

### 2.4.1.1.1

#### Summary of Child Protection Legislative Amendments

#### 2013-2014

#### **Mandated Reporters: (SB 21, PN 1917)**

- Act 33 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.
  
- Amended § 6303 (relating to definitions) to include the following terms and definitions:
  - **Adult:** an individual 18 years or older.
  - **Direct contact with children:** the care, supervision, guidance or control of children, or routine interaction with children.
  - **Health care facility:** as defined in Section 802.1 of the Act of July 19, 1979 (P.L.130, No. 48), known as the Health Care Facilities Act.
  - **Independent contractor:** an individual who provides a program, activity or service to an agency, institution, organization or other entity, including a school or regularly established religious organization, that is responsible for the care, supervision, guidance or control of children. The term does not include an individual who has no direct contact with children.
  - **Mandated Reporter:** a person who is required by this chapter to make a report of suspected child abuse.
  - **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.
  - **Program, activity or service:** a public or private educational, athletic or other pursuit in which children participate. The term includes, but is not limited to, the following:
    - A youth camp or program;
    - A recreational camp or program;
    - A sports or athletic program;
    - An outreach program;
    - An enrichment program; and
    - A troop, club or similar organization.
  - **School:** a facility providing elementary, secondary or postsecondary educational services. The term includes the following:
    - Any school of a school district;
    - An area vocational-technical school;
    - A joint school;
    - An intermediate unit;
    - A charter school or regional charter school;
    - A cyber charter school;
    - A private school licensed under the Act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act;

- A private school accredited by an accrediting association approved by the State Board of Education;
- A nonpublic school;
- 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), known as the Public School Code of 1949, or the Act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963;
- An independent institution of higher education which is an institution of higher education which is operated not for profit, 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" or "university" as proved for by standards and qualifications prescribed by the State Board of Education pursuant to 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries);
  - A state-owned university;
  - A state-related university;
  - A private school licensed under the Act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.
  - The Hiram G. Andrews Center; and
  - A private residential rehabilitative institution as defined in Section 914.1-A(C) of the Public School Code of 1949.
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- **School employee:** an individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term excludes an individual who has no direct contact with children.
- Amended §6311 (A) (relating to mandated reporters) to specify who is a mandated reporter including:
  - A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State;
  - A medical examiner, coroner or funeral director;
  - 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;
  - A school employee;
  - An employee of a child care service, who has direct contact with children in the course of employment;
  - Clergyman, priest, rabbi, minister, Christian science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization;
  - An individual paid or unpaid; who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child;
  - An employee of a social services agency, who has direct contact with children in the course of employment;

- A peace officer or law enforcement official defined as Attorney General, District Attorney, PA State Police and municipal police officer.
  - An emergency medical services provider certified by the Department of Health;
  - An employee of a public library, who has direct contact with children in the course of employment;
  - An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11), who has direct contact with children in the course of employment; and
  - An independent contractor.
- Amended Subsection (B) (relating to basis to report child abuse) to clarify the situation under which a mandated reporter is required to make a report of suspected child abuse if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:
    - 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;
    - The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization or other entity that is directly responsible for the care, supervision, guidance or training of the child;
    - A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse;
    - An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.
  - 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.
  - Staff members of institutions, etc. – are now to report immediately in accordance with Section 6313 and shall immediately thereafter notify the person in charge of the facility or the designated agent. Upon notification the person in charge or the designated agent shall facilitate the cooperation of the institution, school, facility or agency with the investigation of the report.
  - Amended §6312 (relating to persons encouraged to report suspected child abuse) to clarify that any person may make an oral or written report of suspected child abuse, which may be submitted electronically, or cause a report of suspected child abuse to be made to the department, county agency or law enforcement if that person has reasonable cause to suspect that a child is a victim of child abuse.
  - Amended §6313 (a) (relating to report by mandated reporter) to clarify that 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).
- making an oral report 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.
  - 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).
- Amended §6313 (b) (relating to contents of a report) to state that a written report of suspected child abuse, which may be submitted electronically, shall also include the following additional information, if known:
    - The name, telephone number and e-mail address of the person making the report.
    - 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).
    - Any other information required by Federal law or regulation.
  - Amended §6314 (relating to photographs, medical tests and x-rays) to require information to be sent to the county agency at the time the written report is sent or within **48 hours after the report is made by electronic technologies**. This section also allows for this information to be made available to law enforcement officials in the course of investigating cases pursuant to section 6340(a)(9) or (10).
  - Amended §6315 (relating to taking child into protective custody) to clarify that no county agency worker may take custody of the child without judicial authorization based on the merits of the situation.
  - Amended Section §6383 (related to education and training) to require the Department to provide information to mandated and permissive reporters related to the recognition and reporting of child abuse on its internet website in forms, including, but not limited to, the following:
    - Website content.
    - Printable booklets and brochures.
    - Educational videos.
    - Internet-based interactive training exercises.
  - Information shall be pertinent to both mandated and permissive reporters and shall address topics, including, but not limited to:
    - Conduct constituting child abuse under this chapter.
      - Persons classified as mandated reporters.
      - Reporting requirements and procedures.

- The basis for making a report of suspected child abuse.
  - Penalties for failure to report.
  - Background clearance requirements for individuals who work or volunteer with children.
  - Recognition of the signs and symptoms of child abuse.
  - Alternative resources to assist with concerns not related to child abuse.
- The Department shall include the following with all certifications provided pursuant to § 6344 (B) (2) (relating to information relating to prospective child-care personnel):
    - Information that certain persons are required by law to report suspected child abuse.
    - The internet address where the information and guidance required by this subsection can be obtained.
    - A telephone number and mailing address where guidance materials can be requested by individuals who cannot access the department's internet website.

