

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 20

Sponsor:

Printer's No. 679

1 Amend Bill, page 1, lines 1 through 4, by striking out all of
2 said lines and inserting

3 Amending Title 23 (Domestic Relations) of the Pennsylvania
4 Consolidated Statutes, in child protective services, further
5 providing for definitions; and making editorial changes.

6 Amend Bill, page 1, lines 7 through 18; pages 2 through 6,
7 lines 1 through 30; page 7, lines 1 through 13, by striking out
8 all of said lines on said pages and inserting

9 Section 1. The definitions of "child," "founded report,"
10 "indicated report," "individual residing in the same home as the
11 child," "near fatality" and "school employee" in section 6303(a)
12 of Title 23 of the Pennsylvania Consolidated Statutes are
13 amended, the subsection is amended by adding definitions,
14 subsection (b) is amended and the section is amended by adding
15 subsections to read:

16 § 6303. Definitions.

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

20 * * *

21 "Bodily injury." Impairment of a physical condition or
22 substantial pain.

23 "Child." [Includes a newborn] An individual under 18 years
24 of age.

25 * * *

26 "Founded report." [A child abuse report made pursuant to
27 this chapter if there has been any judicial adjudication based
28 on a finding that a child who is a subject of the report has
29 been abused, including the entry of a plea of guilty or nolo
30 contendere or a finding of guilt to a criminal charge involving
31 the same factual circumstances involved in the allegation of
32 child abuse.] A child abuse report involving a perpetrator that
33 is made pursuant to this chapter, if any of the following
34 applies:

35 (1) There has been a judicial adjudication based on a

1 finding that a child who is a subject of the report has been
2 abused and the adjudication involves the same factual
3 circumstances involved in the allegation of child abuse. The
4 judicial adjudication may include any of the following:

5 (i) The entry of a plea of guilty or nolo
6 contendere.

7 (ii) A finding of guilt to a criminal charge.

8 (iii) A finding of dependency under 42 Pa.C.S. §
9 6341 (relating to adjudication) if the court has entered
10 a finding that a child who is the subject of the report
11 has been abused.

12 (iv) A finding of delinquency under 42 Pa.C.S. §
13 6341 if the court has entered a finding that the child
14 who is the subject of the report has been abused by the
15 child who was found to be delinquent.

16 (2) There has been an acceptance into Accelerated
17 Rehabilitative Disposition program and the reason for the
18 acceptance involves the same factual circumstances involved
19 in the allegation of child abuse.

20 (3) There has been a consent decree entered in a
21 juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to
22 juvenile matters), the decree involves the same factual
23 circumstances involved in the allegation of child abuse and
24 the terms and conditions of the allegation include an
25 acknowledgment, admission or finding that a child who is the
26 subject of the report has been abused by the child who is
27 alleged to be delinquent.

28 (4) A final protection from abuse order has been granted
29 under section 6108 (relating to relief), when the child who
30 is a subject of the report is one of the individuals
31 protected under the protection from abuse order and:

32 (i) only one individual is charged with the abuse in
33 the protection from abuse action;

34 (ii) only that individual defends against the
35 charge; and

36 (iii) the protection from abuse adjudication finds
37 that the abuse occurred and prohibits further contact
38 between the individual and the child.

39 * * *

40 "Indicated report." [A child abuse report made pursuant to
41 this chapter if an investigation by the county agency or the
42 Department of Public Welfare determines that substantial
43 evidence of the alleged abuse exists based on any of the
44 following:

45 (1) Available medical evidence.

46 (2) The child protective service investigation.

47 (3) An admission of the acts of abuse by the
48 perpetrator.]

49 (1) Subject to paragraphs (2) and (3), a report of child
50 abuse made pursuant to this chapter if an investigation by
51 the department or county agency determines that substantial

1 evidence of the alleged abuse by a perpetrator exists based
2 on any of the following:

3 (i) Available medical evidence.

4 (ii) The child protective service investigation.

5 (iii) An admission of the acts of abuse by the
6 perpetrator.

7 (2) A report may be indicated under paragraph (1)(i) or
8 (ii) for any child in need of child protective services,
9 regardless of the number of alleged perpetrators or the
10 inability to identify the specific perpetrator among two or
11 more alleged perpetrators.

12 (3) A report may be indicated by a county agency under
13 paragraph (1) only upon the approval of the county agency
14 administrator, or designee, and a county agency solicitor.

15 * * *

16 "Intentionally." As specified in 18 Pa.C.S. § 302 (relating
17 to general requirements of culpability).

18 "Knowingly." As specified in 18 Pa.C.S. § 302 (relating to
19 general requirements of culpability).

20 * * *

21 "Parent." A biological parent, adoptive parent or legal
22 guardian.

23 * * *

24 "Recklessly." As specified in 18 Pa.C.S. § 302 (relating to
25 general requirements of culpability).

