

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter A. Preliminary Provisions \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6301

§ 6301. Short title of chapter

[Currentness](#)

This chapter shall be known and may be cited as the Child Protective Services Law.

Credits

[1990, Dec. 19, P.L. 1240, No. 206, § 2](#), effective in 90 days.

[Notes of Decisions \(4\)](#)

23 Pa.C.S.A. § 6301, PA ST 23 Pa.C.S.A. § 6301

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter A. Preliminary Provisions (Refs & Annos)

23 Pa.C.S.A. § 6302

§ 6302. Findings and purpose of chapter

Currentness

(a) Findings.--Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment.

(b) Purpose.--It is the purpose of this chapter to encourage more complete reporting of suspected child abuse; to the extent permitted by this chapter, to involve law enforcement agencies in responding to child abuse; and to establish in each county protective services for the purpose of investigating the reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve, stabilize and protect the integrity of family life wherever appropriate or to provide another alternative permanent family when the unity of the family cannot be maintained. It is also the purpose of this chapter to ensure that each county children and youth agency establish a program of protective services with procedures to assess risk of harm to a child and with the capabilities to respond adequately to meet the needs of the family and child who may be at risk and to prioritize the response and services to children most at risk.

(c) Effect on rights of parents.--This chapter does not restrict the generally recognized existing rights of parents to use reasonable supervision and control when raising their children.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 1, effective July 1, 1995; 1998, Dec. 15, P.L. 963, No. 127, § 10, effective March 1, 1999.

Notes of Decisions (9)

23 Pa.C.S.A. § 6302, PA ST 23 Pa.C.S.A. § 6302
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter A. Preliminary Provisions \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6303

§ 6303. Definitions

Effective: October 28, 2016

[Currentness](#)

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

“Accept for service.” Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

“Adult.” An individual 18 years of age or older.

“Adult family member.” A person 18 years of age or older who has the responsibility to provide care or services to an individual with an intellectual disability or chronic psychiatric disability.

“Bodily injury.” Impairment of physical condition or substantial pain.

“Child.” An individual under 18 years of age.

“Child-care services.” Includes any of the following:

- (1) Child day-care centers.
- (2) Group day-care homes.
- (3) Family child-care homes.

- (4) Foster homes.
- (5) Adoptive parents.
- (6) Boarding homes for children.
- (7) Juvenile detention center services or programs for delinquent or dependent children.
- (8) Mental health services for children.
- (9) Services for children with intellectual disabilities.
- (10) Early intervention services for children.
- (11) Drug and alcohol services for children.
- (12) Day-care services or programs that are offered by a school.
- (13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the department or a county social services agency or that are provided pursuant to a contract with the department or a county social services agency.

The term does not apply to services provided by administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

“Child protective services.” Those services and activities provided by the department and each county agency for child abuse cases.

“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 department or county agency to interview a student while the student is in attendance at school.

“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),¹ known as the County Institution District Law, or its successor, and supervised by the department under Article IX of the act of June 13, 1967 (P.L. 31, No. 21),² known as the Public Welfare Code.

“Department.” The Department of Human Services of the Commonwealth.

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

“Direct volunteer contact.” The care, supervision, guidance or control of children and routine interaction with children.

“Education enterprise.” An educational activity in this Commonwealth:

(1) for which college credits or continuing education units are awarded, continuing professional education is offered or tuition or fees are charged or collected; and

(2) that is sponsored by a corporation, entity or institution that is incorporated or authorized by other means in a state other than this Commonwealth and is approved and authorized to operate in this Commonwealth under 15 Pa.C.S. Pt. II Subpt. B (relating to business corporations)³ or C (relating to nonprofit corporations)⁴ and 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

“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 term includes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.

“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 child-care home.” A residence where child day care is provided at any time to no less than four children and no more than six children who are not relatives of the caregiver.

“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.

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

“Health care facility.” As defined in section 802.1 of the act of July 19, 1979 (P.L. 130, No. 48),⁵ known as the Health Care Facilities Act.

“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.

“Immediate vicinity.” An area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.

“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 apply to administrative or other support personnel unless the administrative or other support personnel have 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.

(2) A report may be indicated under paragraph (1)(i) or (ii) for any child who is the victim of child abuse, regardless of the number of alleged perpetrators.

(3) A report may be indicated under paragraph (1)(i) or (ii) listing the perpetrator as “unknown” if substantial evidence of abuse by a perpetrator exists, but the department or county agency is unable to identify the specific perpetrator.

“Institution of higher education.” Any of the following:

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

(2) An independent institution of higher education which is an institution of higher education located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation “college,” “university” or “seminary” as provided for by standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65.

(3) A State-owned institution.

(4) A State-related institution.

(5) An education enterprise.

“Intentionally.” The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

“Knowingly.” The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

“Law enforcement official.” The term includes the following:

(1) The Attorney General.

(2) A Pennsylvania district attorney.

(3) A Pennsylvania State Police officer.

(4) A municipal police officer.

“Mandated reporter.” A person who is required by this chapter to make a report of suspected child abuse.

“Matriculated student.” A student who is enrolled in an institution of higher education and pursuing a program of study that results in a postsecondary credential, such as a certificate, diploma or degree.

“Near fatality.” A child’s serious or critical condition, as certified by a physician, where that child is a subject of the report of child abuse.

“Newborn.” As defined in section 6502 (relating to definitions).

“Parent.” A biological parent, adoptive parent or legal guardian.

“Perpetrator.” A person who has committed child abuse as defined in this section. The following shall apply:

(1) The term includes only the following:

(i) A parent of the child.

(ii) A spouse or former spouse of the child's parent.

(iii) A paramour or former paramour of the child's parent.

(iv) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(v) An individual 14 years of age or older who resides in the same home as the child.

(vi) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

(vii) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, [22 U.S.C. § 7102](#)).

(2) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(i) A parent of the child.

(ii) A spouse or former spouse of the child's parent.

(iii) A paramour or former paramour of the child's parent.

(iv) A person 18 years of age or older and responsible for the child's welfare.

(v) A person 18 years of age or older who resides in the same home as the child.

“Person affiliated with.” A person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a specified person.

“Person responsible for the child's welfare.” A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

“Police department.” A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.

“Police officer.” A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.

“Police station.” The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.

“Private agency.” A children and youth social service agency subject to the requirements of 55 Pa. Code Ch. 3680 (relating to administration and operation of a children and youth social service agency).

“Program, activity or service.” Any of the following in which children participate and which is sponsored by a school or a public or private organization:

- (1) A youth camp or program.
- (2) A recreational camp or program.
- (3) A sports or athletic program.
- (4) A community or social outreach program.
- (5) An enrichment or educational program.
- (6) A troop, club or similar organization.

“Protective services.” Those services and activities provided by the department and each county agency for children who are abused or are alleged to be in need of protection under this chapter.

“Recent act.” Any act committed within two years of the date of the report to the department or county agency.

“Recent act or failure to act.” Any act or failure to act committed within two years of the date of the report to the department or county agency.

“Recklessly.” The term shall have the same meaning as provided in [18 Pa.C.S. § 302](#) (relating to general requirements of culpability).

“Resource family.” A family which provides temporary foster or kinship care for children who need out-of-home placement and may eventually provide permanency for those children, including an adoptive family.

“Risk assessment.” A Commonwealth-approved systematic process that assesses a child’s need for protection or services

based on the risk of harm to the child.

“Routine interaction.” Regular and repeated contact that is integral to a person’s employment or volunteer responsibilities.

“Safety assessment.” A Commonwealth-approved systematic process that assesses a child’s need for protection or services, based on the threat to the safety of the child.

“School.” A facility providing elementary, secondary or postsecondary educational services. The term includes the following:

- (1) Any school of a school district.
- (2) An area vocational-technical school.
- (3) A joint school.
- (4) An intermediate unit.
- (5) A charter school or regional charter school.
- (6) A cyber charter school.
- (7) A private school licensed under the act of January 28, 1988 (P.L. 24, No. 11),⁸ known as the Private Academic Schools Act.
- (8) A private school accredited by an accrediting association approved by the State Board of Education.
- (9) A nonpublic school.
- (10) An institution of higher education.
- (11) to (13) Deleted by [2015, July 1, P.L. 94, No. 15, § 1](#), imd. effective.
- (14) A private school licensed under the act of December 15, 1986 (P.L. 1585, No. 174),⁹ known as the Private Licensed Schools Act.
- (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 1949.¹⁰

“School employee.” An individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

“Secretary.” The Secretary of Human Services of the Commonwealth.

“Serious bodily injury.” Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

“Serious mental injury.” A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

(1) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child’s life or safety is threatened; or

(2) seriously interferes with a child’s ability to accomplish age-appropriate developmental and social tasks.

“Serious physical neglect.” Any of the following when committed by a perpetrator that endangers a child’s life or health, threatens a child’s well-being, causes bodily injury or impairs a child’s health, development or functioning:

(1) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child’s developmental age and abilities.

(2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

“Sexual abuse or exploitation.” Any of the following:

(1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

(i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(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](#) (relating 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).

“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 department or a county agency under this chapter.

“Substantial evidence.” Evidence which outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.

“Substantiated child abuse.” Child abuse as to which there is an indicated report or founded report.

“Under investigation.” A child abuse report pursuant to this chapter which is being investigated to determine whether it is “founded,” “indicated” or “unfounded.”

“Unfounded report.” Any report made pursuant to this chapter unless the report is a “founded report” or an “indicated report.”

(b) Deleted by [2013, Dec. 18, P.L. 1170, No. 108, § 1](#), effective Dec. 31, 2014.

(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),¹¹ 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.

(10) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, [22 U.S.C. § 7102](#)).

(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).

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 1, effective July 1, 1995; 1995, March 31, P.L. 985, No. 10 (Spec. Sess. No. 1), § 14, effective in 60 days; 2002, Dec. 9, P.L. 1549, No. 201, § 2, effective in 60 days; 2004, Nov. 29, P.L. 1291, No. 160, § 1, effective in 60 days [Jan. 28, 2005]; 2006, Nov. 9, P.L. 1358, No. 146, § 2, effective in 180 days [May 8, 2007]; 2006, Nov. 29, P.L. 1581, No. 179, § 2, effective in 180 days [May 29, 2007]; 2008, July 3, P.L. 276, No. 33, § 1, effective in 180 days [Dec. 30, 2008]; 2013, Dec. 18, P.L. 1170, No. 108, § 1, effective Dec. 31, 2014; 2013, Dec. 18, P.L. 1195, No. 117, § 1, effective Dec. 31, 2014; 2013, Dec. 18, P.L. 1201, No. 119, § 1, effective Dec. 31, 2014; 2014, Jan. 22, P.L. 6, No. 4, § 1, effective in 90 days [April 22, 2014]; 2014, April 7, P.L. 388, No. 29, § 1, effective Dec. 31, 2014; 2014, April 15, P.L. 417, No. 33, § 1, effective Dec. 31, 2014; 2014, May 14, P.L. 645, No. 44, § 1, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, § 1, effective Dec. 31, 2014; 2014, July 2, P.L. 843, No. 91, § 2, effective in 60 days [Sept. 2, 2014]; 2014, Oct. 22, P.L. 2529, No. 153, § 2, effective Dec. 31, 2014; 2015, July 1, P.L. 94, No. 15, § 1, imd. effective; 2016, Oct. 28, P.L. 966, No. 115, § 2, imd. effective.

Notes of Decisions (113)

Footnotes

- 1
[62 P.S. § 2305.](#)
- 2
[62 P.S. § 901 et seq.](#)
- 3
[15 Pa.C.S.A. § 1101 et seq.](#)
- 4
[15 Pa.C.S.A. § 5101 et seq.](#)
- 5
[35 P.S. § 448.802a.](#)
- 6
[24 P.S. § 19-1901-A et seq.](#)

7 24 P.S. § 5201 et seq. (repealed); see 24 P.S. § 19-1901-A et seq.

8 24 P.S. § 6701 et seq.

9 24 P.S. § 6501 et seq.

10 24 P.S. § 9-914.1-A.

11 42 Pa.C.S.A. § 9799.10 et seq.

23 Pa.C.S.A. § 6303, PA ST 23 Pa.C.S.A. § 6303
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Chapter 63. Child Protective Services (Refs & Annos)

Subchapter A. Preliminary Provisions (Refs & Annos)

23 Pa.C.S.A. § 6304

§ 6304. Exclusions from child abuse

Effective: December 31, 2014

[Currentness](#)

(a) Environmental factors.--No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors, such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides. This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

(b) Practice of religious beliefs.--If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. In such cases the following shall apply:

- (1) The county agency shall closely monitor the child and the child's family and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.
- (2) All correspondence with a subject of the report and the records of the department and the county agency shall not reference child abuse and shall acknowledge the religious basis for the child's condition.
- (3) The family shall be referred for general protective services, if appropriate.
- (4) This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.
- (5) This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

(c) Use of force for supervision, control and safety purposes.--Subject to subsection (d), the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:

(1) The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.

(2) The use of reasonable force is necessary:

(i) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;

(ii) to prevent the child from self-inflicted physical harm;

(iii) for self-defense or the defense of another individual; or

(iv) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.

(d) Rights of parents.--Nothing in this chapter shall be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.

(e) Participation in events that involve physical contact with child.--An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this chapter.

(f) Child-on-child contact.--

(1) Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator.

(2) Notwithstanding paragraph (1), the following shall apply:

(i) Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this chapter:

(A) rape as defined in [18 Pa.C.S. § 3121](#) (relating to rape);

(B) involuntary deviate sexual intercourse as defined in [18 Pa.C.S. § 3123](#) (relating to involuntary deviate sexual intercourse);

(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);

(F) indecent exposure as defined in [18 Pa.C.S. § 3127](#) (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.

Credits

[2013, Dec. 18, P.L. 1170, No. 108, § 2](#), effective Dec. 31, 2014.

§ 6304. Exclusions from child abuse, PA ST 23 Pa.C.S.A. § 6304

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter A. Preliminary Provisions (Refs & Annos)

23 Pa.C.S.A. § 6305

§ 6305. Electronic reporting

Effective: December 31, 2014

[Currentness](#)

(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; and
- (2) the verification of records and signatures on forms.

(b) Confirmation of reports.--A confirmation by the department of the receipt of a report of suspected child abuse submitted electronically shall relieve the person making the report of making an additional oral or written report of suspected child abuse, subject to [section 6313](#) (relating to reporting procedure).

(c) Effect on other law.--Nothing in this chapter shall be construed to supersede the act of December 16, 1999 (P.L. 971, No. 69),¹ known as the Electronic Transactions Act. Any procedures developed by the department under this section shall comply with all applicable Federal and State laws regarding confidentiality of personally identifiable information.

Credits

2014, April 7, P.L. 388, No. 29, § 2, effective Dec. 31, 2014.

Footnotes

¹

73 P.S. § 2260.101 et seq.

§ 6305. Electronic reporting, PA ST 23 Pa.C.S.A. § 6305

23 Pa.C.S.A. § 6305, PA ST 23 Pa.C.S.A. § 6305

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter A. Preliminary Provisions \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6306

§ 6306. Regulations

Effective: December 31, 2014

[Currentness](#)

The department shall promulgate regulations necessary to implement this chapter.