**Definition of Perpetrator and Minor Perpetrator Expunction: (SB 23, PN 1586)**

- Act 117 of 2013 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.
- Amended § 6303 (relating to definitions)
  - Broadens the definition of perpetrator and clarifies acts of abuse versus failures to act:
    - Acts of Abuse:
      - Maintains parents of any age;
      - Includes a spouse, paramour, or former spouse or paramour of the child's parent;
      - Maintains a person 14 years of age or older who is responsible for the child's welfare;
        - Specifies that this term includes any person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit or religious or other not-for-profit organization such as:
          - Camps;
          - Athletic programs;
          - Enrichment programs; or
          - Troops, clubs or similar organizations.
        - School employees and independent contractors are now included as persons responsible for a child's welfare;
      - Specifies that an individual residing in the same home as the child must be 14 years of age or older to be

- considered a perpetrator for consistency with persons responsible for a child; and
  - Includes an individual 18 years of age or older who does not reside in the same home as the child and is related within the third degree of blood, marriage or adoption to the child.
- Failure to Act:
  - Maintains parents of any age;
  - Includes a spouse, paramour, or former spouse or paramour of the child's parent;
  - Raises the age from 14 to 18 as it relates to:
    - Persons responsible for the child's welfare; and
    - Persons residing in the same home as the child.
    - This ensures that siblings and other minors who could be perpetrators of abuse by commission are not considered perpetrators for failure to act so that they are not held responsible for the actions of adults.
- Added § 6338.1 (relating to expunction of information of perpetrator who is under 18 years of age when child abuse was committed)
  - Mandates the expunction from the Statewide Database of the name of a perpetrator in an indicated report of child abuse who was under the age of 18 when they committed the child abuse:
    - When the individual reaches the age of 21; or
    - Five years has elapsed since their name was added to the data base, whichever is later, if:
      - The individual has:
        - Not been named as the perpetrator in any subsequent indicated report of child abuse and is not named as an alleged perpetrator in a child abuse report pending investigation.
        - Never been convicted or adjudicated delinquent by a court for an offense under § 6344(c) (relating to grounds for denying employment) and no proceeding is pending seeking a conviction or adjudication.
        - The child abuse did not involve the use of a deadly weapon as defined under 18 Pa.C.S. § 2301 (relating to definitions):
          - Any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or serious bodily injury, or any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or serious bodily injury.
- These provisions do not apply to the following cases:
  - A perpetrator of a founded report of child abuse;

- A sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions), who meets all of the following:
  - Is required to register under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders); and
  - Was found delinquent as a result of the same acts which resulted in their being named as a perpetrator of child abuse.
- A juvenile offender, as defined under 42 Pa.C.S. § 9799.12 who meets the following:
  - Is required to register under 42 Pa.C.S. Ch 97 Subch H as a result of an adjudication of delinquency for the same as which resulted in their being named as a perpetrator of child abuse; and
  - Has not been removed from the Statewide Registry of Sexual Offenders pursuant to 42 Pa.C.S § 9799.17 (relating to termination period of registration for juvenile offenders).
- A sexual offender, as defined in 42 Pa.C.S § 9799.12, who meets all of the following:
  - Is required to register under Pa.C.S. Ch 97 as a result of a criminal conviction for the same acts which resulted in their being named a perpetrator of child abuse; and
  - Has not completed the period of registration under 42 Pa.C.S. § 9799.15 (relating to period of registration).

**Establishment of a Statewide Database of Protective Services: (SB 24, PN 1795)**

- Act 29 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.
- Amended § 6303 (relating to definitions) to include definitions related to:
  - Electronic technologies which is 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.
  - Law enforcement official to include the following:
    - (1) the attorney general.
    - (2) a pennsylvania district attorney.
    - (3) a pennsylvania state police officer.
    - (4) a municipal police officer.
- Added § 6305 (relating to electronic reporting) to require the Department to:
  - establish procedures for the secure and confidential use of electronic technologies to transmit information under the CPSL including:
    - The filing of reports and other required records including those of the county agency; and
    - The verification of records and signatures on forms.

- Confirm the receipt of a report of suspected child abuse submitted electronically which shall relieve the person making the report of making an additional oral or written report of suspected child abuse.
- Amended § 6317 (relating to mandatory reporting and postmortem investigation of deaths) to require reporting to the medical examiner as well as the coroner when there is reasonable cause to suspect that a child died as a result of child abuse.
- Amended § 6331 (relating to establishment of a statewide database) to establish a statewide database of protective services which must now include:
  - (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).
- Amended § 6332 (relating to establishment of a toll-free telephone number) to require the Department's toll-free telephone number to now be used to report cases of suspected child abuse as well as children allegedly in need of general protective services.
  - This toll-free telephone number, or electronic technologies, is also to be used bylaw enforcement officials, as well as a county agency in determining the existence of prior reports of child abuse or general protective services reports in the statewide database or reports under investigation.
- Amended § 6333 (relating to continuous availability of department) to require the Department to be receive reports of children in need of general protective services and reports made by electronic technologies
- Amended § 6334 (relating to disposition of complaints received) to:
  - Require the county agency or law enforcement official to submit information to the Department **within 48 hours**, either in writing or by electronic technologies, when the initial report goes to the county agency



or law enforcement official and after ensuring the immediate safety of the child and any other child in the child's home.

- Require the Department to immediately transmit a notice, orally or by electronic technologies, to the county agency where the suspected abuse occurred and requires that the notice contain the following:
  - (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.
- Require the Department to immediately transmit a notice, orally or by electronic technologies, to the appropriate law enforcement official when the report of suspected child abuse alleges that a criminal offense has been committed against the child. This notice must be provided to the county where the child abuse is alleged to have occurred. The notice shall also include:
  - (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.
- Requires the Department to include the name and contact information of the persons receiving the referral, if known, when a report is referred to the county agency and law enforcement officials.
- Requires the Department to refer cases of suspected child abuse which occurred in another state and **both the child and alleged perpetrator are residents of the Commonwealth** to the county agency where the child resides if the other states CPS agency cannot or will not investigate the report.
- Requires the Department to refer cases of suspected child abuse which occurred in another state and **only the alleged perpetrator is a resident of the Commonwealth**, to the county agency where the alleged perpetrator resides. The county agency must notify the children and youth social service agency of the jurisdiction in which the suspected abuse occurred and if requested by the other agency, assist in investigating the suspected child abuse.
- Added § 6334.1 (relating to responsibility for investigation) to establish under which circumstances the county agency, law enforcement or both agencies jointly are responsible for investigating suspected child abuse or referrals for protective services based on the individual allegedly committing the act:
  - Committed by a perpetrator = county agency
  - Committed by perpetrator and behavior constituting a possible violation of a criminal offense = joint investigation
  - Committed by a person who is not a perpetrator and behavior constituting a violation of a criminal offense = law enforcement
  - In need of other protective services = county agency

- Amended § 6335 (relating to access to information in statewide database) allows for a county agency or a law enforcement official to request information from the statewide database to determine the existence of prior reports involving the subject of the report. The Department is required to immediately convey information to a county agency or law enforcement official related to a report or a pending investigation or assessment concerning the subject of the report.
  - Information released under this section may be released if the request is made orally or in writing and the Department has:
    - (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.
  - A county agency or law enforcement official may only request the information under this subsection 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 investigation a crime against a child. The following shall apply where information is requested:
    - (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 section 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.

