

Child Protective Services Law  
(May 8, 2009)

Purdon's Pennsylvania Statutes and Consolidated Statutes [Currentness](#)  
Title 23 Pa.C.S.A. Domestic Relations ([Refs & Annos](#))

Part VII. Abuse of Family

Chapter 63. Child Protective Services (Refs & Annos)

Subchapter A. Preliminary Provisions (Refs & Annos)

→§ 6301. Short title of chapter

This chapter shall be known and may be cited as the Child Protective Services Law.

**6302. Findings and purpose of chapter**

**(a) Findings.--**Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment.

**(b) Purpose.--**It is the purpose of this chapter to encourage more complete reporting of suspected child abuse; to the extent permitted by this chapter, to involve law enforcement agencies in responding to child abuse; and to establish in each county protective services for the purpose of investigating the reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve, stabilize and protect the integrity of family life wherever appropriate or to provide another alternative permanent family when the unity of the family cannot be maintained. It is also the purpose of this chapter to ensure that each county children and youth agency establish a program of protective services with procedures to assess risk of harm to a child and with the capabilities to respond adequately to meet the needs of the family and child who may be at risk and to prioritize the response and services to children most at risk.

**(c) Effect on rights of parents.--**This chapter does not restrict the generally recognized existing rights of parents to use reasonable supervision and control when raising their children.

## § 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:

**"Accept for service."** Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

**"Child."** Includes a newborn.

**"Child-care services."** Child day-care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children, juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation, early intervention and drug and alcohol services for children; and other child-care services which are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may be offered by public and private schools, intermediate units or area vocational-technical schools.

**"Child protective services."** Those services and activities provided by the Department of Public Welfare and each county agency for child abuse cases.

**"Children's advocacy center."** A local public agency in this Commonwealth or a not-for-profit entity incorporated in this Commonwealth which:

(1) is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)); and

(2) operates within this Commonwealth for the primary purpose of providing a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse that, at a minimum, either onsite or through a partnership with another entity or entities, assists county agencies, investigative teams and law enforcement by providing services, including forensic interviews, medical evaluations, therapeutic interventions,

victim support and advocacy, team case reviews and a system for case tracking.

**"Cooperation with an investigation or assessment."** Includes, but is not limited to, a school or school district which permits authorized personnel from the Department of Public Welfare or county agency to interview a student while the student is in attendance at school.

**"County agency."** The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L. 2017, No. 396), known as the County Institution District Law, [FN1] or its successor, and supervised by the Department of Public Welfare under Article IX of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code. [FN2]

**"Department."** The Department of Public Welfare of the Commonwealth.

**"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.

**"Family members."** Spouses, parents and children or other persons related by consanguinity or affinity.

**"Founded report."** A child abuse report made pursuant to this chapter if there has been any judicial adjudication based on a finding that a child who is a subject of the report has been abused, including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegation of child abuse.

**"Founded report for school employee."** A report under Subchapter C.1 (relating to students in public and private schools) if there has been any judicial adjudication based on a finding that the victim has suffered serious bodily injury or sexual abuse or exploitation, including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegations of the report.

**"General protective services."** Those services and activities provided by each county agency for nonabuse cases requiring protective services, as defined by

the Department of Public Welfare in regulations.

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

- (1) Available medical evidence.
- (2) The child protective service investigation.
- (3) An admission of the acts of abuse by the perpetrator.

**"Indicated report for school employee."** A report made under Subchapter C.1 (relating to students in public and private schools) if an investigation by the county agency determines that substantial evidence of serious bodily injury or sexual abuse or exploitation exists based on any of the following:

- (1) Available medical evidence.
- (2) The county agency's investigation.
- (3) An admission of the acts of abuse by the school employee.

**"Individual residing in the same home as the child."** An individual who is 14 years of age or older and who resides in the same home as the child.

**"Near fatality."** An act that, as certified by a physician, places a child in serious or critical condition.

**"Newborn."** As defined in section 6502 (relating to definitions).

**"Nonaccidental."** An injury that is the result of an intentional act that is committed with disregard of a substantial and unjustifiable risk.

**"Perpetrator."** A person who has committed child abuse and is a parent of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

**"Person responsible for the child's welfare."** A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in any public or private school, intermediate unit or area vocational-technical school.

**"Private agency."** A children and youth social service agency subject to the requirements of 55 Pa. Code Ch. 3680 (relating to administration and operation of a children and youth social service agency).

**"Protective services."** Those services and activities provided by the Department of Public Welfare and each county agency for children who are abused or are alleged to be in need of protection under this chapter.

**"Recent acts or omissions."** Acts or omissions committed within two years of the date of the report to the Department of Public Welfare or county agency.

**"Resource family."** A family which provides temporary foster or kinship care for children who need out-of-home placement and may eventually provide permanency for those children, including an adoptive family.

**"Risk assessment."** A Commonwealth-approved systematic process that assesses a child's need for protection or services based on the risk of harm to the child.

**"School employee."** An individual employed by a public or private school, intermediate unit or area vocational-technical school. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with students.

**"Secretary."** The Secretary of Public Welfare of the Commonwealth.

**"Serious bodily injury."** Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

**"Serious mental injury."** A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

- (1) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or
- (2) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

**"Serious physical injury."** An injury that:

- (1) causes a child severe pain; or
- (2) significantly impairs a child's physical functioning, either temporarily or permanently.

**"Sexual abuse or exploitation."** Any of the following:

- (1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct.
- (2) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in simulation of sexually explicit conduct for the purpose of producing visual depiction, including photographing, videotaping, computer depicting and filming.
- (3) Any of the following offenses committed against a child:
  - (i) Rape.
  - (ii) Sexual assault.
  - (iii) Involuntary deviate sexual intercourse.
  - (iv) Aggravated indecent assault.
  - (v) Molestation.
  - (vi) Incest.
  - (vii) Indecent exposure.

(viii) Prostitution.

(ix) Sexual abuse.

(x) Sexual exploitation.

**"Student."** An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.

**"Subject of the report."** Any child, parent, guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator or school employee named in a report made to the Department of Public Welfare or a county agency under this chapter.

**"Substantial evidence."** Evidence which outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.

**"Substantiated child abuse."** Child abuse as to which there is an indicated report or founded report.

**"Under investigation."** A child abuse report pursuant to this chapter which is being investigated to determine whether it is "founded," "indicated" or "unfounded."

**"Unfounded report."** Any report made pursuant to this chapter unless the report is a "founded report" or an "indicated report."

**(b) Child abuse.--**

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

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

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

(iii) Any recent act, failure to act or series of such acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or

sexual abuse or sexual exploitation of a child under 18 years of age.

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

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

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

#### Subchapter B. Provisions and Responsibilities for Reporting Suspected Child Abuse (Refs & Annos)

##### ➔§ 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. [FN1] 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.

**(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 immediately 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. This chapter does not require more than one report from any such institution, school, facility or agency.

**(d) Civil action for discrimination against person filing report.**--Any person who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, makes or causes the report to be made and, as a result thereof, is discharged from his employment or in any other manner is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, may commence an action in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred for appropriate relief. If the court finds that the person is an individual who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, made or caused to be made a report of suspected child abuse and, as a result thereof, was discharged or discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, it may issue an order granting appropriate relief, including, but not limited to, reinstatement with back pay. The department may intervene in any action commenced under this subsection.

## **§ 6312. Persons permitted to report suspected child abuse**

In addition to those persons and officials required to report suspected child abuse, any person may make such a report if that person has reasonable cause to suspect that a child is an abused child.

### **§ 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.

#### **§ 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 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.

#### **§ 6315. Taking child into protective custody**

**(a) General rule.**--A child may be taken into protective custody:

- (1) As provided by 42 Pa.C.S. § 6324 (relating to taking into custody).
- (2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by the director, of any hospital or other medical institution where the child is being treated if protective custody is immediately necessary to protect the child under this chapter.
- (3) By a physician or the director, or a person specifically designated by the

director, of a hospital pursuant to Chapter 65 (relating to newborn protection) if the child is a newborn.

**(b) Duration of custody.--**No child may be held in protective custody for more than 24 hours unless the appropriate county agency is immediately notified that the child has been taken into custody and the county agency obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. Each court shall insure that a judge is available 24 hours a day, 365 days a year to accept and decide the actions brought by a county agency under this subsection within the 24-hour period.

**(c) Notice of custody.--**

(1) Except as provided in paragraph (2), an individual taking a child into protective custody under this chapter shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child, unless prohibited by court order, and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate county agency in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.

(2) In the case of a newborn taken into protective custody pursuant to subsection (a)(3), the county agency shall within 24 hours make diligent efforts to notify a parent, guardian, custodian or other family member of the whereabouts of the newborn, unless prohibited by court order, and the reasons for the need to take the newborn into protective custody.

**(d) Informal hearing.--**In no case shall protective custody under this chapter be maintained longer than 72 hours without an informal hearing under 42 Pa.C.S. § 6332 (relating to informal hearing). If, at the hearing, it is determined that protective custody shall be continued and the child is alleged to be without proper parental care or control or is alleged to be a dependent child under 42 Pa.C.S. § 6302 (relating to definitions), the county agency shall within 48 hours file a petition with the court under 42 Pa.C.S. Ch. 63 alleging that the child is a dependent child.

**(e) Place of detention.--**No child taken into protective custody under this chapter may be detained during the protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.

**(f) Conference with parent or other custodian.--**A conference between the

parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the employee designated by the county agency to be responsible for the child shall be held within 48 hours of the time that the child is taken into custody for the purpose of:

- (1) Explaining to the parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, unless prohibited by court order.
- (2) Expediting, wherever possible, the return of the child to the custody of the parent, guardian or other custodian where custody is no longer necessary.
- (3) Explaining to the parent, guardian or other custodian the rights provided for under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights).

