

No. 2013-119

AN ACT

SB 30

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

Section 1. Section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes is amended by adding a definition 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:

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"Child-care services." Includes any of the following:

- (1) Child day-care centers.***
- (2) Group day-care homes.***
- (3) Family day-care homes.***
- (4) Foster homes.***
- (5) Adoptive parents.***
- (6) Boarding homes for children.***
- (7) Juvenile detention center services or programs for delinquent or dependent children.***
- (8) Mental health services for children.***
- (9) Services for children with intellectual disabilities.***
- (10) Early intervention services for children.***
- (11) Drug and alcohol services for children.***
- (12) Day-care services or programs that are offered by a school.***
- (13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or that are provided pursuant to a contract with the Department of Public Welfare or a county social services agency.***

* * *

Section 2. Section 6318 of Title 23 is amended to read:

§ 6318. Immunity from liability.

[(a) General rule.—A person, hospital, institution, school, facility, agency or agency employee that participates in good faith in the making of a report, whether required or not, cooperating with an investigation, including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse, the taking of photographs or the removal or

keeping of a child pursuant to section 6315 (relating to taking child into protective custody), and any official or employee of a county agency who refers a report of suspected abuse to law enforcement authorities or provides services under this chapter, shall have immunity from civil and criminal liability that might otherwise result by reason of those actions.

(b) **Presumption of good faith.**—For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.]

(a) **General rule.**—*A person, hospital, institution, school, facility, agency or agency employee acting in good faith shall have immunity from civil and criminal liability that might otherwise result from any of the following:*

(1) *Making a report of suspected child abuse or making a referral for general protective services, regardless of whether the report is required to be made under this chapter.*

(2) *Cooperating or consulting with an investigation under this chapter, including providing information to a child fatality or near-fatality review team.*

(3) *Testifying in a proceeding arising out of an instance of suspected child abuse or general protective services.*

(4) *Engaging in any action authorized under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).*

(b) **Departmental and county agency immunity.**—*An official or employee of the department or county agency who refers a report of suspected child abuse for general protective services to law enforcement authorities or provides services as authorized by this chapter shall have immunity from civil and criminal liability that might otherwise result from the action.*

(c) **Presumption of good faith.**—*For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.*

Section 3. Section 6331 heading and introductory paragraph of Title 23 are amended and the section is amended by adding a paragraph to read:

§ 6331. Establishment of [pending complaint file,] Statewide [central register and file of unfounded reports] 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 central register):*

* * *

(4) *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.

Section 4. Section 6341 is amended by adding subsections to read:
§ 6341. Amendment or expunction of information.

* * *

(c.1) (Reserved).

(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 that is relevant to the determination, including potentially exculpatory evidence. The evidence shall be provided not later than ten days following the entry of a scheduling order.

(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.

* * *

(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 5. Sections 6353.2(a) introductory paragraph and 6353.3 introductory paragraph of Title 23 are amended to read:

§ 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 **[pending complaint file,] Statewide [central register and file of unfounded reports] database**). The oral report shall include the following information:

* * *

§ 6353.3. Information in Statewide central register.

The Statewide central register established under section 6331 (relating to establishment of **[pending complaint file,] Statewide [central register and file of unfounded reports] 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:

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Section 6. The amendment of 23 Pa.C.S. § 6341 shall apply to appeals filed on or after the effective date of this section.

Section 7. This act shall take effect as follows:

(1) The amendment of 23 Pa.C.S. § 6303(a) shall take effect December 31, 2014.

(2) The remainder of this act shall take effect July 1, 2014.

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

TOM CORBETT