- Information provided in response to inquiries regarding clearances 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).
- Amended § 6336 (relating to information in statewide database) to include additional information that must be maintained in the database for protective service reports including:
  - Race and ethnicity;
  - If the report alleged the child was in need of general protective services, whether the report was valid or invalid.
  - If the report was accepted for services and the reasons for the acceptance.
  - 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.
  - 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.
  - 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).
  - Any additional information provided in section 6313(c) (relating to reporting procedure).
  - Any additional demographic information that the department requires to comply with section 6342 (relating to studies of data in records).
  - A family case record for each family accepted for investigation, assessment or services which shall be maintained consistent with regulatory requirements.
  - With respect to cases that are not accepted for child abuse investigation or general protective services assessment or are referred to community services:
    - the reason the report was not accepted.
    - any information provided to the referral source or the family related to other services or option available to address the report.
  - 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).

- Amended § 6337 (relating to disposition and expunction of unfounded reports and general protective services reports) to:
  - allow unfounded reports that have been accepted for service to be retained in the Statewide Database, but clearly marked as unfounded. It requires the county agency to notify the Department immediately upon closure of the case and the report must be expunged as soon as possible, but not later than 120 days after the one-year period following the date the family case was closed. If the subject child becomes 23 years of age prior to the closure of the family case, the unfounded report must be expunged when the child turns 23.
  - require valid GPS reports, but not accepted for service to be entered into and maintained in the Statewide Database for a period of 5 years. Upon expiration of the 5 years, the report must be expunged as soon as possible, but no later than 120 days after the 5 year period following the date the report was received by the Department.
  - require valid GPS reports that are accepted for service to be entered into and maintained in the statewide database for 5 years after the closure of services by the county agency. Upon expiration of the 5 years, the report must be expunged as soon as possible, but no later than 120 days after the 5 year period following the closure of services by the county agency.
  - require invalid GPS reports to be maintained for a period of 1 year. Upon expiration of the 1 year after the date the report was received by the Department, the report must be expunged as soon as possible, but no later than 1230 days after the one year period following the date the report was received by the Department.
  - require county agencies to amend or expunge its records within 10 days of receiving notification from the Department.
  
- Amended § 6340 (relating to release of information in confidential reports) to align language with other statutory amendments and language and added at (13) to require the Department to notify school administrators and child care service employers of the following:
  - 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.
  - 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.
  - 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.

- Amended Subsection (C) (relating to protecting identity) to allow for release of data that would identify the person who made a report of suspected child abuse or who cooperated in a subsequent investigation in response to a law enforcement official investigating allegations of false reports of child abuse under 18 PA.C.S. § 4906.1.
- Amended § 6344 (b)(2) (relating to information relating to prospective child-care personnel) for a certification from the Department to state whether the applicant is named in the Statewide Database as the alleged perpetrator in a pending child abuse investigation.
  - Added (H.1) (relating to form of payment) has been added to allow for payments for Pennsylvania Child Abuse Registry Checks to be made by check, money order, credit card or debit card.
- Amended § 6346 (relating to will failure to cooperate) to increase the penalties for willful failure to cooperate with the Department or a county agency when investigating a report of suspected child abuse to a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for subsequent violation.
- Amended § 6347 (relating to reports to Governor and General Assembly) to include reports of general protective services in the Department's Annual Child Abuse Report.
- Amended § 6349 (relating to penalties) to:
  - increase the penalty for failure to amend or expunge information to a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.
  - increase the penalty for persons who willfully fail to obey a final order of the Secretary or designated agent of the Secretary to amend or expunge the summary of a report in the Statewide Database or the contents of any report filed pursuant to § 6313 to a misdemeanor of the third degree.
  - increase the penalty for a person who willfully releases or permits the release of any information in the Statewide Database or county records to persons or agencies not permitted to receive the information to a misdemeanor of the second degree.
  - Added (B.1) (relating to unauthorized access or use of information) to:
    - establish a penalty of a misdemeanor of the second degree for a person who willfully accesses, attempts to access or uses information in the Statewide Database for a purpose not authorized under this chapter.

- establish a penalty of a misdemeanor of the first degree for a person who uses information in the Stateside database not authorized under this chapter with the intent to harass, embarrass or harm another person.
- Amended § 6375 (c) (relating to assessment for services) to require the county agency to:
  - Immediately notify the Department upon 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.
  - Immediately notify the Department upon the closure of services for a child or family that has been accepted for services.

**Enhanced Criminal Penalties and New Criminal Offenses: (SB 28, PN 1589)**

- Act 118 of 2013 amended Title 18 (Crimes and Offenses) known as the Crimes Code which is effective January 1, 2014.
- Amended § 2701 (relating to simple assault) to enhance the criminal penalties for simple assault as a misdemeanor of the first degree when the act is committed against a child under 12 years of age by a person **18** years of age or older, lowered from an adult 21 years of age or older.
- Amended § 2702 (relating to aggravated assault) to add additional categories including:
  - A felony of the second degree when a person 18 years of age or older attempts to cause or knowingly, intentionally or recklessly causes **bodily injury** to a child less than **6** years of age; or
  - A felony of the first degree when a person 18 years of age or older attempts to cause or knowingly, intentionally or recklessly causes **serious bodily injury** to a child less than **13** years of age.
- Added § 4906.1 (relating to false reports of child abuse) by creating a new offense of false reports of child abuse. A person commits a misdemeanor of the second degree if the person:
  - Intentionally or knowingly makes a false report of child abuse; or
  - Intentionally or knowingly induces a child to make a false claim of child abuse.
- Added § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases) by creating a new offense to address intimidation, obstruction or retaliation against the reporter, witness or victim in child abuse cases.
  - Intimidation:
    - When a person has knowledge or intents that their conduct will obstruct, impede, impair, prevent or interfere with the making of a child abuse report or the conducting of an investigation or prosecution of a case of child abuse including:

- Refraining from making a report or not causing a report to be made;
  - Refraining from providing or withholding information, documentation, testimony or evidence;
  - Giving false or misleading information, documentation, testimony or evidence;
  - Eluding, evading or ignoring any request or legal summons to appear to testify or supply evidence; or
  - Failing to appear at or participate in a child abuse proceeding or meeting to which they have been legally summoned.
- Retaliation:
    - Harming another person by an unlawful act or engaging in a course of conduct or repeatedly committing acts which threaten another person in anything that person has lawfully done as a reporter, witness or victim.
  - Obstruction:
    - Intentionally preventing a public servant from investigating or prosecuting a report of child abuse.
  - Offenses are misdemeanors of the second degree, but become felonies of the second degree if the actor:
    - Employs force, violence or deception or threatens to employ force, violence or deception with reckless intent;
    - Offers pecuniary or other benefit;
    - Furthers a conspiracy to intimidate or retaliate;
    - Accepts, agrees or solicits another person to accept any pecuniary benefit to intimidate or retaliate; or
    - Had a prior conviction for this violation under PA, Federal or any other State law.

