# The Child Protective Services Law (23 Pa.C.S. Chapter 63)

## as amended in response to the recommendations of The Task Force on Child Protection

(showing amendments through October 22, 2014 with effective dates from January 1, 2014 through December 31, 2014)

November 2014

"Child protective services." Those services and activities provided by the Department and each county agency for child abuse cases.

(amended by Act 153 of 2014)

- "Children's advocacy center." A local public agency in this Commonwealth or a not-for-profit entity incorporated in this Commonwealth which:
- (1) is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U. S. C. § 501(c)(3)); and
- (2) operates within this Commonwealth for the primary purpose of providing a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse that, at a minimum, either onsite or through a partnership with another entity or entities, assists county agencies, investigative teams and law enforcement by providing services, including forensic interviews, medical evaluations, therapeutic interventions, victim support and advocacy, team case reviews and a system for case tracking.
- "Cooperation with an investigation or assessment." Includes, but is not limited to, a school or school district which permits authorized personnel from the <u>Department</u> or county agency to interview a student while the student is in attendance at school.

(amended by Act 153 of 2014)

"County agency." The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P. L. 2017, No. 396), known as the County Institution District Law, or its successor, and supervised by the <u>Department</u> under Article IX of the act of June 13, 1967 (P. L. 31, No. 21), known as the Public Welfare Code.

(amended by Act 153 of 2014)

"Department." The Department of Human Services of the Commonwealth.

(amended by Act 153 of 2014)

"Direct contact with children." The care, supervision, guidance or control of children or routine interaction with children.

(added by Act 33 of 2014)

"Electronic technologies." The transfer of information in whole or in part by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic or photo-optical systems, or similar capabilities. The termincludes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.

(added by Act 29 of 2014)

- "Expunge." To strike out or obliterate entirely so that the expunged information may not be stored, identified or later recovered by any mechanical or electronic means or otherwise.
- "Family members." Spouses, parents and children or other persons related by consanguinity or affinity.
- "Founded report." A child abuse report involving a perpetrator that is made pursuant to this chapter, if any of the following applies:
  - (1) There has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following:

- (i) The entry of a plea of guilty or nolo contendere.
- (ii) A finding of guilt to a criminal charge.
- (iii) A finding of dependency under 42 Pa. C. S. § 6341 (relating to adjudication) if the court has entered a finding that a child who is the subject of the report has been abused.
- (iv) A finding of delinquency under 42 Pa. C. S. § 6341 if the court has entered a finding that the child who is the subject of the report has been abused by the child who was found to be delinquent.
- (2) There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.
- (3) There has been a consent decree entered in a juvenile proceeding under 42 Pa. C. S. Ch. 63 (relating to juvenile matters), the decree involves the same factual circumstances involved in the allegation of child abuse and the terms and conditions of the consent decree include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent.
- (4) A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and:
  - (i) only one individual is charged with the abuse in the protection from abuse action;
    - (ii) only that individual defends against the charge;
  - (iii) the adjudication involves the same factual circumstances involved in the allegation of child abuse; and
  - (iv) the protection from abuse adjudication finds that the child abuse occurred.

(amended by Act 108 of 2013 and Act 44 of 2014)

<u>"Founded report for school employee."</u> (deleted by amendment)

(del et ed by Act 45 of 2014 effective: 12/31/14)

"General protective services." Those services and activities provided by each county agency for cases requiring protective services, as defined by the department in regulations.

(amended by Act 44 of 2014)

"Health care facility." As defined in section 802.1 of the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

(added by Act 33 of 2014)

Health care provider." A licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.

(added by Act 4 of 2014 effective: April 22, 2014)

"Independent contractor." An individual who provides a program, activity or service to an agency, institution, organization or other entity, including a school or regularly established religious organization, that is responsible for the care, supervision, guidance or control of children. The term does not include an individual who has no direct contact with children.

"Indicated report."

- (1) Subject to paragraphs (2) and (3), a report of child abuse made pursuant to this chapter if an investigation by the Department or county agency determines that substantial evidence of the alleged abuse by a perpetrator exists based on any of the following:
  - (i) Available medical evidence.
  - (ii) The child protective service investigation.
  - (iii) An admission of the acts of abuse by the perpetrator.

- - (15) The Hiram G. Andrews Center.
- (16) A private residential rehabilitative institution as defined in section 914.1-A(c) of the Public School Code of 1949.

(added by Acts 33 and 44 of 2014)

"School employee." An individual who is employed by a school or who provides a program activity or service sponsored by a school. The term excludes a330.65 672.2251

- (iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.
- This paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.
  - (2) Any of the following offenses committed against a child:
    - (i) Rape as defined in 18 Pa. C. S. § 3121 (relating to rape).
  - (ii) Statutory sexual assault as defined in 18 Pa. C. S. § 3122.1 (relating to statutory sexual assault).
  - (iii) Involuntary deviate sexual intercourse as defined in 18 Pa. C. S. § 3123 (relating to involuntary deviate sexual intercourse).
  - (iv) Sexual assault as defined in 18 Pa. C. S. § 3124.1 (relating to sexual assault).
  - (v) Institutional sexual assault as defined in 18 Pa. C. S. § 3124.2 (relating to institutional sexual assault).
  - (vi) Aggravated indecent assault as defined in 18 Pa. C. S. § 3125 (rel ating to aggravated indecent assault).
  - (vii) Indecent assault as defined in 18 Pa. C. S. § 3126 (relating to indecent assault).
  - (viii) Indecent exposure as defined in 18 Pa. C. S. § 3127 (relating to indecent exposure).
    - (ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
  - (x) Prostitution as defined in 18 Pa. C. S. § 5902 (relating to prostitution and related offenses).
  - (xi) Sexual abuse as defined in 18 Pa. C. S. § 6312 (relating to sexual abuse of children).
  - (xii) Unlawful contact with a minor as defined in 18 Pa. C. S. § 6318 (relating to unlawful contact with minor).
  - (xiii) Sexual exploitation as defined in 18 Pa. C. S. § 6320 (relating to sexual exploitation of children).

(added by Act 108 of 2013)

- "Student." An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.
- "Subject of the report." Any child, parent, guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator in a report made to the

- (b) Child abuse. -- (Deleted by amendment).
- (b. 1) Child abuse. -- The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:
  - (1) Causing bodily injury to a child through any recent act or failure to act.
  - (2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
  - (3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
  - (4) Causing sexual abuse or exploitation of a child through any act or failure to act.
  - (5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
  - (6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
    - (7) Causing serious physical neglect of a child.
    - (8) Engaging in any of the following recent acts:
    - (i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
    - (ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
      - (iii) Forcefully shaking a child under one year of age.
    - (iv) Forcefully slapping or otherwise striking a child under one year of age.
      - (v) Interfering with the breathing of a child.
    - (vi) Causing a child to be present at a location while a violation of 18 Pa. C. S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
    - (vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
      - (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa. C. S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.
      - (B) Has been determined to be a sexually violent predator under 42 Pa. C. S. § 9799. 24 (relating to assessments) or any of its predecessors.
      - (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa. C. S. § 9799. 12 (relating to definitions).
    - (9) Causing the death of the child through any act or failure to act.
- (c) Restatement of culpability.--Conduct that causes injury or harm to a child or creates a risk of injury or harm to a child shall not be considered child abuse if there is no evidence that the person acted intentionally, knowingly or recklessly when causing the injury or harm to the child or creating a risk of injury or harm to the child.
- (d) Child abuse exclusions.--The term "child abuse" does not include any conduct for which an exclusion is provided in section 6304 (relating to exclusions from child abuse).

(amended by Act 108 of 2013)

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Mar. 31, 1995, 1st Sp. Sess., P. L. 985, No. 10, eff. 60 days; Dec. 9, 2002, P. L. 1549, No. 201, eff. 60 days; Nov. 29, 2004, P. L. 1291, No. 160, eff. 60 days; Nov. 9, 2006, P. L. 1358, No. 146, eff. 180 days; Nov. 29, 2006, P. L. 1581, No. 179, eff. 180 days; July 3, 2008, P. L. 276, No. 33, eff. 180 days; Dec. 18, 2013, P. L. 1170, No. 108, eff. Dec. 31, 2014; Dec. 18, 2013, P. L. 1195, No. 117, eff. Dec. 31, 2014; Dec. 18, 2013, P. L. 1201, No. 119, eff. Dec. 31, 2014; Jan. 22, 2014, P. L. 6, No. 4, eff. 90 days; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014; Apr. 15,

- (C) sexual assault as defined in 18 Pa. C. S. § 3124.1 (relating to sexual assault);
- (D) aggravated indecent assault as defined in 18 Pa. C. S. § 3125 (relating to aggravated indecent assault);
- (E) indecent assault as defined in 18 Pa. C. S. § 3126 (relating to indecent assault); and
- (relating to indecent exposure).
- (ii) No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.
- (iii) A law enforcement official who receives a report of suspected child abuse is not required to make a report to the department under section 6334(a) (relating to disposition of complaints received), if the person allegedly responsible for the child abuse is a nonperpetrator child.
- (g) Defensive force.--Reasonable force for self-defense or the defense of another individual, consistent with the provisions of 18 Pa. C. S. §§ 505 (relating to use of force in self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.

