

## CPSL Enacted Legislation

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## **Explanation of CPSL Changes**

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### **§ 6303 Definitions Amended:**

- Child
- Child Abuse
- Child-care services
- Child protective services
- Cooperation w/an investigation or assessment
- County agency
- Department
- Founded report
- General protective services
- Indicated report
- Near fatality
- Recent act
- Recent act or failure to act
- Recent acts or omissions
- Secretary
- School employee
- Sexual abuse or omissions (changed to Recent act or failure to act)
- Sexual abuse or exploitation
- Subject of the report
- Perpetrator
- Person responsible for the child's welfare
- Protective services

## **Explanation of CPSL Changes**

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### **§ 6303 Definitions Added:**

- Adult
- Bodily injury
- Child-care services
- Direct contact w/children
- Health care facility
- Health care provider
- Independent contractor
- Intentionally
- Knowingly
- Parent
- Person affiliated with
- Program, activity or service
- Recent act
- Recklessly
- Safety Assessment
- Serious physical neglect
- School

### **§ 6303 Definitions Deleted:**

- Founded report for school employee
- Indicated report for school employee
- Individual residing in the same home as the child
- Nonaccidental
- Serious physical injury

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## §6303(a) – DEFINITIONS (Amended)

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**“Child.”**--~~Includes a newborn.~~ An individual under 18 years of age.

**“Cooperation with an investigation or assessment.”**--Includes, but is not limited to, a school or school district which permits authorized personnel from the Department ~~of Public Welfare~~ 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), known as the county institution district law, or its successor, and supervised by the Department ~~of Public Welfare~~ under Article IX of the Act of June 13, 1967 (P.L. 31, No. 21), known as the public welfare code.

**“Department.”**--The Department of ~~Public Welfare~~ **Human Services** of the Commonwealth.

## **§6303(a) – DEFINITIONS (Old)**

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*“Founded Report.”--A child abuse report made pursuant to this chapter if there has been any judicial adjudication based on a finding that a child who is a subject of the report has been abused, including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegation of abuse.*

## **§6303(a) – DEFINITIONS (Amended)**

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**“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 allegation 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.

## **§6303(a) – DEFINITIONS (Amended)**

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*“General protective services.”--Those services and activities provided by each county agency for nonabuse cases requiring protective services, as defined by the Department of Public Welfare in regulations.*

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



## **§6303(a) – DEFINITIONS (Amended)**

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*“Indicated Report.”--A child abuse report made pursuant to this chapter if an investigation by the county agency or the Department of Public Welfare determines that substantial evidence of the alleged abuse exists based on any of the following:*

- (1) Available medical evidence.*
- (2) The child protective services investigation.*
- (3) An admission of the acts of abuse by the perpetrator.*

**“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.

## §6303(a) – DEFINITIONS (Amended)

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*“Near fatality.”--An act that, as certified by a physician, places a child in serious or critical condition.*

**“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.

## **§6303(a) – DEFINITIONS (Amended)**

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*“Perpetrator.” --A person who has committed child abuse and is a parent of a child, a person responsible for the welfare of a child, and individual residing in the same home as the child or a paramour of a child’s parent.*

**“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.
- (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.

(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.

## §6303(a) – DEFINITIONS (Amended)

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*“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. The term does not include a person who is employed by or provides services or programs in any public or private school, intermediate unit or area vocational-technical school.*

**“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. The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.**

## §6303(a) – DEFINITIONS (Amended)

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**“Protective Services.”**--Those services and activities provided by the Department ~~of Public Welfare~~ and each county agency for children who are abused or are alleged to be in need of protection under this chapter.

**“Secretary.”**--The Secretary of the ~~Public Welfare~~ **Department** of the Commonwealth.

**“Recent Act.”**--Any act committed within two years of the date of the report to the Department ~~of Public Welfare~~ or county agency.

*“Recent acts or omissions.” Acts or omissions committed within two years of the date of the report to the Department of Public Welfare 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** ~~of Public Welfare~~ or county agency.

**“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 ~~of Public Welfare~~ or a county agency under this chapter.

## **§6303(a) – DEFINITIONS (Old)**

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*“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.*
- (2) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in simulation of sexually explicit conduct for the purpose of producing visual depiction, including photographing, videotaping, computer depicting and filming.*
- (3) Any of the following of offenses committed against a child:*
  - (i) Rape.*
  - (ii) Sexual assault.*
  - (iii) Involuntary deviate sexual intercourse.*
  - (iv) Aggravated indecent assault.*
  - (v) Molestation.*
  - (vi) Incest.*
  - (vii) Indecent exposure.*
  - (viii) Prostitution.*
  - (ix) Sexual abuse.*
  - (x) Sexual exploitation.*

## **§6303(a) – DEFINITIONS (Amended)**

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**“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, 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).

## **§6303(a) – DEFINITIONS (Amended)**

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*“School employee.”--An individual employed by a public or private school, intermediate unit or area vocational-technical school. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with students.*

**“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.



## **§6303(a) – DEFINITIONS (Added)**

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**“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), 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) 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.
- (11) 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 provided 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).
- (12) A State-owned university.
- (13) A State-related university.
- (14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), 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.

## **§6303(a) – DEFINITIONS (Old)**

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*“Child-care services.” Child day-care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children, juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation, early intervention and drug and alcohol services for children; and other child-care services which are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may be offered by public and private schools, intermediate units or area vocational-technical schools.*

## **§6303(a) – DEFINITIONS (Amended)**

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

- (1) Child day-care centers.
- (2) Group day-care homes.
- (3) Family day-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 of Public Welfare or a county social services agency or that are provided pursuant to a contract with the Department of Public Welfare or a county social services agency.**

## §6303(a) – DEFINITIONS (Added)

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

**“Bodily injury.”**--Impairment of physical condition or substantial pain.  
(Same as 18 Pa.C.S. §2301)

*Replaced definition of Serious Physical Injury: an injury that:*

- (1) causes a child severe pain; or*
- (2) significantly impairs a child’s physical functioning, either temporarily or permanently.*

## **§6303(a) – DEFINITIONS (Added)**

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**“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, 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.

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

**“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:

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

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## **§6303(a) – DEFINITIONS (Added)**

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**“Recent act.”**--Any act committed within two years of the date of the report to the Department of Public Welfare or county agency.

**“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.

**“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 unconscionable 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.