### **§ 6316. Admission to private and public hospitals**

**(a) General rule.**--Children appearing to suffer any physical or mental condition which may constitute child abuse shall be admitted to, treated and maintained in facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.

**(a.1) Newborns.**--A newborn taken into protective custody pursuant to section 6315(a)(3) (relating to taking child into protective custody) shall be admitted to, treated and maintained in facilities of public and private hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care. Once a newborn is taken into protective custody pursuant to section 6315(a)(3), the newborn shall be considered immediately eligible for Medicaid for payment of medical services provided. Until otherwise provided by court order, the county agency shall assume the responsibility for making decisions regarding the newborn's medical care.

**(b) Failure of hospital to admit child or newborn.**--The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) or (a.1) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital.

### **§ 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. The coroner 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.

### **§ 6318. Immunity from liability**

**(a) General rule.**--A person, hospital, institution, school, facility, agency or agency employee that participates in good faith in the making of a report, whether required or not, cooperating with an investigation, including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse, the taking of photographs or the removal or keeping of a child pursuant to section 6315 (relating to taking child into protective custody), and any official or employee of a county agency who refers a report of suspected abuse to law enforcement authorities or provides services under this chapter, shall have immunity from civil and criminal liability that might otherwise result by reason of those actions.

**(b) Presumption of good faith.**--For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.

### **§ 6319. Penalties for failure to report or to refer**

A person or official required by this chapter to report a case of suspected child abuse or to make a referral to the appropriate authorities who willfully fails to do so commits a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.

## Subchapter C. Powers and Duties of Department (Refs & Annos)

### ➔§ 6331. Establishment of pending complaint file, Statewide central register and file of unfounded reports

There shall be established in the department:

- (1) A pending complaint file of child abuse reports under investigation and a file of reports under investigation pursuant to Subchapter C.1 (relating to students in public and private schools).
- (2) A Statewide central register of child abuse which shall consist of founded and indicated reports.
- (3) A file of unfounded reports awaiting expunction.

### § 6332. Establishment of Statewide toll-free telephone number

**(a) General rule.**--The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse. A county agency shall use the Statewide toll-free telephone number for determining the existence of prior founded or indicated reports of child abuse in the Statewide central register or reports under investigation in the pending complaint file.

**(b) Limitation on use.**--A county agency may only request and receive information pursuant to this subsection either on its own behalf because it has received a report of suspected child abuse or on behalf of a physician examining or treating a child or on behalf of the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by the director suspects the child of being an abused child.

### § 6333. Continuous availability of department

The department shall be capable of receiving oral reports of child abuse made pursuant to this chapter, reports under section 6353.2 (relating to responsibilities of county agency) and report summaries of child abuse from county agencies

and shall be capable of immediately identifying prior reports of child abuse and prior reports of abuse or injury under Subchapter C.1 (relating to students in public and private schools) in the Statewide central register and reports under investigation in the pending complaint file and of monitoring the provision of child protective services 24 hours a day, seven days a week.

#### **§ 6334. Disposition of complaints received**

**(a) Notice to county agency.**--Upon receipt of a complaint of suspected child abuse, the department shall immediately transmit orally to the appropriate county agency notice that the complaint of suspected child abuse has been received and the substance of the complaint. If the Statewide central register or the pending complaint file contains information indicating a prior report or a current investigation concerning a subject of the report, the department shall immediately notify the appropriate county agency of this fact. The appropriate county agency shall mean the agency in the county where the suspected child abuse occurred. If the residency of the subjects is a factor that requires the cooperation of more than one county agency, the department shall develop regulations to ensure the cooperation of those agencies in carrying out the requirements of this chapter.

**(b) Referral for services or investigation.**--If the complaint received does not suggest suspected child abuse but does suggest a need for social services or other services or investigation, the department shall transmit the information to the county agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has reasonable cause to suspect after investigation that abuse occurred. If the agency has reasonable cause to suspect that abuse occurred, the agency shall notify the department, and the initial complaint shall be considered to have been a child abuse report.

**(c) Recording in pending complaint file.**--Upon receipt of a complaint of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the pending complaint file. Upon receipt of a report under section 6353.2 (relating to responsibilities of county agency), the department shall maintain a record of the report in the report file under section 6331 (relating to establishment of pending complaint file, Statewide central register and file of unfounded reports).

#### **(d) Incidents occurring outside of this Commonwealth.--**

(1) A report of suspected child abuse occurring in another state where the

child victim is identified as a resident of this Commonwealth and the other state child protective services agency cannot investigate the report because of statutory or policy limitations shall be assigned as a general protective services report to the county of the child's residence or as determined by the department.

(2) In addition to complying with the other requirements of this chapter and applicable regulations, a copy of the report shall be provided to the other state's child protective services agency and, when applicable under Pennsylvania law, to law enforcement officials where the incident occurred.

(3) Reports and information under this subsection shall be provided within seven calendar days of completion of the general protective services assessment under section 6375 (relating to county agency requirements for general protective services).

### **§ 6335. Information in pending complaint and unfounded report files**

**(a) Information authorized.**--The information contained in the pending complaint file shall be limited to the information required in sections 6313(c) (relating to reporting procedure) and 6353.2 (relating to responsibilities of county agency). The information contained in the file for unfounded reports shall be limited to the information required by section 6336 (relating to information in the Statewide central register).

**(b) Access to information.**--Except as provided in sections 6332 (relating to establishment of Statewide toll-free telephone number), 6334 (relating to disposition of complaints received), 6340 (relating to release of information in confidential reports) and 6342 (relating to studies of data in records), no person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall at any time have access to any information in the pending complaint file or Statewide central register. Information in the file of unfounded reports shall be available only to employees of the department pursuant to this subsection, to subjects of a report or law enforcement officials pursuant to section 6340 and to the Office of Attorney General pursuant to section 6345 (relating to audits by Attorney General) until the reports are expunged pursuant to section 6337 (relating to disposition of unfounded reports).

### **§ 6336. Information in Statewide central register**

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

- (1) The names, Social Security numbers, age and sex of the subjects of the reports.
- (2) The date or dates and the nature and extent of the alleged instances of suspected child abuse.
- (3) The home addresses of the subjects of the report.
- (4) The county in which the suspected abuse occurred.
- (5) Family composition.
- (6) The name and relationship to the abused child of other persons named in the report.
- (7) Factors contributing to the abuse.
- (8) The source of the report.
- (9) Services planned or provided.
- (10) Whether the report is a founded report or an indicated report.
- (11) Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency.
- (12) The progress of any legal proceedings brought on the basis of the report of suspected child abuse.
- (13) Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.

No information other than that permitted in this subsection shall be retained in the Statewide central register.

**(b) Type of information released.**--Except as provided in sections 6334 (relating to disposition of complaints received), 6335 (relating to information in pending complaint and unfounded report files), 6340 (relating to release of

information in confidential reports) and 6342 (relating to studies of data in records), persons receiving information from the Statewide central register or pending complaint file may be informed only as to:

- (1) Whether the report is a founded or indicated abuse or is under investigation.
- (2) The number of such reports.
- (3) The nature and extent of the alleged or actual instances of suspected child abuse.
- (4) The county in which the reports are investigated.
- (5) Any other information available which would further the purposes of this chapter.

**(c) Limitation on release of information.**--Except as provided in sections 6334, 6335, 6340 and 6342, no information shall be released from the Statewide central register or pending complaint file unless pursuant to section 6332 (relating to establishment of Statewide toll-free telephone number) and unless the department has positively identified the representative of the county agency requesting the information and the department has inquired into and is satisfied that the representative has a legitimate need, within the scope of official duties and the provisions of section 6332, to obtain the information. Information in the Statewide central register or pending complaint file shall not be released for any purpose or to any individual not specified in section 6340.

#### **§ 6337. Disposition of unfounded 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 pending complaint file, 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.

**(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 pending complaint file is kept current regarding the status of all legal proceedings and expunction delayed.

**(c) Expunction of information.**--All information identifying the subjects of any report of suspected child abuse and of any report under Subchapter C.1 (relating to students in public and private schools) determined to be an unfounded report shall be expunged from the pending complaint file pursuant to this section. The expunction shall be mandated and guaranteed by the department.

#### **§ 6338. Disposition of founded and indicated reports**

**(a) General rule.**--When a report of suspected child abuse or a report under Subchapter C.1 (relating to students in public and private schools) is determined by the appropriate county agency to be a founded report or an indicated report, the information concerning that report of suspected child abuse shall be expunged immediately from the pending complaint file, and an appropriate entry shall be made in the Statewide central register. Notice of the determination must be given to the subjects of the report, other than the abused child, and to the parent or guardian of the affected child or student along with an explanation of the implications of the determination. Notice given to perpetrators of child abuse and to school employees who are subjects of indicated reports for school employees or founded reports for school employees shall include notice that their ability to obtain employment in a child-care facility or program or a public or private school may be adversely affected by entry of the report in the Statewide central register. The notice shall also inform the recipient of his right, within 45 days after being notified of the status of the report, to appeal an indicated report, and his right to a hearing if the request is denied.

**(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.**--A subfile shall be established in the Statewide central register to 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 subfile shall not include identifying information regarding other subjects of the report.

### **§ 6339. Confidentiality of reports**

Except as otherwise provided in this subchapter, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and written reports made pursuant to section 6313(b) and (c) (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department or a county agency shall be confidential.

