

No. 2014-45

AN ACT

HB 434

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions, for establishment of Statewide database, for disposition of founded and indicated reports, for expunction of information of perpetrator under the age of 18, for amendment or expunction of information, for information relating to prospective child-care personnel, for information relating to family day-care home residents, for information relating to other persons having contact with children, for cooperation of other agencies and for reports to Governor and General Assembly; repealing provisions relating to students in public and private schools and for background checks for employment in schools; and making a related repeal.

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

Section 1. The definitions of "founded report for school employee," "serious physical neglect" and "subject of the report" in section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes, added December 18, 2013 (P.L. 1170, No. 108), are amended to read:

§ 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:

* * *

["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.]

* * *

"Serious physical neglect." Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(1) A repeated, prolonged or **[unconscionable]** egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

* * *

"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.

* * *

Section 2. Sections 6331(11) and 6338(a) of Title 23, amended April 7, 2014 (P.L.388, No.29), are amended to read:

§ 6331. Establishment of Statewide database.

There shall be established in the department a Statewide database of protective services, which shall include the following, as provided by section 6336 (relating to information in Statewide database):

* * *

(11) False reports of child abuse pursuant to a conviction under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) **[and invalid general protective services reports that a county agency or the department have determined to be false,]** for the purpose of identifying and tracking patterns of intentionally false reports.

§ 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 status of the report shall be changed from pending to founded or indicated in the Statewide database. Notice of the determination that a report is a founded, indicated or unfounded report shall be made as provided in section 6368(f) (relating to investigation of reports).

* * *

Section 3. (Reserved).

Section 4. Section 6338.1(a)(1) of Title 23, added December 18, 2013 (P.L.1195, No.117), is amended to read:

§ 6338.1. Expunction of information of perpetrator who was under 18 years of age when child abuse was committed.

(a) General rule.—The name of a perpetrator who is the subject of an indicated report of child abuse and who was under 18 years of age when the individual committed child abuse shall be expunged from the Statewide database when the individual reaches 21 years of age or when five years have elapsed since the perpetrator's name was added to the database, whichever is later, if the individual meets all of the following:

(1) The individual has not been named as a perpetrator in any subsequent indicated report of child abuse and is not **[the subject of named as an alleged perpetrator in a child abuse report pending investigation.**

* * *

Section 5. Section 6341 of Title 23, amended December 18, 2013 (P.L.1170, No.108) and December 18, 2013 (P.L.1201, No.119), is reenacted and amended to read:

§ 6341. Amendment or expunction of information.

(a) General rule.—Notwithstanding section 6338.1 (relating to expunction of information of perpetrator who was under 18 years of age when child abuse was committed):

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

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

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

(2) Any person named as a perpetrator, and any school employee named, in an indicated report of child abuse may, within 90 days of being notified of the status of the report, request an administrative review by, or appeal and request a hearing before, the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. The request shall be in writing in a manner prescribed by the department.

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

(b) Review of grant of request.—If the secretary grants the request under subsection (a)(2), the Statewide database, appropriate county agency, appropriate law enforcement officials and all subjects shall be so advised of the decision. The county agency and any subject have 90 days in which to file an administrative appeal with the secretary. If an administrative appeal is received, the secretary or his 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, attending departmental regulations. If no administrative appeal is received within the designated time period, the Statewide database shall comply with the decision of the secretary and advise the county agency to amend or expunge the information in their records so that the records are consistent at both the State and local levels.

(c) Review of refusal of request.—Subject to subsection (c.1), if the secretary refuses a request under subsection (a)(1) or a request for administrative review under subsection (a)(2), or does not act within the prescribed time, the perpetrator or school employee shall have the right to appeal and request a hearing before the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. The request for hearing must be made within 90 days of notice of the **[results of the investigation] decision**. 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.

(c.1) Founded reports.—A person named as a perpetrator in a founded report of child abuse must provide to the department a court order indicating

that the underlying adjudication that formed the basis of the founded report has been reversed or vacated.

(c.2) Hearing.—A person making an appeal under subsection (a)(2) or (c) shall have the right to a timely hearing to determine the merits of the appeal. A hearing shall be scheduled according to the following procedures:

(1) Within ten days of receipt of an appeal pursuant to this section, the department shall schedule a hearing on the merits of the appeal.

(2) The department shall make reasonable efforts to coordinate the hearing date with both the appellee and appellant.

(3) After reasonable efforts required by paragraph (2) have been made, the department shall enter a scheduling order, and proceedings before the Bureau of Hearings and Appeals shall commence within 90 days of the date the scheduling order is entered, unless all parties have agreed to a continuance. Proceedings and hearings shall be scheduled to be heard on consecutive days whenever possible, but if not on consecutive days, then the proceeding or hearing shall be concluded not later than 30 days from commencement.

(4) The department or county agency shall provide a person making an appeal with **[all]** evidence gathered during the child abuse investigation *within its possession* that is relevant to the *child abuse* determination, **[including potentially exculpatory evidence. The evidence shall be provided not later than ten days following the entry of a scheduling order]** *subject to sections 6339 (relating to confidentiality of reports) and 6340 (relating to release of information in confidential reports).*

(5) The department or county agency shall bear the burden of proving by substantial evidence that the report should remain categorized as an indicated report.

(c.3) Prompt decision.—The administrative law judge's or hearing officer's decision in a hearing under subsection (c.2) shall be entered, filed and served upon the parties within 45 days of the date upon which the proceeding or hearing is concluded unless, within that time, the tribunal extends the date for the decision by order entered of record showing good cause for the extension. In no event shall an extension delay the entry of the decision more than 60 days after the conclusion of the proceeding or hearing.