## **§6303(b) – DEFINITIONS (Old)**

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*(b) Child abuse.--*

*(1) The term “child abuse” shall mean any of the following:*

- (i) Any recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.*
- (ii) An act or failure to act which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.*
- (iii) Any recent act, failure to act or series of such acts or failures to act by a perpetrator which creates an imminent risk or serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.*
- (iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide essentials of life, including adequate medical care, which endangers a child’s life or development or impairs the child’s functioning.*

*(2) No child shall be deemed to be physically or mentally abused based upon injuries that result solely from environmental factors that are beyond the control of the parent or person responsible for the child’s welfare, such as inadequate housing, furnishings, incoming, clothing and medical care.*

*(3) If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of seriously held religious beliefs or the child’s parents, guardian or person responsible for the child’s welfare, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. The county agency shall closely monitor the child and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child’s life or long-term health. In cases involving religious circumstances, all correspondence with a subject of the report and the records of the Department of Public Welfare and the county agency shall not reference “child abuse” and shall acknowledge the religious bases for the child’s condition, and the family shall be referred for general protective services, if appropriate.*



## **§6303(b.1) – DEFINITIONS (Amended)**

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**(b.1) Child abuse.**--The term “child abuse” shall mean intentionally, knowingly or recklessly doing any of the following:

- (1) Causing bodily injury to a child through any recent act or failure to act.
- (2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (4) Causing sexual abuse or exploitation of a child through any act or failure to act.
- (5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- (6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- (7) Causing serious physical neglect of a child.
- (8) Engaging in any of the following recent acts:
  - (i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
  - (ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
  - (iii) Forcefully shaking a child under one year of age.
  - (iv) Forcefully slapping or otherwise striking a child under one year of age.
  - (v) Interfering with the breathing of a child.
  - (vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
  - (vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
    - (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.
    - (B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
    - (C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
- (9) Causing the death of the child through any act or failure to act.

## **§6303(a) – DEFINITIONS (Added)**

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

A person acts intentionally with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and
- (ii) if the element involves the attendant circumstances, he is aware of the existence of such circumstances or he believes or hopes that they exist.

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

A person acts knowingly with respect to a material element of an offense when:

- (i) if the element involves the nature of his conduct or the attendant circumstances, he is aware that his conduct is of that nature or that such circumstances exist; and
- (ii) if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result.

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

A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation.

## **§6303(c) and (d) – SECTIONS ADDED**

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- (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).

## §6304 – EXCLUSIONS FROM CHILD ABUSE (New)

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- (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: 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.
- (1) 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.
  - (2) The family shall be referred for general protective services, if appropriate.
  - (3) This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.
  - (4) 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.

## §6304 – EXCLUSIONS FROM CHILD ABUSE (New)

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- (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); and
      - (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.

## **§6305 – ELECTRONIC REPORTING (New)**

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- (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), 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.

## **§6306 – REGULATIONS**

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The Department shall promulgate regulations necessary to implement this chapter.

(Note: previously under §6348)

## **§6311 – PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE (Old)**

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- (a) *General rule.--A person who, in the course of employment, occupation or practice of a profession, comes into contact with children shall report or cause a report to be made in accordance with section 6313 (relating to reporting procedure) when the person has reasonable cause to suspect, on the basis of medical, professional or other training and experience, that a child under the care, supervision, guidance or training of that person or of an agency, institution, organization or other entity with which that person is affiliated is a victim of child abuse, including child abuse by an individual who is not a perpetrator. [FN1] Except with respect to confidential communications made to a member of the clergy which are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen), and except with respect to confidential communications made to an attorney which are protected by 42 Pa.C.S. § 5916 (relating to confidential communications to attorney) or 5928 (relating to confidential communications to attorney), the privileged communication between any professional person required to report and the patient or client of that person shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.*
- (b) *Enumeration of persons required to report.--Persons required to report under subsection (a) include, but are not limited to, any licensed physician, osteopath, medical examiner, coroner, funeral director, dentist, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, Christian Science practitioner, member of the clergy, school administrator, school teacher, school nurse, social services worker, day-care center worker or any other child-care or foster-care worker, mental health professional, peace officer or law enforcement official.*
- (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 immediately 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 assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with section 6313. This chapter does not require more than one report from any such institution, school, facility or agency.*
- (d) *Civil action for discrimination against person filing report.--Any person who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, makes or causes the report to be made and, as a result thereof, is discharged from his employment or in any other manner is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, may commence an action in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred for appropriate relief. If the court finds that the person is an individual who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, made or caused to be made a report of suspected child abuse and, as a result thereof, was discharged or discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, it may issue an order granting appropriate relief, including, but not limited to, reinstatement with back pay. The department may intervene in any action commenced under this subsection.*



## **§6311 – PERSONS REQUIRED TO REPORT SUSPECTED CHILD ABUSE (Amended)**

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**(a) Mandated reporters.--**The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:

- (1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
- (2) A medical examiner, coroner or funeral director.
- (3) An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.
- (4) A school employee.
- (5) An employee of a child care service, who has direct contact with children in the course of employment.
- (6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.
- (7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child.
- (8) An employee of a social services agency, who has direct contact with children in the course of employment.
- (9) A peace officer or law enforcement official.
- (10) An emergency medical services provider certified by the Department of Health.
- (11) An employee of a public library, who has direct contact with children in the course of employment.
- (12) 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.
- (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 case, supervision, guidance or control of children.
- (15) A foster parent.

**(b) Basis to report.--**

- (1) A mandated reporter enumerated in subsection (a) shall make a report of suspected child abuse or cause a report to be made 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 assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with section 6313 for facilitating the cooperation of the institution, school, facility or agency with the investigation of the report. This chapter does not require more than one report from any such institution, school, facility or agency.

**(d) (DELETED)**

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## **§6311.1 – PRIVILEGED COMMUNICATIONS (New)**

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- (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.

**§6312 – PERSONS PERMITTED TO REPORT  
SUSPECTED CHILD ABUSE (Old)**

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*In addition to those persons and officials required to report suspected child abuse, any person may make such a report if that person has reasonable cause to suspect that a child is an abused child.*

**§6312 – PERSONS ENCOURAGED TO REPORT  
SUSPECTED CHILD ABUSE (Amended)**

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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.

## **§6313 – REPORTING PROCEDURE (Old)**

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- (a) *General rule.--Reports from persons required to report under section 6311 (relating to persons required to report suspected child abuse) shall be made immediately by telephone and in writing within 48 hours after the oral report.*
  
- (b) *Oral reports.--Oral reports shall be made to the department pursuant to Subchapter C (relating to powers and duties of department) and may be made to the appropriate county agency. When oral reports of suspected child abuse are initially received at the county agency, the protective services staff shall, after seeing to the immediate safety of the child and other children in the home, immediately notify the department of the receipt of the report, which is to be held in the pending complaint file as provided in Subchapter C. The initial child abuse report summary shall be supplemented with a written report when a determination is made as to whether a report of suspected child abuse is a founded report, an unfounded report or an indicated report.*
  
- (c) *Written reports.--Written reports from persons required to report under section 6311 shall be made to the appropriate county agency in a manner and on forms the department prescribes by regulation. The written reports shall include the following information if available:*
  - (1) *The names and addresses of the child and the parents or other person responsible for the care of the child if known.*
  - (2) *Where the suspected abuse occurred.*
  - (3) *The age and sex of the subjects of the report.*
  - (4) *The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.*
  - (5) *The name and relationship of the person or persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by that person or persons.*
  - (6) *Family composition.*
  - (7) *The source of the report.*
  - (8) *The person making the report and where that person can be reached.*
  - (9) *The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.*
  - (10) *Any other information which the department may require by regulation.*
  
- (d) *Failure to confirm oral report.--The failure of a person reporting cases of suspected child abuse to confirm an oral report in writing within 48 hours shall not relieve the county agency from any duties prescribed by this chapter. In such event, the county agency shall proceed as if a written report were actually made.*

## §6313 – REPORTING PROCEDURE (Amended)

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**(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 [800-932-0313] 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 child 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.

