expiration of [~~one year~~] 30 years after
7 the termination or completion of services provided or arranged
8 by the county agency.

9 * * *

10 § 6368. Investigation of reports.

11 * * *

12 (f) Final determination.--Immediately upon conclusion of the
13 child abuse investigation, the county agency shall provide the
14 results of its investigation to the department in a manner
15 prescribed by the department. Within three business days of
16 receipt of the results of the investigation from the county
17 agency, the department shall send notice of the final
18 determination to the subjects of the report, other than the
19 abused child. The determination shall include the following
20 information:

21 * * *

22 (6) The perpetrator's right to file an appeal of an
23 indicated finding of abuse pursuant to section 6341 (relating
24 to amendment [~~or expunction~~] of information) within 90 days
25 of the date of notice.

26 * * *

27 § 6381. Evidence in court proceedings.

28 (a) General rule.--In addition to the rules of evidence
29 provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters),
30 the rules of evidence in this section shall govern in child

1 abuse proceedings in court or in any department administrative
2 hearing pursuant to section 6341 (relating to amendment [or
3 expunction] of information).

4 * * *

5 Section 4. This act shall take effect in 60 days.