

## **Expunction DRAFT – 8.26.20**

### **AN ACT**

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions, mandatory reporting and postmortem investigation of deaths, establishment of a statewide database, information in statewide database, disposition and expunction of unfounded reports and general protective services reports, disposition of founded and indicated reports, expunction of information of perpetrator who was under 18 years of age when child abuse was committed, release of information in confidential reports, exchange of information for placement, amendment or expunction of information, investigating performance of county agency, employees having contact with children; adoptive and foster parents, audits by Attorney General, reports to Governor and General Assembly, penalties, services for prevention, investigation and treatment of child abuse, reports to department and coroner, investigation of reports, voluntary or court-ordered services, findings of child abuse, and evidence in court proceedings.

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

Section 1. Section 6303(a) and (b.1) of Title 23 of the Pennsylvania Consolidated Statutes is amended by deleting and amending a definition:

§ 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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["Expunge." To strike out or obliterate entirely so that the expunged information may not be stored, identified or later recovered by any mechanical or electronic means or otherwise.]

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

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(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] Allowing a child to be present where methamphetamine is being produced in 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).

(D) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

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Section 2. Sections 6317, 6331(4) and (8) and 6336(a) of Title 23 are amended to read:

§ 6317. Mandatory reporting and postmortem investigation of deaths.

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. The coroner or medical examiner shall also provide the county agency any information, as requested by the county agency, relating to the report that may assist the county agency in the investigation.

§ 6331. Establishment of Statewide database.

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 database):

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(4) Unfounded reports of child abuse [awaiting expunction].

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(8) Reports alleging the need for general protective services that have been determined invalid [and are awaiting expunction].

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§ 6336. Information in Statewide database.

(a) Information authorized.--The Statewide database shall include and shall be limited to the following information:

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(14) Information obtained by the department in relation to a perpetrator's [or school employee's] request to release[,] or amend [or expunge] information retained by the department or the county agency.

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(18) Unfounded reports of child abuse, limited to the information authorized under section 6337 (relating to disposition [and expunction] of unfounded reports and general protective services reports).

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Section 3. Section 6337 of Title 23 is amended and paragraphs are added to read:

§ 6337. Disposition [and expunction] of unfounded reports and general protective services reports.

(a) General rule.--When a report of suspected child abuse is determined by the appropriate county agency to be an unfounded report, the information concerning that report of suspected child abuse shall be maintained [for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged from the Statewide database, as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the

department, and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department. The expunction shall be mandated and guaranteed by the department.]

only for the purpose of:

(1) Future safety assessments, evaluation of appropriate provision of services and research by county agencies and the department; and

(2) Use by law enforcement as provided in section 6335(c)(1)(ii) for a period of one year.

(b) Absence of other determination.--If an investigation of a report of suspected child abuse conducted by the appropriate county agency pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is a founded report, an indicated report or an unfounded report, or unless within that same 60-day period court action has been initiated and is responsible for the delay, the report shall be considered to be an unfounded report[, and all information identifying the subjects of the report shall be expunged no later than 120 days following the expiration of one year after the date the report was received by the department]. The agency shall advise the department that court action or an arrest has been initiated so that the Statewide database is kept current regarding the status of all legal proceedings and [expunction]any amendment is delayed.

[(c) Unfounded reports accepted for services.--Information on an unfounded report shall be retained in the Statewide database if the county agency has accepted the family for services and the report of suspected child abuse is clearly identified as an unfounded report. The county agency shall notify the department immediately upon closure of the case, and the report shall be

expunged as soon as possible, but no later than 120 days after the one-year period following the date the family case was closed. If the subject child of the unfounded report becomes 23 years of age prior to the closure of the family\_case, the unfounded report shall be expunged when the subject child reaches 23 years of age.

(d)Expunction of valid general protective services reports.--Information concerning valid general protective services reports shall be maintained in the Statewide database as follows:

(1) Reports that are assessed by the county agency and are determined to be valid, but are not accepted for services, shall be reported to the department and entered into the Statewide database. The reports shall be maintained for a period of ten years or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first. Following the expiration of ten years after the date the report was received by the department or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the ten-year period following the date the report was received by the department or the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first.

(2) Reports that are assessed by the county agency and accepted for services shall be reported to the department, except as otherwise provided in subsection (f)(2), and entered into the Statewide database. The reports shall be maintained for a period of ten years after the closure of services by the county agency or until the youngest child identified in the most recent general protective services report attains 23 years of age,

whichever occurs first. Following the expiration of ten years after the closure of services by the county agency or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the ten-year period following the closure of services by the county agency or the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first.