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## **§6314 – PHOTOGRAPHS, MEDICAL TESTS AND X-RAYS OF CHILD SUBJECT TO REPORT (Amended)**

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*(Old)*

*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 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.*

*(New)*

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).**

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**§6315 – TAKING CHILD INTO  
PROTECTIVE CUSTODY – Added (a)(4)**

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

- (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.

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## **§6317 – MANDATORY REPORTING AND POSTMORTEM INVESTIGATION OF DEATHS (Amended)**

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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.

## **§6318 – IMMUNITY FROM LIABILITY (Old)**

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- (a) *General rule.--A person, hospital, institution, school, facility, agency or agency employee that participates in good faith in the making of a report, whether required or not, cooperating with an investigation, including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse, the taking of photographs or the removal or keeping of a child pursuant to section 6315 (relating to taking child into protective custody), and any official or employee of a county agency who refers a report of suspected child abuse to law enforcement authorities or provides services under this chapter, shall have immunity from civil and criminal liability that might otherwise result by reason of those actions.*

## **§6318 – IMMUNITY FROM LIABILITY (Amended)**

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- (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.

**§6319 – PENALTIES FOR FAILURE TO REPORT  
OR TO REFER (Old)**

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*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 who willfully fails to do so commits a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.*



## **§6319 – PENALTIES (Amended)**

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**(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; or
  - (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.

**§6331 – ESTABLISHMENT OF STATEWIDE  
DATABASE (Old)**

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*There shall be established in the department:*

- (1) A pending complaint file of child abuse reports under investigation and a file of reports under investigation pursuant to Subchapter C.1 (relating to students in public and private schools).*
- (2) A Statewide central register of child abuse which shall consist of founded and indicated reports*
- (3) A file of unfounded reports awaiting expunction.*

## **§6331 – ESTABLISHMENT OF STATEWIDE DATABASE (Amended)**

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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 central register):

- (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) [and invalid general protective services reports that a county agency or the department have determined to be false,] for the purpose of identifying and tracking patterns of intentionally false reports.**

## **§6334 – DISPOSITION OF COMPLAINTS RECEIVED (Old)**

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- (a) *Notice to county agency.--Upon receipt of a complaint of suspected child abuse, the department shall immediately transmit orally to the appropriate county agency notice that the complaint of suspected child abuse has been received and the substance of the complaint. If the Statewide central register or the pending complaint file contains information indicating a prior report or a current investigation concerning a subject of the report, the department shall immediately notify the appropriate county agency of this fact. The appropriate county agency shall mean the agency in the county where the suspected child abuse occurred. If the residency of the subjects is a factor that requires the cooperation of more than one county agency, the department shall develop regulations to ensure the cooperation of those agencies in carrying out the requirements of this chapter.*
- (b) *Referral for services or investigation.--If the complaint received does not suggest suspected child abuse 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 complaint shall be considered to have been a child abuse report.*
- (c) *Recording in pending complaint file.--Upon receipt of a complaint of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the pending complaint file. 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 report file under section 6331 (relating to establishment of pending complaint file, Statewide central register and file of unfounded reports).*
- (d) *Incidents occurring outside of this Commonwealth.--*
  - (1) *A report of suspected child abuse occurring in another state where the child victim is identified as a resident of this Commonwealth and the other state child protective services agency cannot investigate the report because of statutory or policy limitations shall be assigned as a general protective services report to the county of the child's residence or as determined by the department.*
  - (2) *In addition to complying with the other requirements of this chapter and applicable regulations, a copy of the report shall be provided to the other state's child protective services agency and, when applicable under Pennsylvania law, to law enforcement officials where the incident occurred.*
  - (3) *Reports and information under this subsection shall be provided within seven calendar days of completion of the general protective services assessment under section 6375 (relating to county agency requirements for general protective services).*

## **§6334 – DISPOSITION OF COMPLAINTS RECEIVED (Amended)**

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- (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.

## **§6334 – DISPOSITION OF COMPLAINTS RECEIVED (Amended)**

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- (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.

## **§6334 – DISPOSITION OF COMPLAINTS RECEIVED (Amended)**

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- (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.

## **§6334.1 – RESPONSIBILITY FOR INVESTIGATION (Added)**

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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.



## **§6335 – ACCESS TO INFORMATION IN STATEWIDE DATABASE (Amended)**

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- (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) **Clearances.**--Information provided in response to inquiries under section 6344 (relating to information relating to prospective child-care personnel), 6344.1 (relating to information relating to family day-care home residents) or 6344.2 (relating to information relating to other persons 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).

## **§6338 – DISPOSITION OF FOUNDED AND INDICATED REPORTS (Old)**

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- (a) *General rule.--When a report of suspected child abuse or a report under Subchapter C.1 (relating to students in public and private schools) is determined by the appropriate county agency to be a founded report or an indicated report, the information concerning that report of suspected child abuse shall be expunged immediately from the pending complaint file, and an appropriate entry shall be made in the Statewide central register. Notice of the determination must be given to the subjects of the report, other than the abused child, and to the parent or guardian of the affected child or student along with an explanation of the implications of the determination. Notice given to perpetrators of child abuse and to school employees who are subjects of indicated reports for school employees or founded reports for school employees shall include notice that their ability to obtain employment in a child-care facility or program or a public or private school may be adversely affected by entry of the report in the Statewide central register. The notice shall also inform the recipient of his right, within 45 days after being notified of the status of the report, to appeal an indicated report, and his right to a hearing if the request is denied.*
  
- (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.--A subfile shall be established in the Statewide central register to 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 subfile shall not include identifying information regarding other subjects of the report.*

## **§6338 – DISPOSITION OF FOUNDED AND INDICATED REPORTS (Amended)**

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- (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.

**§6338.1 – EXPUNCTION OF INFORMATION OF  
PERPETRATOR WHO WAS UNDER 18 YEARS OF AGE  
WHEN CHILD ABUSE WAS COMMITTED (New)**

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- (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 information relating to prospective child-care personnel 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).