26 * * *

27 "Serious physical neglect." Any of the following when
28 committed by a perpetrator that endangers a child's life or
29 health, threatens a child's well-being, causes bodily injury or
30 impairs a child's health, development or functioning:

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

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

36 * * *

37 [(b) Child abuse.--

38 (1) The term "child abuse" shall mean any of the
39 following:

40 (i) Any recent act or failure to act by a
41 perpetrator which causes nonaccidental serious physical
42 injury to a child under 18 years of age.

43 (ii) An act or failure to act by a perpetrator which
44 causes nonaccidental serious mental injury to or sexual
45 abuse or sexual exploitation of a child under 18 years of
46 age.

47 (iii) Any recent act, failure to act or series of
48 such acts or failures to act by a perpetrator which
49 creates an imminent risk of serious physical injury to or
50 sexual abuse or sexual exploitation of a child under 18
51 years of age.

1 (iv) Serious physical neglect by a perpetrator
2 constituting prolonged or repeated lack of supervision or
3 the failure to provide essentials of life, including
4 adequate medical care, which endangers a child's life or
5 development or impairs the child's functioning.

6 (2) No child shall be deemed to be physically or
7 mentally abused based on injuries that result solely from
8 environmental factors that are beyond the control of the
9 parent or person responsible for the child's welfare, such as
10 inadequate housing, furnishings, income, clothing and medical
11 care.

12 (3) If, upon investigation, the county agency determines
13 that a child has not been provided needed medical or surgical
14 care because of seriously held religious beliefs of the
15 child's parents, guardian or person responsible for the
16 child's welfare, which beliefs are consistent with those of a
17 bona fide religion, the child shall not be deemed to be
18 physically or mentally abused. The county agency shall
19 closely monitor the child and shall seek court-ordered
20 medical intervention when the lack of medical or surgical
21 care threatens the child's life or long-term health. In cases
22 involving religious circumstances, all correspondence with a
23 subject of the report and the records of the Department of
24 Public Welfare and the county agency shall not reference
25 "child abuse" and shall acknowledge the religious basis for
26 the child's condition, and the family shall be referred for
27 general protective services, if appropriate.]

28 (b.1) Child abuse.--Except as otherwise provided in this
29 section, any of the following with respect to a child:

30 (1) Knowingly, recklessly or intentionally acting or
31 failing to act against a child with either of the following
32 outcomes which occurred within two years of the date of the
33 report to the department or county agency:

34 (i) Causing bodily injury or serious bodily injury
35 to a child.

36 (ii) Creating a reasonable likelihood of bodily
37 injury or serious bodily injury to a child. The actions
38 may include, but are not limited to, the fabrication,
39 feigning or intentionally exaggerating or inducing a
40 medical symptom or disease which results in a potentially
41 harmful medical evaluation or treatment to the child.

42 (2) Knowingly, recklessly or intentionally engaging in
43 any of the following conduct that has occurred within two
44 years of the date of the report to the department or county
45 agency:

46 (i) Kicking, burning, biting, stabbing, cutting or
47 throwing a child in a manner that may endanger the child.

48 (ii) Unreasonably confining or restraining a child,
49 based upon the method, location or the duration of the
50 confinement or restraint.

51 (iii) Forcefully shaking a child if the child is

1 under one year of age.

2 (iv) Forcefully slapping or striking a child if the
3 child is under one year of age.

4 (v) Interfering with the breathing of a child.

5 (vi) Causing the child to be present at a location
6 where any of the following offenses, subject to
7 investigation by law enforcement, is occurring:

8 (A) A violation of 18 Pa.C.S. § 7508.2 (relating
9 to operation of methamphetamine laboratory).

10 (B) A felony violation of the act of April 14,
11 1972 (P.L.233, No.64), known as The Controlled
12 Substance, Drug, Device and Cosmetic Act.

13 (vii) Operating a vehicle in which the child is a
14 passenger while a violation of 75 Pa.C.S. § 3802
15 (relating to driving under influence of alcohol or
16 controlled substance) is occurring.

17 (viii) Leaving a child alone with an individual,
18 other than the child's parent, who has been:

19 (A) Convicted of any Tier II or Tier III sexual
20 offense under 42 Pa.C.S. Ch. 97 Subch. H (relating to
21 registration of sexual offenders), where the victim
22 of the sexual offense was under 18 years of age when
23 the crime was committed.

24 (B) Determined to be a sexually violent predator
25 under 42 Pa.C.S. § 9799.24 (relating to assessments)
26 or any of its predecessors.

27 (C) Determined to be a sexually violent
28 delinquent child as defined in 42 Pa.C.S. § 9799.12
29 (relating to definitions).

30 (3) Knowingly, recklessly or intentionally causing or
31 significantly contributing, by an act or series of acts or
32 failing to act, to the serious mental injury to a child.