Credits

[2014, April 7, P.L. 388, No. 29, § 2](#), effective Dec. 31, 2014.

23 Pa.C.S.A. § 6306, PA ST 23 Pa.C.S.A. § 6306

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services](#)

[Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse](#)

T. 23 Pa.C.S.A., Pt. VII, Ch. 63, Subch. B, Refs & Annos

[Currentness](#)

T. 23 Pa.C.S.A., Pt. VII, Ch. 63, Subch. B, Refs & Annos, PA ST T. 23 Pa.C.S.A., Pt. VII, Ch. 63, Subch. B, Refs & Annos
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6311

§ 6311. Persons required to report suspected child abuse

Effective: July 1, 2015

[Currentness](#)

(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, is a person responsible for the child's welfare or has direct contact with children.

- (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.
- (12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), who has direct contact with children in the course of employment.
- (13) An independent contractor.
- (14) An attorney affiliated with 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.
- (15) A foster parent.
- (16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L. 31, No. 21),¹ known as the Public Welfare Code.

(b) Basis to report.--

- (1) A mandated reporter enumerated in subsection (a) shall make a report of suspected child abuse in accordance with [section 6313](#) (relating to reporting procedure), if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:
 - (i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service.

(ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(c) Staff members of institutions, etc.--Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall report immediately in accordance with [section 6313](#) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification, the person in charge or the designated agent, if any, shall facilitate the cooperation of the institution, school, facility or agency with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is subject to the provisions of [18 Pa.C.S. § 4958](#) (relating to intimidation, retaliation or obstruction in child abuse cases). This chapter does not require more than one report from any such institution, school, facility or agency.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2006, Nov. 29, P.L. 1581, No. 179, § 3, effective in 180 days [May 29, 2007]; 2014, April 15, P.L. 414, No. 32, § 1, effective Dec. 31, 2014; 2014, April 15, P.L. 417, No. 33, § 2, effective Dec. 31, 2014; 2014, April 15, P.L. 425, No. 34, § 1, effective Dec. 31, 2014; 2014, May 14, P.L. 645, No. 44, § 2, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 3, effective Dec. 31, 2014; 2015, July 1, P.L. 94, No. 15, § 2, imd. effective.

Notes of Decisions (19)

Footnotes

¹

[62 P.S. §§ 901 et seq., 1001 et seq.](#)

§ 6311. Persons required to report suspected child abuse, PA ST 23 Pa.C.S.A. § 6311

23 Pa.C.S.A. § 6311, PA ST 23 Pa.C.S.A. § 6311

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6311.1

§ 6311.1. Privileged communications

Effective: December 31, 2014

[Currentness](#)

(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.

Credits

[2014, April 15, P.L. 414, No. 32, § 2](#), effective Dec. 31, 2014.

23 Pa.C.S.A. § 6311.1, PA ST 23 Pa.C.S.A. § 6311.1
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6312

§ 6312. Persons encouraged to report suspected child abuse

Effective: December 31, 2014

[Currentness](#)

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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 2014, April 15, P.L. 417, No. 33, § 2, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6312, PA ST 23 Pa.C.S.A. § 6312

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse (Refs & Annos)

23 Pa.C.S.A. § 6313

§ 6313. Reporting procedure

Effective: December 31, 2014

[Currentness](#)

(a) Report by mandated reporter.--

(1) A mandated reporter shall immediately make an oral report of suspected child abuse to the department via the Statewide toll-free telephone number under [section 6332](#) (relating to establishment of Statewide toll-free telephone number) or a written report using electronic technologies under [section 6305](#) (relating to electronic reporting).

(2) A mandated reporter making an oral report under paragraph (1) of suspected child abuse shall also make a written report, which may be submitted electronically, within 48 hours to the department or county agency assigned to the case in a manner and format prescribed by the department.

(3) The failure of the mandated reporter to file the report under paragraph (2) shall not relieve the county agency from any duty under this chapter, and the county agency shall proceed as though the mandated reporter complied with paragraph (2).

(b) Contents of report.--A written report of suspected child abuse, which may be submitted electronically, shall include the following information, if known:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(2) Where the suspected abuse occurred.

(3) The age and sex of each subject of the report.

- (4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.

 - (5) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.

 - (6) Family composition.

 - (7) The source of the report.

 - (8) The name, telephone number and e-mail address of the person making the report.

 - (9) The actions taken by the person making the report, including those actions taken under [section 6314](#) (relating to photographs, medical tests and X-rays of child subject to report), [6315](#) (relating to taking child into protective custody), [6316](#) (relating to admission to private and public hospitals) or [6317](#) (relating to mandatory reporting and postmortem investigation of deaths).

 - (10) Any other information required by Federal law or regulation.

 - (11) Any other information that the department requires by regulation.
- (c), (d) Repealed by [2014, April 15, P.L. 417, No. 33, § 2](#), effective Dec. 31, 2014.
- (e) Applicability of Mental Health Procedures Act.**--Notwithstanding any other provision of law, a mandated reporter enumerated under [section 6311](#) (relating to persons required to report suspected child abuse) who makes a report of suspected child abuse pursuant to this section or who makes a report of a crime against a child to law enforcement officials shall not be in violation of the act of July 9, 1976 (P.L. 817, No. 143),¹ known as the Mental Health Procedures Act, by releasing information necessary to complete the report.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended [1994, Dec. 16, P.L. 1292, No. 151, § 3](#), effective July 1, 1995; [2014, April 15, P.L. 417, No. 33, § 2](#), effective Dec. 31, 2014; [2014, Oct. 22, P.L. 2529, No. 153, § 4](#), effective Dec. 31, 2014.

Notes of Decisions (3)

Footnotes

1

50 P.S. § 7101 et seq.

23 Pa.C.S.A. § 6313, PA ST 23 Pa.C.S.A. § 6313

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6314

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

Effective: December 31, 2014

[Currentness](#)

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).

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2014, April 15, P.L. 417, No. 33, § 2, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6314, PA ST 23 Pa.C.S.A. § 6314

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse (Refs & Annos)

23 Pa.C.S.A. § 6315

Formerly cited as PA ST 23 Pa.C.S.A. § 6369

§ 6315. Taking child into protective custody

Effective: December 31, 2014

[Currentness](#)

(a) General rule.--A child may be taken into protective custody:

(1) As provided by [42 Pa.C.S. § 6324](#) (relating to taking into custody).

(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 protective custody is immediately necessary to protect the child under this chapter.

(3) By a physician or the director, or a person specifically designated by the director, of a hospital pursuant to Chapter 65 (relating to newborn protection) if the child is a newborn.

(4) Subject to this section and after receipt of a court order, the county agency shall take a child into protective custody for protection from abuse. No county agency worker may take custody of the child without judicial authorization based on the merits of the situation.

(5) By a police officer at a police station under Chapter 65.

(b) Duration of custody.--No child may be held in protective custody for more than 24 hours unless the appropriate county agency is immediately notified that the child has been taken into custody and the county agency obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. Each court shall insure that a judge is available 24 hours a day, 365 days a year to accept and decide the actions brought by a county agency under this subsection within the 24-hour period.

(c) Notice of custody.--

(1) Except as provided in paragraph (2), an individual taking a child into protective custody under this chapter shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child, unless prohibited by court order, and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate county agency in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.

(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 custody of the parent, guardian or other custodian where custody 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).

Credits

§ 6315. Taking child into protective custody, PA ST 23 Pa.C.S.A. § 6315

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2002, Dec. 9, P.L. 1549, No. 201, § 3, effective in 60 days; 2014, April 15, P.L. 417, No. 33, § 3, effective Dec. 31, 2014; 2014, July 2, P.L. 843, No. 91, § 3, effective in 60 days [Sept. 2, 2014].

[Notes of Decisions \(11\)](#)

23 Pa.C.S.A. § 6315, PA ST 23 Pa.C.S.A. § 6315

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6316

§ 6316. Admission to private and public hospitals

Effective: September 2, 2014

[Currentness](#)

(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\(a\)\(3\) or \(5\)](#) (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\(a\)\(3\) or \(5\)](#), 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 child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital.

Credits

[1990, Dec. 19, P.L. 1240, No. 206, § 2](#), effective in 90 days. Amended [1994, Dec. 16, P.L. 1292, No. 151, § 3](#), effective July 1, 1995; [2002, Dec. 9, P.L. 1549, No. 201, § 4](#), effective in 60 days; [2014, July 2, P.L. 843, No. 91, § 4](#), effective in 60 days [Sept. 2, 2014].

[Notes of Decisions \(1\)](#)

23 Pa.C.S.A. § 6316, PA ST 23 Pa.C.S.A. § 6316

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6317

§ 6317. Mandatory reporting and postmortem investigation of deaths

Effective: December 31, 2014

[Currentness](#)

A person or official required to report cases of suspected child abuse, including employees of a county agency, who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the appropriate coroner or medical examiner. The coroner or medical examiner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate county agency and, if the report is made by a hospital, the hospital.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2014, April 7, P.L. 388, No. 29, § 3, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6317, PA ST 23 Pa.C.S.A. § 6317

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse (Refs & Annos)

23 Pa.C.S.A. § 6318

§ 6318. Immunity from liability

Effective: July 1, 2014

[Currentness](#)

(a) General rule.--A person, hospital, institution, school, facility, agency or agency employee acting in good faith shall have immunity from civil and criminal liability that might otherwise result from any of the following:

- (1) Making a report of suspected child abuse or making a referral for general protective services, regardless of whether the report is required to be made under this chapter.
- (2) Cooperating or consulting with an investigation under this chapter, including providing information to a child fatality or near-fatality review team.
- (3) Testifying in a proceeding arising out of an instance of suspected child abuse or general protective services.
- (4) Engaging in any action authorized under [section 6314](#) (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).

(b) Departmental and county agency immunity.--An official or employee of the department or county agency who refers a report of suspected child abuse for general protective services to law enforcement authorities or provides services as authorized by this chapter shall have immunity from civil and criminal liability that might otherwise result from the action.

(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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2006, Nov. 29, P.L. 1581, No. 179, § 3, effective in 60 days [Jan. 29, 2007]; 2008, July 3, P.L. 276, No. 33, § 1.1, effective in 180 days [Dec. 30, 2008]; 2013, Dec. 18, P.L. 1201, No. 119, § 2, effective July 1, 2014.

[Notes of Decisions \(22\)](#)

23 Pa.C.S.A. § 6318, PA ST 23 Pa.C.S.A. § 6318

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse (Refs & Annos)

23 Pa.C.S.A. § 6319

§ 6319. Penalties

Effective: December 31, 2014

[Currentness](#)

(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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 2006, Nov. 29, P.L. 1581, No. 179, § 3, effective in 180 days [May 29, 2007]; 2014, April 15, P.L. 414, No. 32, § 3, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6319, PA ST 23 Pa.C.S.A. § 6319
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse (Refs & Annos)

23 Pa.C.S.A. § 6320

§ 6320. Protection from employment discrimination

Effective: December 31, 2014

[Currentness](#)

(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.

Credits

2014, April 15, P.L. 425, No. 34, § 2, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6320, PA ST 23 Pa.C.S.A. § 6320
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services](#)

[Subchapter C. Powers and Duties of Department](#)

T. 23 Pa.C.S.A., Pt. VII, Ch. 63, Subch. C, Refs & Annos

[Currentness](#)

T. 23 Pa.C.S.A., Pt. VII, Ch. 63, Subch. C, Refs & Annos, PA ST T. 23 Pa.C.S.A., Pt. VII, Ch. 63, Subch. C, Refs & Annos
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6331

§ 6331. Establishment of Statewide database

Effective: December 31, 2014

[Currentness](#)

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

- (1) Reports of suspected child abuse pending investigation.
- (2) Reports with a status of pending juvenile court or pending criminal court action.
- (3) Indicated and founded reports of child abuse.
- (4) Unfounded reports of child abuse awaiting expunction.
- (5) Unfounded reports accepted for services.
- (6) Reports alleging the need for general protective services.
- (7) General protective services reports that have been determined to be valid.
- (8) Reports alleging the need for general protective services that have been determined invalid and are awaiting expunction.

(9) A family case record for all reports accepted for investigation, assessment or services.

(10) Information on reports made to the agency, but not accepted for investigation or assessment.

(11) False reports of child abuse pursuant to a conviction under [18 Pa.C.S. § 4906.1](#) (relating to false reports of child abuse) for the purpose of identifying and tracking patterns of intentionally false reports.

Credits

[1990, Dec. 19, P.L. 1240, No. 206, § 2](#), effective in 90 days. Amended [1994, Dec. 16, P.L. 1292, No. 151, § 3](#), effective July 1, 1995; [2013, Dec. 18, P.L. 1201, No. 119, § 3](#), effective July 1, 2014; [2014, April 7, P.L. 388, No. 29, § 3.1](#), effective Dec. 31, 2014; [2014, May 14, P.L. 653, No. 45, § 2](#), effective Dec. 31, 2014.

Notes of Decisions (4)

23 Pa.C.S.A. § 6331, PA ST 23 Pa.C.S.A. § 6331
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6332

§ 6332. Establishment of Statewide toll-free telephone number

Effective: December 31, 2014

[Currentness](#)

(a) General rule.--The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse or children allegedly in need of general protective services. A county agency or law enforcement official shall use the Statewide toll-free telephone number or electronic technologies for determining the existence of reports of child abuse or general protective services reports in the Statewide database or reports under investigation.

(b) Limitation on use.--A county agency may only request and receive information pursuant to this subsection either on its own behalf because it has received a report of suspected child abuse or on behalf of a physician examining or treating a child or on behalf of 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, where the physician or the director or a person specifically designated in writing by the director suspects the child of being an abused child.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2014, April 7, P.L. 388, No. 29, § 3.2, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6332, PA ST 23 Pa.C.S.A. § 6332

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6333

§ 6333. Continuous availability of department

Effective: December 31, 2014

[Currentness](#)

The department shall be capable of receiving oral reports of child abuse, reports of children in need of general protective services, reports made by electronic technologies pursuant to this chapter and report summaries from county agencies. The department shall be capable of immediately identifying prior reports in the Statewide database and reports under investigation with a pending status and of monitoring the provision of child protective services 24 hours a day, seven days a week.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2014, April 7, P.L. 388, No. 29, § 3.2, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6333, PA ST 23 Pa.C.S.A. § 6333

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6334

§ 6334. Disposition of complaints received

Effective: December 31, 2014

[Currentness](#)

(a) Receipt of reports by county agencies and law enforcement.--After ensuring the immediate safety of the child and any other child in the child's home, a county agency or law enforcement official that receives a report of suspected child abuse shall immediately notify the department of the report. If the report is an oral report by telephone, the county agency or law enforcement official shall attempt to collect as much of the information listed in section 6313(c) (relating to reporting procedure) as possible and shall submit the information to the department within 48 hours through a report in writing or by electronic technologies.