**§6338.1 – EXPUNCTION OF INFORMATION OF  
PERPETRATOR WHO WAS UNDER 18 YEARS OF AGE  
WHEN CHILD ABUSE WAS COMMITTED (New)**

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- (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. H (relating to registration of sexual offenders).
    - (ii) Was found delinquent as a result of the same acts which resulted in the sexually violent delinquent child being named a perpetrator of child abuse.
  - (3) A juvenile offender, as defined in 42 Pa.C.S. § 9799.12, who meets all of the following:
    - (i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. 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).

**§ 5329.1 FORM: Consideration of Child Abuse and Involvement with Protective Services**

<b>FOR JUDICIAL USE ONLY</b>	<b>Hearing Date:</b>	<b>Docket:</b>
<b>Party Names &amp; Addresses:</b>		
<b>Mother's Name:</b>		<b>Is any party to this proceeding a grandparent?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Child(ren)'s Name:</b>		<b>D/O/B:</b>
		<b>D/O/B:</b>
		<b>D/O/B:</b>
	(Add additional children here)	
<b>Any and all Household Members:</b>		<b>D/O/B:</b>
		<b>D/O/B:</b>
	(Add additional names here)	

Case needs immediate investigation by CYS.

<input type="checkbox"/> <b>AGENCY:</b> Check here if no information on this family is on file within CYS records.
<input type="checkbox"/> <b>AGENCY:</b> Check here if any children involved in the Custody Action are Dependent.
<b>FOR CPS CASES:</b> Factors to consider with respect to child abuse under Chapter 63 (relating to child protective services) or a child who is a victim of a crime under 18 Pa.C.S. (relating to crimes and offenses) which would constitute abuse under Chapter 63.
Was the child the subject of an indicated or founded report of child abuse? <input type="checkbox"/> Yes <input type="checkbox"/> No Note:
Has a party or a member of the party's household been identified as the perpetrator in an indicated or founded report of child abuse? <input type="checkbox"/> Yes <input type="checkbox"/> No Note:
What is the date and circumstances of the child abuse? __/__/____ Note:
What is jurisdiction where the child abuse investigation took place? _____
<b>FOR GPS CASES:</b> Factors to consider with respect to child protective services or general protective services under Chapter 63.
Has a party or a member of a party's household been provided services? <input type="checkbox"/> Yes <input type="checkbox"/> No Note:
What type of services was provided? Note:
What are the circumstances surrounding the provision of services? Note:
What is the status of the services provided? Note:
What is the date the services were provided? __/__/____ Note:
What is the jurisdiction where the services were provided? _____
<b>Additional Information:</b>   

Submitted by: \_\_\_\_\_

Date: \_\_\_\_\_

10/30/14 Version

## **23 Pa.C.S. §5329.1 – CONSIDERATION OF CHILD ABUSE AND INVOLVMENT WITH PROTECTIVE SERVICES**

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- (a) Information sharing.**--In accordance with section 6340(a)(5.1) (relating to release of information in confidential reports), where a party seeks any form of custody subject to the examination of the parties, the court **shall** determine:
- (1) With respect to child abuse under Chapter 63 (relating to child protective services) or a child who is a victim of a crime under 18 Pa.C.S. (relating to crimes and offenses) which would constitute abuse under Chapter 63:
    - (i) Whether the child is the subject of an indicated or founded report of child abuse.
    - (ii) 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.
    - (iii) The date and circumstances of the child abuse.
    - (iv) The jurisdiction where the child abuse investigation took place.
  - (2) With respect to child protective services or general protective services under Chapter 63:
    - (i) Whether a party or a member of a party's household has been provided services.
    - (ii) The type of services provided.
    - (iii) The circumstances surrounding the provision of services.
    - (iv) The status of services.
    - (v) The date the services were provided.
    - (vi) The jurisdiction where the services were provided.
- (b) Cooperation.**--The following apply:
- (1) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the court and assist the court in fulfilling its duties under this section.
  - (2) The Department of Public Welfare and the county children and youth social service agency shall fully cooperate with the governing authority in order to implement the provisions of this section.
  - (3) The governing authority shall develop procedures to implement the provisions of this section.
  - (4) As used in this subsection, the term "governing authority" shall have the meaning given to it in 42 Pa.C.S. § 102 (relating to definitions).

## **§6339 – CONFIDENTIALITY OF REPORTS (Old)**

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*Except as otherwise provided in this subchapter, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and written reports made pursuant to section 6313(b) and (c) (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.*



## **§6339 – CONFIDENTIALITY OF REPORTS (Amended)**

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Except as otherwise provided in this subchapter, 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.

## §6340 – RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS (Amended)

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**(a) General rule.--**

*Old* (5.1) A court of common pleas in connection with any matter involving custody of a child. The department shall provide to the court any reports and files which the court considers relevant.

**New** (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).

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*Old* (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 information relating to prospective child-care personnel), sexual abuse, sexual exploitation, serious bodily injury or serious physical injury perpetrated by persons whether or not related to the victim.

**New** (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 information relating to prospective child-care personnel), sexual abuse or exploitation, bodily injury or serious bodily injury caused by a perpetrator or nonperpetrator.
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*Old* (10) The district attorney or his designee or other law enforcement official, as set forth in the county protocols for 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, either orally or in writing, according to regulations promulgated by the department, from the 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; or;
- (ii) child abuse under section 6334.1 (relating to responsibility for investigation).

**New** (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; or
- (ii) child abuse under section 6334.1 (relating to responsibility for investigation).

## **§6340 – RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS (Amended)**

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*Old* (12) *A mandated reporter of suspected child abuse as defined in section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child, but the information permitted to be released to the mandated reporter shall be limited to the following:*

- (i) The final status of the child abuse report following the investigation, whether it be indicated, founded or unfounded.*
- (ii) Any services provided, arranged for or to be provided by the county agency to protect the child.*

**New** (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.
- 

*Old* (13) *Persons required to make reports under Subchapter C.1 (relating to students in public and private schools). Information under this paragraph shall be limited to the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.*

**New** (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.

## **§6340 – RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS (Amended)**

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*(Old)*

- (c) Protecting identity of person making report.--Except for reports pursuant to subsection (a)(9) and (10), the release of data that would identify the person who made a report of suspected child abuse or the person who cooperated in a subsequent investigation is prohibited unless the secretary finds that the release will not be detrimental to the safety of that person. Law enforcement officials shall treat all reporting sources as confidential informants.*

**(New)**

- (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 that would identify the person who made a report of suspected child abuse or who cooperated in a subsequent investigation is prohibited unless the department finds that the release will not be detrimental to the safety of the person. Law enforcement officials shall treat all reporting sources as confidential informants.
- 

*(Old)*

- (d) Exclusion of administrative information.--Information maintained in the Statewide central register which was obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official, as provided by regulation.*

**(New)**

- (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).

## §6340.1 – EXCHANGE OF INFORMATION (Added)

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- (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.

