

**PA Child Protective Services Law Proposed Amendments**

**Pennsylvania Department of Human Services Testimony**

**Presented by Office of Children, Youth and Families Deputy Secretary Jon Rubin**

**August 16, 2021**

Good morning Chairpersons Ward and Collett, committee members and staff. I am Jonathan Rubin, Deputy Secretary for the Office of Children, Youth, and Families within the Department of Human Services (the department) and I am pleased to be joining with you today to discuss proposed amendments to the Child Protective Services Law (CPSL).

The Office of Children, Youth and Families has identified these amendments as being a priority to better protect children, or as an operational need of the department. None of these proposed changes would affect federal funding received by Pennsylvania.

The first proposed amendment is a request to remove expungement requirements for certain Child Protective Services (CPS) and General Protective Services (GPS) reports maintained at the state.

Generally speaking, the CPSL requires unfounded reports to be maintained in the statewide database for one year after the report of suspected child abuse. Unfounded reports are not necessarily incorrect reports but are reports that are investigated and the information gathered did not meet the evidentiary burden to be substantiated as per the CPSL for any one of a number of potential reasons.

Valid GPS reports are maintained by the state for a period of 10 years or until the youngest child in the report turns 23 years old. GPS reports that are deemed invalid must be maintained in the statewide database for a period of one year. Invalid GPS reports are also not to be interpreted as definitively bad reports, but reports that through assessment of the family circumstances did not arise to the point where it was determined that the allegations reported met the definition for needing GPS supports.

In all of these situations, the state must then expunge the information as soon as possible but no later than 120 days after the relevant timeframe expires.

It should be noted that a county agency currently has the option to maintain information that has been expunged in the statewide database for the purposes of assisting in future risk and safety assessments.

Not expunging unfounded or invalid reports as proposed will allow for a more comprehensive understanding of a child and/or family's prior child welfare involvement and will improve and inform the quality and consistency of protective services, particularly for the most vulnerable group of those aged 0-5, as well as families who move across county or state lines. Expungements also negatively impact parents, caregivers, and alleged perpetrators because when unfounded reports are expunged and there is a second referral for a previously investigated and unfounded case, there is no documentation of the prior investigation. Without the prior, unfounded report to compare to, there must be a second investigation of the same incident. A child abuse investigation can already be a traumatic event for all involved, especially children and parents and to put them through a second investigation only serves to re-traumatize all individuals involved. It should be noted that currently, county children and youth agencies do not have to expunge information, so this is only required of the state.

It is our intent to allow information to be maintained for the purpose of future safety assessment, evaluation of appropriate report response and provision of services, and research conducted by the department to support better learning and understanding of the performance of the department and outcomes achieved.

This amendment will allow for consistency across agencies and will be necessary when our new child welfare information system integrates county and state databases. The new statewide child welfare case management system will replace the intake and investigation information exchange functionality of our current system and will add fully integrated case management functionality with counties and the state. Maintaining two separate expungement criteria will be a significant and costly challenge in the new system.

Importantly, maintaining information in unfounded or unsubstantiated reports will not impact clearance results. In other words, when individuals apply for their child abuse clearances, previous unfounded reports are not provided on the clearance outcome documents.

Next, we are proposing to amend the definition of “child abuse”. Currently the definition of “child abuse” includes “intentionally, knowingly or recklessly...causing a child to be present at a location while a violation of 18 Pa. C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.” The Bureau of Hearings and Appeals has interpreted that the phrase “causing” limits having an indicated finding to only the person who physically transported the child to the location of the meth lab and does not allow for the indication of the person who is cooking meth or running the lab. We believe this can be remedied by amending the definition of “child abuse” to include “intentionally, knowingly or recklessly ... allowing a child to be present where methamphetamine is being produced...”

We are also proposing an amendment to maintain individuals on the Child Abuse Registry who have been investigated and the county agency has determined that sufficient evidence exists for a founded report based on a judicial determination of guilt in cases that involved the same factual circumstances involved in the allegation of child abuse.