(b) Receipt of reports by department and referral to county agency.--The department shall immediately transmit an oral notice or a notice by electronic technologies to the county agency of the county where the suspected child abuse is alleged to have occurred. The notice shall contain the following information:

- (1) That a report of suspected child abuse by a perpetrator has been received.
- (2) The substance of the report.
- (3) The existence in the Statewide database of a prior report or a current investigation or assessment concerning a subject of the report.

(c) Receipt of reports by department and referral to law enforcement.--If the department receives a report of suspected child abuse that also alleges that a criminal offense has been committed against the child, the department shall immediately transmit an oral notice or notice by electronic technologies to the appropriate law enforcement official in the county where the suspected child abuse is alleged to have occurred. The notice shall contain the following information, consistent with section 6340(a)(9) and (10) (relating to release of information in confidential reports):

(1) That a report of suspected child abuse has been received.

(2) The substance of the report.

(3) The existence in the Statewide database under section 6331 (relating to establishment of Statewide database) of a prior report or a current investigation or assessment concerning a subject of the report.

(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) Jurisdictional overlap.--If the residency of any subject of a report is a factor that requires the cooperation of more than one county agency, the department shall develop procedures to ensure the cooperation of those agencies in carrying out the requirements of this chapter.

(f) Referral for services or investigation.--If the report received does not suggest a need for protective services but does suggest a need for social services or other services or investigation, the department shall transmit the information to the county agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has reasonable cause to suspect after investigation that abuse occurred. If the agency has reasonable cause to suspect that abuse occurred, the agency shall notify the department, and the initial report shall be considered to have been a child abuse report.

(g) Recording of pending reports.--Upon receipt of a report of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the Statewide database. Upon receipt of a report under section 6353.2 (relating to responsibilities of county agency), the department shall maintain a record of the report in the Statewide database under section 6331.

(h) Child abuse in another state where the victim child and the alleged perpetrator are residents of the Commonwealth.--A report of suspected child abuse by a resident perpetrator occurring in another state shall be referred by the department to the county agency where the child resides in this Commonwealth and shall be investigated by the county agency as any other report of suspected child abuse by a perpetrator if the other state's child protective services agency cannot or will not investigate the report.

(i) Child abuse in another state where only the alleged perpetrator is a resident of this Commonwealth.--If suspected child abuse occurs in a jurisdiction other than this Commonwealth and only the alleged perpetrator is a resident of this Commonwealth, the report of suspected child abuse shall be referred to the county agency where the alleged perpetrator resides. The county agency shall do all of the following:

(1) Notify the children and youth social service agency of the jurisdiction in which the suspected child abuse occurred.

(2) If requested by the other agency, assist in investigating the suspected child abuse.

(j) Child abuse in another state where only the victim child is a resident of this Commonwealth.--A report of suspected child abuse occurring in another state where only the victim child resides in this Commonwealth and where the other state's child protective services agency cannot or will not investigate the report shall be assigned as a general protective services report to the county agency where the child resides.

(k) Copies of report.--A copy of a report of suspected child abuse under subsections (h), (i) and (j) shall be provided to the other state's child protective services agency and, if appropriate, to law enforcement officials where the incident occurred.

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

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2005, July 7, P.L. 196, No. 43, § 2, imd. effective; 2014, April 7, P.L. 388, No. 29, § 3.2, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6334, PA ST 23 Pa.C.S.A. § 6334

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6334.1

§ 6334.1. Responsibility for investigation

Effective: December 31, 2014

[Currentness](#)

The department shall establish procedures regarding the following different responses to address suspected child abuse and protective services depending on the person's allegedly committing the suspected child abuse or causing a child to be in need of protective services:

- (1) If the suspected child abuse is alleged to have been committed by a perpetrator, the appropriate county agency shall investigate the allegation as provided in this chapter.

- (2) If the suspected child abuse is alleged to have been committed by a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, the appropriate county agency and law enforcement officials shall jointly investigate the allegation through the investigative team established in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse) and as provided in this chapter.

- (3) If the suspected child abuse is alleged to have been committed by a person who is not a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, law enforcement officials where the suspected child abuse is alleged to have occurred shall be solely responsible for investigating the allegation.

- (4) If a child is alleged to be in need of other protective services, the appropriate county agency shall assess the needs of the child as provided in this chapter.

Credits

[2014, April 7, P.L. 388, No. 29, § 4](#), effective Dec. 31, 2014.

23 Pa.C.S.A. § 6334.1, PA ST 23 Pa.C.S.A. § 6334.1
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6335

§ 6335. Access to information in Statewide database

Effective: July 1, 2015

[Currentness](#)

(a) Request for information.--A county agency or law enforcement official shall use the Statewide toll-free telephone number, or any manner prescribed by the department, to determine the existence of any prior reports involving a subject of the report. If the Statewide database contains information related to a report or a pending investigation or assessment concerning a subject of the report, the department shall immediately convey this information to the county agency or law enforcement official.

(b) Verification of need.--Information may be released under this section if a request for information is made orally or in writing and the department has done all of the following:

- (1) Identified the requester, including electronic verification of the requester's identity.
- (2) Determined whether the requester is authorized to obtain the information under this section.
- (3) Provided notice to the requester that access and dissemination of the information is restricted as provided by this chapter.
- (4) Obtained an affirmation by the requester that the request is within the scope of that person's official duties and the provisions of this chapter.

(c) Use by county agency or law enforcement official.--A county agency or law enforcement official may only request the information under subsection (a) for the purposes of investigating reports of child abuse, assessing allegations that a child is in need of general protective services, providing protective services to a child or investigating a crime against a child criminal offense. The following shall apply where information is requested pursuant to this section:

(1) A law enforcement official may use information contained in the Statewide database for the purpose of investigating a criminal offense as follows:

(i) Information regarding indicated and founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for the purposes of investigating a crime involving harm or threatened harm to a child, an alleged violation of section 6319 (relating to penalties for failure to report or to refer) or 6349 (relating to penalties), or an alleged violation of [18 Pa.C.S. § 4906.1](#) (relating to false reports of child abuse) or 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).

(2) A county agency may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the county agency when determining that a new report of suspected abuse is an indicated report.

(3) The department may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the department when determining that a new report of suspected abuse is an indicated report.

(4) Information in the Statewide database may not be used for any purpose not authorized by this chapter.

(d) Authorized releases for governmental functions.--No person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall have access to any information in the Statewide database except as provided under this section and the following:

- (1) Section 6334 (relating to disposition of complaints received).
- (2) Section 6340 (relating to release of information in confidential reports).
- (3) Section 6342 (relating to studies of data in records).
- (4) Section 6343 (relating to investigating performance of county agency).
- (5) Section 6343.1 (relating to citizen review panels).
- (6) Section 6347 (relating to reports to Governor and General Assembly).

(e) Certifications.--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 licensed child-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).

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 1998, Dec. 15, P.L. 963, No. 127, § 10, effective March 1, 1999; 2014, April 7, P.L. 388, No. 29, § 5, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 5, effective Dec. 31, 2014; 2015, July 1, P.L. 94, No. 15, § 3, imd. effective.

[Notes of Decisions \(1\)](#)

23 Pa.C.S.A. § 6335, PA ST 23 Pa.C.S.A. § 6335
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6336

§ 6336. Information in Statewide database

Effective: December 31, 2014

[Currentness](#)

(a) Information authorized.--The Statewide database shall include and shall be limited to the following information:

- (1) The names, Social Security numbers, age, race, ethnicity 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 alleged incidents that created the need for protective services occurred.
- (5) Family composition.
- (6) The name and relationship to the child in question and of other persons named in the report.
- (7) Factors contributing to the need for protective services.
- (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 central register.

(b), (c) Deleted by [2014, April 7, P.L. 388, No. 29, § 5](#), effective Dec. 31, 2014.

Credits

[1990, Dec. 19, P.L. 1240, No. 206, § 2](#), effective in 90 days. Amended [1994, Dec. 16, P.L. 1292, No. 151, § 3](#), effective July 1, 1995; [2014, April 7, P.L. 388, No. 29, § 5](#), effective Dec. 31, 2014.

[Notes of Decisions \(5\)](#)

23 Pa.C.S.A. § 6336, PA ST 23 Pa.C.S.A. § 6336
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6337

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

Effective: December 31, 2014

[Currentness](#)

(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 Statewide database, 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. The expunction shall be mandated and guaranteed by the department.

(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 information identifying the subjects of the report shall be expunged no later than 120 days following the expiration of one year after the date the report was received by the department. The agency shall advise the department that court action or an arrest has been initiated so that the Statewide database is kept current regarding the status of all legal proceedings and expunction is delayed.

(c) Unfounded reports accepted for services.--Information on an unfounded report shall be retained in the Statewide database if the county agency has accepted the family for services and the report of suspected child abuse is clearly identified as an unfounded report. The county agency shall notify the department immediately upon closure of the case and the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the family case was closed. If the subject child of the unfounded report becomes 23 years of age prior to the closure of the family case, the unfounded report shall be expunged when the subject child reaches 23 years of age.

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

(1) Reports that are assessed by the county agency and are determined to be valid, but are not accepted for services, shall be reported to the department and entered into the Statewide database. The reports shall be maintained for a period of five years. Following the expiration of five years after the date the report was received by the department, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the five-year period following the date the report was received by the department.

(2) Reports that are assessed by the county agency and accepted for services shall be reported to the department and entered into the Statewide database. The reports shall be maintained for a period of five years after the closure of services by the county agency. Following the expiration of five years after the closure of services by the county agency, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the five-year period following the closure of services by the county agency.

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

(e) Expunction of invalid general protective services reports.--When a report alleging the need for general protective services is determined by the appropriate county agency to be an invalid report, the information concerning that report 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 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. The expunction shall be mandated and guaranteed by the department.

(f) County agency records.--County agency records of protective services shall be used and maintained in a manner that is consistent with the use and maintenance of information in the Statewide database, as provided under this chapter. If required under this chapter to amend or expunge information in the Statewide database, the department shall notify the appropriate county agency of the amendment or expungement within ten days. The county agency shall amend or expunge its records in a commensurate manner within ten days of receiving notification from the department.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1996; 1998, Dec. 15, P.L. 963, No. 127, § 10, effective March 1, 1999; 2014, April 7, P.L. 388, No. 29, § 5, effective Dec. 31, 2014.

Notes of Decisions (14)

23 Pa.C.S.A. § 6337, PA ST 23 Pa.C.S.A. § 6337
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6338

§ 6338. Disposition of founded and indicated reports

Effective: December 31, 2014

[Currentness](#)

(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).

(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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2013, Dec. 18, P.L. 1170, No. 108, § 3, effective Dec. 31, 2014; 2014, April 7, P.L. 388, No. 29, § 5.1, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, § 2, effective Dec. 31, 2014.

Notes of Decisions (17)

23 Pa.C.S.A. § 6338, PA ST 23 Pa.C.S.A. § 6338

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6338.1

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

Effective: December 31, 2014

[Currentness](#)

(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 subsequent indicated report of child abuse and is not named as an alleged perpetrator in a child abuse report pending investigation.

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

(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 department.

(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. H¹ (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. H as 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. H as 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).

Credits

2013, Dec. 18, P.L. 1195, No. 117, § 2, effective Dec. 31, 2014. Amended 2014, May 14, P.L. 653, No. 45, § 4, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 6, effective Dec. 31, 2014.

Footnotes

¹

[42 Pa.C.S.A. § 9799.10 et seq.](#)

23 Pa.C.S.A. § 6338.1, PA ST 23 Pa.C.S.A. § 6338.1
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6339

§ 6339. Confidentiality of reports

Effective: December 31, 2014

[Currentness](#)

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 reports made pursuant to section 6313 (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department or a county agency shall be confidential.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2014, April 7, P.L. 388, No. 29, § 5.2, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 7, effective Dec. 31, 2014.

Editors' Notes

SUSPENDED IN PART

<For purposes of dependency proceedings, [Pa.R.J.C.P. No. 1800\(9\)](#) suspends 23 Pa.C.S.A. § 6339 insofar as inconsistent with [Pa.R.J.C.P. No. 1340\(B\)\(1\)\(e\)](#), which provides for the disclosure of such reports if the reports are going to be used as evidence in a hearing to prove dependency of a child.>

[Notes of Decisions \(8\)](#)

23 Pa.C.S.A. § 6339, PA ST 23 Pa.C.S.A. § 6339

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6340

§ 6340. Release of information in confidential reports

Effective: October 28, 2016

[Currentness](#)

(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 custody of a child as set forth in sections 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services).

(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) (relating to employees having contact with children; adoptive and foster parents), sexual abuse or exploitation, bodily injury or serious bodily injury caused by a perpetrator or nonperpetrator.

(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.

(v) Severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, [22 U.S.C. § 7102](#)).

(10) The district attorney's office or other law enforcement official, as set forth in county protocols for multidisciplinary 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 department or 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 under section 6344.3 (relating to grounds for denying employment or participation in program, activity or service), not including an offense under 18 Pa.C.S. § 4304 (relating to endangering welfare of children) or an equivalent crime under Federal law or law of another state;

(ii) child abuse under section 6334.1 (relating to responsibility for investigation).

(11) Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:

(i) The board of commissioners in counties other than counties of the first class.

(ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L. 665, No. 155), known as the First Class City Home Rule Act.¹

(iii) An individual serving as a county chief executive as designated by a county home rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L. 184, No. 62), known as the Home Rule Charter and Optional Plans Law.²

(12) A mandated reporter of suspected child abuse under section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child shall be limited to the following:

(i) Whether the child abuse report is indicated, founded or unfounded.

(ii) Any services provided, arranged for or to be provided by the county agency to protect the child.

(13) School administrators and child-care service employers, as provided under this paragraph. The following shall apply:

(i) If the alleged perpetrator is a school employee or child-care service employee, school administrators and child-care service employers shall receive notice of a pending allegation and the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.

(ii) Information disclosed pursuant to this paragraph shall be provided to the school administrator or child-care service employer within ten days of the completion of the investigation.

(iii) If the perpetrator is a school employee, the notice of the final status of the report shall be sent to the Department of Education within ten days of the completion of the investigation.

(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the prospective parent may make an informed decision to adopt.

(15) Appropriate officials of another county or state regarding an investigation related to child abuse or protective services when a family has moved to that county or state. Reports under this paragraph shall include general protective service reports and related information. Reports and information under this paragraph shall be provided within seven calendar days. The department shall promulgate regulations as necessary to carry out the purposes of this paragraph.

(16) Members of citizen review panels convened pursuant to section 6343.1 (relating to citizen review panels), provided that such members shall not disclose to any person or government official any identifying information about any specific child protective services case with respect to which the panel is provided information.

(17) A member of a child fatality or near fatality review team under section 6365(d).

(18) The Department of the Auditor General in conjunction with the performances of the duties designated to the Office of Auditor General, except that the Auditor General may not remove identifiable reports or copies thereof from the department or county agency.

(b) Release of information to subject.-- Upon a written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide database or in any report filed pursuant to section 6313 (relating to reporting procedure).

(c) Protecting identity.-- Except for reports under subsection (a)(9) and (10) and in response to a law enforcement official investigating allegations of false reports under [18 Pa.C.S. § 4906.1](#) (relating to false reports of child abuse), the release of data by the department, county, institution, school, facility or agency or designated agent of the person in charge that would identify the person who made a report of suspected child abuse or who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential informants.