**Mandatory Reporting of Infants: (SB 29, PN 1474)**

- Act 4 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective April 22, 2014.
- Amended §6303 (relating to definitions) to provide a definition of health care provider to include 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 assistance
  - Chiropractor;
  - Dentist;
  - Pharmacist; or
  - An individual accredited or certified to provide behavioral health services.
- Also provided a definition of safety assessment to include 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.
  - Amended §6386 (relating to mandatory reporting of children under one year of age) to require mandatory reporting by health care providers involved in the delivery or care of a child under one year of age when the child is born and identified as being affected by:
    - Illegal substance abuse by the child's mother.
    - Withdrawal symptoms resulting from prenatal drug exposure.
    - A fetal alcohol spectrum disorder.
  - **These requirements are contained in current statute with the exception of fetal alcohol spectrum disorder.**
  - Added to this section, 6386, requirements for the county agency to perform a safety assessment or risk assessment, or both, for the child and determine whether child protective services or general protective services are warranted.
  - Also outlines county agency duties in this section upon receipt of a report under this section by the county agency for where the child resides including:
    - Immediately ensuring 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.
    - Physically see the child within 48 hours of receipt of the report.
    - Contact the parents of the child within 24 hours of the receipt of the report.
    - Provide or arrange reasonable services to ensure the child is provided with proper parental care, control and supervision.

**Immunity for Reporters from Liability, Penalties for False Reporting: (SB 30, PN 1648)**

- Act 119 of 2013 amended Title 23 (Domestic Relations) known as the Child Protective Services Law.
  - Section 6303 (a) effective December 31, 2014
  - Remaining sections effective July 1, 2014.
- Amended § 6303 (relating to definitions)
  - Broadens the definition of child care service to include day care services or programs that are offered by a school.



- Previously these programs were excluded from the definition of child care services.
- The definition of child care services is primarily used as it relates to completion of clearances.
- Amended § 6318 (relating to immunity from liability)
  - Expands immunity from liability for reporting, cooperating and consulting in investigations, testifying in proceedings as a result of the report and engaging in actions authorized under §§ 6314, 6315, 6316, and 6317 which include taking photographs, arranging for medical tests and x-rays, taking a child into protective custody, admitting a child to a private or public hospital to include general protective services cases.
  - Expands immunity from civil and criminal liability for employees of the Department and Counties who refer general protective services reports to law enforcement officials.
  - Previously this immunity only extended to reports of suspected child abuse.
  - Maintains the presumption that reports are made in good faith when mandated.
- Amended § 6331 (establishment of statewide database)
  - Mandates the establishment of a statewide database of protective services;
  - Includes the maintenance of false reports for the purpose of identifying and tracking patterns of intentional false reporting as follows:
    - Child abuse pursuant to a conviction under 18 Pa.C.S. § 4906.1 (relating to false report of child abuse).

**Expedited and streamlined appeals process: (SB 30, PN 1648 and HB 726, PN 2778 – Combined)**

Acts 119 and 108, respectively, amend Title 23 (Domestic Relations) known as the Child Protective Services Law with the following effective dates:

§ 6341 (C.2) and (G) – Effective July 1, 2014 (SB 30)

§ 6341 (A), (B), (C), (C.1) – Effective December 31, 2014 (HB 726)

- Amended § 6341 (Amendment or expunction of information)
  - Maintains the Secretary’s ability to amend or expunge a record in the statewide database upon good cause shown and notice to the subjects of the report: (December 31, 2014)
    - The request must be in writing in a manner prescribed by the department;
    - For this purpose, good cause includes, but is not limited to:
      - Newly discovered evidence that an indicated report is inaccurate or is being maintained in a manner inconsistent with the CPSL; or
      - 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

continuing to maintain that person's name on the database.

- Any person named as a perpetrator of child abuse within 90 days of being notified of the status of the report may request an administrative review by the Secretary or designee or may appeal and request a hearing before the Bureau of Hearing and Appeals: (December 31, 2014)
  - This request must be in writing in a manner prescribed by the department.
  - This amendment extends the length of time that a person named a perpetrator of child abuse has to request an amendment to or expunction of the report because is it inaccurate or is being maintained in a manner inconsistent with the CPSL from 45 to 90 days.
- Notice related to requests made pursuant to good cause shown or administrative review must be sent within 60 days of receipt of the request. (December 31, 2014)
- These amendments clarify that good cause shown requests are limited to indicated reports. Previously, an individual could request a good cause shown review of either an indicated or founded report. (December 31, 2014)
- If the Secretary grants a request for good cause shown or as a result of the administrative review, the appropriate county, law enforcement and all subjects will be notified and the county agency or any subject of the report may file an administrative appeal with the Secretary within 90 days. (December 31, 2014)
- A perpetrator of child abuse or a school employee may request a hearing on the basis that the report is inaccurate or being maintained inconsistent with the CPSL, if the Secretary does not grant the request under an administrative review or does not provide notice within 30 days of the request. This request must be made within 90 days of the notice of results of the investigation. (December 31, 2014)
- The burden of proof remains with the county agency.
- Specifies that founded reports will only be expunged when the perpetrator provides a court order that indicates that the underlying adjudication which was the basis of the founded report has been reversed or vacated. (December 31, 2014)
- Emphasizes that a person shall have a right to a timely hearing consistent with the provisions above: (July 1, 2014)
  - Hearings must be scheduled within ten days of receipt of the appeal;
  - Reasonable efforts must be made to coordinate the hearing date with the appellee and the appellant;
  - Proceedings before the Bureau of Hearings and Appeals must commence within 90 days of the scheduling order unless all parties have agreed to a continuance;
  - Proceedings and hearings must be scheduled on consecutive days when possible, but when not possible the proceeding or hearing must be concluded no later than 30 days from the day it commenced;

- The department or the county agency shall provide the person requesting the appeal with all evidence gathered during the investigation, including exculpatory evidence within 10 days of the scheduling order;
- The department or the county agency bears the burden of proof by substantial evidence that the report should remain on the database;
- The decision must be entered, filed and served upon the parties within 45 days of the conclusion of the proceeding or hearing unless an order is entered showing good cause for an extension;
- No decision may be delayed more than 60 days from the conclusion of the proceeding or hearing;
- Notices regarding the results are provided to:
  - Statewide database;
  - Appropriate county agency;
  - Appropriate law enforcement officials; and
  - All subjects of the report, except the abused child.
- Parties to a proceeding or hearing before the Bureau of Hearings and Appeals have 15 calendar days from the mailing date of the final order to request reconsideration by the Secretary or to appeal to Commonwealth Court. (July 1, 2014)
- Parties have 30 days from mailing date of the final order from the Bureau of Hearings and Appeals to perfect an appeal to Commonwealth Court. (July 1, 2014)
- The filing for reconsideration does not toll these 30 days. (July 1, 2014)

#### **Reporting of Child Abuse by School Employees: (SB 31, PN 1849)**

- Act 44 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.
- Amended § 6303 (relating to definitions) to include the following definition:
  - **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.
- Amended § 6311 (C) (relating to staff members of institutions, etc.) to require persons 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, to report immediately in accordance with § 6313 and 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.
- Amended § 6343 (C) (3) (relating to department reviews and reports of child fatalities and near fatalities) to allow the Department to release the identity of the child **only in the case of a child's fatality**, prior to completing the child fatality or near fatality report.

