

No. 2014-32

AN ACT

HB 436

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for persons required to report suspected child abuse; providing for privileged communications; and further providing for penalties for failure to report or to refer.

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

Section 1. Section 6311(a) and (b) of Title 23 of the Pennsylvania Consolidated Statutes are amended to read:

§ 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. 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.]

(a) Mandated reporters.—*The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:*

(1) (Reserved).

(2) (Reserved).

(3) *(Reserved).*

(4) *(Reserved).*

(5) *(Reserved).*

(6) *(Reserved).*

(7) *(Reserved).*

(8) *(Reserved).*

(9) *(Reserved).*

(10) *(Reserved).*

(11) *(Reserved).*

(12) *(Reserved).*

(13) *(Reserved).*

(14) *An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.*

* * *

Section 2. Title 23 is amended by adding a section to read:

§ 6311.1. *Privileged communications.*

(a) *General rule.—Subject to subsection (b), the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not:*

(1) *Apply to a situation involving child abuse.*

(2) *Relieve the mandated reporter of the duty to make a report of suspected child abuse.*

(b) *Confidential communications.—The following protections shall apply:*

(1) *Confidential communications made to a member of the clergy are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen).*

(2) *Confidential communications made to an attorney are protected so long as they are within the scope of 42 Pa.C.S. §§ 5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), the attorney work product doctrine or the rules of professional conduct for attorneys.*

Section 3. Section 6319 of Title 23 is amended to read:

§ 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.]

(a) *Failure to report or refer.—*

(1) *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 commits an offense if the person or official willfully fails to do so.*

(2) *An offense under this section is a felony of the third degree if:*

(i) *the person or official willfully fails to report;*

(ii) the child abuse constitutes a felony of the first degree or higher; and

(iii) the person or official has direct knowledge of the nature of the abuse.

(3) An offense not otherwise specified in paragraph (2) is a misdemeanor of the second degree.

(4) A report of suspected child abuse to law enforcement or the appropriate county agency by a mandated reporter, made in lieu of a report to the department, shall not constitute an offense under this subsection, provided that the report was made in a good faith effort to comply with the requirements of this chapter.

(b) Continuing course of action.—If a person's willful failure under subsection (a) continues while the person knows or has reasonable cause to believe the child is actively being subjected to child abuse, the person commits a misdemeanor of the first degree, except that if the child abuse constitutes a felony of the first degree or higher, the person commits a felony of the third degree.

(c) Multiple offenses.—A person who commits a second or subsequent offense under subsection (a) commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offenses is a felony of the second degree.

(d) Statute of limitations.—The statute of limitations for an offense under subsection (a) shall be either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.

Section 4. This act shall take effect in 60 days.

APPROVED—The 15th day of April, A.D. 2014

TOM CORBETT