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

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 1998, Dec. 15, P.L. 963, No. 127, § 11, imd. effective; 2004, Nov. 30, P.L. 1618, No. 207, § 8, effective in 60 days [Jan. 31, 2005]; 2006, Nov. 9, P.L. 1358, No. 146, § 3, effective in 180 days [May 8, 2007]; 2008, July 3, P.L. 276, No. 33, § 2, effective in 180 days [Dec. 30, 2008]; 2013, Dec. 18, P.L. 1167, No. 107, § 3, effective Jan. 1, 2014; 2014, April 7, P.L. 388, No. 29, § 5.2, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 7, effective Dec. 31, 2014; 2015, July 1, P.L. 94, No. 15, § 4, imd. effective; 2016, Oct. 28, P.L. 966, No. 115, § 3, imd. effective.

Notes of Decisions (22)

Footnotes

¹
53 P.S. § 13101 et seq.

²
53 Pa.C.S.A. § 2901 et seq.

23 Pa.C.S.A. § 6340, PA ST 23 Pa.C.S.A. § 6340
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6340.1

§ 6340.1. Exchange of information

Effective: December 31, 2014

[Currentness](#)

(a) Certified medical practitioners.--In circumstances which negatively affect the medical health of a child, a certified medical practitioner shall, in a timely manner, provide the county agency with the following information when an assessment for general protective services or a child abuse investigation is being conducted or when the family has been accepted for services by a county agency:

- (1) Relevant medical information known to the certified medical practitioner regarding the child's prior and current health.
- (2) Information from a subsequent examination.
- (3) Information regarding treatment of the child.
- (4) Relevant medical information known regarding any other child in the child's household where such information may contribute to the assessment, investigation or provision of services by the county agency to the child or other children in the household.

(b) Parental consent.--Parental consent is not required for the certified medical practitioner to provide the information under subsection (a).

(c) Request by certified medical practitioner.--If requested by the child's primary care physician or a certified medical practitioner who is providing medical care to the child, the county agency, in order to ensure the proper medical care of the child, shall provide the following information as it pertains to circumstances which negatively affect the medical health of the child:

(1) The final status of any assessment of general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.

(2) Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311 (relating to persons required to report suspected child abuse).

(3) If accepted for services, any service provided, arranged for or to be provided by the county agency.

(4) The identity of other certified medical practitioners providing medical care to the child to obtain the child's medical records to allow for coordination of care between medical practitioners.

(d) Notification by county agency.--In circumstances which negatively affect the medical health of a child, the county agency shall notify the certified medical practitioner who is the child's primary care provider, if known, of the following information:

(1) The final status of any assessment of general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.

(2) Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311.

(3) If accepted for services, any service provided, arranged for or to be provided by the county agency.

Credits

2014, Oct. 22, P.L. 2876, No. 176, § 1, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6340.1, PA ST 23 Pa.C.S.A. § 6340.1
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6341

§ 6341. Amendment or expunction of information

Effective: December 31, 2014

[Currentness](#)

(a) General rule.--Notwithstanding section 6338.1 (relating to expunction of information of perpetrator who was under 18 years of age when child abuse was committed):

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

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

(ii) A determination that the perpetrator in an indicated report of abuse no longer represents a risk of child abuse and that no significant public purpose would be served by the continued listing of the person as a perpetrator in the Statewide database.

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

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

(b) Review of grant of request.--If the secretary grants the request under subsection (a)(2), the Statewide database, appropriate county agency, appropriate law enforcement officials and all subjects shall be so advised of the decision. The

county agency and any subject have 90 days in which to file an administrative appeal with the secretary. If an administrative appeal is received, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L. 31, No. 21),¹ known as the Public Welfare Code, attending departmental regulations. If no administrative appeal is received within the designated time period, the Statewide database shall comply with the decision of the secretary and advise the county agency to amend or expunge the information in their records so that the records are consistent at both the State and local levels.

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

(c.1) Founded reports.--A person named as a perpetrator in a founded report of child abuse must provide to the department a court order indicating that the underlying adjudication that formed the basis of the founded report has been reversed or vacated.

(c.2) Hearing.--A person making an appeal under subsection (a)(2) or (c) shall have the right to a timely hearing to determine the merits of the appeal. A hearing shall be scheduled according to the following procedures:

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

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

(3) After reasonable efforts required by paragraph (2) have been made, the department shall enter a scheduling order, and proceedings before the Bureau of Hearings and Appeals shall commence within 90 days of the date the scheduling order is entered, unless all parties have agreed to a continuance. Proceedings and hearings shall be scheduled to be heard on consecutive days whenever possible, but if not on consecutive days, then the proceeding or hearing shall be concluded not later than 30 days from commencement.

(4) The department or county agency shall provide a person making an appeal with evidence gathered during the child abuse investigation within its possession that is relevant to the child abuse determination, subject to sections 6339 (relating to confidentiality of reports) and 6340 (relating to release of information in confidential reports).

(5) The department or county agency shall bear the burden of proving by substantial evidence that the report should remain categorized as an indicated report.

(c.3) Prompt decision.--The administrative law judge's or hearing officer's decision in a hearing under subsection (c.2) shall be entered, filed and served upon the parties within 45 days of the date upon which the proceeding or hearing is concluded unless, within that time, the tribunal extends the date for the decision by order entered of record showing good cause for the extension. In no event shall an extension delay the entry of the decision more than 60 days after the conclusion of the proceeding or hearing.

(c.4) Notice of decision.--Notice of the decision shall be made to the Statewide database, the appropriate county agency, any appropriate law enforcement officials and all subjects of the report, except for the abused child.

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

(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.

(f) Notice of expunction.--Written notice of an expunction of any child abuse record made pursuant to the provisions of this chapter shall be served upon the subject of the record who was responsible for the abuse or injury and the appropriate county agency. Except as provided in this subsection, the county agency, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse 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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 1998, Dec. 15, P.L. 963, No. 127, § 12, effective March 1, 1999; 2013, Dec. 18, P.L. 1170, No. 108, § 4, effective Dec. 31, 2014; 2013, Dec. 18, P.L. 1201, No. 119, § 4, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, § 5, effective Dec. 31, 2014.

[Notes of Decisions \(116\)](#)

Footnotes

¹

62 P.S. § 401 et seq.

23 Pa.C.S.A. § 6341, PA ST 23 Pa.C.S.A. § 6341

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6342

§ 6342. Studies of data in records

Effective: December 31, 2014

[Currentness](#)

(a) Studies.--The department may conduct or authorize the conducting of studies of the data contained in the Statewide database and by county agencies and distribute the results of the studies. No study may contain the name or other information by which a subject of a report could be identified. The department may allow Federal auditors access to nonidentifiable duplicates of reports in the Statewide database if required for Federal financial participation in funding of agencies.

(b) Data form.--The department shall develop a data form to facilitate the collection of statistical and demographic information from a child fatality or near fatality review team and a county agency, which can be incorporated into a study conducted by the department.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 2008, July 3, P.L. 276, No. 33, § 2.1, effective in 180 days [Dec. 30, 2008]; 2014, April 7, P.L. 388, No. 29, § 5.2, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6342, PA ST 23 Pa.C.S.A. § 6342

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6343

§ 6343. Investigating performance of county agency

Effective: December 31, 2014

[Currentness](#)

(a) General rule.--If, within 30 days from the date of an initial report of suspected child abuse, the appropriate county agency has not investigated the report and informed the department that the report is an indicated report or an unfounded report or unless within that same 30-day period the report is determined to be a founded report, the department shall have the authority to begin an inquiry into the performance of the county agency which inquiry may include a performance audit of the county agency as provided in subsection (b). On the basis of that inquiry, the department shall take appropriate action to require that the provisions of this chapter be strictly followed, which action may include, without limitation, the institution of appropriate legal action and the withholding of reimbursement for all or part of the activities of the county agency. The department shall determine in its review whether the county agency has sufficiently documented reasons why the investigation has not been completed in the 30-day period.

(b) Performance audit.--Notwithstanding any other provision of this chapter, the secretary or a designee of the secretary may direct, at their discretion, and after reasonable notice to the county agency, a performance audit of any activity engaged in pursuant to this chapter.

(c) Department reviews and reports of child fatalities and near fatalities.--

(1) The department shall conduct a child fatality and near fatality review and provide a written report on any child fatality or near fatality, if child abuse is suspected. The department shall summarize:

(i) the circumstances of the child's fatality or near fatality;

(ii) the nature and extent of its review;

(iii) statutory and regulatory compliance by the county agency in the county where:

(A) the fatality or near fatality occurred; and

(B) the child resided within the 16 months preceding the fatality or near fatality;

(iv) its findings; and

(v) recommendations for reducing the likelihood of future child fatalities and near fatalities resulting from child abuse.

(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, only in the case of a child's 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 team in 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 criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2008, July 3, P.L. 276, No. 33, § 3, effective in 180 days [Dec. 30, 2008]; 2014, May 14, P.L. 645, No. 44, § 2, effective Dec. 31, 2014.

Notes of Decisions (1)

23 Pa.C.S.A. § 6343, PA ST 23 Pa.C.S.A. § 6343
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6343.1

§ 6343.1. Citizen review panels

Effective: December 30, 2008

[Currentness](#)

(a) Establishment.--The department shall establish a minimum of three citizen review panels. The department may designate a child fatality or near fatality review team under section 6365(d) (relating to services for prevention, investigation and treatment of child abuse) as a citizen review panel as long as the team has the capacity to perform as a citizen review panel.

(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.--The department shall issue an annual report summarizing the activities and recommendations of the panels and summarizing the department response to the recommendations.

Credits

2006, Nov. 9, P.L. 1358, No. 146, § 4, effective in 180 days [May 8, 2007]. Amended 2008, July 3, P.L. 276, No. 33, § 4, effective in 180 days [Dec. 30, 2008].

23 Pa.C.S.A. § 6343.1, PA ST 23 Pa.C.S.A. § 6343.1

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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 KeyCite Yellow Flag - Negative Treatment
Unconstitutional or Preempted Prior Version Held Unconstitutional by *Warren County Human Services v. State Civil Service Com'n (Roberts)*, Pa.Cmwlth., Mar. 08, 2004

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6344

§ 6344. Employees having contact with children; adoptive and foster parents

Effective: July 1, 2015

[Currentness](#)

(a) **Applicability.**--Beginning December 31, 2014, this section applies to the following individuals:

- (1) An employee of child-care services.
- (2) A foster parent.
- (3) A prospective adoptive parent.
- (4) A self-employed provider of child-care services in a family child-care home.
- (5)
 - (i) Except as provided under subparagraph (ii), an individual 14 years of age or older who is applying for or holding a paid position as an employee with a program, activity or service, as a person responsible for the child's welfare or having direct contact with children.
 - (ii) If the program, activity or service is an internship, externship, work study, co-op or similar program, an adult applying for or holding a paid position with an employer that participates in the internship, externship, work study, co-op or similar program with a school and whom the employer and the school identify as the child's supervisor and the person responsible for the child's welfare while the child participates in the program with the employer. The adult

identified under this subparagraph as the person responsible for the child's welfare is required to be in the immediate vicinity at regular intervals with the child during the program.

(6) Any individual seeking to provide child-care services under contract with a child-care facility or program.

(7) An individual 18 years of age or older who resides in the home of a foster parent for at least 30 days in a calendar year or who resides in the home of a prospective adoptive parent for at least 30 days in a calendar year.

(8) An individual 18 years of age or older who resides for at least 30 days in a calendar year in the following homes which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L. 31, No. 21),¹ known as the Public Welfare Code:

(i) A family living home.

(ii) A community home for individuals with an intellectual disability.

(iii) A host home for children.

This paragraph does not include an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.

(a.1) School employees.--This section shall apply to school employees as follows:

(1) School employees governed by the provisions of the act of March 10, 1949 (P.L. 30, No. 14), known as the Public School Code of 1949, shall be subject to the provisions of section 111 of the Public School Code of 1949,² except that this section shall apply with regard to the certification required under subsection (b)(2).

(2)(i) School employees not governed by the provisions of the Public School Code of 1949 shall be governed by this section.

(ii) This paragraph shall not apply to an employee of an institution of higher education whose direct contact with children, in the course of employment, is limited to either:

(A) prospective students visiting a campus operated by the institution of higher education; or

(B) matriculated students who are enrolled with the institution.

(iii) The exemption under subparagraph (ii)(B) shall not apply to students who are enrolled in a secondary school.

(a.2) Minors.--An individual between 14 and 17 years of age who applies for or holds a paid position as an employee who is a person responsible for the child's welfare or a person with direct contact with children through a program, activity or service prior to the commencement of employment or under section 6344.4 (relating to recertification) shall be required to submit only the information under subsection (b)(1) and (2) to an employer, administrator, supervisor or other person responsible for employment decisions, if the following apply:

(1) The individual has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under subsection (b)(3) at any time since establishing residency in this Commonwealth and provides a copy of the certification to the employer.

(2) The individual and the individual's parent or legal guardian swear or affirm in writing that the individual is not disqualified from service under 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.

(a.3) Exchange visitor.--An individual in possession of a nonimmigrant visa issued pursuant to 8 U.S.C. § 1101(a)(15)(J) (relating to definitions) to an exchange visitor, commonly referred to as a "J-1" Visa, shall not be required to submit information under subsection (b) if all of the following apply:

(1) The individual is applying for or holds a paid position with a program, activity or service for a period not to exceed a total of 90 days in a calendar year.

(2) The individual has not been employed previously in this Commonwealth or another state, the District of Columbia or the Commonwealth of Puerto Rico.

(3) The individual swears or affirms in writing that the individual is not disqualified from service under subsection (c) or has not been convicted of an offense similar in nature to the crimes listed under 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.

(b) Information to be submitted.--An individual identified in subsection (a)(7) or (8) at the time the individual meets the description set forth in subsection (a)(7) or (8) and an individual identified in subsection (a)(1), (2), (3), (4), (5) or (6), (a.1) or (a.2) prior to the commencement of employment or service or in accordance with section 6344.4 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.

(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) 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), (a.1) or (a.2) shall maintain a copy of the required information and require the individual to submit the required documents prior to employment or acceptance to serve in any such capacity or as required in section 6344.4, 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 or as required in section 6344.4. 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 or upon recertification commits a misdemeanor of the third degree.

(b.3) Volunteer certification prohibition.--An employer, administrator, supervisor or other person responsible for employment decisions is prohibited from accepting a certification that was obtained for volunteering purposes under section 6344.2 (relating to volunteers having contact with children).

(c) Grounds for denying employment or participation in program, activity or service.--

(1) In no case shall an administrator hire or approve an applicant where the department has verified that the applicant is

named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.

(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),³ known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.

(c.1) 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 five-year period, the agency or person designated by the court 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 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 five-year 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 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), (4) Deleted by [2014, Oct. 22, P.L. 2529, No. 153, § 8](#), effective Dec. 31, 2014.