### **§ 6340. Release of information in confidential reports**

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

- (1) An authorized official of a county agency, of a Federal agency that has a need for such information to carry out its responsibilities under law to protect children from abuse and neglect or of an agency of another state that performs protective services analogous to those services performed by county agencies or the department in the course of the official's duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to voluntary or court-ordered services; findings of child abuse).
- (2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child or a child alleged to be in need of protection under this chapter.
- (3) A guardian ad litem or court designated advocate for the child.
- (4) An authorized official or agent of the department in accordance with

department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of county agency).

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

(5.1) A court of common pleas in connection with any matter involving custody of a child. The department shall provide to the court any reports and files which the court considers relevant.

(6) A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).

(7) The Attorney General.

(8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not remove identifiable reports or copies thereof from the department or county agencies.

(9) Law enforcement officials of any jurisdiction, as long as the information is relevant in the course of investigating cases of:

(i) Homicide or other criminal offense set forth in section 6344(c) (relating to information relating to prospective child-care personnel), sexual abuse, sexual exploitation, serious bodily injury or serious physical injury perpetrated by persons whether or not related to the victim.

(ii) Child abuse perpetrated by persons who are not family members.

(iii) Repeated physical injury to a child under circumstances which indicate that the child's health, safety or welfare is harmed or threatened.

(iv) A missing child report.

(10) The district attorney or his designee or other law enforcement official, as set forth in the county protocols for investigative teams required in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse), shall receive, immediately after the county agency has ensured the safety of the child, reports of abuse, either orally or in writing, according to regulations promulgated by the department, from the county agency in which the initial report of suspected child abuse or initial inquiry into the report gives

evidence that the abuse is:

(i) a criminal offense set forth in section 6344(c), not including an offense under 18 Pa.C.S. § 4304 (relating to endangering welfare of children) or an equivalent crime under Federal law or the law of another state, sexual abuse, sexual exploitation or serious bodily injury perpetrated by persons, whether or not related to the victim;

(ii) child abuse perpetrated by persons who are not family members; or

(iii) serious physical injury involving extensive and severe bruising, burns, broken bones, lacerations, internal bleeding, shaken baby syndrome or choking or an injury that significantly impairs a child's physical functioning, either temporarily or permanently.

(11) Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:

(i) The board of commissioners in counties other than counties of the first class.

(ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L. 665, No. 155), known as the First Class City Home Rule Act. [FN1]

(iii) An individual serving as a county chief executive as designated by a county home rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L. 184, No. 62), known as the Home Rule Charter and Optional Plans Law. [FN2]

(12) A mandated reporter of suspected child abuse as defined in section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child, but the information permitted to be released to the mandated reporter shall be limited to the following:

(i) The final status of the child abuse report following the investigation, whether it be indicated, founded or unfounded.

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

(13) Persons required to make reports under Subchapter C.1 (relating to students in public and private schools). Information under this paragraph shall be limited to the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.

(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the prospective parent may make an informed decision to adopt.

(15) Appropriate officials of another county or state regarding an investigation related to child abuse or protective services when a family has moved to that county or state. Reports under this paragraph shall include general protective service reports and related information. Reports and information under this paragraph shall be provided within seven calendar days. The department shall promulgate regulations as necessary to carry out the purposes of this paragraph.

(16) Members of citizen review panels convened pursuant to section 6343.1 (relating to citizen review panels), provided that such members shall not disclose to any person or government official any identifying information about any specific child protective services case with respect to which the panel is provided information.

(17) A member of a child fatality or near fatality review team under section 6365(d).

**(b) Release of information to subject of report.**--At any time and upon written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide central register or in any report filed pursuant to section 6313 (relating to reporting procedure).

**(c) Protecting identity of person making report.**--Except for reports pursuant to subsection (a)(9) and (10), the release of data that would identify the person who made a report of suspected child abuse or the person who cooperated in a subsequent investigation is prohibited unless the secretary finds that the release will not be detrimental to the safety of that person. Law enforcement officials shall treat all reporting sources as confidential informants.

**(d) Exclusion of administrative information.**--Information maintained in the Statewide central register which was obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official, as provided by regulation.

## **§ 6341. Amendment or expunction of information**

**(a) General rule.--**At any time:

(1) The secretary may amend or expunge any record under this chapter upon good cause shown and notice to the appropriate subjects of the report.

(2) Any person named as a perpetrator, and any school employee named, in an indicated report of child abuse may, within 45 days of being notified of the status of the report, request 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.

**(b) Review of grant of request.--**If the secretary grants the request under subsection (a)(2), the Statewide central register, appropriate county agency, appropriate law enforcement officials and all subjects shall be so advised of the decision. The county agency and any subject have 45 days in which to file an administrative appeal with the secretary. If an administrative appeal is received, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L. 31, No. 21), [FN1] known as the Public Welfare Code, and attending departmental regulations. If no administrative appeal is received within the designated time period, the Statewide central register 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.--**If the secretary refuses the request under subsection (a)(2) or does not act within a reasonable time, but in no event later than 30 days after receipt of the request, the perpetrator or school employee shall have the right to a hearing before the secretary or a designated agent of the secretary to determine whether the summary of the indicated report in the Statewide central register should be amended or expunged on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with this chapter. The perpetrator or school employee shall have 45 days from the date of the letter giving notice of the decision to deny the request in which to request a hearing. The appropriate county agency and appropriate law enforcement officials shall be given notice of the hearing. The burden of proof in the hearing shall be on the appropriate county agency. The department shall assist the county agency as necessary.

**(d) Stay of proceedings.--**Any administrative appeal proceeding pursuant to subsection (b) shall be automatically stayed upon notice to the department by either of the parties when there is a pending criminal proceeding or a

dependency or delinquency proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), including any appeal thereof, involving the same factual circumstances as the administrative appeal.

**(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.**--Written notice of an expunction 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 and school employee 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.

#### **§ 6342. Studies of data in records**

**(a) Studies.**--The department may conduct or authorize the conducting of studies of the data contained in the pending complaint file and the Statewide central register and county agencies and distribute the results of the studies. No study may contain the name or other information by which a subject of a report could be identified. The department may allow Federal auditors access to nonidentifiable duplicates of reports in the pending complaint file and the Statewide central register if required for Federal financial participation in funding of agencies.

**(b) Data form.**--The department shall develop a data form to facilitate the collection of statistical and demographic information from a child fatality or near fatality review team and a county agency, which can be incorporated into a study conducted by the department.

## **§ 6343. Investigating performance of county agency**

**(a) General rule.**--If, within 30 days from the date of an initial report of suspected child abuse, the appropriate county agency has not investigated the report and informed the department that the report is an indicated report or an unfounded report or unless within that same 30-day period the report is determined to be a founded report, the department shall have the authority to begin an inquiry into the performance of the county agency which inquiry may include a performance audit of the county agency as provided in subsection (b). On the basis of that inquiry, the department shall take appropriate action to require that the provisions of this chapter be strictly followed, which action may include, without limitation, the institution of appropriate legal action and the withholding of reimbursement for all or part of the activities of the county agency. The department shall determine in its review whether the county agency has sufficiently documented reasons why the investigation has not been completed in the 30-day period.

**(b) Performance audit.**--Notwithstanding any other provision of this chapter, the secretary or a designee of the secretary may direct, at their discretion, and after reasonable notice to the county agency, a performance audit of any activity engaged in pursuant to this chapter.

### **(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) 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;
- (iv) its 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.

(ii) If the child was in the custody of a public or private agency, the identity of the agency.

(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.

### **§ 6343.1. Citizen review panels**

**(a) Establishment.**--The department shall establish a minimum of three citizen review panels. The department may designate a child fatality or near fatality review team under section 6365(d) (relating to services for prevention, investigation and treatment of child abuse) as a citizen review panel as long as the team has the capacity to perform as a citizen review panel.

**(b) Function.**--The panels shall examine all of the following:

(1) Policies, procedures and practices of State and local agencies and, where appropriate, specific cases to evaluate the extent to which State and local child protective services system agencies are effectively discharging their child protection responsibilities under section 106(b) of the Child Abuse Prevention and Treatment Act (Public Law 93-247, 42 U.S.C. § 5106a(b)).

(2) Other criteria the panel considers important to ensure the protection of children, including:

(i) a review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established under Part E of Title IV of the Social Security Act (49 Stat. 620, 42 U.S.C. § 670 et seq.); and

(ii) a review of child fatalities and near fatalities, including, but not limited to, a review of any child fatality or near fatality involving a child in the custody of a public or private agency where there is no report of suspected child abuse and the cause of death is neither the result of child abuse nor natural causes.

**(c) Membership.**--The panels shall be composed of volunteer members who represent the community, including members who have expertise in the prevention and treatment of child abuse and neglect.

**(d) Meetings.**--Each citizen review panel shall meet not less than once every three months.

**(e) Reports.**--The department shall issue an annual report summarizing the activities and recommendations of the panels and summarizing the department response to the recommendations.

#### **§ 6344. Information relating to prospective child-care personnel**

**(a) Applicability.**--This section applies to all prospective employees of child-care services, prospective foster parents, prospective adoptive parents, prospective self-employed family day-care providers and other persons seeking to provide child-care services under contract with a child-care facility or program. This section also applies to individuals 14 years of age or older who reside in the home of a prospective foster parent for at least 30 days in a calendar year or who reside in the home of a prospective adoptive parent for at least 30 days in a calendar year. This section does not apply to administrative or other support personnel unless their duties will involve direct contact with children.

**(b) Information submitted by prospective employees.**--Administrators of child-care services shall require applicants to submit with their applications the following information obtained within the preceding one-year period:

(1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

(2) A certification from the department as to whether the applicant is named in the central register as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee.