(Dec. 18, 2013, P. L. 1170, No. 108, eff. Dec. 31, 2014)

2013 Amendment. Act 108 added section 6304.

Cross References. Section 6304 is referred to in section 6303 of this title.

#### § 6305. Electronic reporting.

(NEW added by Act 29 of 2014 effective: 12/31/14)

- (a) Departmental procedures. -- The department shall establish procedures for the secure and confidential use of electronic technologies to transmit information under this chapter, including:
  - (1) the filing of reports and other required records, including those of the county agency] TJETBT1 0 0 1 454.27 1Tf1 0 0 ABT1 0 0 1 9scJET0 g122.66 3

(NEW added by Act 29 of 2014 effective: 12/31/14)

The department shall promulgate regulations necessary to implement this chapter.

(Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 added section 6306.

## SUBCHAPTER B PROVI SI ONS AND RESPONSI BI LI TI ES FOR REPORTI NG SUSPECTED CHI LD ABUSE

#### Sec

- 6311. Persons required to report suspected child abuse.
- 6311.1. Privileged communications.
- 6312. Persons encouraged to report suspected child abuse.
- 6313. Reporting procedure.
- 6314. Photographs, medical tests and X-rays of child subject to report.
- 6315. Taking child into protective cust ody.
- 6316. Admission to private and public hospitals.
- 6317. Mandatory reporting and postmortem investigation of deaths.
- 6318. Immunity from liability.
- 6319. Penalties.
- 6320. Protection from employment discrimination.

Chapter Heading. The heading of Subchapter B was amended December 16, 1994, P. L. 1292, No. 151, effective July 1, 1995.

- § 6311. Persons required to report suspected child abuse.
- (a) Mandated reporters.-- The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:
  - (1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
    - (2) A medical examiner, coroner or funeral director.
  - (3) An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.
    - (4) A school employee.
  - (5) An employee of a child-care service who has direct contact with children in the course of employment.
  - (6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.
  - (7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child.
  - (8) An employee of a social services agency who has direct contact with children in the course of employment.
    - (9) A peace officer or law enforcement official.
  - (10) An emergency medical services provider certified by the Department of Health.
  - (11) An employee of a public library who has direct contact with children in the course of employment.

2014 Amendments. Act 32 amended subsec. (a) and deleted subsec. (b), Act 33 amended subsecs. (a) and (c) and added subsec. (b), Act 34 deleted subsec. (d) and Act 44 amended subsec. (c). Act 33 overlooked the amendment by Act 32, but the amendments do not conflict in substance and have both been given effect in setting forth the text of subsec. (b). Act 44 overlooked the amendment by Act 33, but the amendments do not conflict in substance (except for the deletion of "assume the responsibility and", as to which Act 44 has been given effect) and have both been given effect in setting forth the text of subsec. (c).

Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of subsecs. (a) and (b) shall take effect December 31, 2014.

Cross References. Section 6311 is referred to in sections 6318, 6320, 6340 of this title.

#### § 6311.1. Privileged communications.

(NEW added by Act 32 of 2014 Note: Act 45 of 2014 provides that §6311.1 shall take effect 12/31/14, not withstanding Section 4 of Act 32 of 2014, which had provided for a 60-day effective date of Act 32( June 15, 2014)

- (a) General rule. -- Subject to subsection (b), the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not:
  - (1) Apply to a situation involving child abuse.
  - (2) Relieve the mandated reporter of the duty to make a report of suspected child abuse.
  - (b) Confidential communications. -- The following protections shall apply:

    (1) Confidential communications made to a member of the clergy are
  - protected under 42 Pa. C. S. § 5943 (relating to confidential communications to clergymen).
  - (2) Confidential communications made to an attorney are protected so long as they are within the scope of 42 Pa.C.S. §§ 5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), the attorney work product doctrine or the rules of professional conduct for attorneys.
- (Apr. 15, 2014, P. L. 414, No. 32, eff. 60 days)
  - 2014 Amendment. Act 32 added section 6311.1.

Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, section 6311.1 shall take effect December 31, 2014.

§ 6312. Persons encouraged to report suspected child abuse.

Any person may make an oral or written report of suspected child abuse, which may be submitted electronically, or cause a report of suspected child abuse to be made to the department, county agency or law enforcement, if that person has reasonable cause to suspect that a child is a victim of child abuse.

(amended by Act 33 of 2014 effective: 12/31/14)

(Apr. 15, 2014, P. L. 417, No. 33, eff. Dec. 31, 2014)

Cross References. Section 6312 is referred to in section 6320 of this title.

- § 6313. Reporting procedure.
  - (a) Report by mandated reporter.--

§ 6314. Photographs, medical tests and X-rays of child subject to report.

A person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county agency at the time the written report is sent or within 48 hours after a report is made by electronic technologies or as soon thereafter as possible. The county agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases pursuant to section 6340(a)(9) or (10) (relating to release of information in confidential reports).

(amended by Act 33 of 2014 effective: 12/31/14) (Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Apr. 15, 2014, P. L. 417, No. 33, eff. Dec. 31, 2014)

Cross References. Section 6314 is referred to in sections 6313, 6318 of this title.

- § 6315. Taking child into protective cust ody.
  - (a) General rule. -- A child may be taken into protective custody:
  - (1) As provided by 42 Pa. C. S.  $\S$  6324 (relating to taking into cust ody).
  - (2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by the director, of any hospital or other medical institution where the child is being treated if

- (2) In the case of a newborn taken into protective custody pursuant to subsection (a)(3), the county agency shall within 24 hours make diligent efforts to notify a parent, guardian, custodian or other family member of the whereabouts of the newborn, unless prohibited by court order, and the reasons for the need to take the newborn into protective custody.
- (d) Informal hearing.--In no case shall protective custody under this chapter be maintained longer than 72 hours without an informal hearing under 42 Pa. C. S. § 6332 (relating to informal hearing). If, at the hearing, it is determined that protective custody shall be continued and the child is alleged to be without proper parental care or control or is alleged to be a dependent child under 42 Pa. C. S. § 6302 (relating to definitions), the county agency shall within 48 hours file a petition with the court under 42 Pa. C. S. Ch. 63 alleging that the child is a dependent child.
- (e) Place of detention. -- No child taken into protective custody under this chapter may be detained during the protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.
- (f) Conference with parent or other custodian. -- A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the employee designated by the county agency to be responsible for the child shall be held within 48 hours of the time that the child is taken into custody for the purpose of:
  - (1) Explaining to the parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, unless prohibited by court order.
  - (2) Expediting, wherever possible, the return of the child to the cust ody of the parent, guardian or other cust odian where cust ody is no longer necessary.
  - (3) Explaining to the parent, guardian or other custodian the rights provided for under 42 Pa. C. S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights).
- (Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Dec. 9, 2002, P. L. 1549, No. 201, eff. 60 days; Apr. 15, 2014, P. L. 417, No. 33, eff. Dec. 31, 2014)
  - 2014 Amendment Act 33 added subsec. (a) (4).
  - 2002 Amendment. Act 201 amended subsecs. (a) and (c).

Cross References. Section 6315 is referred to in sections 6313, 6316, 6318, 6375, 6504, 6508, 6509 of this title.

- § 6316. Admission to private and public hospitals.
- (a) General rule. -- Children appearing to suffer any physical or mental condition which may constitute child abuse shall be admitted to, treated and maintained in facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.
- (a. 1) Newborns. -- A newborn taken into protective custody pursuant to section 6315(a)(3) (relating to taking child into protective custody) shall be admitted to, treated and maintained in facilities of public and private hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care. Once a newborn is taken into protective custody pursuant to section 6315(a)(3), the newborn shall be considered immediately eligible for Medicaid for payment of medical services provided. Until otherwise provided by court order, the county agency shall assume the responsibility for making decisions regarding the newborn's medical care.