(4.1) If a foster parent, prospective adoptive parent or individual over 18 years of age residing in the home 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 or prospective adoptive parent shall provide the foster family care agency or the agency listed to provide adoption services with written notice not later than 72 hours after the arrest, conviction or

notification that the individual was named as a perpetrator in the Statewide database.

(5) Foster parents and prospective adoptive parents shall be required to report any other change in the family household composition within 30 days of the change for review by the foster family care agency or the agency listed to provide adoption services. 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 or a prospective adoptive family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency or the agency listed to provide adoption services a certification obtained 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 or the agency listed to provide adoption services 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 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 10 years.

(ii) Criminal history background certification generated by the process outlined in this section.

(iii) Child abuse certification generated by the process outlined in this section.

(iv) Composition of the resident family unit.

(v) Protection from abuse orders filed by or against either parent, provided that such orders are accessible to the county or private agency.

(vi) Details of any proceedings brought in family court, provided that such records in such proceedings are accessible to the county or private agency.

(vii) Drug-related or alcohol-related arrests, if criminal charges or judicial proceedings are pending, and any convictions or hospitalizations within the last five years. If the applicant provides information regarding convictions or hospitalizations in that five-year period, then information on the prior five years shall be requested related to any additional convictions or hospitalizations.

(viii) Evidence of financial stability, including income verification, employment history, current liens and bankruptcy findings within the last 10 years.

(ix) Number of and ages of foster children and other dependents currently placed in the home.

(x) Detailed information regarding children with special needs currently living in the home.

(xi) Previous history as a foster parent, including number and types of children served.

(xii) Related education, training or personal experience working with foster children or the child welfare system.

(d.1) Establishment of a resource family registry.--

(1) The department shall establish a registry of resource family applicants.

(2) The foster family care agency or adoption agency shall register all resource family applicants on the resource family registry in accordance with subsection (d.2).

(3) The foster family care agency or adoption agency shall register all resource families that are approved on the effective date of this subsection within six months of the effective date of this subsection.

(4) Any resource family that is voluntarily registered on the foster parent registry shall be maintained on the resource family registry mandated under this section.

(d.2) Information in the resource family registry.--

(1) The resource family registry shall include, but not be limited to, the following:

(i) The name, Social Security number, date of birth, sex, marital status, race and ethnicity of the applicants.

(ii) The date or dates of the resource family application.

(iii) The current and previous home addresses of the applicants.

(iv) The county of residence of the applicants.

(v) The name, date of birth, Social Security number and relationship of all household members.

(vi) The name, address and telephone number of all current and previous foster family care agency or adoption agency affiliations.

(vii) The foster family care agency or adoption agency disposition related to the approval or disapproval of the applicants and the date and basis for the disposition.

(viii) The type of care the resource family will provide.

(ix) The number of children that may be placed in the resource family home.

(x) The age, race, gender and level of special needs of children that may be placed in the resource family home.

(xi) The ability of the resource family to provide care for sibling groups.

(xii) The date and reason for any closure of the resource family home.

(xiii) The appeal activity initiated by a resource family applicant or an approved resource family and the basis for the appeal. This subparagraph shall not be construed to limit legitimate appeals.

(xiv) The status and disposition of all appeal-related activities. This subparagraph shall not be construed to limit legitimate appeals.

(2) The information maintained in the resource family registry may be released to the following individuals when the department has positively identified the individual requesting the information and the department, except in the case of subparagraphs (iii) and (iv), has inquired into whether and if it is satisfied that the individual has a legitimate need within the scope of the individual's official duties to obtain the information:

(i) An authorized official of a county or private agency, a Federal agency or an agency of another state who performs resource family approvals or the department in the course of the official's duties.

(ii) A guardian ad litem or court-designated advocate for a child. The information is limited to the information related to the resource family with whom the child resides.

(iii) A court of competent jurisdiction, including a district justice, a judge of the Municipal Court of Philadelphia or a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under Chapter 63 (relating to child protective services).

(iv) A court of competent jurisdiction in connection with any matter involving custody of a child. The department shall provide to the court any files that the court considers relevant.

(v) The Attorney General.

(vi) Federal auditors, if required for Federal financial participation in funding of agencies, except that Federal auditors may not remove identifiable information or copies thereof from the department or county or private agencies.

(vii) Law enforcement agents of any jurisdiction, as long as the information is relevant in the course of investigating crimes involving the resource family.

(viii) Appropriate officials of a private agency or another county or state regarding a resource family that has applied to become a resource family for that agency, county or state.

(3) At any time and upon written request, a resource family may receive a copy of all information pertaining to that resource family contained in the resource family registry.

(d.3) Family living homes, community homes for individuals with an intellectual disability and host homes.--

(1) The following shall apply to an individual over 18 years of age residing in a family living home, a community home for individuals with an intellectual disability or a host home for children, which are subject to supervision or licensure by the department under Articles IX and X of the Public Welfare Code:

(i) If an individual 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 individual shall provide the agency with written notice not later than 72 hours after the arrest, conviction or notification that the individual was named as a perpetrator in the Statewide database.

(ii) The adult family member who is providing services to a child in the home shall be required to report any other change in the household composition within 30 days of the change for review by the 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, that individual shall, within 30 days of beginning residence, submit to the agency a certification obtained from the Statewide database, or its equivalent in each state in which the individual 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 agency shall forward the certification to the department for review.

(2) This subsection shall not apply to an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.

(3) As used in this subsection, the term “agency” means a family living home agency, community home agency for individuals with an intellectual disability or a host home agency.

(e) Self-employed family child-care providers.--Self-employed family child-care providers who apply for a license with the department shall submit with their licensure application the information set forth under subsection (b) for review in accordance with this section.

(f) Submissions by operators of child-care services.--The department shall require persons seeking to operate child-care services to submit the information set forth in subsection (b) for review in accordance with this section.

(g) Regulations.--The department shall promulgate the regulations necessary to carry out this section. These regulations shall:

(1) Set forth criteria for unsuitability for employment in a child-care service in relation to criminal history record information which may include criminal history record information in addition to that set forth above. The criteria shall be reasonably related to the prevention of child abuse.

(2) Set forth sanctions for administrators who willfully hire applicants in violation of this section or in violation of the regulations promulgated under this section.

(h) Fees.--The department may charge a fee not to exceed \$10 in order to conduct the certification as required in subsection (b)(2), except that no fee shall be charged to an individual who makes the request in order to apply to become a volunteer with an affiliate of Big Brothers of America or Big Sisters of America or with a rape crisis center or domestic violence shelter.

(h.1) Form of payment.--Payment of the fee authorized under subsection (h) may be made by an individual or organization by check, money order, credit card or debit card.

(i) Time limit for certification.--The department shall comply with certification requests no later than 14 days from the receipt of the request.

(j) Voluntary certification of child caretakers.--The department shall develop a procedure for the voluntary certification of child caretakers to allow persons to apply to the department for a certificate indicating the person has met the requirements of subsection (b). The department shall also provide for the biennial recertification of child caretakers.

(k), (l) Deleted by [2014, Oct. 22, P.L. 2529, No. 153, § 8](#), effective Dec. 31, 2014.

(m) Provisional employees for limited periods.--Notwithstanding subsection (b), employers, administrators, supervisors or other persons responsible for employment decisions may employ applicants on a provisional basis for a single period not to exceed 90 days, if all of the following conditions are met:

(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 employer, administrator, supervisor or other person responsible for employment decisions.

(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 employer, administrator, supervisor or other person responsible for employment 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),⁴ 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 Statewide database 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).

(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 Statewide database 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).

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 1995, March 31, P.L. 985, No. 10 (Spec. Sess. No. 1), § 15, effective in 60 days; 1998, Dec. 15, P.L. 963, No. 127, § 12, effective January 1, 1999; 2001, Dec. 17, P.L. 942, No. 112, § 2, imd. effective; 2002, Dec. 9, P.L. 1759, No. 218, § 7, effective in 60 days; 2004, Nov. 29, P.L. 1291, No. 160, § 2, effective in 60 days [Jan. 28, 2005]; 2006, Nov. 29, P.L. 1581, No. 179, § 4, effective in 180 days [May 29, 2007]; 2007, Dec. 18, P.L. 469, No. 73, § 1; 2014, April 7, P.L. 388, No. 29, § 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, § 6, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 8, effective Dec. 31, 2014; 2015, July 1, P.L. 94, No. 15, § 5, imd. effective.

Editors' Notes

VALIDITY

The Pennsylvania Commonwealth Court, in Warren County Human Services v. State Civil Service Com'n (Roberts), 844 A.2d 70, Cmwlth.2004, appeal denied 863 A.2d 1152, 581 Pa. 687, found 23 Pa.C.S.A. § 6344(c) to be unconstitutional under Const. Art. I, § 1.

Notes of Decisions (13)

Footnotes

- 1
62 P.S. §§ 901 et seq., 1001 et seq.
- 2
24 P.S. § 1-111.
- 3
35 P.S. § 780-101 et seq.
- 4
65 P.S. § 67.101 et seq.

23 Pa.C.S.A. § 6344, PA ST 23 Pa.C.S.A. § 6344
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6344.1

§ 6344.1. Information relating to certified or licensed child-care home residents

Effective: July 1, 2015

[Currentness](#)

(a) General rule.--In addition to the requirements of section 6344 (relating to employees having contact with children; adoptive and foster parents), an individual who applies to the department for a certificate of compliance or a license to provide child day care in a residence shall include criminal history record and child abuse record information required under section 6344(b) for every individual 18 years of age or older who resides in the home for at least 30 days in a calendar year.

(b) Required information.--Child abuse record information required under subsection (a) shall include certification by the department as to whether the applicant is named in the Statewide database as the perpetrator of a founded report or an indicated report.

(c) Effect on certification or licensure.--The department shall refuse to issue or renew a certificate of compliance or license or shall revoke a certificate of compliance or license if the day-care home provider or individual 18 years of age or older who has resided in the home for at least 30 days in a calendar year:

(1) is named in the Statewide database as the perpetrator of a founded report committed within the immediately preceding five-year period; or

(2) has been convicted of an offense enumerated in section 6344(c).

(d) Regulations.--The department shall promulgate regulations to administer this section.

Credits

2006, Nov. 29, P.L. 1581, No. 179, § 5, effective in 180 days [May 29, 2007]. Amended 2014, April 7, P.L. 388, No. 29, § 7, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, § 6, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 9,

§ 6344.1. Information relating to certified or licensed..., PA ST 23 Pa.C.S.A. §...

effective Dec. 31, 2014; [2015, July 1, P.L. 94, No. 15, § 6](#), imd. effective.

23 Pa.C.S.A. § 6344.1, PA ST 23 Pa.C.S.A. § 6344.1
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6344.2

§ 6344.2. Volunteers having contact with children

Effective: July 1, 2015

[Currentness](#)

(a) Applicability.--This section applies to an adult applying for or holding an unpaid position as a volunteer with a child-care service, a school or a program, activity or service as a person responsible for the child's welfare or having direct volunteer contact with children.

(b) Investigation.--Employers, administrators, supervisors or other persons responsible for selection of volunteers shall require an applicant to submit to all requirements set forth in section 6344(b) (relating to employees having contact with children; adoptive and foster parents) except as provided in subsection (b.1). An employer, administrator, supervisor or other person responsible for selection of volunteers regarding an applicable prospective volunteer under this section that intentionally fails to require the submissions before approving that individual commits a misdemeanor of the third degree.

(b.1) Exception.--

(1) A person responsible for the selection of volunteers under this chapter shall require an applicable prospective volunteer prior to the commencement of service to submit only the information under section 6344(b)(1) and (2), if the following apply:

(i) The position the prospective volunteer is applying for is unpaid.

(ii) The prospective volunteer has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under section 6344(b)(3) at any time since establishing residency in this Commonwealth and provides a copy of the certification to the person responsible for the selection of volunteers.

(iii) The prospective volunteer swears or affirms in writing that the prospective volunteer is not disqualified from service pursuant to section 6344(c) or has not been convicted of an offense similar in nature to those crimes listed in section 6344(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.

(2) If the information obtained pursuant to section 6344(b) reveals that the prospective volunteer applicant is disqualified from service pursuant to section 6344(c), the applicant shall not be approved for service.

(3) If all of the following apply, an individual shall not be required to obtain the certifications required under subsection (b):

(i) The individual is currently enrolled in a school.

(ii) The individual is not a person responsible for the child's welfare.

(iii) The individual is volunteering for an event that occurs on school grounds.

(iv) The event is sponsored by the school in which the individual is enrolled as a student.

(v) The event is not for children who are in the care of a child-care service.

(c) Grounds for denial.--Each prospective volunteer shall be subject to the requirements of section 6344(c).

(d) Departmental treatment of information.--Information provided and compiled under this section by the department 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.¹ This information shall not be released except as permitted by the department through regulation. The department may charge a fee to conduct a certification as required by section 6344(b)(2) in accordance with the provisions of section 6344(h). The department shall promulgate regulations necessary to carry out this subsection.

(e) Deleted by 2015, July 1, P.L. 94, No. 15, § 7, imd. effective.

(f) Nonresident volunteer certification.--Employers, administrators, supervisors or other persons responsible for selection of volunteers may allow a volunteer to serve on a provisional basis not to exceed a total of 30 days in a calendar year if the volunteer is in compliance with the clearance standards under the law of the jurisdiction where the volunteer is domiciled. The nonresident volunteer must provide the employer, administrator, supervisor or other person responsible for selection of volunteers with documentation of certifications.

(g) Waiver of fees for certain background certifications.--The fees for certifications required under section 6344(b)(1) and (2) which a volunteer is required to submit under this section shall be waived, and the certifications shall be provided free of charge to the volunteer under the following conditions:

- (1) The background certifications are necessary to comply with the requirements of subsection (b).
- (2) The background certifications may not be used and shall not be valid to satisfy the requirements for employment under section 6344(b) or any other law for which a similar background check may be required.
- (3) Background certifications shall only be provided free of charge to a volunteer once every 57 months.
- (4) The volunteer swears or affirms, in writing, under penalty of [18 Pa.C.S. § 4904](#) (relating to unsworn falsification to authorities), the following:
 - (i) The background certifications are necessary to satisfy the requirements under subsection (b).
 - (ii) The volunteer has not received background certifications free of charge within the previous 57 months.
 - (iii) The volunteer understands that the certifications shall not be valid or used for any other purpose.

(h) Presumption of good faith.--For the purposes of criminal liability under this section, an employer, administrator, supervisor or other persons responsible for the selection of volunteers are presumed to have acted in good faith when identifying individuals required to submit certifications and maintain records as required by this section.

Credits

2006, Nov. 29, P.L. 1581, No. 179, § 5, effective in 60 days [Jan. 29, 2007]. Amended 2014, May 14, P.L. 653, No. 45, § 7, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 10, effective Dec. 31, 2014; 2015, July 1, P.L. 94, No. 15, § 7, imd. effective.

Footnotes

¹ 65 P.S. § 67.101 et seq.

23 Pa.C.S.A. § 6344.2, PA ST 23 Pa.C.S.A. § 6344.2
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6344.3

§ 6344.3. Continued employment or participation in program, activity or service

Effective: July 1, 2015

[Currentness](#)

(a) (Reserved).