(3) A report of Federal criminal history record information. The applicant shall submit a full set of fingerprints in a manner prescribed by the department. The Commonwealth shall submit the fingerprints to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information and serve as intermediary for the purposes of this section.

For the purposes of this subsection, an applicant may submit a copy of the information required under paragraphs (1) and (2) with an application for employment. Administrators shall maintain a copy of the required information and

shall require applicants to produce the original document prior to employment.

(b.1) Expired effective July 1, 2008.

**(c) Grounds for denying employment.--**

(1) In no case shall an administrator hire an applicant where the department has verified that the applicant is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the central register as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.

(2) In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted of one or more of the following offenses under Title 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the law of another state:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

The attempt, solicitation or conspiracy to commit any of the offenses set forth in this paragraph.

(3) In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L. 233, No. 64), [FN1] known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.

**(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, 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, 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:

- (i) The ability to provide care, nurturing and supervision to children.
- (ii) Mental and emotional well-being. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the foster family care agency shall require a psychological evaluation of that person before approving the foster family home.
- (iii) Supportive community ties with family, friends and neighbors.
- (iv) Existing family relationships, attitudes and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.
- (v) Ability of the applicant to accept a foster child's relationship with his own parents.
- (vi) The applicant's ability to care for children with special needs.
- (vii) Number and characteristics of foster children best suited to the foster family.
- (viii) Ability of the applicant to work in partnership with a foster family care

agency. This subparagraph shall not be construed to preclude an applicant from advocating on the part of a child.

(3) Foster parents and any individual over 18 years of age residing in the home shall be required to submit the information set forth in subsection (b) every 24 months following approval for review by the foster family care agency in accordance with subsection (c).

(4) Foster parents shall be required to report, within 48 hours, any change in information required pursuant to subsection (b) about themselves and any individuals over the age of 18 years residing in the home for review by the foster family care agency in accordance with subsection (c).

(5) Foster parents shall be required to report any other change in the foster family household composition within 30 days of the change for review by the foster family care agency. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home of an approved foster family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency a certification obtained within the previous one-year period from the Statewide central registry, 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. 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 and the person does not cease residing in the home immediately, the foster child or children shall immediately be removed from the home without a hearing.

(6) In cases where foster parents knowingly fail to submit the material information required in paragraphs (3), (4) and (5) such that it would disqualify them as foster parents, the child shall immediately be removed from the home without a hearing.

(7) An approved foster parent shall not be considered an employee for any purpose, including, but not limited to, liability, unemployment compensation, workers' compensation or other employee benefits provided by the county agency.

(8) The department shall require information based upon certain criteria for foster and adoptive parent applications. The criteria shall include, but not be limited to, information provided by the applicant or other sources in the following areas:

- (i) Previous addresses within the last ten years.
- (ii) Criminal history background clearance generated by the process outlined in this section.
- (iii) Child abuse clearance generated by the process outlined in this section.
- (iv) Composition of the resident family unit.
- (v) Protection from abuse orders filed by or against either parent, provided that such orders are accessible to the county or private agency.
- (vi) Details of any proceedings brought in family court, provided that such records in such proceedings are accessible to the county or private agency.
- (vii) Drug-related or alcohol-related arrests, if criminal charges or judicial proceedings are pending and any convictions or hospitalizations within the last five years. If the applicant provides information regarding convictions or hospitalizations in that five-year period, then information on the prior five years shall be requested related to any additional convictions or hospitalizations.
- (viii) Evidence of financial stability, including income verification, employment history, current liens and bankruptcy findings within the last ten years.
- (ix) Number of and ages of foster children and other dependents currently placed in the home.
- (x) Detailed information regarding children with special needs currently living in the home.
- (xi) Previous history as a foster parent, including number and types of children served.
- (xii) Related education, training or personal experience working with foster children or the child welfare system.

**(d.1) Establishment of a resource family registry.--**

- (1) The department shall establish a registry of resource family applicants.
- (2) The foster family care agency or adoption agency shall register all resource family applicants on the resource family registry in accordance with subsection (d.2).
- (3) The foster family care agency or adoption agency shall register all resource

families that are approved on the effective date of this subsection within six months of the effective date of this subsection.

(4) Any resource family that is voluntarily registered on the foster parent registry shall be maintained on the resource family registry mandated under this section.

**(d.2) Information in the resource family registry.--**

(1) The resource family registry shall include, but not be limited to, the following:

- (i) The name, Social Security number, date of birth, sex, marital status, race and ethnicity of the applicants.
- (ii) The date or dates of the resource family application.
- (iii) The current and previous home addresses of the applicants.
- (iv) The county of residence of the applicants.
- (v) The name, date of birth, Social Security number and relationship of all household members.
- (vi) The name, address and telephone number of all current and previous foster family care agency or adoption agency affiliations.
- (vii) The foster family care agency or adoption agency disposition related to the approval or disapproval of the applicants and the date and basis for the disposition.
- (viii) The type of care the resource family will provide.
- (ix) The number of children that may be placed in the resource family home.
- (x) The age, race, gender and level of special needs of children that may be placed in the resource family home.
- (xi) The ability of the resource family to provide care for sibling groups.
- (xii) The date and reason for any closure of the resource family home.
- (xiii) The appeal activity initiated by a resource family applicant or an approved resource family and the basis for the appeal. This subparagraph shall not be construed to limit legitimate appeals.

(xiv) The status and disposition of all appeal-related activities. This subparagraph shall not be construed to limit legitimate appeals.

(2) The information maintained in the resource family registry may be released to the following individuals when the department has positively identified the individual requesting the information and the department, except in the case of subparagraphs (iii) and (iv), has inquired into whether and if it is satisfied that the individual has a legitimate need within the scope of the individual's official duties to obtain the information:

(i) An authorized official of a county or private agency, a Federal agency or an agency of another state who performs resource family approvals or the department in the course of the official's duties.

(ii) A guardian ad litem or court-designated advocate for a child. The information is limited to the information related to the resource family with whom the child resides.

(iii) A court of competent jurisdiction, including a district justice, a judge of the Municipal Court of Philadelphia or a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under Chapter 63 (relating to child protective services).

(iv) A court of competent jurisdiction in connection with any matter involving custody of a child. The department shall provide to the court any files that the court considers relevant.

(v) The Attorney General.

(vi) Federal auditors, if required for Federal financial participation in funding of agencies, except that Federal auditors may not remove identifiable information or copies thereof from the department or county or private agencies.

(vii) Law enforcement agents of any jurisdiction, as long as the information is relevant in the course of investigating crimes involving the resource family.

(viii) Appropriate officials of a private agency or another county or state regarding a resource family that has applied to become a resource family for that agency, county or state.

(3) At any time and upon written request, a resource family may receive a copy of all information pertaining to that resource family contained in the resource family registry.

**(e) Self-employed family day-care providers.--**Self-employed family day-care providers who apply for a certificate of registration with the department shall submit with their registration application the information set forth under subsection (b) for review in accordance with this section.

**(f) Submissions by operators of child-care services.--**The department shall require persons seeking to operate child-care services to submit the information set forth in subsection (b) for review in accordance with this section.

**(g) Regulations.--**The department shall promulgate the regulations necessary to carry out this section. These regulations shall:

(1) Set forth criteria for unsuitability for employment in a child-care service in relation to criminal history record information which may include criminal history record information in addition to that set forth above. The criteria shall be reasonably related to the prevention of child abuse.

(2) Set forth sanctions for administrators who willfully hire applicants in violation of this section or in violation of the regulations promulgated under this section.

**(h) Fees.--**The department may charge a fee not to exceed \$10 in order to conduct the certification as required in subsection (b)(2), except that no fee shall be charged to an individual who makes the request in order to apply to become a volunteer with an affiliate of Big Brothers of America or Big Sisters of America or with a rape crisis center or domestic violence shelter.

**(i) Time limit for certification.--**The department shall comply with certification requests no later than 14 days from the receipt of the request.

**(j) Voluntary certification of child caretakers.--**The department shall develop a procedure for the voluntary certification of child caretakers to allow persons to apply to the department for a certificate indicating the person has met the requirements of subsection (b). The department shall also provide for the biennial recertification of child caretakers.

**(k) Existing or transferred employees.--**A person employed in child-care services on July 1, 2008, shall not be required to obtain the information required in subsection (b) as a condition of continued employment. A person who has once obtained the information required under subsection (b) may transfer to another child-care service established and supervised by the same organization

and shall not be required to obtain additional reports before making the transfer.

**(l) Temporary employees under special programs.--**The requirements of this section do not apply to employees of child-care services who meet all the following requirements:

- (1) They are under 21 years of age.
- (2) They are employed for periods of 90 days or less.
- (3) They are a part of a job development or job training program funded, in whole or in part, by public or private sources.

Once employment of a person who meets these conditions extends beyond 90 days, all requirements of this section shall take effect.

**(m) Provisional employees for limited periods.--**Notwithstanding subsection (b), administrators may employ applicants on a provisional basis for a single period not to exceed 30 days or, for out-of-State applicants, a period of 90 days, if all of the following conditions are met:

- (1) The applicant has applied for the information required under subsection (b) and the applicant provides a copy of the appropriate completed request forms to the administrator.
- (2) The administrator has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (c).
- (3) The applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (c).
- (4) If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment pursuant to subsection (c), the applicant shall be immediately dismissed by the administrator.
- (5) The administrator requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employee.

**(n) Confidentiality.--**The information provided and compiled under this section, including, but not limited to, the names, addresses and telephone numbers of applicants and foster and adoptive parents, shall be confidential and shall not be

subject to the act of June 21, 1957 (P.L. 390, No. 212), [FN2] referred to as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation.