## **§6341 – AMENDMENT OR EXPUNCTION OF INFORMATION (Old)**

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- (a) *General rule.--At any time:*
- (1) *The secretary may amend or expunge any record under this chapter upon good cause shown and notice to the appropriate subjects of the report.*
  - (2) *Any person named as a perpetrator, and any school employee named, in an indicated report of child abuse may, within 45 days of being notified of the status of the report, request 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.*
- (b) *Review of grant of request.--If the secretary grants the request under subsection (a)(2), the Statewide central register, appropriate county agency, appropriate law enforcement officials and all subjects shall be so advised of the decision. The county agency and any subject have 45 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. 2), known as the Public Welfare Code, and attending departmental regulations. If no administrative appeal is received within the designated time period, the Statewide central register 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 and both the State and local levels.*
- (c) *Review of refusal of request.--If the secretary refuses the request under subsection (a)(2) or does not act within a reasonable time, but in no event later than 30 days after receipt of the request, the perpetrator or school employee shall have the right to a hearing before the secretary or a designated agent of the secretary to determine whether the summary of the indicated report in the Statewide central register should be amended or expunged on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with this chapter. The perpetrator or school employee shall have 45 days from the date of the letter giving notice of the decision to deny the request in which to request a hearing. 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 as necessary.*

## **§6341 – AMENDMENT OR EXPUNCTION OF INFORMATION (Amended)**

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- (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) 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), 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.

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## **§6341 – AMENDMENT OR EXPUNCTION OF INFORMATION (Added)**

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- (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 section 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) 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 or appeal to Commonwealth Court. 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.

## **§6343 – INVESTIGATING PERFORMANCE OF COUNTY AGENCY (Old)**

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- (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.*

## **§6343 – INVESTIGATING PERFORMANCE OF COUNTY AGENCY (New)**

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- (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.

## **§6343 – INVESTIGATING PERFORMANCE OF COUNTY AGENCY (Old)**

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(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.*
  - (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.*

## **§6343 – INVESTIGATING PERFORMANCE OF COUNTY AGENCY (New)**

---

**(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.

**§6344 – INFORMATION RELATING TO PROSPECTIVE  
CHILD-CARE PERSONNEL (Old)**

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- (a) *Applicability.--This section applies to all prospective employees of child-care services, prospective foster parents, prospective adoptive parents, prospective self-employed family day-care providers and other persons seeking to provide child-care services under contract with a child-care facility or program. This section also applies to individuals 14 years of age or older who reside in the home of a prospective foster parent for at least 30 days in a calendar year or who reside in the home of a prospective adoptive parent for at least 30 days in a calendar year. This section does not apply to administrative or other support personnel unless their duties will involve direct contact with children.*

## **§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)**

---

- (a) **Applicability.**--~~This section applies to all prospective employees of child-care services, prospective foster parents, prospective adoptive parents, prospective self-employed family day-care providers and other persons seeking to provide child-care services under contract with a child-care facility or program. This section also applies to individuals 14 years of age or older who reside in the home of a prospective foster parent for at least 30 days in a calendar year or who reside in the home of a prospective adoptive parent for at least 30 days in a calendar year. This section does not apply to administrative or other support personnel unless their duties will involve direct contact with children.~~

**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 family day-care provider.
- (5) An individual 14 years of age or older applying for a paid position as an employee responsible for the welfare of a child or having direct contact with children.
- (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.

**(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, except that this section shall apply with regard to the information required under subsection (b)(2).
- (2) School employees not governed by the provisions of the Public School Code of 1949 shall be governed by this section.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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- (b) *Information submitted by prospective employees.--Administrators of child-care services shall require applicants to submit with their applications the following information obtained within the preceding one-year period:*
- (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 central register as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee.*
  - (3) *A report of Federal criminal history record information. The applicant shall submit a full set of fingerprints in a manner prescribed by the department. The Commonwealth shall submit the fingerprints to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information and serve as intermediary for the purposes of this section.*

*For the purposes of this subsection, an applicant may submit a copy of the information required under paragraphs (1) and (2) with an application for employment. Administrators shall maintain a copy of the required information and shall require applicants to produce the original document prior to employment.*



## **§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)**

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- (b) Information to be submitted.**--An individual identified in subsection (a)(6) **(a)(7)** at the time the individual meets the description set forth in subsection (a)(6) **(a)(7)** and an individual applying to serve in any capacity identified in subsection (a)(1), (2), (3), (4), or (5) **(6) or (a.1)** prior to the commencement of employment or service shall be required to submit the following information obtained within the preceding one-year period **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 of child abuse or an indicated report of child abuse.
  - (3) A report of Federal criminal history record information. The applicant shall submit a full set of fingerprints in a manner prescribed by the department. The Commonwealth shall submit the fingerprints to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information and serve as intermediary for the purposes of this section.

For the purposes of this subsection, an applicant may submit a copy of the information required under paragraphs (1) and (2) with an application for employment. Administrators shall maintain a copy of the required information and shall require applicants to produce the original document prior to employment.

- (b.1) Required documentation to be maintained and produced.**--The employer, administrator, supervisor or other person responsible for employment decision or acceptance of the individual to serve in any capacity identified in subsection (a)(1), (2), (3), (4), (5) or (6) or **(a.1)** shall maintain a copy of the required information and require the individual to produce the original document prior to employment or acceptance to serve in any such capacity, except as allowed under subsection (m).
- (b.2) Investigation.**--An employer, administrator, supervisor or other person responsible for employment decisions shall require an applicant to submit the required documentation set forth in this chapter. An employer, administrator, supervisor or other person responsible for employment decisions that intentionally fails to require an applicant to submit the required documentation before the applicant's hiring commits a misdemeanor of the third degree.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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(c) *Grounds for denying employment.--*

- (1) *In no case shall an administrator hire an applicant where the department has verified that the applicant is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the central register as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.*
- (2) *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 administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.*

## **§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)**

---

**(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 administrator **employer, administrator, supervisor or other person responsible for employment decisions** hire or **approve** an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.

- (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.**

**§6344 – INFORMATION RELATING TO PROSPECTIVE  
CHILD-CARE PERSONNEL (Old)**

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(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.*

**§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN;  
ADOPTIVE AND FOSTER PARENTS (Amended)**

---

- (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.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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- (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.*

## **§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)**

---

- (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.