(b) (Reserved).

(c) (Reserved).

(d) (Reserved).

(e) Noninterference with decisions.--Nothing in this chapter shall be construed to otherwise interfere with the ability of an employer or person responsible for a program, activity or service to make employment, discipline or termination decisions or from establishing additional standards as part of the hiring or selection process for employees or volunteers.

(f) Portability of certification.--

(1) Subject to the restrictions under section 6344(b.3) (relating to employees having contact with children; adoptive and foster parents), if an individual's certifications are current under section 6344.4 (relating to recertification) and the individual completes an affirmation under paragraph (2), the individual may use the certifications as follows:

(i) to apply for employment as identified in section 6344 (relating to employees having contact with children; adoptive and foster parents);

(ii) to serve as an employee as identified in section 6344;

(iii) to apply as a volunteer under section 6344.2 (relating to volunteers having contact with children); and

(iv) to serve as a volunteer under section 6344.2.

(2) Prior to commencing employment or service, an individual must swear or affirm in writing that the individual has not been disqualified from employment or service under section 6344(c) or has not been convicted of an offense similar in nature to a crime listed in section 6344(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.

(3) An employer, administrator, supervisor, other person responsible for employment decisions or other person responsible for the selection of volunteers shall make a determination of employment or volunteer matters based on a review of the information required under section 6344(b) prior to employment or acceptance to service in any such capacity and must maintain a copy of the required information.

(g) Written notice of new arrest, conviction or substantiated child abuse.--

(1) If an employee or volunteer subject to section 6344 (relating to employees having contact with children; adoptive and foster parents) or 6344.2 (relating to volunteers having contact with children) is arrested for or convicted of an offense that would constitute grounds for denying employment or participation in a program, activity or service under this chapter, or is named as a perpetrator in a founded or indicated report, the employee or volunteer shall provide the administrator or designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the Statewide database.

(2) If the person responsible for employment decisions or the administrator of a program, activity or service has a reasonable belief that an employee or volunteer was arrested or convicted for an offense that would constitute grounds for denying employment or participation in a program, activity or service under this chapter, or was named as a perpetrator in a founded or indicated report, or the employee or volunteer has provided notice as required under this section, the person responsible for employment decisions or administrator of a program, activity or service shall immediately require the employee or volunteer to submit current information as required under subsection 6344(b). The cost of the information set forth in subsection 6344(b) shall be borne by the employing entity or program, activity or service.

(h) Effect of noncompliance.--An employee or volunteer who willfully fails to disclose information required by subsection (g)(1) commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment or volunteer position.

Credits

2014, Oct. 22, P.L. 2529, No. 153, § 11, effective Dec. 31, 2014. Amended 2015, July 1, P.L. 94, No. 15, § 8, imd. effective.

23 Pa.C.S.A. § 6344.3, PA ST 23 Pa.C.S.A. § 6344.3
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Proposed Legislation

Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6344.4

§ 6344.4. Recertification

Effective: July 1, 2015

[Currentness](#)

New certifications shall be obtained in accordance with the following:

(1) Effective December 31, 2014:

(i) Except as provided in subparagraph (v), a person identified in section 6344 (relating to employees having contact with children; adoptive and foster parents) shall be required to obtain the certifications required by this chapter every 60 months.

(ii) School employees identified in section 6344(a.1)(1) shall be required to obtain reports under section 111 of the act of March 10, 1949 (P.L. 30, No. 14),¹ known as the Public School Code of 1949, and under section 6344(b)(2) every 60 months.

(iii) Any person identified in section 6344 with a current certification issued prior to the effective date of this section shall be required to obtain the certifications required by this chapter within 60 months from the date of the person's oldest certification or, if the current certification is older than 60 months, within one year of the effective date of this section.

(iv) A person identified in section 6344 without a certification or who was previously not required to have a certification shall be required to obtain the certifications required by this chapter no later than December 31, 2015.

(2)(i) Effective August 25, 2015, a person identified in section 6344.2 (relating to volunteers having contact with

children) shall be required to obtain the certifications required by this chapter every 60 months from the date of the person's most recent certification or, if the current certification is older than 60 months, within one year of the effective date of this section.

(ii) A person identified under section 6344.2 without a certification or who was previously not required to have a certification shall be required to obtain the certifications required by this chapter no later than July 1, 2016.

(3) For renewals of certification required under this chapter, the date for required renewal under this section shall be from the date of the oldest certification under section 6344(b).

Credits

2014, Oct. 22, P.L. 2529, No. 153, § 11, effective Dec. 31, 2014. Amended 2015, July 1, P.L. 94, No. 15, § 8, imd. effective.

Footnotes

¹

24 P.S. § 1-111.

23 Pa.C.S.A. § 6344.4, PA ST 23 Pa.C.S.A. § 6344.4

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6345

§ 6345. Audits by Attorney General

Currentness

The Attorney General shall conduct a mandated audit done randomly but at least once during each year on an unannounced basis to ensure that the expunction requirements of this chapter are being fully and properly conducted.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995.

23 Pa.C.S.A. § 6345, PA ST 23 Pa.C.S.A. § 6345

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6346

§ 6346. Cooperation of other agencies

Effective: December 31, 2014

[Currentness](#)

(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 officials when assistance is needed in conducting an investigation or an assessment of safety or risk to the child. School districts shall cooperate with the department and the agency by providing them upon request with the information as is consistent with law.

(b) Willful failure to cooperate.--Any agency, school or facility or any person acting on behalf of an agency, school or facility that violates this section by willfully failing to cooperate with the department or a county agency when investigating a report of suspected child abuse or when assessing safety or risk to a child commits a misdemeanor of the third degree for a first violation and a misdemeanor of the second degree for subsequent violations.

(c) Cooperation of county agency and law enforcement officials.--Consistent with the provisions of this chapter, the county agency and law enforcement officials shall cooperate and coordinate, to the fullest extent possible, their efforts to respond to and investigate reports of suspected child abuse.

(d) Advice to county agency.--Whenever a report of suspected child abuse is referred from a county agency to a law enforcement official pursuant to section 6340(a)(9) and (10) (relating to release of information in confidential reports), as soon as possible, and without jeopardizing the criminal investigation or prosecution, the law enforcement official shall advise the county agency as to whether a criminal investigation has been undertaken and the results of the investigation and of any criminal prosecution. The county agency shall ensure that the information is referred to the Statewide database.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 1998, Dec. 15, P.L. 963, No. 127, § 12, effective March 1, 1999; 2014, April 7, P.L. 388, No. 29, § 7, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, § 8, effective Dec. 31, 2014.

§ 6346. Cooperation of other agencies, PA ST 23 Pa.C.S.A. § 6346

23 Pa.C.S.A. § 6346, PA ST 23 Pa.C.S.A. § 6346

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6347

§ 6347. Reports to Governor and General Assembly

Effective: December 31, 2014

[Currentness](#)

(a) General rule.--No later than May 1 of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the Statewide database and protective services provided by county agencies. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department and the reports of general protective services made to the department or county agencies, together with a report on the implementation of this chapter and its total cost to the Commonwealth, the evaluation of the secretary of services offered under this chapter and recommendations for repeal or for additional legislation to fulfill the purposes of this chapter. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom. The report shall also include an explanation of services provided to children who were the subjects of founded or indicated reports while receiving child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

(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.

(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).

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1996; 2006, Nov. 9, P.L. 1358, No. 146, § 5, effective in 180 days [May 8, 2007]; 2014, April 7, P.L. 388, No. 29, § 7, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, § 8, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6347, PA ST 23 Pa.C.S.A. § 6347

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C. Powers and Duties of Department \(Refs & Annos\)](#)

23 Pa.C.S.A. § 6348

§ 6348. Regulations

[Currentness](#)

The department shall adopt regulations necessary to implement this chapter.

Credits

[1990, Dec. 19, P.L. 1240, No. 206, § 2](#), effective in 90 days.

23 Pa.C.S.A. § 6348, PA ST 23 Pa.C.S.A. § 6348

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter C. Powers and Duties of Department (Refs & Annos)

23 Pa.C.S.A. § 6349

§ 6349. Penalties

Effective: December 31, 2014

[Currentness](#)

(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 founded and indicated reports) who willfully fails to amend or expunge the information when required commits a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.

(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 database or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a misdemeanor of the third degree.

(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.

(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.

(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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 3, effective July 1, 1995; 2014, April 7, P.L. 388, No. 29, § 8, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 12, effective Dec. 31, 2014.

23 Pa.C.S.A. § 6349, PA ST 23 Pa.C.S.A. § 6349
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment §§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.1. Students in Public and Private Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6351

§§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

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[Currentness](#)

23 Pa.C.S.A. § 6351, PA ST 23 Pa.C.S.A. § 6351

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.1. Students in Public and Private Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6352

§§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

Effective: December 31, 2014

[Currentness](#)

23 Pa.C.S.A. § 6352, PA ST 23 Pa.C.S.A. § 6352

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag Negative Treatment §§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.1. Students in Public and Private Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6353

§§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

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[Currentness](#)

23 Pa.C.S.A. § 6353, PA ST 23 Pa.C.S.A. § 6353

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.1. Students in Public and Private Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6353.1

§§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

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[Currentness](#)

23 Pa.C.S.A. § 6353.1, PA ST 23 Pa.C.S.A. § 6353.1

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag Negative Treatment §§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.1. Students in Public and Private Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6353.2

§§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

Effective: December 31, 2014

[Currentness](#)

23 Pa.C.S.A. § 6353.2, PA ST 23 Pa.C.S.A. § 6353.2

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.1. Students in Public and Private Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6353.3

§§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

Effective: December 31, 2014

[Currentness](#)

23 Pa.C.S.A. § 6353.3, PA ST 23 Pa.C.S.A. § 6353.3

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.1. Students in Public and Private Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6353.4

§§ 6351 to 6353.4. Repealed by 2014, May 14, P.L. 645, No. 44, §§ 3 to 6, effective Dec. 31, 2014; 2014, May 14, P.L. 653, No. 45, §§ 9 to 12, effective Dec. 31, 2014

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[Currentness](#)

23 Pa.C.S.A. § 6353.4, PA ST 23 Pa.C.S.A. § 6353.4

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment §§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.2. Background Checks for Employment in Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6354

§§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

Effective: December 31, 2014

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23 Pa.C.S.A. § 6354, PA ST 23 Pa.C.S.A. § 6354

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment §§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.2. Background Checks for Employment in Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6355

§§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

Effective: December 31, 2014

[Currentness](#)

23 Pa.C.S.A. § 6355, PA ST 23 Pa.C.S.A. § 6355

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag Negative Treatment §§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.2. Background Checks for Employment in Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6356

§§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

Effective: December 31, 2014

[Currentness](#)

23 Pa.C.S.A. § 6356, PA ST 23 Pa.C.S.A. § 6356

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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KeyCite Red Flag Negative Treatment §§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.2. Background Checks for Employment in Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6357

§§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

Effective: December 31, 2014

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23 Pa.C.S.A. § 6357, PA ST 23 Pa.C.S.A. § 6357

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter C.2. Background Checks for Employment in Schools \[Repealed\]](#)

23 Pa.C.S.A. § 6358

§§ 6354 to 6358. Repealed by 2014, May 14, P.L. 653, No. 45, §§ 13, 14, effective Dec. 31, 2014

Effective: December 31, 2014

[Currentness](#)

23 Pa.C.S.A. § 6358, PA ST 23 Pa.C.S.A. § 6358

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6361

§ 6361. Organization for child protective services

Currentness

(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.

(2) The goals and objectives of this chapter will continue to be met if a waiver is granted.

If the department grants a waiver under this subsection, the county agency and its agents shall be bound by all other provisions of this chapter, including requirements concerning the maintenance and disclosure of confidential information and records.

(b) Staff and organization.--The county agency shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way to maximize the continuity of responsibility, care and services of individual workers toward individual children and families. The department, by regulation, shall set forth staff-to-family ratios for the various activities required of the county agency under this chapter, including reports and investigations of suspected child abuse, risk assessment and the provision or monitoring of services to abused children and their families.

(c) Functions authorized.--The county agency staff shall perform those functions assigned to it by this chapter and such other functions as would further the purposes of this chapter.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5.

23 Pa.C.S.A. § 6361, PA ST 23 Pa.C.S.A. § 6361
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6362

§ 6362. Responsibilities of county agency for child protective services

Effective: January 24, 2000

[Currentness](#)

(a) General rule.--The county agency shall be the sole civil agency responsible for receiving and investigating all reports of child abuse made pursuant to this chapter, specifically including, but not limited to, reports of child abuse in facilities operated by the department and other public agencies, for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the well-being and development of the child and to preserve and stabilize family life wherever appropriate.

(b) Assumption of responsibility by department.--When the suspected abuse has been committed by the county agency or any of its agents or employees, the department shall assume the role of the agency with regard to the investigation and directly refer the child for services.

(c) Action by agencies for abuse by agents or employees.--Where suspected child abuse has occurred and an employee or agent of the department or the county agency or a private or public institution is a subject of the report, the department, agency or institution shall be informed of the investigation so that it may take appropriate action.

(d) Reliance on factual investigation.--An agency charged by this section or [section 6361](#) (relating to organization for child protective services) with investigating a report of child abuse may rely on a factual investigation of substantially the same allegations by a law enforcement agency to support the agency's finding. This reliance shall not, however, limit the duties imposed by [section 6368\(a\)](#) (relating to investigation of reports).

(e) Risk assessment.--Each county agency shall implement a State-approved risk assessment process in performance of its duties under this subchapter.

(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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5; 1999, Nov. 24, P.L. 542, No. 50, § 1, effective in 60 days.

[Notes of Decisions \(1\)](#)

23 Pa.C.S.A. § 6362, PA ST 23 Pa.C.S.A. § 6362
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6363

§ 6363. County plan for protective services

[Currentness](#)

The county agency shall include provisions for protective services in its annual plan as required by the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code.¹

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1995.

[Notes of Decisions \(1\)](#)

Footnotes

¹
[62 P.S. § 101 et seq.](#)

23 Pa.C.S.A. § 6363, PA ST 23 Pa.C.S.A. § 6363
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6364

§ 6364. Purchasing services of other agencies

[Currentness](#)

Any other provision of law notwithstanding but consistent with [sections 6361](#) (relating to organization for child protective services) and [6362](#) (relating to responsibilities of county agency for child protective services), the county agency, based upon the plan of services as provided in [section 6363](#) (relating to county plan for protective services), may purchase and utilize the services of any appropriate public or private agency.

Credits

[1990, Dec. 19, P.L. 1240, No. 206, § 2](#), effective in 90 days. Amended [1994, Dec. 16, P.L. 1292, No. 151, § 5](#), effective July 1, 1995.

23 Pa.C.S.A. § 6364, PA ST 23 Pa.C.S.A. § 6364

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6365

§ 6365. Services for prevention, investigation and treatment of child abuse

Effective: December 31, 2014

[Currentness](#)

(a) Instruction and education.--Each county agency shall make available among its services for the prevention and treatment of child abuse instruction and education for parenthood and parenting skills, protective and preventive social counseling, outreach and counseling services to prevent newborn abandonment, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of self-help groups organized for the prevention and treatment of child abuse, part-day services, out-of-home placement services, therapeutic activities for 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.