- Repealed Subchapter C.1 relating to student abuse.
- Amended § 6365 to add subsection (D.1) (relating to release by county agency) to allow county agencies to release information prior to completing the child fatality or near fatality report regarding a child who has died or nearly died as a result of suspected or substantiated child abuse consistent with the Department's ability to release under § 6343 including:
  - The identity of the child, only in the case of a child's fatality.
  - 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.
  - A description of services provided under paragraph (3).

**Protection from Employment Discrimination: (SB 33, PN 1644)**

- Act 34 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.
- Deleted § 6311 (D) removing current provisions (relating to civil actions for discrimination against a person filing a report);
- Added §6320 (relating to protection from employment discrimination);
  - Permits a person to commence an action for appropriate relief if all of the following apply:
    - The person is required to report under § 6311 or encouraged to report under §6312;
    - The person acted in good faith in making or causing the report of suspected child abuse to be made; and
    - The person is discharged from employment or is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment as a result of making the report of suspected child abuse.
  - These protections do not apply to an individual:
    - making the report who is found to be a perpetrator of child abuse because of the report; or
    - who fails to make a report of suspected child abuse required under 6311 and is subject to conviction under 6319 for failure to report or refer.
  - Actions must be filed in the court of common pleas of the county where the alleged unlawful discharge or discrimination occurred.

- When the court finds in favor of the plaintiff, the court may grant appropriate relief which may include reinstatement of the plaintiff with back pay.
- The Department may intervene in an action commenced under this section.

**Professional Educator Discipline (SB 34, PN 1606)**

- Act 120 of 2013 amended the act of December 12, 1973 (P.L.397, No.141) formerly known as the Professional Educator Discipline Act and now renamed the Educator Discipline Act which is effective February 16, 2014.
- Numerous amendments to the Educator Discipline Act are not necessarily child welfare specific and do not directly impact its roles and responsibilities.
- Amended § 9.1 (relating to mandatory reporting) by requiring the chief school administrator or his designee to file with the Department of Education the following regarding any educator who:
  - Is the subject of a report of suspected child abuse filed by the school entity under the CPSL; and
  - The school entity knows to have been named as the perpetrator of an indicated or founded report of child abuse or student abuse.
- Allows for the above information to be included in the basis for disciplinary action against an educator.
- For these purposes an educator is defined as:
  - A person who holds a certificate, who is a charter or cyber charter staff member or who is a contracted educational provider staff member.

**Multidisciplinary Investigative Teams: (SB 1116, PN 1588)**

- Act 123 of 2013 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective March 18, 2014.
- Clarifies the difference between the required multidisciplinary review team and the multidisciplinary investigative team.
- Emphasizes existing requirements.
- Amended § 6365 (relating to services for the prevention, investigation and treatment of child abuse)
  - Multidisciplinary review teams must be convened no less than annually:
    - To review substantiated cases of child abuse; and
    - Where appropriate, to assist in the development of the family service plan.
  - Multidisciplinary Investigative Teams:
    - Continue to be convened to coordinate child abuse investigations between the county and law enforcement officials;

- Maintains requirement to develop a protocol by the county agency and the district attorney for convening of the multidisciplinary investigative team for child abuse by a perpetrator involving the crimes enumerating in § 6340 (a) (9) and (10) (relating to information in confidential reports).
- Maintains that the protocol must include:
  - Standards and procedures for receiving and referring reports and coordinating investigations and for sharing information from interviews; and
  - Standards and procedures to avoid duplication of fact finding efforts and interviews to minimize trauma to a child.
- Maintains the requirement that the district attorney convene the team consistent with the protocol which consists of:
  - Individuals and agencies responsible for investigating the abuse or providing services to the child; and
  - At a minimum a healthcare provider, county caseworker and law enforcement official.
- Amended § 6368 (relating to investigation of reports)
  - Generally speaking this section has been reorganized for clarity and to follow the investigation process.
  - Minimal changes were made related to the investigative process.
  - Changes were made to conform to other enacted amendments including:
    - Clarifying that if the child has experienced bodily injury that the county may require a medical examination by a certified medical practitioner;
    - Requiring the investigation to include interviews with all subjects of the report, including the alleged perpetrator and if a subject is not interviewed or cannot be located that the agency must document its efforts to interview the subject and the reason it could not;
    - Specifically state prior to the interview that the subject has the right to have an attorney present during the interview; and
    - Expanding the development and approval of a plan of supervision or alternate arrangement for an individual under investigation to include school employees who are alleged to be perpetrators of child abuse.

**Funding for Children’s Advocacy Centers - DARE Funds: (HB 89, PN 744)**

- Act 27 of 2014 amended Title 75 (relating to Vehicles) which is effective June 6, 2014.
- Amended § 1905 (relating to payment to special funds) to provide the funds in the Drug Abuse and Resistance Education (DARE) Fund, which is to be terminated at the end of the 2013-2014 fiscal year, to be appropriated to the Pennsylvania Commission on Crime and Delinquency.
- These funds are to be expended to provide grants to organizations and nonprofit entities employing a multidisciplinary approach to the prevention, identification, investigation, prosecution and treatment of child abuse, including Children's Advocacy Centers during fiscal year 2013-2014.