(3) The expunction of information on general protective services under this subsection shall be mandated and guaranteed by the department.

(e) Expunction of invalid general protective services reports.--When a report alleging the need for general protective services is determined by the appropriate county agency to be an invalid report, the information concerning that report shall be maintained for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department. The expunction shall be mandated and guaranteed by the department.]

(f) County agency records.--Information concerning protective services reports shall be maintained by a county agency. [as follows:

(1) ] County agency records of protective services shall be used and maintained in a manner that is consistent with the use and maintenance of information in the Statewide database, as provided under this chapter[, except as otherwise provided in paragraph (2)]. If required under this chapter to amend [or expunge] information in the Statewide database, the department shall notify the appropriate county agency of



the amendment [or expungement] within ten days. The county agency shall amend [or expunge] its records in a commensurate manner within ten days of receiving notification from the department.

[(2) A county agency may maintain information regarding protective services reports that have been expunged in the Statewide database for access by the county agency to assist in future risk and safety assessments and research.]

Section 4. Sections 6338, 6338.1, and 6340(d) of Title 23 are amended to read:

§ 6338. Disposition of founded and indicated reports.

(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]Amendment of information of perpetrator who was under 18 years of age when child abuse was committed.

(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] not be considered an indicated perpetrator but the report will be maintained in 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 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).

(b) Mandated [expunction] change of status.--If the perpetrator meets all of the requirements under subsection (a), the [expunction] department shall guarantee the report is no longer considered indicated.

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§ 6340. Release of information in confidential reports.

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(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).

Section 5. Title 23 is amended by adding a section to read:

§ 6340.2. Exchange of information for placement.

(a) Substantiated reports.—Judges with placement decision authority in dependency and delinquency matters are permitted to receive notification from the department providing the basis for the substantiated outcome of indicated or founded reports if the incident occurred in a child residential facility or day treatment center, an approved foster or pre-adoptive home, or a facility operated by the department’s Bureau of Juvenile Justice Services.

- (b) Quarterly reports.—The department shall prepare and provide to county agencies and judges with placement decision authority in dependency and delinquency matters a quarterly report that includes the total number of child abuse reports and the total number of substantiated reports of abuse for the preceding quarter for all child residential facilities, day treatment facilities, approved foster or pre-adoptive homes and facilities operated by the department’s Bureau of Juvenile Justice Services.
- (c) Exemptions.—The department may, through regulation, provide an exemption under this section to a child day treatment center and a child residential facility.
- (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:

“Child day treatment center.” A premise or part thereof, operated for a portion of a 24-hour day in which alternative education, intervention or support programs are provided to one or more children to prevent a child’s placement in a more restrictive setting or to facilitate a child’s reunification with the child’s family A child day treatment center does not include:

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(1) Mental health outpatient or partial hospitalization facilities.

(2) Drug and alcohol outpatient facilities

(3) Facilities that provide only aftercare services provided after regular hours of education.

“Child residential facility.” A premise or part thereof, operated in a 24-hour living setting in which care is provided for one or more children who are not relatives of the facility operator.

Section 6. Section 6341 of Title 23 is amended to read:

§ 6341. Amendment [or expunction] of information.

(a) General rule.--Notwithstanding section 6338.1 (relating to [expunction] amendment 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) A 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] the Secretary's 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] Human Services 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 under subsection (a)(1) shall be on the perpetrator. The burden of proof in the hearing under subsection (a)(2) shall be on the appropriate county agency. The department shall assist the county agency as necessary.

(c.1) Founded reports.—A person named as a perpetrator in a founded report of child abuse [must provide] may have the report changed to an indicated report if the person provides to the department:

(1) A [a] court order indicating that the underlying adjudication that formed the basis of the founded report has been reversed or vacated[.] or

(2) Evidence of the successful completion of an Accelerated Rehabilitative Disposition program and removal of the related charge from the criminal report.

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(e) Order.--The secretary or designated agent may make any appropriate order respecting the amendment [or expunction] of such records to make them accurate or consistent with the requirements of this chapter.