**(o) Use of information.**--A foster family care agency may not approve a prospective foster parent if the prospective foster parent or an individual 14 years of age or older who resides for at least 30 days in a calendar year with the prospective foster parent meets either of the following:

- (1) Is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the central register as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.
- (2) Has been found guilty of an offense listed in subsection (c)(2).

**(p) Use of information.**--A prospective adoptive parent may not be approved if the prospective adoptive parent or an individual 14 years of age or older who resides for at least 30 days in a calendar year with the prospective adoptive parent meets either of the following:

- (1) Is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the central register as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.
- (2) Has been found guilty of an offense listed in subsection (c)(2).

#### **§ 6344.1. Information relating to family day-care home residents**

**(a) General rule.**--In addition to the requirements of section 6344 (relating to information relating to prospective child-care personnel), an individual who applies to the department for a registration certificate to operate a family day-care home shall include criminal history record and child abuse record information required under section 6344(b) for every individual 18 years of age or older who resides in the home for at least 30 days in a calendar year.

**(b) Required information.**--Child abuse record information required under

subsection (a) shall include certification by the department as to whether the applicant is named in the central register as the perpetrator of a founded report, indicated report, founded report for school employee or indicated report for school employee.

**(c) Effect on registration.**--The department shall refuse to issue or renew a registration certificate or shall revoke a registration certificate if the family day-care home provider or individual 18 years of age or older who has resided in the home for at least 30 days in a calendar year:

(1) is named in the central register on child abuse established under Chapter 63 (relating to child protective services) as the perpetrator of a founded report committed within the immediately preceding five-year period; or

(2) has been convicted of an offense enumerated in section 6344(c).

**(d) Regulations.**--The department shall promulgate regulations to administer this section.

#### **§ 6344.2. Information relating to other persons having contact with children**

**(a) Applicability.**--This section applies to prospective employees applying to engage in occupations with a significant likelihood of regular contact with children, in the form of care, guidance, supervision or training. Such persons include social service workers, hospital personnel, mental health professionals, members of the clergy, counselors, librarians and doctors.

**(b) Investigation.**--Employers, administrators or supervisors shall require an applicant to submit to all requirements set forth in section 6344(b) (relating to information relating to prospective child-care personnel). An employer, administrator, supervisor or other person responsible for employment decisions regarding an applicable prospective employee under this section that intentionally fails to require the submissions before hiring that individual commits a misdemeanor of the third degree.

**(c) Grounds for denial.**--Each applicant shall be subject to the requirements of section 6344(c).

**(d) Departmental treatment of information.**--Information provided and compiled under this section by the department shall be confidential and shall not be subject to the act of June 21, 1957 (P.L. 390, No. 212), [FN1] referred to as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation. The department may charge a fee to conduct a certification as required by section 6344(b)(2) in accordance with the provisions of section 6344(h). The department shall promulgate regulations necessary to carry out this subsection.

#### **§ 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 requirements of this chapter are being fully and properly conducted.

#### **§ 6346. Cooperation of other agencies**

**(a) General rule.**--The secretary may request and shall receive from Commonwealth agencies, political subdivisions, an authorized agency or any other agency providing services under the local protective services plan any assistance and data that will enable the department and the county agency to fulfill their responsibilities properly, including law enforcement personnel when assistance is needed in conducting an investigation or an assessment of risk to the child. School districts shall cooperate with the department and the agency by providing them upon request with the information as is consistent with law.

**(b) Willful failure to cooperate.**--Any agency, school district or facility or any person acting on behalf of an agency, school district or facility that violates this section by willfully failing to cooperate with the department or a county agency when investigating a report of suspected child abuse or a report under Subchapter C.1 (relating to students in public and private schools) or when assessing risk to a child commits a summary offense for a first violation and a misdemeanor of the third degree for subsequent violations.

**(c) Cooperation of county agency and law enforcement agencies.**--Consistent with the provisions of this chapter, the county agency and law enforcement agencies shall cooperate and coordinate, to the fullest extent possible, their efforts to respond to and investigate reports of suspected child

abuse and to reports under Subchapter C.1.

**(d) Advice to county agency.**--Whenever a report of suspected child abuse is referred from a county agency to a law enforcement agency pursuant to section 6340(a)(9) and (10) (relating to release of information in confidential reports), as soon as possible, and without jeopardizing the criminal investigation or prosecution, the law enforcement agency shall advise the county agency as to whether a criminal investigation has been undertaken and the results of the investigation and of any criminal prosecution. The county agency shall ensure that the information is referred to the Statewide central register.

### **§ 6347. Reports to Governor and General Assembly.**

**(a) General rule.**--No later than May 1 of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the central register of child abuse and child protective services provided by county agencies. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department and the reports under Subchapter C.1 (relating to students in public and private schools), together with a report on the implementation of this chapter and its total cost to the Commonwealth, the evaluation of the secretary of services offered under this chapter and recommendations for repeal or for additional legislation to fulfill the purposes of this chapter. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom. The report shall also include an explanation of services provided to children who were the subjects of founded or indicated reports while receiving child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

**(b) Reports from county agencies.**--To assist the department in preparing its annual report and the quarterly reports required under subsection (c), each county agency shall submit a quarterly report to the department, including, at a minimum, the following information, on an aggregate basis, regarding general protective services, child protective services and action under Subchapter C.1:

- (1) The number of referrals received and referrals accepted.
- (2) The number of children over whom the agency maintains continuing supervision.
- (3) The number of cases which have been closed by the agency.
- (4) The services provided to children and their families.

(5) A summary of the findings with nonidentifying information about each case of child abuse or neglect which has resulted in a child fatality or near fatality.

**(c) Quarterly reports.**--The department shall prepare and transmit to the Governor and the General Assembly a quarterly report 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. One of the quarterly reports may be included within the annual report required under subsection (a).

### **§ 6348. Regulations**

The department shall adopt regulations necessary to implement this chapter.

### **§ 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 of unfounded reports) or 6338 (relating to disposition of founded and indicated reports) who willfully fails to amend or expunge the information when required commits a summary offense for the first violation and a misdemeanor of the third 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 central register or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a summary offense.

**(b) Unauthorized release of information.**--A person who willfully releases or permits the release of any information contained in the pending complaint file, the Statewide central register or the county agency records required by this chapter to persons or agencies not permitted by this chapter to receive that information commits a misdemeanor of the third degree. Law enforcement agencies shall insure the confidentiality and security of information under this chapter. A person, including an employee of a law enforcement agency, who violates the provisions of this subsection shall, in addition to other civil or criminal penalties provided by

law, be denied access to the information provided under this chapter.

**(c) Noncompliance with child-care personnel regulations.**--An administrator, or other person responsible for employment decisions in a child-care facility or program, who willfully fails to comply with the provisions of section 6344 (relating to information relating to prospective child-care personnel) commits a violation of this chapter and shall be subject to a civil penalty as provided in this subsection. The department shall have jurisdiction to determine violations of section 6344 and may, following a hearing, assess a civil penalty not to exceed \$2,500. The civil penalty shall be payable to the Commonwealth.

## Subchapter C.1. Students in Public and Private Schools

### →§ 6351. Definitions

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

**"Administrator."** The person responsible for the administration of a public or private school, intermediate unit or area vocational-technical school. The term includes an independent contractor.

### **6352. School employees**

#### **(a) Requirement.--**

(1) Except as provided in paragraph (2), a school employee who has reasonable cause to suspect, on the basis of professional or other training and experience, that a student coming before the school employee in the employee's professional or official capacity is a victim of serious bodily injury or sexual abuse or sexual exploitation by a school employee shall immediately contact the administrator.

(2) If the school employee accused of seriously injuring or sexually abusing or exploiting a student is the administrator, the school employee who has reasonable cause to suspect, on the basis of professional or other training and experience, that a student coming before the school employee in the employee's professional or official capacity is a victim of serious bodily injury

or sexual abuse or sexual exploitation shall immediately report to law enforcement officials and the district attorney under section 6353(a) (relating to administration). If an administrator is the school employee who suspects injury or abuse, the administrator shall make a report under section 6353(a).

(3) The school employee may not reveal the existence or content of the report to any other person.

**(b) Immunity.--**A school employee who refers a report under subsection (a) shall be immune from civil and criminal liability arising out of the report.

**(c) Criminal penalty.--**

(1) A school employee who willfully violates subsection (a) commits a summary offense.

(2) A school employee who, after being sentenced under paragraph (1), violates subsection (a) commits a misdemeanor of the third degree.

**§ 6353. Administration**

**(a) Requirement.--**An administrator and a school employee governed by section 6352(a)(2) (relating to school employees) shall report immediately to law enforcement officials and the appropriate district attorney any report of serious bodily injury or sexual abuse or sexual exploitation alleged to have been committed by a school employee against a student.

**(b) Report.--**A report under subsection (a) shall include the following information:

(1) Name, age, address and school of the student.

(2) Name and address of the student's parent or guardian.

(3) Name and address of the administrator.

(4) Name, work and home address of the school employee.

(5) Nature of the alleged offense.

(6) Any specific comments or observations that are directly related to the alleged incident and the individuals involved.

**(c) Immunity.**--An administrator who makes a report under subsection (a) shall be immune from civil or criminal liability arising out of the report.

**(d) Criminal penalty.**--An administrator who willfully violates subsection (a) commits a misdemeanor of the third degree.

### **§ 6353.1. Investigation**

**(a) General rule.**--Upon receipt of a report under section 6353 (relating to administration), an investigation shall be conducted by law enforcement officials, in cooperation with the district attorney, and a determination made as to what criminal charges, if any, will be filed against the school employee.