(b) Failure of hospital to admit child or newborn.--The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) or (a.1) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The

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

(amended by Act 119 of 2013 effective: July 1, 2014)

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Nov. 29, 2006, P. L. 1581, No. 179, eff. 60 days; July 3, 2008, P. L. 276, No. 33, eff. 180 days; Dec. 18, 2013, P. L. 1201, No. 119, eff. July 1, 2014)

- § 6319. Penalties for failure to report or to refer.
  - (a) Failure to report or refer. --
  - (1) A person or official required by this chapter to report a case of suspected child abuse or to make a referral to the appropriate authorities commits an offense if the person or official willfully fails to do so.
    - (2) An offense under this section is a felony of the third degree if:
      - (i) the person or official willfully fails to report;
    - (ii) the child abuse constitutes a felony of the first degree or higher; and
    - (iii) the person or official has direct knowledge of the nature of the abuse.
  - (3) An offense not otherwise specified in paragraph (2) is a misdemeanor of the second degree.
  - (4) A report of suspected child abuse to law enforcement or the appropriate county agency by a mandated reporter, made in lieu of a report to the department, shall not constitute an offense under this subsection, provided that the report was made in a good faith effort to comply with the requirements of this chapter.
- (b) Continuing course of action. -- If a person's willful failure under subsection (a) continues while the person knows or has reasonable cause to believe the child is actively being subjected to child abuse, the person commits a misdemeanor of the first degree, except that if the child abuse constitutes a felony of the first degree or higher, the person commits a felony of the third degree.
- (c) Multiple offenses.--A person who commits a second or subsequent offense under subsection (a) commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offenses is a felony of the second degree.
- (d) Statute of limitations.--The statute of limitations for an offense under subsection (a) shall be either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.

(amended by Act 32 of 2014 Note: Act 45 of 2014 provides that  $\S\S$  6319 shall take effect 12/31/14, not with standing Section 4 of Act 32 of 2014, which provided for a 60 effective date of Act 32( June 15, 2014),

(Nov. 29, 2006, P. L. 1581, No. 179, eff. 180 days; Apr. 15, 2014, P. L. 414, No. 32, eff. 60 days)

Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of section 6319 shall take effect December 31, 2014.

Cross References. Section 6319 is referred to in section 6335 of this title.

(NEW added by Act 34 of 2014 effective: 12/31/14)

- (a) Basis for relief.--A person may commence an action for appropriate relief if all of the following apply:
  - (1) The person is required to report under section 6311 (relating to persons required to report suspected child abuse) or encouraged to report under section 6312 (relating to persons encouraged to report suspected child abuse).
  - (2) The person acted in good faith in making or causing the report of suspected child abuse to be made.
  - (3) As a result of making the report of suspected child abuse, the person is discharged from employment or is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment.
- (b) Applicability.--This section does not apply to an individual making a report of suspected child abuse who is found to be a perpetrator because of the report or to any individual who fails to make a report of suspected child abuse as required under section 6311 and is subject to conviction under section 6319 (relating to penalties) for failure to report or to refer.
- (c) Location. -- An action under this section must be filed in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred.
- (d) Relief.--Upon a finding in favor of the plaintiff, the court may grant appropriate relief, which may include reinstatement of the plaintiff with back pay.
- (e) Departmental intervention. -- The department may intervene in an action commenced under this section.

(Apr. 15, 2014, P. L. 425, No. 34, eff. Dec. 31, 2014)

2014 Amendment. Act 34 added section 6320.

## SUBCHAPTER C POWERS AND DUTI ES OF DEPARTMENT

Sec.

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## § 6331. Establishment of Statewide database.

There shall be established in the department <u>a Statewide database of protective services</u>, which shall include the following, as provided by <u>section 6336 (relating to information in Statewide database):</u>

- (1) Reports of suspected child abuse pending investigation.
- (2) Reports with a status of pending juvenile court or pending criminal court action.

( Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014)

- (d) Notice of joint referrals.--When a report is referred to the county agency under subsection (b) and is also referred to a law enforcement official under subsection (c), the notice shall include information as to the name and contact information of any persons receiving the referral, if known.
  - (e) Jurisdiction

(I) Communication. -- Reports and information under subsections (h), (i) and (j) shall be provided within seven calendar days of completion of the investigation.

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- (5) Section 6343.1 (relating to citizen review panels).
- (6) Section 6347 (relating to reports to Governor and General Assembly).
- (e) Clearances.--Information provided in response to inquiries under section 6344 (relating to employees having contact with children; adoptive and foster parents), 6344.1 (relating to information relating to certified or registered day-care home residents) or 6344.2 (relating to volunteers having contact with children) shall not include unfounded reports of child abuse or reports related to general protective services and shall be limited to the following:
  - (1) Whether the person was named as a perpetrator of child abuse in a founded or indicated report.
  - (2) Whether there is an investigation pending in which the individual is an alleged perpetrator.
  - (3) The number, date of the incidents upon which the report is based and the type of abuse or neglect involved in any reports identified under paragraph (1).
- (f) Electronic technologies. -- Requests under this section may be made using electronic technologies if appropriate verification is made in accordance with subsection (b).

(amended by Acts 29 and 153 of 2014 effective: December 31, 2014)

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Dec. 15, 1998, P. L. 963, No. 127, eff. Mar. 1, 1999; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014)

- § 6336. Information in Statewide database.
- (a) Information authorized. -- The Statewide <u>database</u> shall include and shall be limited to the following information:
  - (1) The names, Social Security numbers, age, <u>race</u>, <u>ethnicity</u> and sex of the subjects of the reports.
  - (2) The date or dates and the nature and extent of the alleged instances that created the need for protective services.
    - (3) The home addresses of the subjects of the report.
  - (4) The county in which the <u>alleged incidents that created the need</u> for protective services occurred.
    - (5) Family composition.
  - (6) The name and relationship to the child <u>in question and</u> of other persons named in the report.
    - (7) Factors contributing to the <u>need for protective services</u>.
    - (8) The source of the report.
    - (9) Services planned or provided.
  - (10) If the report alleges child abuse, whether the report was determined to be founded, indicated or unfounded.
  - (11) If the report alleged the child was in need of general protective services, whether the report was valid or invalid.
  - (12) If the report was accepted for services and the reasons for the acceptance.
  - (13) If the report was not accepted for services, the reason the report was not accepted and whether the family was referred to other community services.
  - (14) Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency.
  - (15) The progress of any legal proceedings brought on the basis of the report of suspected child abuse.

- (16) Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.
- (17) In the case of an unfounded or invalid report, if it is later determined that the initial report was a false report, a notation to that effect regarding the status of the report.
- (18) Unfounded reports of child abuse, limited to the information authorized under section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports).
- (19) Any additional information provided in section 6313(c) (relating to reporting procedure).
- (20) Any additional demographic information that the department requires to comply with section 6342 (relating to studies of data in records).
- (21) A family case record for each family accepted for investigation, assessment or services which shall be maintained consistent with regulatory requirements.
- (22) With respect to cases that are not accepted for child abuse investigation or general protective services assessment or are referred to community services:
  - (i) The reason the report was not accepted.
  - (ii) Any information provided to the referral source or the family related to other services or option available to address the report.
- (23) Any other information that is necessary to maintain the names of persons convicted of a violation under 18 Pa. C. S. § 4906.1 (relating to false reports of child abuse) or the names of persons who made a false report of the need for general protective services.

No information other than that permitted in this subsection shall be retained in the Statewide database.

(amended by Act 29 of 2014 effective: December 31, 2014)

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014)

Cross References. Section 6336 is referred to in sections 6331, 6353.4 of this title.

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

- (a) General rule.--When a report of suspected child abuse is determined by the appropriate county agency to be an unfounded report, the information concerning that report of suspected child abuse shall be maintained for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged from the <a href="Statewide database">Statewide database</a>, as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department, and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department. <a href="The expunction shall be mandated and guaranteed by the department">The expunction shall be mandated and guaranteed by the department</a>.
- (b) Absence of other determination.--If an investigation of a report of suspected child abuse conducted by the appropriate county agency pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is a founded report, an indicated report or an unfounded report, or unless within that same 60-day period court action has been initiated and is responsible for the delay, the report shall be considered to be an unfounded report, and all

(  $Dec.\ 16,\ 1994,\ P.\ L.\ 1292,\ No.\ 151,\ eff.\ July\ 1,\ 1996;\ Dec.\ 15,\ 1998,\ P.\ L.\ 963,\ No.\ 127,\ eff.\ Mar.\ 1,\ 1999;\ Apr.\ 7,\ 2014,\ P.\ L.\ 388,\ No.\ 29,\ eff.\ Dec.\ 31,\ 2014)$ 

Cross References. Section 6337 is referred to in sections 6336, 6349 of this title.

#### § 6338. Disposition of founded and indicated reports.

(a) General rule. -- When a report of suspected child abuse is determined by the appropriate county agency to be a founded report or an indicated report, the status of the report shall be changed from pending to founded or indicated in the Statewide database. Notice of the determination that a report is a founded, indicated or unfounded report shall be made as provided in section 6368(f) (relating to investigation of reports).

(amended by Act 108 of 2013, as amended by Acts 29 and 45 of 2014 effective: 12/31/14)

- (b) Expunction of information when child attains 23 years of age.--Except as provided in subsection (c), all information which identifies the subjects of founded and indicated child abuse reports shall be expunged when the subject child reaches the age of 23. The expunction shall be mandated and guaranteed by the department.
- (c) Retention of information.--The Statewide database shall indefinitely retain the names of perpetrators of child abuse and school employees who are subjects of founded or indicated reports only if the individual's Social Security number or date of birth is known to the department. The entry in the Statewide database shall not include identifying information regarding other subjects of the report.