**Funding for Children's Advocacy Centers and Mandated Reporter Training: (HB 316, PN 3198)**

- Act 28 of 2014 amended the act of April 9, 1929 (P.L.177, No.175) which is effective July 1, 2014.
- Added Article XXIII-B (relating to Children's Advocacy Centers).
- Amended § 2306-B (relating to Child Advocacy Center Advisory Commission) to establish an advisory committee within the Commission consisting of no more than 21 members and be appointed by the chairman of the Commission. Committee members shall include all of the following:
  - (1) the victim advocate.
  - (2) the deputy secretary of the office of children, youth and families of the department of public welfare.
  - (3) representatives from each of the following, who have experience in the multidisciplinary investigation of child abuse and the use and operation of a child advocacy center:
    - (i) child advocacy centers.
    - (ii) county children and youth service agencies.
    - (iii) municipal police departments.
    - (iv) the Pennsylvania state police.
    - (v) district attorneys offices.
    - (vi) victims' service providers.
    - (vii) medical and mental health professionals.
- Amended § 2303-B (relating to funding) for the commission to make grants to qualified applicants on a regional basis as provided in this article for the operation of existing children's advocacy centers and for the establishment of children's advocacy centers, consistent with this article. In awarding grants, the commission shall consider:
  - (i) The number of children to be served.
  - (ii) The geographical area to be serviced.
  - (iii) The scope of the services.
  - (iv) The need for services.
  - (v) The availability of expert pediatric medical and mental health services.
  - (vi) The amount of funds provided from other sources.
- Also allows the commission to make grants to qualified applicants for the operation of MDITs.
- Amended § 2303.1-B (relating to additional funding) for the initial year, fiscal year beginning July 1, 2014, 50% of the fee charged by the Department of Health for a certified copy of a birth record shall be transferred to the Department of Public Welfare for training of mandated reporters of child abuse and child abuse related costs.

- For the fiscal year beginning July 1, 2015, and each fiscal year thereafter, 50% of the fee charged by the department of health for a certified copy of a birth record shall be distributed as follows:
  - (1) twenty-five percent shall be transferred to the Department of Public Welfare for training of mandated reporters of child abuse and child abuse related costs.
  - (2) seventy-five percent shall be transferred to the Pennsylvania Commission on Crime and Delinquency for grants for child advocacy centers and multidisciplinary investigative teams.
- The funding under this section shall not be used to supplant federal, state or local funds otherwise available for child advocacy centers and multidisciplinary investigative teams.
- Section 2304-B (relating to permitted use of funds):
  - no more than 20% of the funds collected annually under this article shall be provided to any single qualified applicant
  - For the first three years after the effective date of this article, the commission shall endeavor to provide 30% of the funds collected under this article to qualified applicants working to establish children's advocacy centers in regions not yet served by such centers.
- Amended § 2305-B (relating to procedure) to state that in order to be a qualified applicant and to be awarded a grant under this article, the commission must find that either:
  - (1) The applicant is an accredited, associate/developing or affiliate member of the National Children's Alliance.
  - (2) In the case of an applicant that is not a member of the National Children's Alliance:
    - (i) The applicant identifies a region of this Commonwealth it intends to serve.
    - (ii) The applicant has received a letter of endorsement from ALL of the district attorneys and multidisciplinary investigative teams of the counties which will be served within the region. A district attorney and a multidisciplinary investigative team shall submit a letter jointly. In no case may the commission distribute funds under this article to an applicant which has not been endorsed by ALL of the district attorneys and multidisciplinary investigative teams of the counties to be served within the region.
    - (iii) The applicant intends to apply for membership in the National Children's Alliance within a reasonable period of time.
    - (IV) The applicant obtains a letter of endorsement from the Pennsylvania Chapter of Children's Advocacy Centers and Multidisciplinary Teams.

**Sexual Abuse of Children: (HB 321, PN 2693)**

- Act 105 amends Title 18 (Crimes and Offenses) known as the Crimes Code and Title 42 (Judiciary and Judicial Procedure) known as the Judicial Code which is effective on January 1, 2014.



- Amended § 3101 (relating to definitions)
  - Indecent contact:
    - The crimes code definition of indecent contact is amended to include the touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire in **any** person.
    - This is an expansion from **either** person to include **any** person who may be witness to the conduct.
  
- Amended § 6312 (relating to sexual abuse of children)
  - When a person commits the crime of sexual abuse of children and has indecent contact with the child, the grading of the offense will be one grade higher than the original sexual abuse of children offense.
  - Sexual abuse of children includes:
    - Photographing, videotaping, depicting on computer or filming sexual acts;
    - Dissemination of photographs, videotapes, computer depictions and films; and
    - Child pornography.
  
- Amended § 9720.5 (relating to sentencing for offense involving sexual abuse of children)
  - Instructs the Pennsylvania Commission on Sentencing to adopt a sentence enhancement within its guidelines for the crime of sexual abuse of children to include a range of sentences based upon aggravating circumstances such as:
    - Age of the child or determination of prepubescence;
    - The number of images possessed by the defendant; and
    - The nature and character of the abuse depicted in the images.

**Considering Involvement with Child Welfare when Awarding Custody: (HB 414, PN 2765)**

- Act 107 of 2013 amended Titles 23 (Domestic Relations) related to child custody matters and the Child Protective Services Law, as well as 42 (Judiciary and Judicial Procedures), Chapter 63 otherwise known as the Juvenile Act which is effective January 1, 2014.
  
- Amended § 5328 (relating to factors to consider when awarding custody) to include information relating to child abuse and involvement with protective services.
  
- Amended § 5329.1 (relating to consideration of child abuse and involvement with protective services) to allow the court, in custody matters, to consider the following:
  - In respect to child abuse:
    - Whether the child is the subject of an indicated or founded report of child abuse;
    - Whether a party or a member of the party's household has been identified as the perpetrator in an indicated or founded report of child abuse;
    - The date and circumstances of the child abuse; and
    - The jurisdiction whether the child abuse took place.

- In respect to child protective services or general protective services:
  - Whether a party or a member of the party's household was provided services;
  - The type of services provided;
  - The circumstances surrounding the provision of services;
  - The status of services;
  - The date services were provided; and
  - The jurisdiction where services were provided.
- Also requires cooperation by the Department and county children and youth agencies with the courts to assist in fulfilling their duties under this section.
- Amended § 6340 (relating to release of information in confidential reports) and § 6375 (relating to county agency requirements for general protective services) to allow for information sharing by the Department and the county children and youth agency on child protective services (CPS) and general protective services (GPS) to the jurisdiction determining custody.
- Amended § 6307 (relating to inspection and court files) and § 6308 (relating to law enforcement records) of the Juvenile Act to allow the Department access to the respective files and records when determining whether an indicated or founded perpetrator of child abuse should be expunged from the statewide database.

### **Education and Training: (HB 431, PN 3179)**

- Act 31 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.
- Amends § 6383 by adding subsection (d) (relating to definitions): The following definitions apply to this section.
  - 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:
    - Personnel;
    - Policy and procedures;
    - Regulatory compliance;
    - Services related to the general or medical care of children;
    - Supervision of children; or
    - Safety of children.
- Amended § 6383 (b) (relating to duties of department of state) to:
  - Require each licensing board with jurisdiction over professional licensees identified as mandated reports under this chapter to:
    - Require all persons **applying for a license or certification** issued by the licensing board to submit documentation acceptable to the licensing

board of completion of at least three hours of approved child abuse recognition and reporting training.