33 (4) Knowingly, recklessly or intentionally acting to
34 cause the sexual abuse or exploitation of a child.

35 (5) Causing serious physical neglect of a child.

36 (6) Attempting to engage in any conduct under paragraph
37 (1), (3) or (4).

38 (7) Knowingly, recklessly or intentionally performing an
39 act or failing to act which results in the death of a child.

40 (b.2) Child-on-child contact.--Harm or injury to a child
41 that results from the act of another child shall not constitute
42 child abuse unless:

43 (1) The act constitutes one of the following crimes:

44 (i) rape as defined in 18 Pa.C.S. § 3121 (relating
45 to rape);

46 (ii) involuntary deviate sexual intercourse as
47 defined in 18 Pa.C.S. § 3123 (relating to involuntary
48 deviate sexual intercourse);

49 (iii) sexual assault as defined in 18 Pa.C.S. §
50 3124.1 (relating to sexual assault); or

51 (iv) aggravated indecent assault as defined in 18

1 Pa.C.S. § 3125 (relating to aggravated indecent assault).

2 (2) The child who caused the harm or injury is a
3 perpetrator as defined herein.

4 (c) Environmental factors.--Notwithstanding subsection
5 (b.1), the term "child abuse" shall not be construed to deem a
6 child to be physically or mentally abused based on injuries that
7 result solely from environmental factors that are beyond the
8 control of the parent or person responsible for the child's
9 welfare, such as inadequate housing, furnishings, income,
10 clothing and medical care. This subsection shall not apply to a
11 foster parent, an individual who has direct or regular contact
12 with a child through any program, activity or service sponsored
13 by a school, for-profit organization or religious or other not-
14 for-profit organization, a school employee, child care employee
15 or an employee of a residential facility.

16 (d) Participation in events that involve physical contact
17 with child.--Notwithstanding subsection (b.1), the term "child
18 abuse" shall not be construed, in itself, to apply to an
19 individual participating in a practice or competition in an
20 interscholastic sport, physical education or an extracurricular
21 activity that involves physical contact with a child.

22 (e) Practice of religious beliefs.--If upon investigation
23 the county agency determines that a child has not been provided
24 needed medical or surgical care because of sincerely held
25 religious beliefs of the child's parents, guardian or person
26 responsible for the child's welfare, which beliefs are
27 consistent with those of a bona fide religion, the child shall
28 not be deemed to be physically or mentally abused. The county
29 agency shall closely monitor the child and shall seek court-
30 ordered medical intervention when the lack of medical or
31 surgical care threatens the child's life or long-term health. In
32 cases involving religious circumstances, all correspondence with
33 a subject of the report and the records of the Department of
34 Public Welfare and the county agency shall not reference "child
35 abuse" and shall acknowledge the religious basis for the child's
36 condition and the family shall be referred for general
37 protective services, if appropriate. This subsection shall not
38 apply to foster parents, an individual who has direct or regular
39 contact with a child through any program, activity or service
40 sponsored by a school, for-profit organization or religious or
41 other not-for-profit organization, school employees, child care
42 employees and employees of residential facilities.

43 (f) Use of reasonable force for safety purposes.--
44 Notwithstanding subsection (b.1), the term "child abuse" shall
45 not be construed to apply to the use of reasonable force under
46 the circumstances against a child by a person responsible for
47 the child's welfare if any of the following apply:

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

51 (2) The use of reasonable force is necessary:

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

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

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

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

12 (g) Rights of parents.--Nothing in this section shall be
13 construed to restrict the generally recognized existing rights
14 of parents to use reasonable supervision and control when
15 raising their children.

16 Section 2. Section 6340(a)(5) of Title 23 is amended to
17 read:

18 § 6340. Release of information in confidential reports.

19 (a) General rule.--Reports specified in section 6339
20 (relating to confidentiality of reports) shall only be made
21 available to:

22 * * *

23 (5) A court of competent jurisdiction, including a
24 magisterial district judge, a judge of the Philadelphia
25 Municipal Court and a judge of the Pittsburgh Magistrates
26 Court, pursuant to court order or subpoena in a criminal
27 matter involving a charge of child abuse under section
28 [6303(b)] 6303(b.1) (relating to definitions). Disclosure
29 through testimony shall be subject to the restrictions of
30 subsection (c).

31 * * *

32 Section 3. The definition of "child abuse" in section 6502
33 of Title 23 is amended to read:

34 § 6502. Definitions.

35 The following words and phrases when used in this chapter
36 shall have the meanings given to them in this section unless the
37 context clearly indicates otherwise:

38 "Child abuse." Child abuse as defined in section [6303(b)]
39 6303(b.1) (relating to definitions).

40 * * *

41 Section 4. This act shall take effect January 1, 2014.