(f) Notice of [expunction] amendment.--Written notice of an [expunction] amendment of any child abuse record made pursuant to the provisions of this chapter shall be served upon the subject of the record who was responsible for the abuse or injury and the appropriate county agency. Except as provided in this subsection, the county agency, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse records and inform, for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating to reports to department and coroner). Whenever the county agency investigation reveals, within 60 days of receipt of the report of suspected child abuse, that the report is unfounded but that the subjects need services provided or arranged by the county agency, the county agency shall retain those records and shall specifically identify that the report was an unfounded report of suspected child abuse. [An unfounded report regarding subjects who receive services shall be expunged no later than 120 days following the expiration of one year after the termination or completion of services provided or arranged by the county agency.]

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Section 7. Sections 6343(c), 6344(d), 6345, 6347(c) and 6349(a) of Title 23 are amended to read:

§ 6343. Investigating performance of county agency.

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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) the 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; and

(iv) [its] the 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.] Deleted.

(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. Employees having contact with children; adoptive and foster parents.

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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] 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 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.

(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] 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. 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:

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§ 6345. Audits by Attorney General.

The Attorney General shall conduct a mandated audit done randomly but at least once during each year on an unannounced basis to ensure that the [expunction] amendment requirements of this chapter are being fully and properly conducted.

§ 6347. Reports to Governor and General Assembly.

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(c) Quarterly reports.--The department shall prepare and transmit to the Governor and the General Assembly [a] quarterly [report] reports 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] include aggregate data on substantiated child fatality and near fatality reports including:

(1) Number of reports;

(2) Type of abuse;

(3) Age of the victim child at the time of the incident;

(4) Relationship of the perpetrator to the victim child; and

(5) If the victim child was known to the child welfare system within the last sixteen months.

One of the quarterly reports may be included within the annual report required under subsection (a).

§ 6349. Penalties.

(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.

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Section 8. Section 6365(d) and (e) of Title 23 is amended and a subsection is added to read:

§ 6365. Services for prevention, investigation and treatment of child abuse.

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(d) Child fatality or near fatality review team and written report.--

(1) A child fatality or near fatality review team shall be convened by a county agency in accordance with a protocol developed by the county agency, the department and the district attorney in a case when a child dies or nearly dies as a result of child abuse as to which there is an indicated report or when the county agency has not made a status determination within 30 days. The team may convene after a county agency makes a determination of an indicated report and shall convene no later than [31] 60 days from the receipt of the oral report to the department of the suspected child abuse. A county agency in the county where the abuse occurred and in any county where the child resided within the 16 months preceding the fatality or near fatality shall convene a child fatality or near fatality review team. A team shall consist of at least six individuals who are broadly representative of the county where the team is established and who have expertise in prevention and treatment of child abuse. With consideration given to the circumstances of each case and availability of individuals to serve as members, the team may consist of the following individuals:

- (i) A staff person from the county agency.
- (ii) A member of the advisory committee of the county agency.
- (iii) A health care professional.
- (iv) A representative of a local school, educational program or child care or early childhood development program.
- (v) A representative of law enforcement or the district attorney.

(vi) An attorney-at-law trained in legal representation of children or an individual trained under 42 Pa.C.S. § 6342 (relating to court-appointed special advocates).

(vii) A mental health professional.

(viii) A representative of a children's advocacy center that provides services to children in the county. The individual under this subparagraph must not be an employee of the county agency.

(ix) The county coroner or forensic pathologist.

(x) A representative of a local domestic violence program.

(xi) A representative of a local drug and alcohol program.

(xii) An individual representing parents.

(xiii) Any individual whom the county agency or child fatality or near fatality review team determines is necessary to assist the team in performing its duties.

(1.1) In lieu of the county child fatality or near fatality review team in paragraph (1), a county agency may convene a regional review team that meets all the requirements of paragraph (1).

(2) Members of the team shall be responsible for all of the following:

(i) Maintaining confidentiality of information under sections 6339 (relating to confidentiality of reports) and 6340.

(ii) Providing and discussing relevant case-specific information.

(iii) Attending and participating in all meetings and activities as required.

(iv) Assisting in the development of the report under paragraph (4)(v).



(3) The county agency, in accordance with the protocol and in consultation with the team, shall appoint an individual who is not an employee of the county agency to serve as chairperson.

(4) The team shall perform the following:

(i) Review the circumstances of the child's fatality or near fatality resulting from suspected or substantiated child abuse.

(ii) Review the delivery of services to the abused child and the child's family provided by the county agency and review services provided to the perpetrator by the county agency in each county where the child and family resided within the 16 months preceding the fatality or near fatality and the services provided to the child, the child's family and the perpetrator by other public and private community agencies or professionals. This subparagraph includes law enforcement, mental health services, programs for young children and children with special needs, drug and alcohol programs, local schools and health care providers.