**§6344 – INFORMATION RELATING TO PROSPECTIVE  
CHILD-CARE PERSONNEL (Old)**

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- (3) *Foster parents and any individual over 18 years of age residing in the home shall be required to submit the information set forth in subsection (b) every 24 months following approval for review by the foster family care agency in accordance with subsection (c).*
- (4) *Foster parents shall be required to report, within 48 hours, any change in information required pursuant to subsection (b) about themselves and any individuals over the age of 18 years residing in the home for review by the foster family care agency in accordance with subsection (c).*
- (5) *Foster parents shall be required to report any other change in the foster family household composition within 30 days of the change for review by the foster family care agency. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home of an approved foster family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency a certification 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. 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 and the person does not cease residing in the home immediately, the foster child or children shall immediately be removed from the home without a hearing.*



## §6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)

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- ~~(3) Foster parents and any individual over 18 years of age residing in the home shall be required to submit the information set forth in subsection (b) every 24 months following approval for review by the foster family care agency in accordance with subsection (c).~~
- ~~(4) Foster parents shall be required to report, within 48 hours, any change in information required pursuant to subsection (b) about themselves and any individuals over the age of 18 years residing in the home for review by the foster family care agency in accordance with subsection (c).~~
- (4.1) If a foster parent is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter, or is named as a perpetrator in a founded or indicated report, the foster parent shall provide the foster family care agency with written notice not later than 72 hours after the arrest, conviction or notification that the foster parent was named as a perpetrator in the Statewide database.**
- (5) Foster parents shall be required to report any other change in the foster family household composition within 30 days of the change for review by the foster family care agency. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home of an approved foster family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency a certification obtained ~~within the previous one year period~~ from the Statewide ~~central registry~~ **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 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. 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 and the person does not cease residing in the home immediately, the ~~foster child or children shall immediately be removed from the home without a hearing~~ **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.**

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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- (6) *In cases where foster parents knowingly fail to submit the material information required in paragraphs (3), (4) and (5) such that it would disqualify them as foster parents, the child shall immediately be removed from the home without a hearing.*
- (7) *An approved foster parent shall not be considered an employee for any purpose, including, but not limited to, liability, unemployment compensation, workers' compensation or other employee benefits provided by the county agency.*
- (8) *The department shall require information based upon certain criteria for foster and adoptive parent applications. The criteria shall include, but not be limited to, information provided by the applicant or other sources in the following areas:*
  - (i) *Previous addresses within the last ten years.*
  - (ii) *Criminal history background clearance generated by the process outlined in this section.*
  - (iii) *Child abuse clearance generated by the process outlined in this section.*
  - (iv) *Composition of the resident family unit.*
  - (v) *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 ten 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.*

## **§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)**

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- (6) In cases where foster parents knowingly fail to submit the material information required in paragraphs ~~(3), (4)~~ **4.1** and (5) **and section 6344.4 (relating to certification compliance)** such that it would disqualify them as foster parents, ~~the child shall immediately be removed from the home without a hearing~~ **county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.**
- (7) An approved foster parent shall not be considered an employee for any purpose, including, but not limited to, liability, unemployment compensation, workers' compensation or other employee benefits provided by the county agency.
- (8) The department shall require information based upon certain criteria for foster and adoptive parent applications. The criteria shall include, but not be limited to, information provided by the applicant or other sources in the following areas:
- (i) Previous addresses within the last ten years.
  - (ii) Criminal history background clearance generated by the process outlined in this section.
  - (iii) Child abuse clearance generated by the process outlined in this section.
  - (iv) Composition of the resident family unit.
  - (v) 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 ten 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.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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*(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.*

## **§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)**

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### **(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.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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- (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.*

**§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN;  
ADOPTIVE AND FOSTER PARENTS (Amended)**

---

- (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.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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- (e) *Self-employed family day-care providers.--Self-employed family day-care providers who apply for a certificate of registration with the department shall submit with their registration 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.*
- (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.*



## **§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)**

---

- (e) **Self-employed family day-care providers.**--Self-employed family day-care providers who apply for a certificate of registration with the department shall submit with their registration 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.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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- (k) *Existing or transferred employees.--A person employed in child-care services on July 1, 2008, shall not be required to obtain the information required in subsection (b) as a condition of continued employment. A person who has once obtained the information required under subsection (b) may transfer to another child-care service established and supervised by the same organization and shall not be required to obtain additional reports before making the transfer.*
- (l) *Temporary employees under special programs.--The requirements of this section do not apply to employees of child-care services who meet all the following requirements:*
- (1) *They are under 21 years of age.*
  - (2) *They are employed for periods of 90 days or less.*
  - (3) *They are a part of a job development or job training program funded, in whole or in part, by public or private sources.*

*Once employment of a person who meets these conditions extends beyond 90 days, all requirements of this section shall take effect.*

- (m) *Provisional employees for limited periods.--Notwithstanding subsection (b), administrators may employ applicants on a provisional basis for a single period not to exceed 30 days or, for out-of-State applicants, a period of 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 administrator.*
  - (2) *The administrator 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).*
  - (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 administrator.*
  - (5) *The administrator 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.*

## §6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS (Amended)

---

~~(k) Existing or transferred employees.--A person employed in child care services on July 1, 2008, shall not be required to obtain the information required in subsection (b) as a condition of continued employment. A person who has once obtained the information required under subsection (b) may transfer to another child-care service established and supervised by the same organization and shall not be required to obtain additional reports before making the transfer.~~

~~(l) Temporary employees under special programs.--The requirements of this section do not apply to employees of child care services who meet all the following requirements:~~

~~(1) They are under 21 years of age.~~

~~(2) They are employed for periods of 90 days or less.~~

~~(3) They are a part of a job development or job training program funded, in whole or in part, by public or private sources.~~

~~Once employment of a person who meets these conditions extends beyond 90 days, all requirements of this section shall take effect.~~

**(m) Provisional employees for limited periods.--**Notwithstanding subsection (b), **administrators employers, administrators, supervisors or other persons responsible for employment decisions** may employ applicants on a provisional basis for a single period not to exceed 30 days or, for out-of-State applicants, a period of 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 **administrator employers, administrators, supervisors or other persons responsible for employment decisions.**

(2) The **administrator employers, administrators, supervisors or other persons 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 **administrator employers, administrators, supervisors or other persons responsible for employment decisions .**

(5) The **administrator employers, administrators, supervisors or other persons 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.

## **§6344 – INFORMATION RELATING TO PROSPECTIVE CHILD-CARE PERSONNEL (Old)**

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- (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 June 21, 1957 (P.L. 390, No. 212), referred to 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 14 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 central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the central register as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.*
  - (2) *Has been found guilty of an offense listed in subsection (c)(2).*
- (p) *Use of information.--A prospective adoptive parent may not be approved if the prospective adoptive parent or an individual 14 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 central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the central register as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.*
  - (2) *Has been found guilty of an offense listed in subsection (c)(2).*

**§6344 – EMPLOYEES HAVING CONTACT WITH CHILDREN;  
ADOPTIVE AND FOSTER PARENTS (Amended)**

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- (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 ~~June 21, 1957 (P.L.390, No.212), referred to as the Right to Know Law~~ **February 14, 2008 (P.L.6, No.3), known as the Right-To-Know Law**. This information shall not be released except as permitted by the department through regulation.
  
- (o) **Use of information.**--A foster family care agency may not approve a prospective foster parent if the prospective foster parent or an individual 18 years of age or older who resides for at least 30 days in a calendar year with the prospective foster parent meets either of the following:
  - (1) Is named in the 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 ~~14~~ **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).