#### **(b) Referral to county agency.--**

(1) If local law enforcement officials have reasonable cause to suspect on the basis of initial review that there is evidence of serious bodily injury, sexual abuse or sexual exploitation committed by a school employee against a student, local law enforcement officials shall notify the county agency in the county where the alleged abuse or injury occurred for the purpose of the agency conducting an investigation of the alleged abuse or injury.

(2) To the fullest extent possible, law enforcement officials and the county agency shall coordinate their respective investigations. In respect to interviews with the student, law enforcement officials and the county agency shall conduct joint interviews. In respect to interviews with the school employee, law enforcement officials shall be given an opportunity to interview the school employee prior to the employee having any contact with the county agency.

(3) The county agency and law enforcement officials have the authority to arrange for photographs, medical tests or X-rays of a student alleged to have been abused or injured by a school employee. The county agency and law enforcement officials shall coordinate their efforts in this regard and, to the fullest extent possible, avoid the duplication of any photographs, medical tests or X-rays.

(4) Law enforcement officials and the county agency shall advise each other of the status and findings of their respective investigations on an ongoing basis.

## **§ 6353.2. Responsibilities of county agency**

**(a) Information for the pending complaint file.**--Immediately after receiving a report under section 6353.1 (relating to investigation), the county agency shall notify the department of the receipt of the report, which is to be filed in the pending complaint file as provided in section 6331(1) (relating to establishment of pending complaint file, Statewide central register and file of unfounded reports). The oral report shall include the following information:

- (1) The name and address of the student and the student's parent or guardian.
- (2) Where the suspected abuse or injury occurred.
- (3) The age and sex of the student.
- (4) The nature and extent of the suspected abuse or injury.
- (5) The name and home address of the school employee alleged to have committed the abuse or injury.
- (6) The relationship of the student to the school employee alleged to have committed the abuse or injury.
- (7) The source of the report to the county agency.
- (8) The actions taken by the county agency, law enforcement officials, parents, guardians, school officials or other persons, including the taking of photographs, medical tests and X-rays.

**(b) Investigation of reports.**--Upon receipt of a report under section 6353.1, the county agency shall commence, within the time frames established in department regulations, an investigation of the nature, extent and cause of any alleged abuse or injury enumerated in the report. The county agency shall coordinate its investigation to the fullest extent possible with law enforcement officials as provided in section 6353.1(b).

**(c) Completion of investigation.**--The investigation by the county agency to determine whether the report is an indicated report for school employee or an unfounded report shall be completed within 60 days.

**(d) Notice to subject of a report.**--Prior to interviewing a subject of the report, the county agency shall orally notify the subject of the report of the existence of

the report and the subject's rights under this chapter in regard to amendment or expungement. Within 72 hours following oral notification to the subject, the county agency shall give written notice to the subject. The notice may be reasonably delayed if notification is likely to threaten the safety of the student or the county agency worker, to cause the school employee to abscond or to significantly interfere with the conduct of a criminal investigation.

**(e) Reliance on factual investigation.**--The county agency may rely on a factual investigation of substantially the same allegations by a law enforcement officials to support the agency's finding. This reliance shall not relieve the county agency of its responsibilities relating to the investigation of reports under this subchapter.

**(f) Notice to the department of the county agency's determination.**--As soon as the county agency has completed its investigation, the county agency shall advise the department and law enforcement officials of its determination of the report as an indicated report for school employee or an unfounded report. Supplemental reports shall be made at regular intervals thereafter in a manner and form the department prescribes by regulation to the end that the department is kept fully informed and up-to-date concerning the status of the report.

### **§ 6353.3. Information in Statewide central register**

The Statewide central register established under section 6331 (relating to establishment of pending complaint file, Statewide central register and file of unfounded reports) shall retain only the following information relating to reports of abuse or injury of a student by a school employee which have been determined to be a founded report for school employee or an indicated report for school employee:

- (1) The names, Social Security numbers, age and sex of the subjects of the report.
- (2) The home address of the subjects of the report.
- (3) The date and the nature and extent of the alleged abuse or injury.
- (4) The county and state where the abuse or injury occurred.
- (5) Factors contributing to the abuse or injury.
- (6) The source of the report.

(7) Whether the report is a founded or indicated report.

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

(9) The progress of any legal proceedings brought on the basis of the report.

(10) Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.

#### **§ 6353.4. Other provisions**

The following provisions shall apply to the release and retention of information by the department and the county agency concerning reports of abuse or injury committed by a school employee as provided by this subchapter:

Section 6336(b) and (c) (relating to information in Statewide central register).

Section 6337 (relating to disposition of unfounded reports).

Section 6338(a) and (b) (relating to disposition of founded and indicated reports).

Section 6339 (relating to confidentiality of reports).

Section 6340 (relating to release of information in confidential reports).

Section 6341(a) through (f) (relating to amendment or expunction of information).

Section 6342 (relating to studies of data in records).

#### Subchapter C.2. Background Checks for Employment in Schools

##### **➡§ 6354. Definitions**

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

**"Applicant."** An individual who applies for a position as a school employee. The term includes an individual who transfers from one position as a school employee to another position as a school employee.

**"Administrator."** The person responsible for the administration of a public or private school, intermediate unit or area vocational-technical school. The term includes a person responsible for employment decisions in a school and an independent contractor.

## **§ 6355. Requirement**

### **(a) Investigation.--**

(1) Except as provided in paragraph (2), an administrator shall require each applicant to submit an official clearance statement obtained from the department within the immediately preceding year as to whether the applicant is named as the perpetrator of an indicated or a founded report or is named as the individual responsible for injury or abuse in an indicated report for school employee or a founded report for school employee.

(2) The official clearance statement under paragraph (1) shall not be required for an applicant who:

- (i) transfers from one position as a school employee to another position as a school employee of the same school district or of the same organization; and
- (ii) has, prior to the transfer, already obtained the official clearance statement under paragraph (1).

**(b) Grounds for denying employment.--**Except as provided in section 6356 (relating to exceptions), an administrator shall not hire an applicant if the department verifies that the applicant is named as the perpetrator of a founded report or is named as the individual responsible for injury or abuse in a founded report for school employee. No individual who is a school employee on the effective date of this subchapter shall be required to obtain an official clearance statement under subsection (a)(1) as a condition of continued employment.

**(c) Penalty.--**An administrator who willfully violates this section shall be subject to an administrative penalty of \$2,500. An action under this subsection is governed by 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of

Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

### **§ 6356. Exceptions**

Section 6355 (relating to requirement) shall not apply to any of the following:

(1) A school employee who is:

- (i) under 21 years of age;
- (ii) participating in a job development or job training program; and
- (iii) employed for not more than 90 days.

(2) A school employee hired on a provisional basis pending receipt of information under section 6355(a) if all of the following apply:

(i) The applicant demonstrates application for the official clearance statement under section 6355(a).

(ii) The applicant attests in writing by oath or affirmation that the applicant is not disqualified under section 6355(b).

(iii) The administrator has no knowledge of information which would disqualify the applicant under section 6355(b).

(iv) The provisional period does not exceed:

(A) 90 days for an applicant from another state; and

(B) 30 days for all other applicants.

(v) The hiring does not take place during a strike under the act of July 23, 1970 (P.L. 563, No. 195), known as the Public Employee Relations Act. [FN1]

### **§ 6357. Fee**

The department may charge a fee of not more than \$10 for the official clearance statement required under section 6355(a) (relating to requirement).

## **§ 6358. Time limit for official clearance statement**

The department shall comply with the official clearance statement requests under section 6355(a) (relating to requirement) within 14 days of receipt of the request.

### Subchapter D. Organization and Responsibilities of Child Protective Service

#### **➔§ 6361. Organization for child protective services**

**(a) Establishment.**--Every county agency shall make available child protective services within the agency. The department may waive the requirement that a county agency be the sole civil agency for receipt and investigation of reports pursuant to section 6362 (relating to responsibilities of county agency for child protective services) upon a showing by the county that:

(1) It is participating in a demonstration project for or has become part of an approved combined intake system for public human service agencies as permitted by department regulations. Nothing in this paragraph is intended to permit noncounty government agencies to participate in the receipt and investigation of the reports.

(2) The goals and objectives of this chapter will continue to be met if a waiver is granted.

If the department grants a waiver under this subsection, the county agency and its agents shall be bound by all other provisions of this chapter, including requirements concerning the maintenance and disclosure of confidential information and records.

**(b) Staff and organization.**--The county agency shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way to maximize the continuity of responsibility, care and services of individual workers toward individual children and families. The department, by regulation, shall set forth staff-to-family ratios for the various activities required of the county agency under this chapter, including reports and investigations of suspected child abuse, risk assessment and the provision or monitoring of services to abused children and their families.

**(c) Functions authorized.**--The county agency staff shall perform those functions assigned to it by this chapter and such other functions as would further the purposes of this chapter.

## **§ 6362. Responsibilities of county agency for child protective services**

**(a) General rule.**--The county agency shall be the sole civil agency responsible for receiving and investigating all reports of child abuse made pursuant to this chapter, specifically including, but not limited to, reports of child abuse in facilities operated by the department and other public agencies, for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the well-being and development of the child and to preserve and stabilize family life wherever appropriate.

**(b) Assumption of responsibility by department.**--When the suspected abuse has been committed by the county agency or any of its agents or employees, the department shall assume the role of the agency with regard to the investigation and directly refer the child for services.

**(c) Action by agencies for abuse by agents or employees.**--Where suspected child abuse has occurred and an employee or agent of the department or the county agency or a private or public institution is a subject of the report, the department, agency or institution shall be informed of the investigation so that it may take appropriate action.

