

## No. 2013-117

## AN ACT

## SB 23

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions; and providing for expunction of information of perpetrator who was under 18 years of age when child abuse was committed.

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

Section 1. The definitions of "perpetrator" and "person responsible for the child's welfare" in section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes 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:

\* \* \*

"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.] as defined in this section. The following shall apply:

(1) *The term includes only the following:*

(i) *A parent of the child.*

(ii) *A spouse or former spouse of the child's parent.*

(iii) *A paramour or former paramour of the child's parent.*

(iv) *A person 14 years of age or older and responsible for the child's welfare.*

(v) *An individual 14 years<sup>1</sup> of age or older who resides in the same home as the child.*

(vi) *An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.*

(2) *Only the following may be considered a perpetrator for failing to act, as provided in this section:*

(i) *A parent of the child.*

(ii) *A spouse or former spouse of the child's parent.*

(iii) *A paramour or former paramour of the child's parent.*

(iv) *A person 18 years of age or older and responsible for the child's welfare.*

(v) *A person 18 years of age or older who resides in the same home as the child.*

"Person responsible for the child's welfare." A person who provides permanent or temporary care, supervision, mental health diagnosis or

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<sup>1</sup>"who is 14 years" in enrolled bill.

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.] *The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.*

\* \* \*

Section 2. Title 23 is amended by adding a section 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 a child abuse report pending investigation.*

*(2) The individual has never been convicted or adjudicated delinquent following a determination by the court that the individual committed an offense under section 6344(c) (relating to information relating to prospective child-care personnel), and no proceeding is pending seeking such conviction or adjudication.*

*(3) The child abuse which resulted in the inclusion of the perpetrator's name in the database did not involve the use of a deadly weapon, as defined under 18 Pa.C.S. § 2301 (relating to definitions).*

*(b) Mandated expunction.—If the perpetrator meets all of the requirements under subsection (a), the expunction shall be mandated and guaranteed by the department.*

*(c) Nonapplicability.—The provisions of this section shall not apply to any of the following cases:*

*(1) A perpetrator who is the subject of a founded report of child abuse.*

*(2) A sexually violent delinquent child, as defined in 42 Pa.C.S. § 9799.12 (relating to definitions), who meets all of the following:*

*(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).*

*(ii) Was found delinquent as a result of the same acts which resulted in the sexually violent delinquent child being named a perpetrator of child abuse.*

*(3) A juvenile offender, as defined in 42 Pa.C.S. § 9799.12, who meets all of the following:*

*(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H as a result of an adjudication of delinquency for the same acts which resulted in the juvenile offender being named a perpetrator of child abuse.*

*(ii) Has not been removed from the Statewide Registry of Sexual Offenders pursuant to 42 Pa.C.S. § 9799.17 (relating to termination of period of registration for juvenile offenders).*

*(4) A sexual offender, as defined in 42 Pa.C.S. § 9799.12, who meets all of the following:*

*(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H as a result of a criminal conviction for the same acts which resulted in the sexual offender being named a perpetrator of child abuse.*

*(ii) Has not completed the period of registration required under 42 Pa.C.S. § 9799.15 (relating to period of registration).*

Section 3. This act shall take effect December 31, 2014.

APPROVED—The 18th day of December, A.D. 2013

TOM CORBETT