

No. 1987-80

AN ACT

SB 140

Amending the act of November 26, 1975 (P.L.438, No.124), entitled, as amended, "An act establishing child protective services; providing procedures for reporting and investigating the abuse of children; establishing and providing access to a Statewide central register and pending complaint file on child abuse; investigating such reports; providing for taking protective action including taking a child into protective custody; placing duties on the Department of Public Welfare and county children and youth social service agencies; establishing child protective services in each county children and youth social service agency; and providing penalties," requiring funeral directors to report suspected child abuse; further providing for the confidentiality of records; and providing for the employment of certain persons on a provisional basis.

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

Section 1. Section 4 of the act of November 26, 1975 (P.L.438, No.124), known as the Child Protective Services Law, amended June 10, 1982 (P.L.460, No.136), is amended to read:

Section 4. Persons Required to Report Suspected Child Abuse.—
(a) Any persons who, in the course of their employment, occupation, or practice of their profession come into contact with children shall report or cause a report to be made in accordance with section 6 when they have reason to believe, on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is an abused child.

(b) Whenever any person is required to report under subsection (c) in his capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, he shall immediately notify the person in charge of such institution, school, facility or agency, or the designated agent of the person in charge. Upon notification, such person in charge or his 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 6. Nothing in this act is intended to require more than one report from any such institution, school or agency.

(c) Persons required to report under subsection (a) include, but are not limited to, any licensed physician, medical examiner, coroner, *funeral director*, dentist, osteopath, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, a Christian Science practitioner, 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. The privileged communication between any professional person required to report and his patient or client shall not apply to situations

involving child abuse and shall not constitute grounds for failure to report as required by this act.

(d) 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 said report to be made and who, 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 file a cause of 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 individual is a person who, under this section, is required to report or cause a report of suspected child abuse to be made, that he, in good faith, made or caused to be made a report of suspected child abuse, and that as a result thereof he 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 of Public Welfare may intervene in any action brought pursuant to this subsection.

Section 2. Section 15(a) of the act is amended by adding a clause to read:

Section 15. Confidentiality of Records.—(a) Except as provided in section 14, reports made pursuant to this act including but not limited to report summaries of child abuse made pursuant to section 6(b) and written reports made pursuant to section 6(c) 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, a county children and youth social service agency or a child protective service shall be confidential and shall only be made available to:

* * *

(12) A mandated reporter of child abuse as defined in section 4 who made a report of abuse involving the subject child: Provided, however, That the information permitted to be released to such mandated reporter shall be limited to the following:

(i) the final status of the report following the investigation, whether it be indicated, founded or unfounded; and

(ii) any services provided, arranged for, or to be provided by the child protective service to protect the child from further abuse.

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Section 3. Section 23.1 of the act is amended by adding a subsection to read:

Section 23.1. Information Relating to Prospective Child Care Personnel.—* * *

(o) Notwithstanding subsections (b) and (c), 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, provided that 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 (d) or (e);

(3) the applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (d) or (e);

(4) if the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment pursuant to subsection (d) or (e), the applicant shall be immediately dismissed by the administrator; and

(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.

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

APPROVED—The 6th day of November, A. D. 1987.

ROBERT P. CASEY