- The training must address, but is not limited to:
    - Recognition of the signs of child abuse; and
    - The reporting requirements for suspected child abuse.
  - These trainings must be approved by the Department and may occur as part of the continuing education requirement of the license.
- 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 completion of at least two hours of approved continuing education per licensure cycle.
    - The training must address, but is not limited to:
      - Recognition of the signs of child abuse; and
      - The reporting requirements for suspected child abuse.
    - 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 as a portion of the total continuing education required for biennial license renewal.
- Permit a licensing board with jurisdiction over professional licensees who are mandated reporters under this chapter to exempt an applicant or licensee from the training or continuing education required if all of the following apply:
    - The applicant or licensee submits acceptable documentation that the person has already completed child abuse recognition training which was required under § 1205.6 of the Public School Code or required under the Public Welfare Code and these trainings were approved by the Department; and
    - The amount of the training received equals or exceeds the amount of training required above.
  - Require a licensing board to provide professional licensees identified as mandated reporters within information related to mandatory child abuse reporting as part of the biennial renewal of the license.
  - Permit a professional licensee identified as a mandated reporter to apply to the licensing board for an exemption from the training or continuing education requirement and the licensing board to approve the exemption upon submission of acceptable documentation that the licensee should not be subject to these training or continuing education requirements.
  - Amended § 6383 to add subsection (c) (relating to training of persons subject to department regulation) to require certain persons to receive child abuse recognition and reporting training including:

- 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, and their employees who have direct contact with children;
- Foster parents;
- Operators of institutions, facilities or agencies which care for children and are subject to supervision by the Department under article X of the Public Welfare Code, and their employees who have direct contact with children;
- Caregivers in Family Day Care homes which are subject to registration by the Department under Subarticle (c) of the Public Welfare Code and their employees who have direct contact with children.
  - Within six months of the effective date of the legislation (December 31, 2014), **operators and caregivers** shall receive three hours of training prior to the issuance of a license, approval or registration certificate and three hours of training every five years thereafter.
  - **Employees having direct contact with children and foster parents** shall receive 3 hours of training within six months of the issuance of a license, approval or registration certificate and three hours of training every five years thereafter.
  - **New employees and new foster parents** shall receive three hours of training within 90 days of hire or approval and three hours of training every five years thereafter.
- Training curriculum must be approved by the department and must address, but not be limited to, the following:
  - Recognition of the signs of abuse;
  - Reporting requirement for suspected abuse in the Commonwealth; and
  - For institutions, facilities and agencies their policies related to reporting of suspected child abuse.
- Persons may be exempted from these training requirements if all of the following apply:
  - The person provides documentation that they have already completed child abuse recognition and reporting training;
  - The training was:
    - Required under § 1205.6 of the Public School Code or these trainings were approved by the Department; or
    - Required under the Child Protective Services Law and the training was approved by the Department; and
    - The amount of the training received equals or exceeds the amount of training required above.

**Background Checks: (HB 434, PN 3438)**

- Act 45 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.

- Many of the amendments in Act 45 were editorial in nature to amend prior legislation that has already been enacted.
- Amended § 6344 (B) (relating to information to be submitted) to explicitly list the individuals required to obtain background check clearances prior to the commencement or service as already prescribed in current law while also raising the age of those individuals requiring background check clearances who reside in the home of a prospective foster parent or adoptive parent for at least 30 days in a calendar year to **18 years of age**.
- Amended § 6344 (c) (relating to grounds for denying employment or participation in program, activity or service) to include those individuals who participate in a program, activity or service specifically those individuals who are paid **or unpaid**.
- Amended § 6344 (o) (relating to use of information) to raise the age of individuals residing in a prospective foster or adoptive home from 14 to **18 years of age** when considering their background checks for approval of the prospective applicants.
- Amended § 6344.2 (a.1) to require school employees to obtain background checks in accordance with § 6344 as a condition of hire.
- Amended § 6344.2 (b) (relating to investigation) to require employers, administrators or supervisors or other persons responsible for employment decisions or selection of volunteers to review background checks in accordance with § 6344 (b) for their prospective employees or volunteers as part of the hiring or selection process.

#### **Lawyers as Mandated Reporters / Failure to Report: (HB 436, PN 3290)**

- Act 32 of 2014 amended Title 23 (Domestic Relations) known as the Child Protective Services Law which is effective December 31, 2014.
- Amended § 6311 (relating to persons required to report suspected child abuse by adding attorney's 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.
- Added § 6311.1 (relating to privileged communications) to state that subject to subsection (B), the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not:
  - Apply to a situation involving child abuse.
  - Relieve the mandated reporter of the duty to make a report of suspected child abuse.
- Subsection (B) (relating to confidential communications) states that the following protections shall apply:

- Confidential communications made to a member of the clergy are protected under 42 PA.C.S. § 5943 (relating to confidential communications to clergymen).
  - Confidential communications made to an attorney are protected so long as they are within the scope of 42 PA.C.C. § 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.
- Amended § 6319 (relating to penalties) at:
  - Subsection (A) (relating to failure to report or refer) to increase the penalties for failure to report or refer a case of suspected child abuse to a felony of the third degree if:
    - The person or official willfully fails to report;
    - The child abuse constitutes a felony of the first degree or higher; and
    - The person or official has direct knowledge of the nature of the abuse.
  - An offense not otherwise specified in (A) is a misdemeanor of the second degree.
  - 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.
- Subsection (B) (relating to continuing course of action) to state 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.
- Subsection (C) (relating to multiple offenses) to state that 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.
- Subsection (D) (relating to statute of limitations) to state that 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.

**Definition of Child Abuse: (HB 726, PN 2778)**

- Act 108 of 2013 amended Title 23 (Domestic Relations) which is known as the Child Protective Services Law and is effective December 31, 2014.
  
- Amended § 6303 (relating to definitions)
  - Founded reports:
    - Clarifies the judicial adjudications under which a report of suspected child abuse can be founded, while also adding additional grounds upon which a report can be founded when it involves the same factual circumstances involved in the allegation of child abuse including:
      - Acceptance into an Accelerated Rehabilitative Disposition Program; or
      - A final protection from abuse (PFA) order has been granted when the child who is the subject of the report is one of the individuals protected under the PFA and:
        - Only one individual is charged with the abuse in the PFA action;
        - Only that individual defends against the charge;
        - The adjudication involves the same factual evidence; and
        - The PFA adjudication finds that child abuse occurred.
  
  - Indicated reports:
    - Allows for a report of suspected child abuse to be indicated:
      - regardless of the number of perpetrators; or
      - in situations when the perpetrator is unknown as long as substantial evidence of abuse exists, but the specific perpetrator cannot be identified.
  
  - Child Abuse:
    - The definition of child abuse has been amended to require that acts or failures to act be committed **intentionally, knowingly or recklessly**.
  