**(d) Reliance on factual investigation.**--An agency charged by this section or section 6361 (relating to organization for child protective services) with investigating a report of child abuse may rely on a factual investigation of substantially the same allegations by a law enforcement agency to support the agency's finding. This reliance shall not, however, limit the duties imposed by section 6368(a) (relating to investigation of reports).

**(e) Risk assessment.**--Each county agency shall implement a State-approved risk assessment process in performance of its duties under this subchapter.

**(f) Weekly face-to-face contacts.**--For those children assessed as being at high risk for abuse or neglect who are remaining in or returning to the home in which

the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.

### **§ 6363. County plan for protective services**

The county agency shall include provisions for protective services in its annual plan as required by the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code.

### **§ 6364. Purchasing services of other agencies**

Any other provision of law notwithstanding but consistent with sections 6361 (relating to organization for child protective services) and 6362 (relating to responsibilities of county agency for child protective services), the county agency, based upon the plan of services as provided in section 6363 (relating to county plan for protective services), may purchase and utilize the services of any appropriate public or private agency.

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

**(a) Instruction and education.**--Each county agency shall make available among its services for the prevention and treatment of child abuse instruction and education for parenthood and parenting skills, protective and preventive social counseling, outreach and counseling services to prevent newborn abandonment, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of self-help groups organized for the prevention and treatment of child abuse, part-day services, out-of-home placement services, therapeutic activities for child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

**(b) Multidisciplinary team.**--The county agency shall make available among its services a multidisciplinary team for the prevention, investigation and treatment of child abuse and shall convene the multidisciplinary team at any time, but not less than annually:

(1) To review substantiated cases of child abuse, including responses by the county agency and other agencies providing services to the child.

(2) Where appropriate to assist in the development of a family service plan for the child.

**(c) Investigative team.--**The county agency and the district attorney shall develop a protocol for the convening of investigative teams for any case of child abuse involving crimes against children which are set forth in section 6340(a)(9) and (10) (relating to release of information in confidential reports). The county protocol shall include standards and procedures to be used in receiving and referring reports and coordinating investigations of reported cases of child abuse and a system for sharing the information obtained as a result of any interview. The protocol shall include any other standards and procedures to avoid duplication of fact-finding efforts and interviews to minimize the trauma to the child. The district attorney shall convene an investigative team in accordance with the protocol. The investigative team shall consist of those individuals and agencies responsible for investigating the abuse or for providing services to the child and shall at a minimum include a health care provider, county caseworker and law enforcement official.

**(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 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.

(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 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 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.

**(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.

**(f) Construction.**--The provisions of this section shall be construed to assist in the improvement of services designed to identify and prevent child abuse. The provisions shall not be construed to impede or interfere with criminal prosecutions of persons who have committed child abuse.

### **§ 6366. Continuous availability to receive reports**

Each county agency shall receive 24 hours a day, seven days a week, all reports, both oral and written, of suspected child abuse in accordance with this chapter, the county plan for the provision of child protective services and the regulations of the department.

## **§ 6367. Reports to department and coroner**

**(a) Reports to department.**--Upon the receipt of each report of suspected child abuse made pursuant to this chapter, the county agency shall immediately transmit a child abuse report summary as provided in section 6313 (relating to reporting procedure) to the department. Supplemental reports shall be made at regular intervals thereafter in a manner and form the department prescribes by regulation to the end that the department is kept fully informed and up-to-date concerning the status of reports of child abuse.

**(b) Reports to coroner.**--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 pursuant to section 6317 (relating to mandatory reporting and postmortem investigation of deaths).

**(c) Child deaths and near fatalities.**--A county agency shall immediately provide information to the department regarding its involvement with the child and with the child's parent, guardian or custodian when a child dies or nearly dies and child abuse is suspected. The county agency shall inform the department of any history of child protective or general protective services provided to the child prior to the child's death or near fatality and of services provided to other children of the child's parent, guardian or custodian by the county agency or by court order. The county agency shall inform the department if the child was in the agency's custody at the time of the child's death or near fatality. The county agency shall provide this information in writing on forms provided by the department within 48 hours of the oral report.

## **§ 6368. Investigation of reports**

**(a) General rule.**--Upon receipt of each report of suspected child abuse, the county agency shall immediately commence an appropriate investigation and see the child immediately if emergency protective custody is required or has been or shall be taken or if it cannot be determined from the report whether emergency protective custody is needed. Otherwise, the county agency shall commence an appropriate investigation and see the child within 24 hours of receipt of the report. The investigation shall include a determination of the risk of harm to the child or children if they continue to remain in the existing home environment, as well as a determination of the nature, extent and cause of any condition

enumerated in the report, any action necessary to provide for the safety of the child or children and the taking of photographic identification of the child or children to be maintained with the file. During the investigation, the county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination pursuant to this section. If the investigation indicates serious physical injury, a medical examination shall be performed on the subject child by a certified medical practitioner. Where there is reasonable cause to suspect 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. The investigation shall include communication with the department's service under section 6332 (relating to establishment of Statewide toll-free telephone number). Prior to interviewing a subject of the report, the county agency shall orally notify the subject who is about to be interviewed of the existence of the report, the subject's rights under 42 Pa.C.S. § 6337 (relating to right to counsel) and 6338 (relating to other basic rights) and the subject's rights pursuant to this chapter in regard to amendment or expungement. Within 72 hours following oral notification to the subject, the county agency shall give written notice to the subject. The notice may be reasonably delayed if notification is likely to threaten the safety of the victim, a nonperpetrator subject or the investigating county agency worker, to cause the perpetrator to abscond or to significantly interfere with the conduct of a criminal investigation. However, the written notice must be provided to all subjects prior to the county agency's reaching a finding on the validity of the report.

**(a.1) Investigation of report concerning child-care service personnel.--**Upon notification that an investigation involves suspected child abuse perpetrated by child-care service personnel, including a child-care service employee, service provider or administrator, the respective child-care service must immediately implement a plan of supervision or alternative arrangement subject to the county agency's approval for the individual under investigation to ensure the safety of the child and other children who are in the care of the child-care service. Such plan of supervision or alternative arrangement shall be kept on file with the county agency until such time that the investigation is completed.

**(b) Conditions outside home environment.--**The investigation shall determine whether the child is being harmed by factors beyond the control of the parent or other person responsible for the welfare of the child, and, if so determined, the county agency shall promptly take all available steps to remedy and correct these conditions, including, but not limited to, the coordination of social services for the child and the family, or referral of the family to appropriate agencies for the provision of services.

**(c) Completion of investigations.**--The investigation by the county agency to determine whether the report is "founded," "indicated" or "unfounded" and whether to accept the family for service shall be completed within 60 days in all cases. If, due to the particular circumstances of the case, the county agency cannot complete the investigation within 30 days, the particular reasons for the delay shall be described in the child protective service record and available to the department for purposes of determining whether the county agency has strictly followed the provisions of this chapter and whether the county agency is subject to action as authorized by section 6343 (relating to investigating performance of county agency). Where a petition has been filed under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) alleging that the child is a dependent child, the county agency shall make all reasonable efforts to complete the investigation to enable the hearing on the petition to be held as required by 42 Pa.C.S. § 6335 (relating to release or holding of hearing).

**(d) Referral for investigation.**--If the complaint of suspected abuse is determined to be one which cannot be investigated under this chapter because the person accused of the abuse is not a perpetrator within the meaning of section 6303 (relating to definitions) but does suggest the need for investigation, the county agency shall immediately transmit the information to the appropriate authorities, including the district attorney, the district attorney's designee or other law enforcement official, in accordance with the county protocols for investigative teams required by section 6365(c) (relating to services for prevention, investigation and treatment of child abuse).

### **§ 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.

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

**(a) General rule.**--Based on the investigation and evaluation conducted pursuant to this chapter, the county agency shall provide or contract with private or public agencies for the protection of the child at home whenever possible and those services necessary for adequate care of the child when placed in protective

custody. Prior to offering these services to a family, the agency shall explain that it has no legal authority to compel the family to receive the services but may inform the family of the obligations and authority of the county agency to initiate appropriate court proceedings.

**(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 the indicated report consistent with the expunction 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.

**§ 6371. Rehabilitative services for child and family**

The county agency shall provide or arrange for and monitor rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the court.

**§ 6372. Protecting well-being of children maintained outside home**

The county agency shall be as equally vigilant of the status, well-being and conditions under which a child is living and being maintained in a facility other than that of a parent, custodian or guardian from which the child has been removed as the service is of the conditions in the dwelling of the parent, custodian or guardian. Where the county agency finds that the placement for any temporary or permanent custody, care or treatment is for any reason inappropriate or harmful in any way to the physical or mental well-being of the child, it shall take immediate steps to remedy these conditions including petitioning the court.

### **§ 6373. General protective services responsibilities of county agency**

**(a) Program objectives.**--Each county agency is responsible for administering a program of general protective services to children and youth that is consistent with the agency's objectives to:

- (1) Keep children in their own homes, whenever possible.
- (2) Prevent abuse, neglect and exploitation.
- (3) Overcome problems that result in dependency.
- (4) Provide temporary, substitute placement in a foster family home or residential child-care facility for a child in need of care.
- (5) Reunite children and their families whenever possible when children are in temporary, substitute placement.
- (6) Provide a permanent, legally assured family for a child in temporary, substitute care who cannot be returned to his own home.
- (7) Provide services and care ordered by the court for children who have been adjudicated dependent.

