

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 433

Sponsor:

Printer's No. 2008

1 Amend Bill, page 2, line 16, by striking out "or indicated"
2 and inserting

3 , indicated or unfounded

4 Amend Bill, page 2, lines 19 through 22, by striking out all
5 of said lines and inserting

6 Section 2. Section 6341(a), (b) and (c) of Title 23 are
7 amended and the section is amended by adding a subsection to
8 read:

9 Amend Bill, page 5, lines 14 through 30; pages 6 through 9,
10 lines 1 through 30; page 10, lines 1 through 19, by striking out
11 all of said lines on said pages and inserting

12 (a) General rule.--[At any time] Notwithstanding section
13 6338.1 (relating to expunction of information of perpetrator who
14 was under 18 years of age when child abuse was committed):

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

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

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26 indicated report of abuse no longer represents a risk of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

30 (2) Any person named as a perpetrator, and any school
31 employee named, in an indicated report of child abuse may,
32 within [45] 90 days of being notified of the status of the
33 report, request an administrative review by, or appeal and

1 request a hearing before, the secretary to amend or expunge
2 an indicated report on the grounds that it is inaccurate or
3 it is being maintained in a manner inconsistent with this
4 chapter. The request shall be in writing in a manner
5 prescribed by the department.

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

9 (b) Review of grant of request.--If the secretary grants the
10 request under subsection (a)(2), the Statewide [central
11 register] database, appropriate county agency, appropriate law
12 enforcement officials and all subjects shall be so advised of
13 the decision. The county agency and any subject have [45] 90
14 days in which to file an administrative appeal with the
15 secretary. If an administrative appeal is received, the
16 secretary or his designated agent shall schedule a hearing
17 pursuant to Article IV of the act of June 13, 1967 (P.L.31,
18 No.21), known as the Public Welfare Code, [and] attending
19 departmental regulations and subsection (c.2). If no
20 administrative appeal is received within the designated time
21 period, the Statewide [central register] database shall comply
22 with the decision of the secretary and advise the county agency
23 to amend or expunge the information in their records so that the
24 records are consistent at both the State and local levels.

25 (c) Review of refusal of request.--[If the secretary refuses
26 the request under subsection (a)(2) or does not act within a
27 reasonable time, but in no event later than 30 days after
28 receipt of the request, the perpetrator or school employee shall
29 have the right to a hearing before the secretary or a designated
30 agent of the secretary to determine whether the summary of the
31 indicated report in the Statewide central register should be
32 amended or expunged on the grounds that it is inaccurate or that
33 it is being maintained in a manner inconsistent with this
34 chapter. The perpetrator or school employee shall have 45 days
35 from the date of the letter giving notice of the decision to
36 deny the request in which to request a hearing.] Subject to
37 subsection (c.1), if the secretary refuses a request under
38 subsection (a)(1) or a request for administrative review under
39 subsection (a)(2), or does not act within the prescribed time,
40 the perpetrator or school employee shall have the right to
41 appeal and request a hearing before the secretary, under
42 subsection (c.2), to amend or expunge an indicated report on the
43 grounds that it is inaccurate or it is being maintained in a
44 manner inconsistent with this chapter. The request for hearing
45 must be made within 90 days of notice of the results of the
46 investigation. The appropriate county agency and appropriate law
47 enforcement officials shall be given notice of the hearing. The
48 burden of proof in the hearing shall be on the appropriate
49 county agency. The department shall assist the county agency as
50 necessary.

51 (c.1) Founded reports.--A person named as a perpetrator in a

1 founded report of child abuse must provide to the department a
2 court order indicating that the underlying adjudication that
3 formed the basis of the founded report has been reversed or
4 vacated.

5 Amend Bill, page 10, lines 23 through 30; page 11, lines 1
6 through 30; page 12, lines 1 through 26, by striking out all of
7 said lines on said pages and inserting

8 Section 3. Section 6368 of Title 23 is amended by adding
9 subsections to read:

10 § 6368. Investigation of reports.

11 * * *

12 (j.1) Review of indicated reports.--A final determination
13 that a report of suspected child abuse is indicated shall be
14 approved by:

15 (1) the county administrator or a designee and a county
16 agency solicitor, when the county agency is investigating; or

17 (2) the secretary or a designee and legal counsel for
18 the department, when the department is investigating.

19 (j.2) Final determination.--Immediately upon conclusion of
20 the child abuse investigation, the county agency shall provide
21 the results of its investigation to the department, in a manner
22 prescribed by the department. Within three business days of
23 receipt of the results of the investigation from the county
24 agency, the department shall send notice of the final
25 determination to the subjects of the report, other than the
26 abused child. The determination shall include the following
27 information:

28 Amend Bill, page 13, lines 6 and 7, by striking out "central
29 register" and inserting

30 database, if the perpetrator's Social Security number or
31 date of birth are known

32 Amend Bill, page 13, line 17, by striking out "CLEAR AND
33 CONVINCING" and inserting

34 substantial

35 Amend Bill, page 13, lines 25 through 30; page 14, lines 1
36 through 7, by striking out all of said lines on said pages and
37 inserting

38 (j.3) Notice.--Notice under subsection (j.2) shall
39 constitute mailing of the final determination to the recipient's
40 last known address. The determination is presumed received when
41 not returned by the postal authorities as undeliverable. If the
42 determination is returned as undeliverable, the entry in the

1 Statewide database shall include information that the department
2 was unable to provide notice. No further efforts to provide
3 notice shall be required, except that the department shall
4 resume reasonable efforts to provide notice if new information
5 is received regarding the whereabouts of an individual who is
6 entitled to receive notice under subsection (j.2).

7 (j.4) Notice to mandated reporter.--If a report was made by
8 a mandated reporter under section 6313 (relating to reporting
9 procedure), the department shall notify the mandated reporter
10 who made the report of suspected child abuse of all of the
11 following within three business days of the department's receipt
12 of the results of the investigation:

13 (1) Whether the child abuse report is founded, indicated
14 or unfounded.

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

17 Amend Bill, page 14, line 9, by striking out "3" and
18 inserting

19 4

20 Amend Bill, page 14, line 21, by striking out "4" and
21 inserting

22 5

23 Amend Bill, page 14, line 21, by striking out "in ~~60~~ 120
24 days" and inserting

25 December 31, 2014