    - Includes knowingly, recklessly or intentionally committing acts of child abuse or failing to act when child abuse is being committed:
      - A person acts **knowingly** when they are aware that their conduct is of that nature or that such circumstances exist and they are aware that it is practically certain that their conduct will cause such a result.
      - A person acts **recklessly** when they consciously disregard a substantial and justifiable risk that the material element exists or will result from their conduct. The risk must be of such a nature and degree that, considering the nature and intent of the conduct and the circumstances known to them, its

disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

- A person acts **intentionally** when they consciously engage in conduct of that nature or cause such a result and are aware of such circumstances or believe or hope that they exist.
  
- Serious physical neglect was expanded to include egregious behavior which would include situations when the behavior might have only occurred one time, but is bizarre or unimaginable and created one of the circumstances that would fall under this category of abuse.
  
- The definition of sexual abuse is unchanged with the exception that consensual activities between two children, ages 14-18 are excluded as sexual abuse unless any of the following, which involve the use of force or coercion, were committed:
  - Rape;
  - Statutory sexual assault;
  - Involuntary deviate sexual intercourse;
  - Sexual assault;
  - Institutional sexual assault;
  - Aggravated indecent assault;
  - Indecent assault;
  - Indecent exposure;
  - Incest;
  - Prostitution;
  - Sexual abuse;
  - Unlawful contact with a minor; or
  - Sexual exploitation.
  
- Child abuse has been redefined to:
  - Lower the threshold from serious physical injury to bodily injury which requires impairment of a physical condition or substantial pain rather than severe pain or lasting impairment.
  - Include behaviors that result in exposing children to potentially harmful medical evaluations or treatment such as fabricating, feigning or inducing a medical symptom or disease (Munchausen Syndrome by Proxy).
  - Lower the threshold for serious mental injury to include causing or substantially contributing to the injury through any act or failure to act or series of such acts or failures to act.
  - Clarifies the former category of imminent risk to include:
    - Kicking, biting, throwing, burning, stabbing or cutting a child;
    - Unreasonably restraining or confining a child;
    - Forcefully shaking, slapping or otherwise striking a child under one year of age;
    - Interfering with the breathing of a child;
    - Causing the child to be present at a methamphetamine lab, provided there is a law enforcement investigation occurring;



- Knowingly leaving a child unsupervised with an individual, other than the child's parent, who is required to register as a sexual offender, sexually violent predator or sexually violent delinquent. This also includes individuals whom the parent reasonably should have known was required to register in one of the categories above.
    - Causing the death of a child through any act or failure to act.
- Amended § 6304 (relating to exclusions) to provide exclusions from substantiation of child abuse including:
  - Exclusion for environmental factors while clarifying that this exclusion does not pertain to any person or entity defined under child care service except an adoptive parent. Prior statutory language contained person responsible for the child's welfare which could have been interpreted to allow for this exclusion to apply to foster parents or staff in residential programs.
  - Exclusion for the practice of religious beliefs for parents with the addition of caregivers within the third degree of consanguinity and with whom the child resides.
    - Adds that this exclusion shall not apply if the failure to provide the needed medical or surgical care causes the child's death.
    - Specifies that this exclusion does not apply to child care services, with the exception of adoptive parents consistent with the previously noted reasons.
  - Exclusion for the use of force for supervision, control and safety purposes applies to parents or person's responsible for the child welfare (including child care service staff). This exclusion applies as long as:
    - The use of force is reasonable and constitutes incidental or minor contact with the child to maintain order and control.
    - The use of force is necessary to:
      - Quell a disturbance;
      - To remove a child from a disturbance that threatened physical injury to person or damage to property;
      - To prevent the child from self-inflicted physical harm;
      - For self-defense or the defense of another person; or
      - To obtain possession of weapons, dangerous objects, controlled substances or paraphernalia on the child or within their control.
  - Exclusion for physical contact that occurs during participation in sports or extracurricular activities.
  - Reiterates that parents have the right to physically discipline their children in accordance with existing law.
  - Harm or injury to a child that results from the act of another child is not considered child abuse and need not be reported to ChildLine unless;
    - The child who caused the injury is a perpetrator; or
    - The following sexual offenses were committed: rape, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault, indecent assault and indecent exposure.
  - No child shall be considered a perpetrator as a result of physical or mental injuries caused during the course of a dispute, fight or scuffle entered into by mutual consent.

- Excludes the use of reasonable force for self-defense or defense of another individual.
- Amended § 6368 (relating to investigation of reports) to:
  - Require the approval of the county agency administrator or their designee and review by the county agency solicitor prior to a report of suspected child abuse being indicated.
  - Require the approval of the Secretary or a designee and review by the Department's legal counsel when the Department is investigating the report.
  - Establish a three day time frame for the Department to send notice of the final determination to the subjects of the report, excluding the child.
  - Establish a requirement for the Department, within three business days of the receipt of the results of the investigation, to notify mandated reporters of the status determination and the services planned or provided to protect the child.
- Amended § 6381 (relating to evidence in court proceedings) to provide protection to child victims and witnesses in child abuse proceedings in court or in any administrative hearing just as they would in any other prosecution or adjudication. This includes matters such as the designation of child advocates, recorded testimony, hearsay, counsel and confrontation, testimony by alternative methods, and use of dolls.

**Protections for Minor Victims: (HB 1201, PN 1792)**

- Act 109 amends Title 42 (Judiciary and Judicial Procedure) which is effective February 16, 2014.
- Amended § 5981 (relating to declaration of policy)
  - To promote the best interest of minor victims and witnesses of crimes the Judicial Code urges the media to use restraint when revealing the identity or address of child victims or witnesses to crimes.
- Amended § 5988 (relating to victims of physical or sexual abuse)
  - To prevent officers or employees of the court from releasing the name of minor victims of sexual or physical abuse and prevents them from being open to public review; and
  - To allow for the victim of abuse to waive these protections if they are 18 years of age or older at the time of the commencement of the court proceedings.
- Amended § 9561 (relating to report by the district attorney)
  - Conforms the definition of state board for consistency.

**Luring a Child Into a Vehicle: (HB 1594, PN 2185)**

- Act 116 of 2013 amended Title 18 (relating to Crimes and Offenses) known as the Crimes Code which is effective February 16, 2014.
- Amended § 2910 (relating to luring a child into a motor vehicle or structure) to increase the grading of the offense of luring a child into a motor vehicle or structure without the

consent, expressed or implied, of the child's parent or guardian to a felony of the second degree when it involves a child less than 13 years of age.

- Does not allow the defendant to claim they did not know the age of the child or that they reasonably believed the child to be 13 years of age or older as a defense when charged with this crime against a child less than 13 years of age.