(amended by Acts 29 and 45 of 2014 effective: 12/31/14)

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Dec. 18, 2013, P. L. 1170, No. 108, eff. Dec. 31, 2014; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014; May 14, 2014, P. L. 653, No. 45, eff. Dec. 31, 2014)

2014 Amendment. Act 29 amended subsecs. (a) and (c) and Act 45 amended subsec. (a).

Cross References. Section 6338 is referred to in section 6349 of this title.

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

- (a) General rule.--The name of a perpetrator who is the subject of an indicated report of child abuse and who was under 18 years of age when the individual committed child abuse shall be expunged from the Statewide database when the individual reaches 21 years of age or when five years have elapsed since the perpetrator's name was added to the database, whichever is later, if the individual meets all of the following:
  - (1) The individual has not been named as a perpetrator in any

- (3) The child abuse which resulted in the inclusion of the perpetrator's name in the database did not involve the use of a deadly weapon, as defined under 18 Pa. C. S. § 2301 (relating to definitions).
- (b) Mandated expunction. -- If the perpetrator meets all of the requirements under subsection (a), the expunction shall be mandated and guaranteed by the depart ment.
- (c) Nonapplicability.--The provisions of this section shall not apply to any of the following cases:
  - (1) A perpetrator who is the subject of a founded report of child abuse.
  - (2) A sexually violent delinquent child, as defined in 42 Pa. C. S. § 9799. 12 (relating to definitions), who meets all of the following:
    - (i) Is required to register under 42 Pa. C. S. Ch. 97 Subch. H (relating to registration of sexual offenders).
    - (ii) Was found delinquent as a result of the same acts which resulted in the sexually violent delinquent child being named a perpetrator of child abuse.
  - (3) A juvenile offender, as defined in 42 Pa. C. S. § 9799.12, who meets all of the following:
    - (i) Is required to register under 42 Pa. C. S. Ch. 97 Subch. Has a result of an adjudication of delinquency for the same acts which resulted in the juvenile offender being named a perpetrator of child abuse.
    - (ii) Has not been removed from the Statewide Registry of Sexual Offenders pursuant to 42 Pa. C. S. § 9799.17 (relating to termination of period of registration for juvenile offenders).
  - (4) A sexual offender, as defined in 42 Pa. C. S. § 9799.12, who meets all of the following:
    - (i) Is required to register under 42 Pa. C. S. Ch. 97 Subch. Has a result of a criminal conviction for the same acts which resulted in the sexual offender being named a perpetrator of child abuse.
    - (ii) Has not completed the period of registration required under 42 Pa. C. S. § 9799. 15 (relating to period of registration).

(added by Act 117 of 2013 and amended by Acts 45 and 153 of 2014 effective: 12/31/14)

(Dec. 18, 2013, P. L. 1195, No. 117, eff. Dec. 31, 2014; May 14, 2014, P. L. 653, No. 45, eff. Dec. 31, 2014)

2014 Amendments. Act 45 amended subsec. (a)(1).

2013 Amendment. Act 117 added section 6338.1.

Cross References. Section 6338.1 is referred to in section 6341 of this title.

§ 6339. Confidentiality of reports.

Except as otherwise provided in this subchapter or by the Pennsylvania Rules of Juvenile Court Procedure, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and written reports made pursuant to section 6313 (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-

Suspension by Court Rule. Section 6339 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(9), adopted August 21, 2006, insofar as it is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of reports if the reports are going to be used as evidence in a hearing to prove dependency of a child.

Cross References. Section 6339 is referred to in sections 6340, 6341, and 6365 of this title.

### § 6340. Release of information in confidential reports.

- (a) General rule. -- Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:
  - (1) An authorized official of a county agency, of a Federal agency that has a need for such information to carry out its responsibilities under law to protect children from abuse and neglect or of an agency of another state that performs protective services analogous to those services performed by county agencies or the department in the course of the official's duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to voluntary or court-ordered services; findings of child abuse).
  - (2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child or a child alleged to be in need of protection under this chapter.
    - (3) A guardian ad litem or court designated advocate for the child.
  - (4) An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of county agency).
  - (5) A court of competent jurisdiction, including a magisterial district judge, a judge of the Philadelphia Municipal Court and a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under section 6303(b) (relating to definitions). Disclosure through testimony shall be subject to the restrictions of subsection (c).
  - (5.1) A court of common pleas in connection with any matter involving cust ody of a child as set forth in sections 5328 (relating to factors to consider when awarding cust ody) and 5329.1 (relating to consideration of child abuse and involvement with protective services).

(amended by Act 107 of 2013 effective: January 1, 2014)

- (6) A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).
  - (7) The Attorney General.
- (8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not remove identifiable reports or copies thereof from the department or county agencies.
- ((9) Law enforcement officials of any jurisdiction, as long as the information is relevant in the course of investigating cases of:
  - (i) Homicide or other criminal offense set forth in section 6344(c) (

- (ii) Child abuse other than that identified under subparagraph(i) by a nonperpetrator.
- (iii) Repeated physical injury to a child under circumstances which indicate that the child's health, safety or welfare is harmed or threatened.
  - (iv) A missing child report.

(amended by Act 29 of 2014 effective: 12/31/14)

- (10) The district <u>attorney's office</u> or other law enforcement official, as set forth in county protocols for <u>multidisciplinary</u> investigative teams required in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse), shall receive, immediately after the county agency has ensured the safety of the child, reports of abuse according to regulations, from the <u>department or</u> county agency in which the initial report of suspected child abuse or initial inquiry into the report gives evidence that the abuse is:
  - (i) a criminal offense set forth <u>under</u> section <u>6344.3 (relating</u> to grounds for denying employment or participation in program,

- (e) Order.--The secretary or designated agent may make any appropriate order respecting the amendment or expunction of such records to make them accurate or consistent with the requirements of this chapter.
- 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 records and inform for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating to reports to department and coroner). Whenever the county agency investigation reveals, within 60 days of receipt of the report of suspected child abuse, that the report is unfounded but that the subjects need services provided or arranged by the county agency, the county agency shall retain those records and shall specifically identify that the report was an unfounded report of suspected child abuse. An unfounded report regarding subjects who receive services shall be expunged no later than 120 days following the expiration of one year after the termination or completion of services provided or arranged by the county agency.
- (g) Reconsideration and appeal.--Parties to a proceeding or hearing held under subsection (c.2) have 15 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to request the secretary to reconsider the decision. Parties to a proceeding or hearing held under this section have 30 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to perfect an appeal to Commonwealth Court. The filing for reconsideration shall not toll the 30 days provided.

[amended by Acts 108 and 119 of 2013 and Act 45 of 2014. Section 6 of Act 119, which provided that § 6341 shall apply to appeals filed on or after the effective date of that section of Act 119(July 1, 2014), was repealed by Act 45 of 2014, which also clarified that the provisions of 23 Pa. C. S.  $\S6341(c.1),(c.2),(c.3),(c.4)$  and  $\S6341(c.1)$  and  $\S6341(c.1)$ 

(Dec. 16, 1994, P.L. 1292, No. 151, eff. July 1, 1995; Dec. 15, 1998, P.L. 963, No. 127, eff. Mar. 1, 1999; Dec. 18, 2013, P.L. 1170, No. 108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L. 1201, No. 119, eff. July 1, 2014; May 14, 2014, P.L. 653, No. 45, eff. Dec. 31, 2014)

2014 Amendment. Act 45 reenacted and amended the entire section. Section 16 of Act 45 provided that not withstanding section 7(2) of Act 119 of 2013, subsecs. (c.1), (c.2), (c.3), (c.4) and (g) shall apply on and after December 31. 2014.

2013 Amendments. Act 108 amended subsecs. (a), (b) and (c) and added subsec. (c.1) and Act 119 added subsecs. (c.1), (c.2), (c.3), (c.4) and (g). The amendments by Acts 108 and 119 adding subsec. (c.1) do not conflict in substance and have both been given effect in setting forth the text of section 6341. Section 6 of Act 119 provided that the amendment of section 6341 shall apply to appeals filed on or after the effective date of section

Cross References. Section 6341 is referred to in sections 6340, 6368, 6381 of this title.