(b) Multidisciplinary review team.--The county agency shall make available among its services a multidisciplinary review team for the prevention, investigation and treatment of child abuse and shall convene the multidisciplinary review team at any time, but not less than annually:

(1) To review substantiated cases of child abuse, including responses by the county agency and other agencies providing services to the child.

(2) Where appropriate to assist in the development of a family service plan for the child.

(c) Multidisciplinary investigative team.--A multidisciplinary investigative team shall be used to coordinate child abuse investigations between county agencies and law enforcement. The county agency and the district attorney shall develop a protocol for the convening of multidisciplinary investigative teams for any case of child abuse by a perpetrator involving crimes against children which are set forth in [section 6340\(a\)\(9\) and \(10\)](#) (relating to release of information in confidential reports). The county multidisciplinary investigative team protocol shall include standards and procedures to be used in receiving and referring reports and coordinating investigations of reported cases of child abuse and a system for sharing the information obtained as a result of any interview. The protocol shall include any other standards and procedures to avoid duplication of fact-finding efforts and interviews to minimize the trauma to the child. The district attorney shall convene the multidisciplinary investigative team in accordance with the protocol. The multidisciplinary investigative team shall consist of those individuals and agencies responsible for investigating the abuse or for providing services to the child and shall at a minimum include a health care provider, county caseworker and law enforcement official.

(d) Child fatality or near fatality review team and written report.--

(1) A child fatality or near fatality review team shall be convened by a county agency in accordance with a protocol developed by the county agency, the department and the district attorney in a case when a child dies or nearly dies as a result of child abuse as to which there is an indicated report or when the county agency has not made a status determination within 30 days. The team may convene after a county agency makes a determination of an indicated report and shall convene no later than 31 days from the receipt of the oral report to the department of the suspected child abuse. A county agency in the county where the abuse occurred and in any county where the child resided within the 16 months preceding the fatality or near fatality shall convene a child fatality or near fatality review team. A team shall consist of at least six individuals who are broadly representative of the county where the team is established and who have expertise in prevention and treatment of child abuse. With consideration given to the circumstances of each case and availability of individuals to serve as members, the team may consist of the following individuals:

- (i) A staff person from the county agency.
- (ii) A member of the advisory committee of the county agency.
- (iii) A health care professional.
- (iv) A representative of a local school, educational program or child care or early childhood development program.
- (v) A representative of law enforcement or the district attorney.
- (vi) An attorney-at-law trained in legal representation of children or an individual trained under [42 Pa.C.S. § 6342](#) (relating to court-appointed special advocates).
- (vii) A mental health professional.
- (viii) A representative of a children's advocacy center that provides services to children in the county. The individual under this subparagraph must not be an employee of the county agency.
- (ix) The county coroner or forensic pathologist.

(x) A representative of a local domestic violence program.

(xi) A representative of a local drug and alcohol program.

(xii) An individual representing parents.

(xiii) Any individual whom the county agency or child fatality or near fatality review team determines is necessary to assist the team in performing its duties.

(2) Members of the team shall be responsible for all of the following:

(i) Maintaining confidentiality of information under [sections 6339](#) (relating to confidentiality of reports) and 6340.

(ii) Providing and discussing relevant case-specific information.

(iii) Attending and participating in all meetings and activities as required.

(iv) Assisting in the development of the report under paragraph (4)(v).

(3) The county agency, in accordance with the protocol and in consultation with the team, shall appoint an individual who is not an employee of the county agency to serve as chairperson.

(4) The team shall perform the following:

(i) Review the circumstances of the child's fatality or near fatality resulting from suspected or substantiated child abuse.

(ii) Review the delivery of services to the abused child and the child's family provided by the county agency and review services provided to the perpetrator by the county agency in each county where the child and family resided within the 16 months preceding the fatality or near fatality and the services provided to the child, the child's family and the perpetrator by other public and private community agencies or professionals. This subparagraph includes law

enforcement, mental health services, programs for young children and children with special needs, drug and alcohol programs, local schools and health care providers.

(iii) Review relevant court records and documents related to the abused child and the child's family.

(iv) Review the county agency's compliance with statutes and regulations and with relevant policies and procedures of the county agency.

(v) Within 90 days of convening, submit a final written report on the child fatality or near fatality to the department and designated county officials under [section 6340\(a\)\(11\)](#). Within 30 days after submission of the report to the department, the report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by [section 6340](#). The 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 team in 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 criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney. The report shall include:

(A) Deficiencies and strengths in:

(I) compliance with statutes and regulations; and

(II) services to children and families.

(B) Recommendations for changes at the State and local levels on:

(I) reducing the likelihood of future child fatalities and near fatalities directly related to child abuse and neglect;

(II) monitoring and inspection of county agencies; and

(III) collaboration of community agencies and service providers to prevent child abuse and neglect.

(d.1) Release by county agency.--Prior to completing its child fatality or near fatality report, the investigating county agency 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:

- (1) The identity of the child, only in the case of a child's fatality.
- (2) If the child was in the custody of a public or private agency, the identity of the agency.
- (3) 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.
- (4) A description of services provided under paragraph (3).

(e) Response by department.--Within 45 days of receipt of a report of a child fatality or near fatality under subsection (d), the department shall review the findings and recommendations of the report and provide a written response to the county agency and the child fatality review team or near fatality review team. The department's response to the report of the child fatality or near fatality review team shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by [section 6340](#). The department's response shall be made available to the public, but identifying information shall be removed from the contents of the response, 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 team in respect to the child. The response shall not be released to the public if the district attorney certifies that release of the response may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney.

(f) Construction.--The provisions of this section shall be construed to assist in the improvement of services designed to identify and prevent child abuse. The provisions shall not be construed to impede or interfere with criminal prosecutions of persons who have committed child abuse.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1996; 1998, Dec. 15, P.L. 963, No. 127, § 12, effective March 1, 1999; 2002, Dec. 9, P.L. 1549, No. 201, § 5, effective in 60 days; 2008, July 3, P.L. 276, No. 33, § 5, effective in 180 days [Dec. 30, 2008]; 2013, Dec. 18, P.L. 1235, No. 123, § 1, effective in 90 days [March 18, 2014]; 2014, May 14, P.L. 645, No. 44, § 7, effective Dec. 31, 2014.

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6366

§ 6366. Continuous availability to receive reports

[Currentness](#)

Each county agency shall receive 24 hours a day, seven days a week, all reports, both oral and written, of suspected child abuse in accordance with this chapter, the county plan for the provision of child protective services and the regulations of the department.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1995.

[Notes of Decisions \(1\)](#)

23 Pa.C.S.A. § 6366, PA ST 23 Pa.C.S.A. § 6366

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6367

§ 6367. Reports to department and coroner

Effective: December 30, 2008

[Currentness](#)

(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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1995; 2008, July 3, P.L. 276, No. 33, § 5, effective in 180 days [Dec. 30, 2008].

23 Pa.C.S.A. § 6367, PA ST 23 Pa.C.S.A. § 6367

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6368

§ 6368. Investigation of reports

Effective: December 31, 2014

[Currentness](#)

(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).

(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 custody is needed.

(2) Within 24 hours of receipt of the report in all other cases.

(c) Investigation.--An investigation under this section shall include the following:

(1) A determination of the safety of or risk of harm to the child or any other child if each child continues to remain in the existing home environment.

- (2) A determination of the nature, extent and cause of any condition listed in the report.
- (3) Any action necessary to provide for the safety of the child or any other child in the child's household.
- (4) The taking of photographic identification of the child or any other child in the child's household, which shall be maintained in the case file.
- (5) Communication with the department's service under [section 6332](#) (relating to establishment of Statewide toll-free telephone number).

(d) Investigative actions.--During the investigation, all of the following shall apply:

- (1) The county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination under this section.
- (2) If the investigation indicates bodily injury, the county agency may require that a medical examination by a certified medical practitioner be performed on the child.
- (3) Where there is reasonable cause to suspect that there is a history of prior or current abuse, the medical practitioner has the authority to arrange for further medical tests or the county agency has the authority to request further medical tests.
- (4) The investigation shall include interviews with all subjects of the report, including the alleged perpetrator. If a subject of the report is not able to be interviewed or cannot be located, the county agency shall document its reasonable efforts to interview the subject and the reasons for its inability to interview the subject. The interview may be reasonably delayed if notice of the investigation has been delayed pursuant to subsection (m).

(e) Review of indicated reports.--A final determination that a report of suspected child abuse is indicated shall be approved by:

- (1) the county agency administrator or a designee and reviewed by a county agency solicitor, when the county agency is investigating; or
- (2) the secretary or a designee and reviewed by legal counsel for the department, when the department is investigating.

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

- (1) The status of the report.
- (2) The perpetrator's right to request the secretary to amend or expunge the report.
- (3) The right of the subjects of the report to services from the county agency.
- (4) The effect of the report upon future employment opportunities involving children.
- (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.

(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 in the Statewide database shall include information that the department was unable to provide notice. No further efforts to provide notice shall be required, except that the department shall resume reasonable efforts to provide notice if new information is received regarding the whereabouts of an individual who is entitled to receive notice under subsection (f).

(h) Notice to mandated reporter.--If a report was made by a mandated reporter under [section 6313](#) (relating to reporting procedure), the department shall notify the mandated reporter who made the report of suspected child abuse of all of the following within three business days of the department's receipt of the results of the investigation:

(1) Whether the child abuse report is founded, indicated or unfounded.

(2) Any services provided, arranged for or to be provided by the county agency to protect the child.

(i) Investigation concerning a school or child-care service employee.--

(1) Upon notification that an investigation involves suspected child abuse by a school or child-care service employee, including, but not limited to, a service provider, independent contractor or administrator, the school or child-care service shall immediately implement a plan of supervision or alternative arrangement for the individual under investigation to ensure the safety of the child and other children who are in the care of the school or child-care service.

(2) The plan of supervision or alternative arrangement shall be approved by the county agency and kept on file with the agency until the investigation is completed.

(j) Referral for investigation.--If the complaint of suspected abuse is determined to be one that cannot be investigated under this chapter because the person accused of the abuse is not a perpetrator within the meaning of [section 6303](#) (relating to definitions), but does suggest the need for investigation, the county agency shall immediately transmit the information to the appropriate law enforcement officials in accordance with the county protocols for multidisciplinary investigative teams required under [section 6365\(c\)](#)(relating to services for prevention, investigation and treatment of child abuse).

(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.

(l) 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).

(m) Delay of notification.--The notice under subsection (l)(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.

(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).

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1996; 2006, Oct. 27, P.L. 1192, No. 126, § 1, effective in 60 days [Dec. 26, 2006]; 2006, Nov. 29, P.L. 1581, No. 179, § 6, effective in 180 days [May 29, 2007]; 2013, Dec. 18, P.L. 1170, No. 108, § 5, effective Dec. 31, 2014; 2013, Dec. 18, P.L. 1235, No. 123, § 1, effective in 90 days [March 18, 2014].

Notes of Decisions (4)

23 Pa.C.S.A. § 6368, PA ST 23 Pa.C.S.A. § 6368

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment§ 6369. Repealed by 2014, April 15, P.L. 417, No. 33, § 4, effective Dec. 31, 2014

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6369

§ 6369. Repealed by 2014, April 15, P.L. 417, No. 33, § 4, effective Dec. 31, 2014

Effective: December 31, 2014

[Currentness](#)

23 Pa.C.S.A. § 6369, PA ST 23 Pa.C.S.A. § 6369

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6370

§ 6370. Voluntary or court-ordered services; findings of child abuse

Currentness

(a) General rule.--Based on the investigation and evaluation conducted pursuant to this chapter, the county agency shall provide or contract with private or public agencies for the protection of the child at home whenever possible and those services necessary for adequate care of the child when placed in protective custody. Prior to offering these services to a family, the agency shall explain that it has no legal authority to compel the family to receive the services but may inform the family of the obligations and authority of the county agency to initiate appropriate court proceedings.

(b) Initiation of court proceeding.--

(1) In those cases in which an appropriate offer of service is refused and the county agency determines that the best interests of the child require court action, the county agency shall initiate the appropriate court proceeding. The county agency shall assist the court during all stages of the court proceeding in accordance with the purposes of this chapter.

(2)(i) If the county agency deems it appropriate in a dependency or delinquency proceeding, including an instance in which the alleged perpetrator has access or poses a threat to a child, the county agency may petition the court under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) for a finding of child abuse.

(ii) If the court makes a specific finding that child abuse as defined by this chapter has not occurred, the county agency shall consider the court's finding to be a determination that the report of suspected abuse was an unfounded report. The county agency shall immediately notify the department of the change in the status of the report from an indicated report to an unfounded report. Upon notice, the department shall be responsible for expunging the indicated report consistent with the expunction requirements of this chapter.

(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.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1995.

[Notes of Decisions \(1\)](#)

23 Pa.C.S.A. § 6370, PA ST 23 Pa.C.S.A. § 6370

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6371

§ 6371. Rehabilitative services for child and family

Currentness

The county agency shall provide or arrange for and monitor rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the court.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1995.

23 Pa.C.S.A. § 6371, PA ST 23 Pa.C.S.A. § 6371

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6372

§ 6372. Protecting well-being of children maintained outside home

[Currentness](#)

The county agency shall be as equally vigilant of the status, well-being and conditions under which a child is living and being maintained in a facility other than that of a parent, custodian or guardian from which the child has been removed as the service is of the conditions in the dwelling of the parent, custodian or guardian. Where the county agency finds that the placement for any temporary or permanent custody, care or treatment is for any reason inappropriate or harmful in any way to the physical or mental well-being of the child, it shall take immediate steps to remedy these conditions including petitioning the court.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 5, effective July 1, 1995.

23 Pa.C.S.A. § 6372, PA ST 23 Pa.C.S.A. § 6372

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6373

§ 6373. General protective services responsibilities of county agency

Currentness

(a) Program objectives.--Each county agency is responsible for administering a program of general protective services to children and youth that is consistent with the agency's objectives to:

- (1) Keep children in their own homes, whenever possible.
- (2) Prevent abuse, neglect and exploitation.
- (3) Overcome problems that result in dependency.
- (4) Provide temporary, substitute placement in a foster family home or residential child-care facility for a child in need of care.
- (5) Reunite children and their families whenever possible when children are in temporary, substitute placement.
- (6) Provide a permanent, legally assured family for a child in temporary, substitute care who cannot be returned to his own home.
- (7) Provide services and care ordered by the court for children who have been adjudicated dependent.

(b) Efforts to prevent need for removal from home.--In its effort to assist the child and the child's parents, pursuant to Federal regulations, the county agency will make reasonable efforts prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his home and to make it possible for the child to return to home.

(c) Assistance in obtaining available benefits.--The county agency shall aid the child and the family in obtaining benefits and services for which they may qualify under Federal, State and local programs.

(d) Duplication of services.--Except where ordered by the court in a proceeding brought under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), a county agency shall not be required to duplicate services which are the statutory responsibility of any other agency.