## **§6344.1 – INFORMATION RELATING TO FAMILY DAY-CARE HOME RESIDENTS (Old)**

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- (a) *General rule.--In addition to the requirements of section 6344 (relating to information relating to prospective child-care personnel), an individual who applies to the department for a registration certificate to operate a family day-care home 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 central register as the perpetrator of a founded report, indicated report, founded report for school employee or indicated report for school employee.*
- (c) *Effect on registration.--The department shall refuse to issue or renew a registration certificate or shall revoke a registration certificate if the family 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 central register on child abuse established under Chapter 63 (relating to child protective services) 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.*

## **§6344.1 – INFORMATION RELATING TO CERTIFIED OR REGISTERED DAY-CARE HOME RESIDENTS (Amended)**

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- (a) **General rule.**--In addition to the requirements of section 6344 (relating to ~~information relating to prospective child-care personnel~~ **employees having contact with children; adoptive and foster parents**), an individual who applies to the department for a **certificate of compliance or a registration certificate to operate a family day-care home 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 of child abuse.
- (c) **Effect on certification or registration.**--The department shall refuse to issue or renew a **certificate of compliance or registration certificate** or shall revoke a **certificate of compliance or registration certificate** if the ~~family~~ 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 ~~on child abuse established under Chapter 63 (relating to child protective services)~~ 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.

**§6344.2 – INFORMATION RELATED TO OTHER  
PERSONS HAVING CONTACT WITH CHILDREN (Old)**

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- (a) *Applicability.--This section applies to prospective employees applying to engage in occupations with a significant likelihood of regular contact with children, in the form of care, guidance, supervision or training. Such persons include social service workers, hospital personnel, mental health professionals, members of the clergy, counselors, librarians and doctors.*
  
- (b) *Investigation.--Employers, administrators or supervisors shall require an applicant to submit to all requirements set forth in section 6344(b) (relating to information relating to prospective child-care personnel). An employer, administrator, supervisor or other person responsible for employment decisions regarding an applicable prospective employee under this section that intentionally fails to require the submissions before hiring that individual commits a misdemeanor of the third degree.*



## §6344.2 – INFORMATION RELATED TO VOLUNTEERS HAVING CONTACT WITH CHILDREN (Amended)

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- (a) **Applicability.**--~~This section applies to prospective employees applying to engage in occupations with a significant likelihood of regular contact with children, in the form of care, guidance, supervision or training. Such persons include social service workers, hospital personnel, mental health professionals, members of the clergy, counselors, librarians and doctors.~~ **This section applies to an adult applying for an unpaid position as a volunteer responsible for the welfare of a child or having direct contact with children.**
- (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, except that this section shall apply with regard to the information required under section 6344(b)(2) (relating to information relating to prospective child-care personnel).
  - (2) School employees not governed by the provisions of the Public School Code of 1949 shall be governed by this section.
- (b) **Investigation.**--Employers, administrator, or supervisors or other persons responsible for ~~employment decisions or~~ 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 ~~employment decisions or~~ selection of volunteers regarding an applicable prospective ~~employee or~~ volunteer under this section that intentionally fails to require the submissions before hiring 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 ten year period.~~
    - ~~(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 6344(c), the applicant shall not be approved for service.~~

**§6344.2 – INFORMATION RELATED TO OTHER  
PERSONS HAVING CONTACT WITH CHILDREN (Old)**

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- (c) *Grounds for denial.--Each applicant 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 June 21, 1957 (P.L. 390, No. 212), [FNI] referred to as the Right-to-Know Law. 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.*

## **§6344.2 – INFORMATION RELATED TO VOLUNTEERS HAVING CONTACT WITH CHILDREN (Amended)**

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- (c) **Grounds for denial.**--Each ~~applicant~~ 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 ~~June 21, 1957 (P.L.390, No.212), referred to as the Right to Know Law~~ **February 14, 2008 (P.L.6, No.3) , known as the Right-To-Know-Law**. This information shall not be released except as permitted by the department through regulation. 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) **Construction.**--**Nothing in this section shall be construed to prohibit an organization from requiring additional information as part of the clearance process for volunteers who are responsible for the welfare of a child or have direct contact with children.**
- (f) **Provisional clearances for volunteers.**--**Employers, administrators, supervisors or other persons responsible for selection of volunteers may allow a volunteer to serve on a provisional basis for a single period not to exceed 30 days if the volunteer is in compliance with the clearance standards under the law of the jurisdiction where the volunteer is domiciled.**

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## **§6344.3 – CONTINUED EMPLOYMENT OR PARTICIPATION IN PROGRAM, ACTIVITY OR SERVICE (Added)**

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- (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 program, activity or service to make employment, discipline or termination decisions or establishing additional clearance standards.**
- (f) **Transfer.--**
  - (1) Any person who has obtained the information required under this chapter may transfer or provide services to another subsidiary or branch established and supervised by the same organization, or serve in a volunteer capacity for any program, service or activity, during the length of time the person's certification is current pursuant to section 6344.4 (relating to certification compliance).
  - (2) Any employee who begins employment with a new agency, institution, organization or other entity that is responsible for the care, supervision, guidance or control of children shall be required to obtain a new certification of compliance as required by this chapter.
- (g) **Written notice of a new arrest, conviction or substantiated child abuse.--**
  - (3) 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 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.
  - (4) If the person responsible for employment decisions or the administrator or 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 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 on 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.**

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## **§6344.4 – CERTIFICATE OF COMPLIANCE (Added)**

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**New certifications shall be obtained in accordance with the following:**

- (1) Effective December 31, 2014:**
  - (i) 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 36 months.**
  - (ii) School employees identified in section 6344(a.1)(1) shall be required to obtain reports under section 11 of the Act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, every 36 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 36 months from the date of their most recent certification, or, if the current certification is older than 36 months, within one year of the effective date of this section.**
- (2) Effective July 1, 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 36 months.**

## **§6347 – REPORTS TO GOVERNOR AND GENERAL ASSEMBLY (Old)**

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- (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 central register of child abuse and child 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 under Subchapter C.1 (relating to students in public and private schools), 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, child protective services and action under Subchapter C.1:*
- (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).*



## **§6347 – REPORTS TO GOVERNOR AND GENERAL ASSEMBLY (Amended)**

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- (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).

## **§6349 – PENALTIES (Old)**

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- (a) *Failure to amend or expunge information.--*
- (1) *A person or official authorized to keep the records mentioned in section 6337 (relating to disposition of unfounded reports) or 6338 (relating to disposition of founded and indicated reports) who willfully fails to amend or expunge the information when required commits a summary offense for the first violation and a misdemeanor of the third 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 central register or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a summary offense.*
- (b) *Unauthorized release of information.--A person who willfully releases or permits the release of any information contained in the pending complaint file, the Statewide central register 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 third degree. Law enforcement agencies shall insure the confidentiality and security of information under this chapter. A person, including an employee of a law enforcement agency, 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.*
- (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 information relating to prospective child-care personnel) 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.*

## **§6349 – PENALTIES (Amended)**

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**(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 made payable to the Commonwealth.