- (2) The department's child fatality or near fatality review shall be commenced immediately upon receipt of a report to the department that a child died or nearly died as a result of suspected child abuse. The department shall provide assistance and relevant information to the child fatality or near fatality review team and attempt to coordinate its fact-finding efforts and interviews with the team to avoid duplication. The department's child fatality or near fatality review and report shall be completed as soon as possible but no later than six months from receipt of the initial report of the child fatality or near fatality.
- (3) Prior to completing its report, the department may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:
  - (i) The identity of the child,  $\underline{\text{only in the case of a childs}}$  fatality.
  - (ii) If the child was in the custody of a public or private agency, the identity of the agency.
  - (iii) The identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality.
    - (iv) A description of services provided under subparagraph (iii).
  - (v) The identity of the county agency that convened a child fatality or near fatality review team with respect to the child.
- (4) Upon completion of the review and report, the department's child fatality or near fatality report shall be made available to the county agency, the child fatality or near fatality review team and designated county officials under section 6340(a)(11) (relating to release of information in confidential reports). The report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's report shall be made available to the public, but identifying information shall be removed from the contents of the report except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review teamin respect to the child. The report shall not be released to the public if the district attorney certifies that release of the report may compromise a pending

- (b) Function. -- The panels shall examine all of the following:
- (1) Policies, procedures and practices of State and local agencies and, where appropriate, specific cases to evaluate the extent to which State and local child protective services system agencies are effectively discharging their child protection responsibilities under section 106(b) of the Child Abuse Prevention and Treatment Act (Public Law 93-247, 42 U. S. C. § 5106a(b)).
- (2) Other criteria the panel considers important to ensure the protection of children, including:
  - (i) a review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established under Part E of Title IV of the Social Security Act (49 Stat. 620, 42 U.S.C. § 670 et seq.); and
  - (ii) a review of child fatalities and near fatalities, including, but not limited to, a review of any child fatality or near fatality involving a child in the custody of a public or private agency where there is no report of suspected child abuse and the cause of death is neither the result of child abuse nor natural causes.
- (c) Membership. -- The panels shall be composed of volunteer members who represent the community, including members who have expertise in the prevention and treatment of child abuse and neglect.
- (d) Meetings.--Each citizen review panel shall meet not less than once every three months.
  - (e) Reports.

- 1949, except that this section shall apply with regard to the information required under subsection (b)(2).
- (2) School employees not governed by the provisions of the Public School Code of 1949 shall be governed by this section.
- (b) Information to be submitted.--An individual identified in subsection (a) (7) at the time the individual meets the description set forth in subsection (a) (7) and an individual applying to serve in any capacity identified in subsection (a) (1), (2), (3), (4), (5) or (6) or (a.1) prior to the commencement of employment or service shall be required to submit the following information to an employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers:
  - (1) Pursuant to 18 Pa. C. S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa. C. S. § 9121(b)(2) (relating to general regulations).
  - (2) A certification from the department as to whether the applicant is named in the Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report.

(amended by Acts 29 and 45 of 2014 effective: 12/31/14)

- (3) A report of Federal criminal history record information. The applicant shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a record check, and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.
- (b. 1) Information submitted by certain prospective employees. -- (Expired).
- (b.1) Required documentation to be maintained and produced.--The employer, administrator, supervisor or other person responsible for employment decisions or acceptance of the individual to serve in any capacity identified in subsection (a)(1), (2), (3), (4), (5) or (6) or (a.1) shall maintain a copy of the required information and require the individual to produce the original document prior to employment or acceptance to serve in any such capacity, except as allowed under subsection (m).
- (b.2) Investigation.--An employer, administrator, supervisor or other person responsible for employment decisions shall require an applicant to submit the required documentation set forth in this chapter. An employer, administrator, supervisor or other person responsible for employment decisions that intentionally fails to require an applicant to submit the required documentation before the applicant's hiring commits a misdemeanor of the third degree.
- (c) Grounds for denying employment or participation in a program, activity or service. --
- (1) In no case shall an administrator hire <u>or approve</u> an applicant where the department has verified that the applicant is named in the <u>Statewide database</u> as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.

(amended by Act 45 of 2014 effective: 12/31/14)

(2) In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted of one or more of the following offenses under Title 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the law of another state:

Chapter 25 (relating to criminal homicide). Section 2702 (relating to aggravated assault). Section 2709.1 (relating to stalking). Section 2901 (relating to kidnapping). Section 2902 (relating to unlawful restraint). Section 3121 (relating to rape). Section 3122.1 (relating to statutory sexual assault). Section 3123 (relating to involuntary deviate sexual intercourse). Section 3124.1 (relating to sexual assault). Section 3125 (relating to aggravated indecent assault). Section 3126 (relating to indecent assault). Section 3127 (relating to indecent exposure). Section 4302 (relating to incest). Section 4303 (relating to concealing death of child). Section 4304 (relating to endangering welfare of children). Section 4305 (relating to dealing in infant children). A felony offense under section 5902(b) (relating to prostitution and

related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

The attempt, solicitation or conspiracy to commit any of the offenses set forth in this paragraph.

- (3) In no case shall an employer, administrator, supervisor or other person responsible for employment decisions hire or approve an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.
- Dismissal.--If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment or approval pursuant to subsection (c), the applicant shall be immediately dismissed from employment or approval.
- (d) Prospective adoptive or foster parents. - With regard to prospective adoptive or prospective foster parents, the following shall apply:
  - (1) In the course of causing an investigation to be made pursuant to section 2535(a) (relating to investigation), an agency or person designated by the court to conduct the investigation shall require prospective adoptive parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection (b) for review in accordance with this section. If a prospective adoptive parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous fiveyear period, the agency or person designated by the court shall require that person to submit a certification obtained within the previous oneyear period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the agency or person designated by the court shall forward the certification to the department for review. The agency or person designated by the court shall not approve the prospective adoptive parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period.

- (2) In the course of approving a prospective foster parent, a foster family care agency shall require prospective foster parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection (b) for review by the foster family care agency in accordance with this section. If a prospective foster parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous fiveyear period, the foster family care agency shall require that person to submit a certification obtained within the previous one-year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the foster family care agency shall forward the certification to the department for review. The foster family care agency shall not approve the prospective foster parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period. In addition, the foster family care agency shall consider the following when assessing the ability of applicants for approval as foster parents:
  - (i) The ability to provide care, nurturing and supervision to  $\operatorname{children}$ .
  - (ii) Mental and emotional well-being. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the foster family care agency shall require a psychological evaluation of that person before approving the foster family home.
  - (iii) Supportive community ties with family, friends and neighbors.
  - (iv) Existing family relationships, attitudes and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.
  - (v) Ability of the applicant to accept a foster child's relationship with his own parents.
  - (vi) The applicant's ability to care for children with special needs.
  - (vii) Number and characteristics of foster children best suited to the foster family.
  - (viii) Ability of the applicant to work in partnership with a foster family care agency. This subparagraph shall not be construed to preclude an applicant from advocating on the part of a child.
  - (3) Deleted by amendment
  - (4) Del et ed by amendment
  - (4.1) If a foster parent is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter, or is named as a perpetrator in a founded or indicated report, the foster parent shall provide the foster family care agency with written notice not later than 72 hours after the arrest, conviction or notification that the foster parent was named as a perpetrator in the Statewide database.
- (5) Foster parents shall be required to report any other change in the foster family household composition within 30 days of the change for review by the foster family care agency. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home of an approved foster family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency a certification from the Statewide database, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator. If the certification shows that the person is named as a perpetrator within the previous five-year period, the foster family care agency shall forward the certification to the

department for review. If the department determines that the person is named as the equivalent of a perpetrator of a founded report within the previous five-year period and the person does not cease residing in the home immediately, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

- (6) In cases where foster parents knowingly fail to submit the material information required in paragraphs (4.1) and (5) and section 6344.4 (relating to certification compliance) such that it would disqualify them as foster parents, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.
- (7) An approved foster parent shall not be considered an employee for any purpose, including, but not limited to, liability, unemployment compensation, workers' compensation or other employee benefits provided by the county agency.
- (8) The department shall require information based upon certain criteria for foster and adoptive parent applications. The criteria shall include, but not be limited to, information provided by the applicant or other sources in the following areas:
  - (i) Previous addresses within the last ten years.
  - (ii) Criminal history background clearance generated by the process outlined in this section.
  - (iii) Child abuse clearance generated by the process outlined in this section.
    - (iv) Composition of the resident family unit.
    - (v)

not remove identifiable information or copies thereof from the

- (1) The applicant has applied for the information required under subsection (b) and the applicant provides a copy of the appropriate completed request forms to the <u>employer</u>, <u>administrator</u>, <u>supervisor or other person responsible for employment decisions</u>.
- (2) The employer, administrator, supervisor or other person responsible for employment decisions has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (c).
- (3) The applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (c) or has not been convicted of an offense similar in nature to those crimes listed in subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.
- (4) If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment pursuant to subsection (c), the applicant shall be immediately dismissed by the <a href="employer">employer</a>, administrator, supervisor or other person responsible for <a href="employment">employment</a> decisions.
- (5) The employer, administrator, supervisor or other person responsible for employment decisions requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employee.
- (n) Confidentiality.--The information provided and compiled under this section, including, but not limited to, the names, addresses and telephone numbers of applicants and foster and adoptive parents, shall be confidential and shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right to Know Law This information shall not be released except as permitted by the department through regulation.
- (o) Use of information.--A foster family care agency may not approve a prospective foster parent if the prospective foster parent or an individual 18 years of age or older who resides for at least 30 days in a calendar year with the prospective foster parent meets either of the following:
  - (1) Is named in the <u>Statewide database</u> as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.
    - (2) Has been found guilty of an offense listed in subsection (c).