Credits

1994, Dec. 16, P.L. 1292, No. 151, § 6, effective July 1, 1997.

23 Pa.C.S.A. § 6373, PA ST 23 Pa.C.S.A. § 6373
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

End of Document

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6374

§ 6374. Principles and goals of general protective services

[Currentness](#)

(a) Primary purpose.--The primary purpose of general protective services is to protect the rights and welfare of children so that they have an opportunity for healthy growth and development.

(b) Assistance to parents.--Implicit in the county agency's protection of children is assistance to parents in recognizing and remedying conditions harmful to their children and in fulfilling their parental duties more adequately.

Credits

1994, Dec. 16, P.L. 1292, No. 151, § 6, effective July 1, 1997.

23 Pa.C.S.A. § 6374, PA ST 23 Pa.C.S.A. § 6374

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6375

§ 6375. County agency requirements for general protective services

Effective: December 31, 2014

[Currentness](#)

(a) Duties of county agency.--The county agency shall make available a program of general protective services within each agency. The county agency shall perform those functions assigned by this chapter and others that would further the purposes of this chapter. It shall have sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way as to maximize the continuity of responsibility, care and service of individual workers toward individual children and families. The department by regulation shall set forth staff-to-family ratios for the receipt and assessment of reports of children in need of protective services and for the provision of services to neglected children and their families.

(b) Organization of county agency.--Each county agency shall be organized and staffed to ensure that the agency can provide intake for general protective services. Intake occurs when a report or referral is made to the agency or when a parent or person responsible for the child's welfare requests the assistance of the agency.

(c) Assessment for services.--

(1) Within 60 days of receipt of a report, an assessment shall be completed and a decision on whether to accept the family for service shall be made. The county agency shall provide or arrange for services necessary to protect the child during the assessment period.

(1.1) The county agency shall immediately notify the department upon the completion of the assessment whether the report was determined to be valid or invalid and whether the family was accepted for services or referred to community services.

(1.2) The county agency shall immediately notify the department upon the closure of services for a child or family that has been accepted for services.

(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 officers).

(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).

(l) 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.¹

(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).

Credits

1994, Dec. 16, P.L. 1292, No. 151, § 6. Amended 1999, Nov. 24, P.L. 542, No. 50, § 1, effective in 60 days; 2006, Oct. 27, P.L. 1192, No. 126, § 2, effective in 60 days [Dec. 26, 2006]; 2013, Dec. 18, P.L. 1167, No. 107, § 4, effective Jan. 1, 2014; 2014, April 7, P.L. 388, No. 29, § 9, effective Dec. 31, 2014.

Notes of Decisions (1)

Footnotes

¹ “act” in enrolled bill.

23 Pa.C.S.A. § 6375, PA ST 23 Pa.C.S.A. § 6375
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter D. Organization and Responsibilities of Child Protective Service

23 Pa.C.S.A. § 6376

§ 6376. Appeals with respect to general protective services

Currentness

(a) Right to appeal.--A custodial parent or person who has primary responsibility for the welfare of a child may appeal the county agency's decision to accept the family for services. Written notice of this right, along with an explanation of the agency's decision, shall be given to the family within seven days of the decision to accept for service. The department has no authority to modify an order of a court of common pleas.

(b) Receipt and grounds of appeal.--Appeals must be received by the county agency within 45 days of the date when the notice was mailed to the custodial parent or person who has primary responsibility for the welfare of a child. Requests must be made on the grounds that the child is or is not at risk of abuse or neglect.

(c) Review and decision and request for hearing.--The county agency shall review the request and issue a written decision within 45 days of receipt of the appeal. If the agency denies the request, the custodial parent or person who has primary responsibility for the welfare of a child may request a hearing before the department. The request must be made within 45 days of the date of the county agency's decision.

(d) Hearing.--If a hearing is requested, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code,¹ and applicable department regulations. The burden of proof in the hearing shall be on the county agency. The department shall assist the county agency as necessary.

(e) Order.--The department is authorized and empowered to make any appropriate order regarding records to make them accurate or consistent with the requirements of this chapter.

(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.

Credits

1994, Dec. 16, P.L. 1292, No. 151, § 6, effective July 1, 1997.

Footnotes

1

62 P.S. § 401 et seq.

23 Pa.C.S.A. § 6376, PA ST 23 Pa.C.S.A. § 6376

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6377

§ 6377. Caseloads

[Currentness](#)

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

Credits

[1994, Dec. 16, P.L. 1292, No. 151, § 6](#), effective July 1, 1997.

23 Pa.C.S.A. § 6377, PA ST 23 Pa.C.S.A. § 6377

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter D. Organization and Responsibilities of Child Protective Service](#)

23 Pa.C.S.A. § 6378

§ 6378. Purchase of services

[Currentness](#)

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.

Credits

[1994, Dec. 16, P.L. 1292, No. 151, § 6](#), effective July 1, 1997.

23 Pa.C.S.A. § 6378, PA ST 23 Pa.C.S.A. § 6378

[Current through 2016 Regular Session Acts 1 to 169 and 171 to 175](#)

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter E. Miscellaneous Provisions

23 Pa.C.S.A. § 6381

§ 6381. Evidence in court proceedings

Effective: December 31, 2014

[Currentness](#)

(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, day-care centers and schools and their patients or clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse or the cause of child abuse.

(d) Prima facie evidence of abuse.--Evidence that a child has suffered child abuse of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the welfare of the child shall be prima facie evidence of child abuse by the parent or other person responsible for the welfare of the child.

(e) Child victims and witnesses.--In addition to the provisions of this section, any consideration afforded to a child victim or witness pursuant to 42 Pa.C.S. Ch. 59 Subch. D (relating to child victims and witnesses)¹ in any prosecution or adjudication shall be afforded to a child in child abuse proceedings in court or in any department administrative hearing pursuant to section 6341.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 7, effective July 1, 1995; 2013, Dec. 18, P.L. 1170, No. 108, § 6, effective Dec. 31, 2014.

Notes of Decisions (29)

Footnotes

¹

42 Pa.C.S.A. § 5981 et seq.

23 Pa.C.S.A. § 6381, PA ST 23 Pa.C.S.A. § 6381

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment§ 6382. Repealed by 2000, May 10, P.L. 74, No. 18, § 4, effective in 60 days

[Purdon's Pennsylvania Statutes and Consolidated Statutes](#)

[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter E. Miscellaneous Provisions](#)

23 Pa.C.S.A. § 6382

§ 6382. Repealed by 2000, May 10, P.L. 74, No. 18, § 4, effective in 60 days

Effective: July 10, 2000

[Currentness](#)

23 Pa.C.S.A. § 6382, PA ST 23 Pa.C.S.A. § 6382

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

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[Title 23 Pa.C.S.A. Domestic Relations \(Refs & Annos\)](#)

[Part VII. Abuse of Family](#)

[Chapter 63. Child Protective Services \(Refs & Annos\)](#)

[Subchapter E. Miscellaneous Provisions](#)

23 Pa.C.S.A. § 6383

§ 6383. Education and training

Effective: July 1, 2015

[Currentness](#)

(a) Duties of department and county agencies.--The department and each county agency, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse and child neglect, including the prevention of newborn abandonment, the identification of abused and neglected children and the provision of necessary ameliorative services to abused and neglected children and their families. The department and each county agency shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families. In addition, the department shall, by regulation, establish a program of training and certification for persons classified as protective services workers. The regulations shall provide for the grandfathering of all current permanent protective services workers as certified protective services workers. Upon request by the county agency and approval of the department, the agency may conduct the training of the county's protective services workers.

(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 materials can be requested by individuals who cannot access the department's Internet website.
- (4) The department shall implement this subsection within 180 days of the effective date of this subsection.¹

(b) Duties of Department of State.--

- (1) The Department of State shall make training and educational programs and materials available for all professional licensing boards whose licensees are charged with responsibilities for reporting child abuse under this chapter with a program of distributing educational materials to all licensees.
- (2) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall promulgate regulations within one year of the effective date of this subsection on the responsibilities of mandated reporters. These regulations shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse.
- (3) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall:
- (i) Require all persons applying for a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least three hours of approved child abuse recognition and reporting training. Training shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Training shall be approved by the department. The training may occur as part of the continuing education requirement of the license.
 - (ii) Require all persons applying for the renewal of a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least two hours of approved continuing education per licensure cycle. Continuing education shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Continuing education curricula shall be approved by the licensing board in consultation with the department. The two hours of continuing education on child abuse recognition and reporting shall be completed by each licensee as a portion of the total continuing education required for biennial license renewal.

(4) A licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter may exempt an applicant or licensee from the training or continuing education required by paragraph (3) if all of the following apply:

(i) The applicant or licensee submits documentation acceptable to the licensing board that the person has already completed child abuse recognition training.

(ii) The training was:

(A) required by section 1205.6 of the act of March 10, 1949 (P.L. 30, No. 14),² known as 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 the act of June 13, 1967 (P.L. 31, No. 21),³ known as the Public Welfare Code, and the training program was approved by the department.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required by paragraph (3).

(5) Upon biennial renewal of a license, a licensing board shall provide to professional licensees under its jurisdiction identified as mandated reporters information related to mandatory reporting of child abuse and the reporting requirements of licensees.

(6) A professional licensee identified as a mandated reporter may apply to the licensing board with jurisdiction over the licensee for an exemption from the training or continuing education required by paragraph (3). A licensing board may exempt the licensee if the licensee submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.

(c) Training of persons subject to department regulation.--

(1) The following persons shall be required to meet the child abuse recognition and reporting training requirements of this subsection:

(i) Operators of institutions, facilities or agencies which care for children and are subject to supervision by the department under Article IX of the Public Welfare Code,⁴ and their employees who have direct contact with children.

(ii) Foster parents.

(iii) Operators of facilities and agencies which care for children and are subject to licensure by the department under Article X of the Public Welfare Code⁵ and their employees who have direct contact with children.

(iv) Caregivers in family child-care homes which are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.

(v) The adult family member who is a person responsible for the child's welfare and is providing services to a child in a family living home, a community home for individuals with an intellectual disability or a host home which is subject to supervision or licensure by the department under Articles IX and X of the Public Welfare Code.

(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 or approval 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 or approval 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 department.

(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 phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

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

“Operator.” An executive or facility director. The term does not include a person who is not involved in managerial decisions related to the provision of services for or care of children with regard to any of the following:

- (1) Personnel.
- (2) Policy and procedures.
- (3) Regulatory compliance.
- (4) Services related to the general or medical care of children.
- (5) Supervision of children.
- (6) Safety of children.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days. Amended 1994, Dec. 16, P.L. 1292, No. 151, § 7; 2002, Dec. 9, P.L. 1549, No. 201, § 5, effective in 60 days; 2014, April 15, P.L. 411, No. 31, § 1, effective Dec. 31, 2014; 2014, April 15, P.L. 417, No. 33, § 5, effective Dec. 31, 2014; 2014, Oct. 22, P.L. 2529, No. 153, § 13, effective Dec. 31, 2014; 2015, July 1, P.L. 94, No. 15, § 8.1, imd. effective.

Footnotes

1 Subsec. (a.2) added by 2014, April 15, P.L. 417, No. 33, § 5, effective Dec. 31, 2014.

2 [24 P.S. § 12-1205.6](#).

3 [62 P.S. § 101 et seq.](#)

4 [62 P.S. § 901 et seq.](#)

5 [62 P.S. § 1001 et seq.](#)

23 Pa.C.S.A. § 6383, PA ST 23 Pa.C.S.A. § 6383
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter E. Miscellaneous Provisions

23 Pa.C.S.A. § 6384

§ 6384. Legislative oversight

Currentness

A committee of the Senate designated by the President pro tempore of the Senate and a committee of the House of Representatives designated by the Speaker of the House of Representatives, either jointly or separately, shall review the manner in which this chapter has been administered at the State and local level for the following purposes:

- (1) Providing information that will aid the General Assembly in its oversight responsibilities.
- (2) Enabling the General Assembly to determine whether the programs and services mandated by this chapter are effectively meeting the goals of this chapter.
- (3) Assisting the General Assembly in measuring the costs and benefits of this program and the effects and side-effects of mandated program services.
- (4) Permitting the General Assembly to determine whether the confidentiality of records mandated by this chapter is being maintained at the State and local level.
- (5) Providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this chapter.

Credits

1990, Dec. 19, P.L. 1240, No. 206, § 2, effective in 90 days.

23 Pa.C.S.A. § 6384, PA ST 23 Pa.C.S.A. § 6384
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Purdon's Pennsylvania Statutes and Consolidated Statutes

Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter E. Miscellaneous Provisions

23 Pa.C.S.A. § 6385

§ 6385. Reimbursement to county agencies

[Currentness](#)

The department shall certify in accordance with the needs-based budgeting provisions of Article VII of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code,¹ a level of funds sufficient to meet the cost of services required by the provisions of this chapter which are reasonable and allowable as defined in Article VII.

Credits

1994, Dec. 16, P.L. 1292, No. 151, § 8, effective July 1, 1995.

Footnotes

¹

62 P.S. § 701 et seq.

23 Pa.C.S.A. § 6385, PA ST 23 Pa.C.S.A. § 6385

Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter E. Miscellaneous Provisions

23 Pa.C.S.A. § 6386

§ 6386. Mandatory reporting of children under one year of age

Effective: July 1, 2015

[Currentness](#)

(a) When report to be made.--A health care provider shall immediately make a report or cause a report to be made to the appropriate county agency if the provider is involved in the delivery or care of a child under one year of age who is born and identified as being affected by any of the following:

- (1) Illegal substance abuse by the child's mother.

- (2) Withdrawal symptoms resulting from prenatal drug exposure unless the child's mother, during the pregnancy, was:
 - (i) under the care of a prescribing medical professional; and

 - (ii) in compliance with the directions for the administration of a prescription drug as directed by the prescribing medical professional.

- (3) A Fetal Alcohol Spectrum Disorder.

(b) Safety or risk assessment.--The county agency shall perform a safety assessment or risk assessment, or both, for the child and determine whether child protective services or general protective services are warranted.

(c) County agency duties.--Upon receipt of a report under this section, the county agency for the county where the child resides shall:

- (1) Immediately ensure the safety of the child and see the child immediately if emergency protective custody is required or has been or shall be taken or if it cannot be determined from the report whether emergency protective custody is needed.

- (2) Physically see the child within 48 hours of receipt of the report.

- (3) Contact the parents of the child within 24 hours of receipt of the report.

- (4) Provide or arrange reasonable services to ensure the child is provided with proper parental care, control and supervision.

Credits

2006, Nov. 9, P.L. 1358, No. 146, § 6, effective in 180 days [May 8, 2007]. Amended 2014, Jan. 22, P.L. 6, No. 4, § 2, effective in 90 days [April 22, 2014]; 2015, July 1, P.L. 94, No. 15, § 8.1, imd. effective.

23 Pa.C.S.A. § 6386, PA ST 23 Pa.C.S.A. § 6386
Current through 2016 Regular Session Acts 1 to 169 and 171 to 175

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