(iii) Review relevant court records and documents related to the abused child and the child's family.

(iv) Review the county agency's compliance with statutes and regulations and with relevant policies and procedures of the county agency.

(v) Within [90] 60 days of convening, submit a final written report on the child fatality or near fatality to the department and designated county officials under section 6340(a)(11). Within 30 days after submission of the report to the department, the report shall be made available, upon request, to other individuals

to whom confidential reports may be released, as specified by section 6340. The report shall be made available to the public, but identifying information shall be removed from the contents of the report except for the following: [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. The report shall include:

(A) Deficiencies and strengths in:

- (I) compliance with statutes and regulations; and
- (II) services to children and families.

(B) Recommendations for changes at the State and local levels on:

- (I) reducing the likelihood of future child fatalities and near fatalities directly related to child abuse and neglect;
- (II) monitoring and inspection of county agencies; and
- (III) collaboration of community agencies and service providers to prevent child abuse and neglect.

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[(e) Response by department.--Within 45 days of receipt of a report of a child fatality or near fatality under subsection (d), the department shall review the findings and recommendations of the report and provide a written response to the county agency and the child fatality review team or near fatality review team. The department's response to the report of the child fatality or near fatality review team shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's response shall be made available to the public, but identifying information shall be removed from the contents of the response, 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 response shall not be released to the public if the district attorney certifies that release of the response 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.]

(e.1) Review by department.—

(1) The department will conduct a review of child fatality and near fatality reports and data required under subsection (d)(4) on a continual basis and make an annual data summary report available on the department's publicly accessible website.

(2) The review must include recommendations for prevention efforts on both the State and local levels,

(3) The department may convene a multidisciplinary team with members who are broadly representative of this Commonwealth and who have expertise in prevention and treatment of child abuse. Members of this team may review confidential information under 23 Pa. C.S. § 6339 (relating to confidentiality of reports) only to the extent the confidential information is required to complete the review.

Section 9. Sections 6367(b) and 6368(d), (f) and (l) of Title 23 are amended to read:

§ 6367. Reports to department and coroner or medical examiner.

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(b) Reports to coroner or medical examiner.--The county agency shall give telephone notice and forward immediately a copy of reports made pursuant to this chapter which involve the death of a child to the appropriate coroner or medical examiner pursuant to section 6317 (relating to mandatory reporting and postmortem investigation of deaths). The county agency shall also provide the coroner or medical examiner any information relating to the report that may assist the coroner or medical examiner in the investigation.

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§ 6368. Investigation of reports.

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(d) Investigative actions.--During the investigation, all of the following shall apply:

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

(2) 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.

(3) 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.

(4) 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).

(5) If there is evidence in the investigation that substance use may be a contributing factor causing the alleged abuse or neglect, the county agency may seek a court order to compel appropriate drug and alcohol screening.

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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.

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(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).

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Section 10. Sections 6370(b) and 6381(a) of Title 23 are amended to read:

§ 6370. Voluntary or court-ordered services; findings of child abuse.

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(b) Initiation of court proceeding.--

(1) In those cases in which an appropriate offer of service is refused and the county agency determines that the best interests of the child require court action, the county agency shall initiate the appropriate court proceeding. The county agency shall assist the court during all stages of the court proceeding in accordance with the purposes of this chapter.

(2) (i) If the county agency deems it appropriate in a dependency or delinquency proceeding, including an instance in which the alleged perpetrator has access or poses a threat to a child, the county agency may petition the court under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) for a finding of child abuse.

(ii) If the court makes a specific finding that child abuse as defined by this chapter has not occurred, the county agency shall consider the court's finding to be a determination that the report of suspected abuse was an unfounded report. The county agency shall immediately notify the department of the change in the status of the report from an indicated report to an unfounded report. Upon notice,

the department shall be responsible for [expunging] amending the indicated report consistent with the [expunction] amendment requirements of this chapter.

[(iii) If there is a determination that the subjects of the unfounded report need services provided or arranged by the county agency, the county agency may retain those records only if it specifically identifies the report as an unfounded report of suspected child abuse.] Deleted.

§ 6381. Evidence in court proceedings.

- (a) General rule.--In addition to the rules of evidence provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the rules of evidence in this section shall govern in child abuse proceedings in court or in any department administrative hearing pursuant to section 6341 (relating to amendment [or expunction] of information).

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Section 11. This act shall take effect in 180 days.