(amended by Acts 29 and 34 of 2014 effective: 12/31/14)

- (p) Use of information. -- A prospective adoptive parent may not be approved if the prospective adoptive parent or an individual 18 years of age or older who resides for at least 30 days in a calendar year with the prospective adoptive parent meets either of the following:
  - (1) Is named in the <u>Statewide database</u> as the perpetrator of a founded report committed <u>within the five-year</u> period immediately preceding verification pursuant to this section or is named in the <u>Statewide database</u> as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.
    - (2) Has been found guilty of an offense listed in subsection (c).

(amended by Acts 29, 45 and 153 of 2014 effective: 12/31/14 (Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Mar. 31, 1995, 1st Sp. Sess., P. L. 985, No. 10, eff. 60 days; Dec. 15, 1998, P. L. 963, No. 127, eff. Jan. 1, 1999; Dec. 17, 2001, P. L. 942, No. 112, eff. i md.; Dec. 9, 2002, P. L. 1759, No. 218, eff. 60 days; Nov. 29, 2004, P. L. 1291, No. 160, eff. 60 days; Nov. 29, 2006, P. L. 1581, No. 179, eff. 180 days; Dec. 18, 2007, P. L. 469, No. 73; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014; May 14, 2014, P. L. 653, No. 45, eff. December 31, 2014)

2014 Amendments. Act 29 amended subsecs. (b)(2), (o)(1) and (p)(1) and added subsec. (h.1) and Act 45 amended subsecs. (b), (c) hdg. and (1), (o) and (p).

2008 Expiration. Subsec. (b.1) expired July 1, 2008. See Act 73 of 2007.

2007 Amendment. Act 73 amended subsecs. (b), (d)(1), (2), (3), (4) and (5), (e), (f) and (k) and added subsec. (b. 1), effective immediately as to subsec. (b. 1), January 1, 2008, as to subsecs. (b) and (d)(1), (2), (3), (4) and (5) and July 1, 2008, as to subsecs. (e), (f) and (k).

2006 Amendment. Act 179 amended subsecs. (a) and (c)(1) and added subsecs. (o) and (p).

2004 Amendment. Act 160 amended subsecs. (d) and (g) and added subsecs. (d. 1), (d. 2) and (n).

2002 Amendment. Act 218 amended subsec. (c)(2).

2001 Amendment. Act 112 amended subsec. (h).

1998 Amendment. Act 127 amended subsecs. (b), (c) and (h).

Special Provisions in Appendix. See section 6 of Act 33 of 2008 in the appendix to this title for special provisions relating to Department of Public Welfare reports.

References in Text. The act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right-to-Know Law, referred to in subsec. (n), was repealed by the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law.

Subsec. (a)(1), (2), (3), (4), (5) and (6), referred to in subsec. (b), do not exist.

Cross References. Section 6344 is referred to in sections 2530, 6335, 6338.1, 6344.1, 6344.2, 6349, 6383 of this title; section 6351.1 of Title 42 (Judiciary and Judicial Procedure).

§ 6344.1. Information relating to certified or registered day-

- (d) Regulations. -- The department shall promulgate regulations to administer this section.
- (Nov. 29, 2006, P. L. 1581, No. 179, eff. 180 days; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014; May 14, 2014, P. L. 653, No. 45, eff. Dec. 31, 2014)
- 2014 Amendments. Act 29 amended subsecs. (b) and (c)(1) and Act 45 amended subsec. (b).

2006 Amendment. Act 179 added section 6344.1.

Cross References. Section 6344.1 is referred to in section 6335 of this title.

- § 6344.2. Volunteers having contact with children.
- (a) Applicability.-- This section applies to an adult applying for an unpaid position as a volunteer responsible for the welfare of a child or having direct contact with children.

(added by Act 153 of 2014 effective 12/31/14)

(b)

- § 6346. Cooperation of other agencies.
- (a) General rule. -- The secretary may request and shall receive from Commonwealth agencies, political subdivisions, an authorized agency or any other agency providing services under the local protective services plan any assistance and data that will enable the department and the county agency to fulfill their responsibilities properly, including law enforcement of sicials when assistance is needed in conducting an investigation or an assessment of safety or risk to the child. School districts shall cooperate with the

receiving child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

(amended by Acts 29 and 45 of 2014 effective: 12/31/14)

- (b) Reports from county agencies. -- To assist the department in preparing its annual report and the quarterly reports required under subsection (c), each county agency shall submit a quarterly report to the department, including, at a minimum, the following information, on an aggregate basis, regarding general protective services and child protective services:
  - (1) The number of referrals received and referrals accepted.
  - (2) The number of children over whom the agency maintains continuing supervision.
    - (3) The number of cases which have been closed by the agency.
    - (4) The services provided to children and their families.
  - (5) A summary of the findings with nonidentifying information about each case of child abuse or neglect which has resulted in a child fatality or near fatality.

(amended by Act 45 of 2014 effective: 12/31/14)

(c) Quarterly reports.--The department shall prepare and transmit to the Governor and the General Assembly a quarterly report that includes a summary of the findings with nonidentifying information about each case of child abuse or neglect that has resulted in a child fatality or near fatality. One of the quarterly reports may be included within the annual report required under subsection (a).

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1996; Nov. 9, 2006, P. L. 1358, No. 146, eff. 180 days; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014; May 14, 2014, P. L. 653, No. 45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended subsec. (a) and Act 45 amended subsecs (a) and (b).

2006 Amendment. Act 146 amended the section heading and subsec. (b) intro. par., carried subsec. (a) without amendment and added subsecs. (b)(5) and (c).

Cross References. Section 6347 is referred to in section 6335 of this title.

§ 6348. Regulations.

The department shall adopt regulations necessary to implement this chapter.

Special Provisions in Appendix. See section 10(2) of Act 151 of 1994 in the appendix to this title for special provisions relating to promulgation of regulations pertaining to general protective services.

#### § 6349. Penalties.

- (a) Failure to amend or expunge information. --
- (1) A person or official authorized to keep the records mentioned in section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports) or 6338 (relating to disposition of 0.024 0 03. (b)(5) and 71 0 0 g[of flfBs1 0 0 1 363.91 169.46on 6337 (relating to disposition)

(2) A person who willfully fails to obey a final order of the secretary or designated agent of the secretary to amend or expunge the summary of the report in the Statewide <u>database</u> or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a misdemeanor of the third degree.

(amended by Act 29 of 2014 effective: 12/31/14)

(b) Unauthorized release of information. -- A person who willfully releases or permits the release of any information contained in the Statewide database or the county agency records required by this chapter to persons or agencies not permitted by this chapter to receive that information commits a misdemeanor of the second degree. Law enforcement officials shall insure the confidentiality and security of information under this chapter. A person, including a law enforcement official, who violates the provisions of this subsection shall, in addition to other civil or criminal penalties provided by law, be denied access to the information provided under this chapter.

(amended by Act 29 of 2014 effective: 12/31/14)

(b. 1) Unauthorized access or use of information. -- A person who willfully accesses, attempts to access or uses information in the Statewide database for a purpose not authorized under this chapter commits a misdemeanor of the second degree. A person who uses information in the Statewide database for a purpose not authorized under this chapter with intent to harass, embarrass or harm another person commits a misdemeanor of the first degree.

(amended by Act 29 of 2014 effective: 12/31/14)

(c) Noncompliance with child-care personnel regulations.--An administrator, or other person responsible for employment decisions in a child-care facility or program, who willfully fails to comply with the provisions of section 6344 (relating to employees having contact with children; adoptive and foster parents) commits a violation of this chapter and shall be subject to a civil penalty as provided in this subsection. The department shall have jurisdiction to determine violations of section 6344 and may, following a hearing, assess a civil penalty not to exceed \$2,500. The civil penalty shall be payable to the Commonwealth.

(amended by Act 153 of 2014 effective: 12/31/14)

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 amended subsecs. (a) and (b) and added subsec. (b. 1) and carried without amendment subsec. (c).

Cross References. Section 6349 is referred to in section 6335 of this title.

## SUBCHAPTER C. 1 STUDENTS IN PUBLIC AND PRIVATE SCHOOLS (Repealed)

(repealed by Acts 44 and 45 of 2014 effective: 12/31/14)

2014 Repeal. Subchapter C.1 (§§ 6351 - 6353.4) was added December 16, 1994, P. L. 1292, No. 151, and repealed May 14, 2014, P. L. 645, No. 44, effective December 31, 2014 and May 14, 2014, P. L. 653, No. 45, effective December 31, 2014.