**(b) Efforts to prevent need for removal from home.**--In its effort to assist the child and the child's parents, pursuant to Federal regulations, the county agency will make reasonable efforts prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his home and to make it possible for the child to return to home.

**(c) Assistance in obtaining available benefits.**--The county agency shall aid the child and the family in obtaining benefits and services for which they may

qualify under Federal, State and local programs.

**(d) Duplication of services.**--Except where ordered by the court in a proceeding brought under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), a county agency shall not be required to duplicate services which are the statutory responsibility of any other agency.

#### **§ 6374. Principles and goals of general protective services**

**(a) Primary purpose.**--The primary purpose of general protective services is to protect the rights and welfare of children so that they have an opportunity for healthy growth and development.

**(b) Assistance to parents.**--Implicit in the county agency's protection of children is assistance to parents in recognizing and remedying conditions harmful to their children and in fulfilling their parental duties more adequately.

#### **§ 6375. County agency requirements for general protective services**

**(a) Duties of county agency.**--The county agency shall make available a program of general protective services within each agency. The county agency shall perform those functions assigned by this chapter and others that would further the purposes of this chapter. It shall have sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way as to maximize the continuity of responsibility, care and service of individual workers toward individual children and families. The department by regulation shall set forth staff-to-family ratios for the receipt and assessment of reports of children in need of protective services and for the provision of services to neglected children and their families.

**(b) Organization of county agency.**--Each county agency shall be organized and staffed to ensure that the agency can provide intake for general protective services. Intake occurs when a report or referral is made to the agency or when a parent or person responsible for the child's welfare requests the assistance of the agency.

**(c) Assessment for services.--**

(1) Within 60 days of receipt of a report, an assessment shall be completed and a decision on whether to accept the family for service shall be made. The county agency shall provide or arrange for services necessary to protect the child during the assessment period.

(2) Each county agency shall implement a State-approved risk assessment process in performance of its duties.

**(d) Receiving and assessing reports.--**The county agency shall be the sole civil agency responsible for receiving and assessing all reports of children in need of protective services made pursuant to this chapter for the purpose of providing protective services to prevent abuse or neglect to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development and to preserve and stabilize family life wherever appropriate. The department may waive the receipt and assessment requirement pursuant to section 6361 (relating to organization for child protective services). Nothing in this subsection limits 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers).

**(e) Family service plan.--**The county agency shall prepare a written family service plan in accordance with regulations adopted by the department.

**(f) Types of services.--**Each county agency shall make available for the prevention and treatment of child abuse and neglect: multidisciplinary teams, instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, part-day services, out-of-home placement services, therapeutic activities for the child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.

**(g) Monitoring, evaluating and assessing.--**The county agency shall frequently monitor the provision of services, evaluate the effectiveness of the services, conduct in-home visits and make a periodic assessment of the risk of harm to the child, which shall include maintaining an annually updated photograph of the child and verification of the identification of the child.

**(h) Emergency coverage.--**As part of its general protective services program, a county agency shall provide 24-hour-a-day emergency coverage and be

accessible to the public.

**(i) Protective custody.**--Pursuant to 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 to protect the child from abuse or further neglect. No county agency worker may take custody of a child without judicial authorization based on the merits of the situation.

**(j) Court action.**--If the county agency determines that protective services are in the best interest of a child and if an offer of those services is refused or if any other reason exists to warrant court action, the county agency shall initiate the appropriate court proceedings.

**(k) Adjudication of dependency.**--The county agency shall maintain its responsibility for petitioning the court when necessary for the adjudication of dependency of a child pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

**(l) Assistance to court.**--The county agency shall assist the court during all stages of a court proceeding in accordance with the purposes of this chapter.  
[FN1]

**(m) Weekly face-to-face contacts.**--For those children assessed under this section as being at high risk for abuse or neglect who are remaining in or returning to the home in which the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.

**(n) Transfer of files between county agencies.**--Whenever a county agency transfers to another county agency a file relating to a child who receives or is in need of protective services under this chapter, the file shall include any photographic identification and an annual photograph taken of the child.

## **§ 6376. Appeals with respect to general protective services**

**(a) Right to appeal.**--A custodial parent or person who has primary responsibility

for the welfare of a child may appeal the county agency's decision to accept the family for services. Written notice of this right, along with an explanation of the agency's decision, shall be given to the family within seven days of the decision to accept for service. The department has no authority to modify an order of a court of common pleas.

**(b) Receipt and grounds of appeal.**--Appeals must be received by the county agency within 45 days of the date when the notice was mailed to the custodial parent or person who has primary responsibility for the welfare of a child. Requests must be made on the grounds that the child is or is not at risk of abuse or neglect.

**(c) Review and decision and request for hearing.**--The county agency shall review the request and issue a written decision within 45 days of receipt of the appeal. If the agency denies the request, the custodial parent or person who has primary responsibility for the welfare of a child may request a hearing before the department. The request must be made within 45 days of the date of the county agency's decision.

**(d) Hearing.**--If a hearing is requested, the secretary or his 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 Code, [FN1] and applicable department regulations. The burden of proof in the hearing shall be on the county agency. The department shall assist the county agency as necessary.

**(e) Order.**--The department is authorized and empowered to make any appropriate order regarding records to make them accurate or consistent with the requirements of this chapter.

**(f) Other appeals.**--Action by a custodial parent or person who has primary responsibility for the welfare of a child under this section does not preclude his right to exercise other appeals available through department regulations or the courts.

## **§ 6377. Caseloads**

The department by regulation shall set forth staff-to-family ratios for general protective services.

## § 6378. Purchase of services

Except for the receipt and assessment of reports alleging a need for protective services, the county agency may purchase and utilize the services of any appropriate public or private agency. The department shall promulgate regulations establishing standards and qualifications of persons or agencies providing services for a county agency. The department may, by regulation, provide for the establishment of regional facilities or a regional coordination of licensed professional service providers to provide county agencies with access to licensed physicians and psychologists, as required by this section.

### Subchapter E. Miscellaneous Provisions

#### ➡§ 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).

**(b) Reports of unavailable persons.**--Whenever a person required to report under this chapter is unavailable due to death or removal from the jurisdiction of the court, the written report of that person shall be admissible in evidence in any proceedings arising out of child abuse other than proceedings under Title 18 (relating to crimes and offenses). Any hearsay contained in the reports shall be given such weight, if any, as the court determines to be appropriate under all of the circumstances. However, any hearsay contained in a written report shall not of itself be sufficient to support an adjudication based on abuse.

**(c) Privileged communications.**--Except for privileged communications between a lawyer and a client and between a minister and a penitent, a privilege of confidential communication between husband and wife or between any professional person, including, but not limited to, physicians, psychologists, counselors, employees of hospitals, clinics, day-care centers and schools and their patients or clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse or the cause of child abuse.

**(d) Prima facie evidence of abuse.**--Evidence that a child has suffered child abuse of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the welfare of the child shall be prima facie evidence of child abuse by the parent or other person responsible for the welfare of the child.

**§ 6382. Repealed. 2000, May 10, P.L. 74, No. 18, § 4, effective in 60 days**

**§ 6383. Education and training**

**(a) Duties of department and county agencies.**--The department and each county agency, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse and child neglect, including the prevention of newborn abandonment, the identification of abused and neglected children and the provision of necessary ameliorative services to abused and neglected children and their families. The department and each county agency shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families. In addition, the department shall, by regulation, establish a program of training and certification for persons classified as protective services workers. The regulations shall provide for the grandfathering of all current permanent protective services workers as certified protective services workers. Upon request by the county agency and approval of the department, the agency may conduct the training of the county's protective services workers.

**(a.1) Study by department.**--The department shall conduct a study to determine the extent of the reporting of suspected child abuse in this Commonwealth where the reports upon investigation are determined to be unfounded and to be knowingly false and maliciously reported or it is believed that a minor was persuaded to make or substantiate a false and malicious report. The department shall submit the report to the Governor, General Assembly and Attorney General no later than June 1, 1996. The report shall include the department's findings and recommendations on how to reduce the incidence of knowingly false and malicious reporting.

**(b) Duties of Department of State.**--

(1) The Department of State shall make training and educational programs and materials available for all professional licensing boards whose licensees are charged with responsibilities for reporting child abuse under this chapter with a program of distributing educational materials to all licensees.

(2) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall promulgate regulations within one year of the effective date of this subsection on the responsibilities of mandated reporters. These regulations shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse.

#### **§ 6384. Legislative oversight**

A committee of the Senate designated by the President pro tempore of the Senate and a committee of the House of Representatives designated by the Speaker of the House of Representatives, either jointly or separately, shall review the manner in which this chapter has been administered at the State and local level for the following purposes:

(1) Providing information that will aid the General Assembly in its oversight responsibilities.

(2) Enabling the General Assembly to determine whether the programs and services mandated by this chapter are effectively meeting the goals of this chapter.

(3) Assisting the General Assembly in measuring the costs and benefits of this program and the effects and side-effects of mandated program services.

(4) Permitting the General Assembly to determine whether the confidentiality of records mandated by this chapter is being maintained at the State and local level.

(5) Providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this chapter.

#### **§ 6385. Reimbursement to county agencies**

The department shall certify in accordance with the needs-based budgeting

provisions of Article VII of the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code, [FN1] a level of funds sufficient to meet the cost of services required by the provisions of this chapter which are reasonable and allowable as defined in Article VII.

**6386. Mandatory reporting of infants born and identified as being affected by illegal substance abuse**

Health care providers who are involved in the delivery or care of an infant who is born and identified as being affected by illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure shall immediately cause a report to be made to the appropriate county agency. The county agency shall provide or arrange for appropriate services for the infant.