In 2014 the CPSL was amended to include a change in the definition of “founded report.” Currently a report of child abuse can be founded if there has been acceptance into an accelerated rehabilitative disposition (ARD) program. The concern arises when an individual completes the ARD program. Once ARD is completed the criminal charge should be expunged from the individual’s record. A person who is listed as the perpetrator of a founded report can come off the registry if they provide a court order indicating the underlying adjudication that formed the basis of the founded report has been reversed or

vacated. The department believes the report should be shifted and maintained on the Childline registry as an indicated report of child abuse in these circumstances.

This will maintain the report on the ChildLine registry even after the perpetrator has completed ARD and the perpetrator shall maintain all rights to appeal the indicated decision to the Bureau of Hearings and Appeals.

OCYF is also proposing amendments to our current child fatality/near fatality review process that we believe will support better case reviews and ultimately better understanding of the circumstances that lead to child fatalities and near fatalities and stronger prevention plans.

One piece of our proposal is to extend the county review team convening timeframe from 30 days to 60 days from the date of the report to allow for more comprehensive assessments at the time of the review. This will allow all pertinent law enforcement and medical information to be gathered and allow for a more thorough and accurate review of the incident and family information. This will support better analysis and recommendations for prevention efforts.

We would also propose to decrease the county review team final reporting time frame from 90 days to 60 days to not delay reporting and the overall timeline of the review process.

We further propose adjusting language in the CPSL to allow for the creation of regionalized child abuse fatality and near fatality review teams for those counties who have infrequent reviews. This will provide an opportunity to enhance the team's expertise on review team processes and requirements, as well as support the ability to have expert representation of all disciplines as suggested in the CPSL.

We also would like to see the addition of on-going, bi-directional sharing of information to and from county coroners/medical examiners and county agencies related to mandatory reporting and postmortem investigation of deaths to support information sharing.

Further, we recommend removal of the identity of the deceased child in the state reports of fatality incidents and information that may be released during the investigation where child abuse/neglect was suspected. This supports the family who has suffered significant trauma but does not impede the department's ability to analyze the circumstances of the fatality or near fatality and develop improvement plans from the information.

To support information sharing that is meaningful for analysis of trends and areas of improvement to prevent child fatalities and near fatalities, we are proposing replacing quarterly narrative summaries of individual cases that had substantiated findings with aggregate data reports to include at a minimum the number of reports, type of abuse, the number of substantiated cases, and information such as the age of the victim and the relationship of the perpetrator to the child.

To achieve this enhanced analysis, we propose adding a section to the CPSL requiring the department to maintain a fatality/near fatality Trend Analysis Team and allow the sharing of confidential information solely for purposes of the analysis. Any information related to that incident and family deemed necessary for the analysis will be permitted to be shared within the team for the purpose of the analysis.

It is our expectation that the department's child fatality or near fatality analysis shall be on-going and include incidents immediately upon finalization of the department's review team report. An annual report will be issued with the analysis and findings to include aggregate data and recommendations for statewide, systemic improvements to inform policy changes at both the state and county levels, while also promoting and supporting the implementation of effective prevention efforts in Pennsylvania.

Upon completion of the analysis and report, the report shall be made available to the public with all identifying information removed from the contents of the report.

Moving on to our next proposal, OCYF recognizes the value of the courts in our child welfare system and wants the ability to provide dependency and delinquency judges, as well as county agencies, with more

information about substantiated and unsubstantiated reports. This proposed amendment is the result of discussions with a broad group of stakeholders including the Pennsylvania courts and private provider agencies.

To achieve our goal, we request that judges with placement decision authority in dependency and delinquency matters be 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.

Furthermore, if permitted by the CPSL, the department would 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.

Finally, as it is not currently clearly articulated in the CPSL, we propose language which specifies that if there is evidence in the investigation or assessment of a report 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. We propose this amendment in a manner that only provides the agency the standing to seek a court order for such screening and support a judicial review in circumstances when an individual refuses such screening.

On behalf of the Office of Children, Youth, and Families, we propose each of these amendments as we believe they will support enhanced safety and improved outcomes for children and youth in Pennsylvania.

I thank you for the opportunity to share this information with you today and would be happy to take any questions.