

No. 1989-96

## AN ACT

SB 618

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for confidential communications to psychiatrists; and providing for a cause of action by parent, guardian or other custodian of a child to whom controlled substances have been sold or transferred.

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

Section 1. Section 5944 of Title 42 of the Pennsylvania Consolidated Statutes is amended to read:

§ 5944. Confidential communications to *psychiatrists or* licensed psychologists.

No *psychiatrist or* person who has been licensed under the act of March 23, 1972 (P.L.136, No.52), to practice psychology shall be, without the written consent of his client, examined in any civil or criminal matter as to any information acquired in the course of his professional services in behalf of such client. The confidential relations and communications between a psychologist *or psychiatrist* and his client shall be on the same basis as those provided or prescribed by law between an attorney and client.

Section 2. Title 42 is amended by adding a section to read:

§ 8307. *Action by parent, guardian or other custodian for damages in the sale or transfer of controlled substances to a child.*

(a) *Cause of action established.—The parent, guardian or other custodian of any child under 18 years of age to whom a controlled substance or designer drug, as defined under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is sold or transferred shall have a cause of action against the person who sold or transferred the controlled substance or the designer drug to the child, and recovery may be sought by the child's parent, guardian or other custodian for damages caused by the sale or transfer of the controlled substance or designer drug.*

(b) *Damages.—Damages shall include the cost for treatment and rehabilitation relating to or resulting from the child's drug dependency or use. The court may order that some or all of this award be placed in a fund for the purpose of providing for the treatment and rehabilitation of the child's drug dependency or use, including past treatment and rehabilitation.*

(c) *Attorney fees.—Reasonable attorney fees shall be awarded to a party that brings suit and prevails under this cause of action.*

(d) *Exception.—This section shall not apply to a practitioner who sells or transfers a controlled substance listed in The Controlled Substance, Drug, Device and Cosmetic Act to a child pursuant to a valid prescription.*

Section 3. This act shall take effect in 60 days.

APPROVED—The 22nd day of December, A. D. 1989.

ROBERT P. CASEY