# SUBCHAPTER C. 2 BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS (Repeal ed)

(repealed by Act 45 of 2014 effective: 12/31/14)

2014 Repeal. Subchapter C. 2 (§§ 6354 - 6358) was added December 16, 1994, P. L. 1292, No. 151, May 14, 2014, P. L. 653, No. 45, effective December 31, 2014.

### SUBCHAPTER D ORGANI ZATI ON AND RESPONSI BI LI TI ES OF CHI LD PROTECTI VE SERVI CE

#### Sec.

- 6361. Organization for child protective services.
- 6362. Responsibilities of county agency for child protective services.
- 6363. County plan for protective services.
- 6364. Purchasing services of other agencies.
- 6365. Services for prevention, investigation and treatment of child abuse.
- 6366. Continuous availability to receive reports.
- 6367. Reports to department and coroner.
- 6368. Investigation of reports.
- 6369. Taking child into protective cust ody.
- 6370. Voluntary or court-ordered services; findings of child abuse.
- 6371. Rehabilitative services for child and family.
- 6372. Protecting well-being of children maintained outside home.
- 6373. General protective services responsibilities of county agency.
- 6374. Principles and goals of general protective services.
- 6375. County agency requirements for general protective services.
- 6376. Appeals with respect to general protective services.
- 6377. Casel oads.
- 6378. Purchase of services.
- § 6361. Organization for child protective services.
- (a) Establishment.--Every county agency shall make available child protective services within the agency. The department may waive the requirement that a county agency be the sole civil agency for receipt and investigation of reports pursuant to section 6362 (relating to responsibilities of county agency for child protective services) upon a showing by the county that:
  - (1) It is participating in a demonstration project for or has become part of an approved combined intake system for public human service agencies as permitted by department regulations. Nothing in this paragraph is intended to permit noncounty government agencies to participate in the receipt and investigation of the reports.

(f) Weekly face-to-face contacts.--For those children assessed as being at high risk for abuse or neglect who are remaining in or returning to the home in which the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.

(Dec. 16, 1994, P. L. 1292, No. 151; Nov. 24, 1999, P. L. 542, No. 50, eff. 60 days)

1999 Amendment. Act 50 added subsec. (f).

1994 Amendment. Act 151 amended the entire section, effective July 1, 1995, as to subsecs. (a), (b), (c) and (d). See section 10(1) of Act 151 in the appendix to this title for special provisions relating to the effective date of subsec. (e).

Cross References. Section 6362 is referred to in sections 6361, 6364 of this title.

(c) <u>Multidisciplinary investigative</u> team -- <u>A multidisciplinary</u>

- § 6367. Reports to department and coroner.
- (a) Reports to department.--Upon the receipt of each report of suspected child abuse made pursuant to this chapter, the county agency shall immediately transmit a child abuse report summary as provided in section 6313 (relating to reporting procedure) to the department. Supplemental reports shall be made at regular intervals thereafter in a manner and form the department prescribes by regulation to the end that the department is kept fully informed and up-to-date concerning the status of reports of child abuse.
- (b) Reports to coroner.--The county agency shall give telephone notice and forward immediately a copy of reports made pursuant to this chapter which involve the death of a child to the appropriate coroner pursuant to section 6317 (relating to mandatory reporting and postmortem investigation of deaths).
- (c) Child deaths and near fatalities.--A county agency shall immediately provide information to the department regarding its involvement with the child and with the child's parent, guardian or custodian when a child dies or nearly dies and child abuse is suspected. The county agency shall inform the department of any history of child protective or general protective services provided to the child prior to the child's death or near fatality and of services provided to other children of the child's parent, guardian or custodian by the county agency or by court order. The county agency shall inform the department if the child was in the agency's custody at the time of the child's death or near fatality. The county agency shall provide this information in writing on forms provided by the department within 48 hours of the oral report.

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1995; July 3, 2008, P. L. 276, No. 33, eff. 180 days)

2008 Amendment. Act 33 added subsec. (c).

Cross References. Section 6367 is referred to in section 6341 of this title.

- § 6368. Investigation of reports.
- (a) Response to direct reports.--Upon receipt of a report of suspected child abuse by a perpetrator from an individual, the county agency shall ensure the safety of the child and any other child in the child's home and immediately contact the department in accordance with the provisions of section 6334 (relating to disposition of complaints received).

(added by Act 123 of 2013 effective: 3/18/14)

- (b) Response to reports referred to county agency by department.--Upon receipt of a report of suspected child abuse from the department, the county agency shall immediately commence an investigation and see the child within the following time frames:
  - (1) Immediately, if:
  - (i) emergency protective custody is required, has been or will be taken; or
  - (ii) it cannot be determined from the report whether emergency protective cust ody is needed.
  - (2) Within 24 hours of receipt of the report in all other cases.

(added by Act 123 of 2013 effective: 3/18/14)

(c)	Investigation An	i nvest i gat i on	under	t hi s	sect i on	shal l	include t	he

- (5) The fact that the name of the perpetrator, the nature of the abuse and the final status of a founded or indicated report will be entered in the Statewide database, if the perpetrator's Social Security number or date of birth are known.
- (6) The perpetrator's right to file an appeal of an indicated finding of abuse pursuant to section 6341 (relating to amendment or expunction of information) within 90 days of the date of notice.
- (7) The perpetrator's right to a fair hearing on the merits on an appeal of an indicated report filed pursuant to section 6341.
- (8) The burden on the investigative agency to prove its case by substantial evidence in an appeal of an indicated report.

(added by Act 108 of 2013 effective: 12/31/14)

(g) Notice.--Notice under subsection (f) shall constitute mailing of the final determination to the recipient's last known address. The determination is presumed received when not returned by the postal authorities as undeliverable. If the determination is returned as undeliverable, the entry

(k) Need for social services.--If the investigation determines that the child is being harmed by factors beyond the control of the parent or other person responsible for the child's welfare, the county agency shall promptly take all steps available to remedy and correct these conditions, including the coordination of social services for the child and the family or referral of the family to appropriate agencies for the provision of services.

(added by Act 123 of 2013, but as sub-paragraph(g) effective: 3/18/14)

- (I) Notice of investigation. --
- (1) Prior to interviewing a subject of a report, the county agency shall orally notify the subject, except for the alleged victim, who is about to be interviewed of the following information:
  - (i) The existence of the report.
  - (ii) The subject's rights under 42 Pa. C. S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights).
  - (iii) The subject's rights pursuant to this chapter in regard to amendment or expungement.
  - (iv) The subject's right to have an attorney present during the interview.
- (2) Written notice shall be given to the subject within 72 hours following oral notification, unless delayed as provided in subsection (m).

(added by Act 123 of 2013, but as sub-paragraph(h) effective: 3/18/14)

- (m) Delay of notification. -- The notice under subsection (I)(2) may be reasonably delayed, subject to the following:
  - (1) If the notification is likely to:
  - (i) threaten the safety of a victim, a subject of the report who is not a perpetrator or the investigating county agency worker;
    - (ii) cause the perpetrator to abscond; or
  - (iii) significantly interfere with the conduct of a criminal investigation.
  - (2) The written notice shall be provided to all subjects of the report prior to the county agency reaching a finding on the validity of the report.

(added by Act 123 of 2013, but as sub-paragraph(i) effective: 3/18/14)

- (n) Completion of investigation. -- Investigations shall be completed in accordance with the following:
  - (1) Investigations to determine whether to accept the family for service and whether a report is founded, indicated or unfounded shall be completed within 60 days in all cases.
  - (2) If, due to the particular circumstances of the case, the county agency cannot complete the investigation within 30 days, the particular reasons for the delay shall be described in the child protective service record and made available to the department for purposes of determining whether either of the following occurred:
    - (i) The county agency strictly followed the provisions of this chapter.
    - (ii) The county agency is subject to action as authorized under section 6343 (relating to investigating performance of county agency).
  - (3) Where a petition has been filed under 42 Pa. C. S. Ch. 63 (relating to juvenile matters) alleging that a child is a dependent child, the county agency shall make all reasonable efforts to complete the investigation to enable the hearing on the petition to be held as required by 42 Pa. C. S. § 6335 (relating to release or holding of hearing).

(added by Act 123 of 2013, but as sub-paragraph(j) effective: 3/18/14)

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1996; Oct. 27, 2006, P. L. 1192, No. 126, eff. 60 days; Nov. 29, 2006, P. L. 1581, No. 179, eff. 180 days; Dec. 18, 2013, P. L. 1170, No. 108, eff. Dec. 31, 2014; Dec. 18, 2013, P. L. 1235, No. 123, eff. 90 days)

2013 Amendments. Act 108 added subsecs. (e), (f), (g) and (h) and Act 123 amended the entire section. Act 123 overlooked the amendment by Act 108, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 6368.