(c.4) Notice of decision.—Notice of the decision shall be made to the Statewide database, the appropriate county agency, any appropriate law enforcement officials and all subjects of the report, except for the abused child.

(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.

(g) Reconsideration and appeal.—Parties to a proceeding or hearing held under subsection (c.2) have 15 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to request the secretary to reconsider the decision **[or appeal to Commonwealth Court]**. Parties to a proceeding or hearing held under this section have 30 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to perfect an appeal to Commonwealth Court. The filing for reconsideration shall not toll the 30 days provided.

Section 6. Sections 6344(b), (c) heading and (1), (o) and (p) and 6344.1(b) of Title 23, amended April 7, 2014 (P.L.388, No.29), are amended to read:

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

* * *

(b) Information **[submitted by prospective employees.—Administrators of child-care services shall require applicants to submit with their applications] to be submitted.—An individual identified in subsection (a)(6) at the time the individual meets the description set forth in subsection (a)(6) and an individual applying to serve in any capacity identified in subsection (a)(1), (2), (3), (4) or (5) prior to the commencement of employment or service shall be required to submit** 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 Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report of child

abuse[,] *or an* 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.

(c) Grounds for denying employment *or participation in program, activity or service*.—

(1) In no case shall an administrator hire *or approve* an applicant where the department has verified that the applicant is named in the [central register] *Statewide database* 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].

* * *

(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] 18 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 Statewide database 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 Statewide database 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)] (c).

(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 Statewide database 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 Statewide database 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)] (c).

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

* * *

(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 Statewide database as the perpetrator of a founded report[,] *or an* indicated report[, **founded report for school employee or indicated report for school employee**] *of child abuse*.

* * *

Section 7. Section 6344.2(b) of Title 23 is amended and the section is amended by adding a subsection to read:

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

* * *

(a.1) School employees.—This section shall apply to school employees as follows:

(1) School employees governed by the provisions of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall be subject to the provisions of section 111 of the Public School Code of 1949, except that this section shall apply with regard to the information required under section 6344(b)(2) (relating to information relating to prospective child-care personnel).

(2) School employees not governed by the provisions of the Public School Code of 1949 shall be governed by this section.

(b) Investigation.—Employers, administrators or supervisors *or other persons responsible for employment decisions or selection of volunteers* shall require an applicant to submit to all requirements set forth in section 6344(b) [(relating to information relating to prospective child-care personnel)] *except as provided in subsection (b.1)*. An employer, administrator, supervisor or other person responsible for employment decisions *or selection of volunteers* regarding an applicable prospective employee *or volunteer* under this section that intentionally fails to require the submissions before hiring that individual commits a misdemeanor of the third degree.

* * *

Section 8. Sections 6346(b) and (c) and 6347(a) and (b) of Title 23, amended April 7, 2014 (P.L.388, No.29), are amended to read:

§ 6346. Cooperation of other agencies.

* * *

(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 safety or risk to a child commits a misdemeanor of the third degree for a first violation and a misdemeanor of the second degree for subsequent violations.

(c) Cooperation of county agency and law enforcement officials.—Consistent with the provisions of this chapter, the county agency and law enforcement officials 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]**.

* * *

§ 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 Statewide database and 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 of general protective services made to the department or county agencies **[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[,], **and** 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.

* * *

Section 9. Subchapter C.1 heading of Chapter 63 of Title 23 is repealed:

**[SUBCHAPTER C.1
STUDENTS IN PUBLIC AND PRIVATE SCHOOLS]**

Section 10. Sections 6351, 6352, 6353 and 6353.1 of Title 23 are repealed:

[§ 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.]

Section 11. Sections 6353.2 and 6353.3 of Title 23, amended December 18, 2013 (P.L.1201, No.119), are repealed:

[§ 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 Statewide database). 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 Statewide database) 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.]

Section 12. Section 6353.4 of Title 23 is repealed:

[§ 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).]

Section 13. Subchapter C.2 heading of Chapter 63 of Title 23 is repealed:

**[SUBCHAPTER C.2
BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS]**

Section 14. Sections 6354, 6355, 6356, 6357 and 6358 of Title 23 are repealed:

[§ 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 Employe Relations Act.**

§ 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.]

Section 15. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the reenactment and amendment of 23 Pa.C.S. § 6341.

(2) Section 6 of the act of December 18, 2013 (P.L.1201, No.119), entitled "An act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions, for immunity from liability, for establishment of pending complaint file, for Statewide central register and file of unfounded reports and for amendment or expunction of information; and making editorial changes," is repealed.

Section 16. Notwithstanding section 7(2) of the act of December 18, 2013 (P.L.1201, No.119), entitled "An act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions, for immunity from liability, for establishment of pending complaint file, for Statewide central register and file of unfounded reports and for amendment or expunction of information; and making editorial changes," the provisions of 23 Pa.C.S. § 6341(c.1), (c.2), (c.3), (c.4) and (g) shall apply on and after December 31, 2014.

Section 17. Notwithstanding section 4 of the act of April 15, 2014 (P.L.414, No.32), entitled "An act 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 amendment or addition of the following provisions of the act of April 15, 2014 (P.L.414, No.32), shall take effect December 31, 2014:

- (1) 23 Pa.C.S. § 6311(a) and (b).
- (2) 23 Pa.C.S. § 6311.1.
- (3) 23 Pa.C.S. § 6319.

Section 18. This act shall take effect as follows:

(1) Sections 15, 16 and 17 of this act and this section shall take effect immediately.

(2) The remainder of this act shall take effect December 31, 2014.

APPROVED—The 14th day of May, A.D. 2014

TOM CORBETT