(Note: (a) and (b) did not change)

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## **§6351.1 – AUTHORITY OF COURT UPON PETITION TO REMOVE CHILD FROM FOSTER PARENT (Added)**

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- (a) **Order required.**--Notwithstanding sections 6324 (relating to taking into custody) and 6351(a) (relating to disposition of dependent child), if a county agency petitions the court for removal of a child because the foster parent has been convicted of an offense set forth in 23 Pa.C.S. § 6344(c) (relating to information relating to prospective child-care personnel **employees having contact with children; adoptive and foster parents**), the court shall immediately enter an order removing the child from the foster parent.

(Note: reference §6344(6) – p. 89)

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## **§6365 – SERVICES FOR PREVENTION, INVESTIGATION AND TREATMENT OF CHILD ABUSE (Added)**

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**(d.1) Release by county agency.--** Prior to completing its child fatality or near fatality report, the investigating county agency may release the 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).

## **§6368 – INVESTIGATION OF REPORTS (Old)**

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- (a) *General rule.--Upon receipt of each report of suspected child abuse, the county agency shall immediately commence an appropriate investigation 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. Otherwise, the county agency shall commence an appropriate investigation and see the child within 24 hours of receipt of the report. The investigation shall include a determination of the risk of harm to the child or children if they continue to remain in the existing home environment, as well as a determination of the nature, extent and cause of any condition enumerated in the report, any action necessary to provide for the safety of the child or children and the taking of photographic identification of the child or children to be maintained with the file. During the investigation, the county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination pursuant to this section. If the investigation indicates serious physical injury, a medical examination shall be performed on the subject child by a certified medical practitioner. Where there is reasonable cause to suspect 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. The investigation shall include communication with the department's service under section 6332 (relating to establishment of Statewide toll-free telephone number.)*

*Prior to interviewing a subject of the report, the county agency shall orally notify the subject who is about to be interviewed of the existence of the report, the subject's rights under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights) and the subject's rights pursuant to this chapter in regard to amendment or expungement. Within 72 hours following oral notification to the subject, the county agency shall give written notice to the subject. The notice may be reasonably delayed if notification is likely to threaten the safety of the victim, a nonperpetrator subject or the investigating county agency worker, to cause the perpetrator to abscond or to significantly interfere with the conduct of a criminal investigation. However, the written notice must be provided to all subjects prior to the county agency's reaching a finding on the validity of the report.*

- (a.1) *Investigation of report concerning child-care service personnel.--Upon notification that an investigation involves suspected child abuse perpetrated by child-care service personnel, including a child-care service employee, service provider or administrator, the respective child-care service must immediately implement a plan of supervision or alternative arrangement subject to the county agency's approval for the individual under investigation to ensure the safety of the child and other children who are in the care of the child-care service. Such plan of supervision or alternative arrangement shall be kept on file with the county agency until such time that the investigation is completed.*



## **§6368 – INVESTIGATION OF REPORTS (Amended)**

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- (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).

## **§6368 – INVESTIGATION OF REPORTS (Old)**

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- (b) *Conditions outside home environment.--The investigation shall determine whether the child is being harmed by factors beyond the control of the parent or other person responsible for the welfare of the child, and, if so determined, the county agency shall promptly take all available steps to remedy and correct these conditions, including, but not limited to, the coordination of social services for the child and the family, or referral of the family to appropriate agencies for the provision of services.*
- (c) *Completion of investigations.--The investigation by the county agency to determine whether the report is "founded," "indicated" or "unfounded" and whether to accept the family for service shall be completed within 60 days in all cases. 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 available to the department for purposes of determining whether the county agency has strictly followed the provisions of this chapter and whether the county agency is subject to action as authorized by section 6343 (relating to investigating performance of county agency). Where a petition has been filed under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) alleging that the 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).*
- (d) *Referral for investigation.--If the complaint of suspected abuse is determined to be one which 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 authorities, including the district attorney, the district attorney's designee or other law enforcement official, in accordance with the county protocols for investigative teams required by section 6365(c) (relating to services for prevention, investigation and treatment of child abuse).*

## §6368 – INVESTIGATION OF REPORTS (Amended)

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- (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:
- (a) The county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination under this section.
  - (b) 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.
  - (c) 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.
  - (d) 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.

## §6368 – INVESTIGATION OF REPORTS (Amended)

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- (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.

## §6368 – INVESTIGATION OF REPORTS (Amended)

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- (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).

## **§6369 – TAKING A CHILD INTO PROTECTIVE CUSTODY (Deleted)**

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*Pursuant to the provisions of 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 for protection from abuse. No county agency worker may take custody of the child without judicial authorization based on the merits of the situation.*

## **§6375 – COUNTY AGENCY REQUIREMENTS FOR GENERAL PROTECTIVE SERVICES (Amended)**

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- (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).

## **§6381 – EVIDENCE IN COURT PROCEEDINGS (Amended)**

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- (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) 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.

## §6383 – EDUCATION AND TRAINING (Amended)

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### (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 §6344(b)(2) (relating to information relating to ~~prospective child care personnel~~ **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.

## §6383 – EDUCATION AND TRAINING (Amended)

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### (b) Duties of Department of State.--

- (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 of Public Welfare. 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 of Public Welfare. 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), known as the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the Department of Public Welfare; or
    - (B) required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and the training program was approved by the Department of Public Welfare.
  - (iii) The amount of training received equals or exceeds the amount of training or continuing education required by this paragraph.
- (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.



## §6383 – EDUCATION AND TRAINING (Amended)

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

## §6383 – EDUCATION AND TRAINING (Amended)

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- (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.

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**§6386 – MANDATORY REPORTING OF INFANTS BORN  
AND IDENTIFIED AS BEING AFFECTED BY ILLEGAL  
SUBSTANCE ABUSE (Old)**

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*Health care providers who are involved in the delivery or care of an infant who is born and identified as being affected by illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure shall immediately cause a report to be made to the appropriate county agency. The county agency shall provide or arrange for appropriate services for the infant.*

## **§6386 – MANDATORY REPORTING OF INFANTS BORN AND IDENTIFIED AS BEING AFFECTED BY ILLEGAL SUBSTANCE ABUSE (Amended)**

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- (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.
  - (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.

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## **Title 23, Chapter 63**

# **CHILD PROTECTIVE SERVICES**

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**New CPSL can be found online at:**

<http://www.legis.state.pa.us/CFDOCS/LEGIS/LI/consCheck.cfm?txtType=HTM&ttl=23&div=00.&chpt=063.&CFID=232672374&CFTOKEN=26866004>

**Keep Kids Safe PA:**

<http://www.dhs.state.pa.us/forchildren/keepkidssafepa/index.htm>