

DOMESTIC RELATIONS CODE (23 PA.C.S.) - OMNIBUS AMENDMENTS

Act of Apr. 15, 2014, P.L. 417, No. 33

Cl. 23

Session of 2014

No. 2014-33

SB 21

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in provisions and responsibilities for reporting suspected child abuse, further providing for definitions, for persons required to report suspected child abuse, for persons permitted to report suspected child abuse, for reporting procedure, for documentary evidence on a child subject to report and for taking child into protective custody; in organization and responsibilities of child protective service, repealing provisions relating to taking child into protective custody; and, in miscellaneous provisions, further providing for education and training.

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

Section 1. The definition of "school employee" in section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes is amended and subsection (a) is amended by adding definitions to read:

§ 6303. Definitions.

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

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"Adult." An individual 18 years of age or older.

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

"Program, activity or service." A public or private educational, athletic or other pursuit in which children participate. The term includes, but is not limited to, the following:

- (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.

* * *

"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.

"School employee." An individual who is employed by a [public or private school, intermediate unit or area vocational-technical school. The term includes an independent contractor and employees] school or who provides a program, activity or service sponsored by a school. The term excludes an individual who has no direct contact with [students] children.

* * *

Section 2. Sections 6311(a), (b) and (c), 6312, 6313 and 6314 of Title 23 are amended to read:

§ 6311. Persons required to report suspected child abuse.

[(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. 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.]

(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.

(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.

* * *

§ 6312. Persons [permitted] **encouraged** to report suspected child abuse.

[In addition to those persons and officials required to report suspected child abuse, any] **Any** person may make [such a report] **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 [an abused child] a victim of child abuse.

§ 6313. Reporting procedure.

(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.]

(a) Report by mandated reporter.--

(1) A mandated reporter shall immediately make an oral report of suspected child abuse to the department via the Statewide toll-free telephone number under section 6332 (relating to establishment of Statewide toll-free telephone

number) or a written report using electronic technologies under section 6305 (relating to electronic reporting).

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

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

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

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

(2) Where the suspected abuse occurred.

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

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

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

(6) Family composition.

(7) The source of the report.

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

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

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

(11) Any other information that the department requires by regulation.

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

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

Section 3. Section 6315(a) of Title 23 is amended by adding a paragraph to read:

§ 6315. Taking child into protective custody.

(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.

* * *

Section 4. Section 6369 of Title 23 is repealed:

[§ 6369. Taking child into protective custody.

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.]

Section 5. Section 6383 of Title 23 is amended by adding a subsection to read:

§ 6383. Education and training.

* * *

(a.2) Information for mandated and permissive reporters.--

(1) In addition to the requirements of subsection (a), the department shall provide specific information related to the recognition and reporting of child abuse on its Internet website in forms, including, but not limited to, the following:

- (i) Website content.
- (ii) Printable booklets and brochures.
- (iii) Educational videos.
- (iv) Internet-based interactive training exercises.

(2) Information shall be pertinent to both mandated and permissive reporters and shall address topics, including, but not limited to:

- (i) Conduct constituting child abuse under this chapter.
- (ii) Persons classified as mandated reporters.
- (iii) Reporting requirements and procedures.
- (iv) The basis for making a report of suspected child abuse.
- (v) Penalties for failure to report.
- (vi) Background clearance requirements for individuals who work or volunteer with children.
- (vii) Recognition of the signs and symptoms of child abuse.
- (viii) Alternative resources to assist with concerns not related to child abuse.

(3) The department shall include the following with all certifications provided pursuant to section 6344(b)(2) (relating to information relating to prospective child-care personnel):

- (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.

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Section 6. This act shall take effect December 31, 2014.

APPROVED--The 15th day of April, A.D. 2014.

TOM CORBETT