(iii) If there is a determination that the subjects of the unfounded report need services provided or arranged by the county agency, the county agency may retain those records only if it specifically identifies the report as an unfounded report of suspected child abuse.

- (2) Each county agency shall implement a State-approved risk assessment process in performance of its duties.
- (d) Receiving and assessing reports.--The county agency shall be the sole civil agency responsible for receiving and assessing all reports of children in need of protective services made pursuant to this chapter for the purpose of providing protective services to prevent abuse or neglect to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development and to preserve and stabilize family life wherever appropriate. The department may waive the receipt and assessment requirement pursuant to section 6361 (relating to organization for child protective services). Nothing in this subsection limits 42 Pa. C. S. § 6304 (relating to powers and duties of probation of ficers).
- (e) Family service plan. -- The county agency shall prepare a written family service plan in accordance with regulations adopted by the department.
- (f) Types of services.--Each county agency shall make available for the prevention and treatment of child abuse and neglect: multidisciplinary teams, instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, part-day services, out-of-home placement services, therapeutic activities for the child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.
- (g) Monitoring, evaluating and assessing.--The county agency shall frequently monitor the provision of services, evaluate the effectiveness of the services, conduct in-home visits and make a periodic assessment of the risk of harm to the child, which shall include maintaining an annually updated photograph of the child and verification of the identification of the child.
- (h) Emergency coverage. -- As part of its general protective services program, a county agency shall provide 24-hour-a-day emergency coverage and be accessible to the public.
- (i) Protective custody. -- Pursuant to section 6315 (relating to taking child into protective custody) and after receipt of a court order, the county agency shall take a child into protective custody to protect the child from abuse or further neglect. No county agency worker may take custody of a child without judicial authorization based on the merits of the situation.
- (j) Court action.--If the county agency determines that protective services are in the best interest of a child and if an offer of those services is refused or if any other reason exists to warrant court action, the county agency shall initiate the appropriate court proceedings.
- (k) Adjudication of dependency. -- The county agency shall maintain its responsibility for petitioning the court when necessary for the adjudication of dependency of a child pursuant to 42 Pa. C. S. Ch. 63 (relating to juvenile matters).
- (I) Assistance to court.--The county agency shall assist the court during all stages of a court proceeding in accordance with the purposes of this chapter.
- (m) Weekly face-to-face contacts.--For those children assessed under this section as being at high risk for abuse or neglect who are remaining in or returning to the home in which the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.

- (n) Transfer of files between county agencies. -- Whenever a county agency transfers to another county agency a file relating to a child who receives or is in need of protective services under this chapter, the file shall include any photographic identification and an annual photograph taken of the child.
- (o) Availability of information. -- Information related to reports of a child in need of general protective services shall be available to individuals and entities to the extent they are authorized to receive information under section 6340 (relating to release of information in confidential reports).
- (Dec. 16, 1994, P. L. 1292, No. 151; Nov. 24, 1999, P. L. 542, No. 50, eff. 60 days; Oct. 27, 2006, P. L. 1192, No. 126, eff. 60 days; Dec. 18, 2013, P. L. 1167, No. 107, eff. Jan. 1, 2014; Apr. 7, 2014, P. L. 388, No. 29, eff. Dec. 31, 2014)
  - 2014 Amendment. Act 29 amended subsec. (c).
- 2013 Amendment. Act 107 added subsec. (o). See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.
- 2006 Amendment. Act 126 amended subsec. (g) and added subsec. (n). Section 3 of Act 126 provided that the Department of Public Welfare may promulgate rules and regulations to administer and enforce the amendment of section 6375 effected by Act 126.
  - 1999 Amendment.

(f) Other appeals.--Action by a custodial parent or person who has primary responsibility for the welfare of a child under this section does not preclude his right to exercise other appeals available through department regulations or the courts.

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6376.

§ 6377. Casel oads.

The department by regulation shall set forth staff-to-family ratios for general protective services.

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6377.

§ 6378. Purchase of services.

Except for the receipt and assessment of reports alleging a need for protective services, the county agency may purchase and utilize the services of any appropriate public or private agency. The department shall promulgate regulations establishing standards and qualifications of persons or agencies providing services for a county agency. The department may, by regulation, provide for the establishment of regional facilities or a regional coordination of licensed professional service providers to provide county agencies with access to licensed physicians and psychologists, as required by this section.

(Dec. 16, 1994, P. L. 1292, No. 151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6378.

### SUBCHAPTER E M SCELLANEOUS PROVI SI ONS

Sec.

6381. Evidence in court proceedings.

6382. Quardian ad litem for child in court proceedings (Repealed).

6383. Education and training.

6384. Legislative oversight.

6385. Reimbursement to county agencies.

6386. Mandatory reporting of infants born and identified as being affected by illegal substance abuse.

§ 6381. Evidence in court proceedings.

- (a) General rule.--In addition to the rules of evidence provided under 42 Pa. C. S. Ch. 63 (relating to juvenile matters), the rules of evidence in this section shall govern in child abuse proceedings in court or in any department administrative hearing pursuant to section 6341 (relating to amendment or expunction of information).
- (b) Reports of unavailable persons.--Whenever a person required to report under this chapter is unavailable due to death or removal from the jurisdiction of the court, the written report of that person shall be admissible in evidence in any proceedings arising out of child abuse other than proceedings under Title 18 (relating to crimes and offenses). Any

hearsay contained in the reports shall be given such weight, if any, as the court determines to be appropriate under all of the circumstances. However, any hearsay contained in a written report shall not of itself be sufficient to support an adjudication based on abuse.

(c) Privileged communications. -- Except for privileged communications between a lawyer and a client and between a minister and a penitent, a privilege of confidential communication between husband and wife or between any professional person, including, but not limited to, physicians, psychologists, counselors, employees of hospitals, clinics, dap2u48 Tm8. Leged communication

- (a. 1) Study by department.--The department shall conduct a study to determine the extent of the reporting of suspected child abuse in this Commonwealth where the reports upon investigation are determined to be unfounded and to be knowingly false and maliciously reported or it is believed that a minor was persuaded to make or substantiate a false and malicious report. The department shall submit the report to the Governor, General Assembly and Attorney General no later than June 1, 1996. The report shall include the department's findings and recommendations on how to reduce the incidence of knowingly false and malicious reporting.
  - (a.2) Information for mandated and permissive reporters. --
  - (1) In addition to the requirements of subsection (a), the department shall provide specific information related to the recognition and reporting of child abuse on its Internet website in forms, including, but not limited to, the following:
    - (i) Website content.
    - (ii) Printable booklets and brochures.
    - (iii) Educational videos.
    - (iv) Internet-based interactive training exercises.
  - (2) Information shall be pertinent to both mandated and permissive reporters and shall address topics, including, but not limited to:
    - i) Conduct constituting child abuse under this chapter.
    - (ii) Persons classified as mandated reporters.
    - iii) Reporting requirements and procedures.
    - (iv) The basis for making a report of suspected child abuse.
    - (v) Penalties for failure to report.
    - (vi) Background clearance requirements for individuals who work or volunteer with children.
      - (vii) Recognition of the signs and symptoms of child abuse.
    - (viii) Alternative resources to assist with concerns not related to child abuse.
  - (3) The department shall include the following with all certifications provided pursuant to section 6344(b)(2) (relating to employees having contact with children; adoptive and foster parents):
    - (i) Information that certain persons are required by law to report suspected child abuse.
    - (ii) The Internet address where the information and guidance required by this subsection can be obtained.
      - (iii) A telephone number and mailing address where guidance

- (iv) Caregivers in family day care homes which are subject to registration by the department under Subarticle (c) of Article X of the Public Welfare Code and their employees who have direct contact with children.
- (2) Within six months of the effective date of this subsection, operators and caregivers shall receive three hours of training prior to the issuance of a license, approval or registration certificate and three hours of training every five years thereafter.
- (3) Employees who have direct contact with children and foster parents shall receive three hours of training within six months of the issuance of a license, approval or registration certificate and three hours of training every five years thereafter. New employees and new foster parents shall receive three hours of training within 90 days of hire or approval as a foster parent and three hours of training every five years thereafter.
- (4) Training curriculum shall be approved by the department and shall address, but not be limited to, the following:
  - (i) Recognition of the signs of abuse and reporting requirements for suspected abuse in this Commonwealth.
  - (ii) For institutions, facilities and agencies under paragraph (1)(i), their policies related to reporting of suspected abuse.
- (5) A person may be exempted from the requirements of this subsection if all of the following apply:
  - (i) The person provides documentation that the person has already completed child abuse recognition and reporting training.
    - (ii) The training was:
    - (A) required by section 1205.6 of the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the department; or
    - (B) required by this chapter and the training program was approved by the <u>department</u>.
  - (iii) The amount of training received equals or exceeds the amount of training required by this subsection.
- (d) Definitions. -- As used in this section, the following words and