

No. 1982-136

AN ACT

SB 348

Amending the act of November 26, 1975 (P.L.438, No.124), entitled "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 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 child welfare agencies; establishing child protective services in each county child welfare agency; and providing penalties," changing certain definitions; creating cause of action for employment discrimination; authorizing certain reports to be made to the agency; changing reporting, investigating, information and notice requirements; requiring cooperation from school districts; and making certain editorial changes.

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

Section 1. The title and sections 2, 3, 4, 6, 7, 8, 10, 11, 14, 15, 16, 18, 23 and 24, act of November 26, 1975 (P.L.438, No.124), known as the "Child Protective Services Law," are amended to read:

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 **[child welfare] children and youth social service** agencies; establishing child protective services in each county **[child welfare] children and youth social service** agency; and providing penalties.

Section 2. Findings and Purpose.—Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment. It is the purpose of this act to encourage more complete reporting of suspected child abuse and to establish in each county a child protective service capable of investigating such reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve and stabilize family life wherever appropriate. *However, nothing in this act shall be construed to restrict the generally recognized existing rights of parents to use reasonable supervision and control when raising their children.*

Section 3. Definitions.—As used in this act:

[**“Abused child”** means a child under 18 years of age who exhibits evidence of serious physical or mental injury not explained by the available medical history as being accidental, sexual abuse, or serious physical neglect, if the injury, abuse or neglect has been caused by the acts or omissions of the child’s parents or by a person responsible for the child’s welfare]

“Child abuse” means serious physical or mental injury which is not explained by the available medical history as being accidental, or sexual abuse or sexual exploitation, or serious physical neglect, of a child under 18 years of age, if the injury, abuse or neglect has been caused by the acts or omissions of the child’s parents or by a person responsible for the child’s welfare, or any individual residing in the same home as the child, or a paramour of a child’s parent provided, however, no child shall be deemed to be physically or mentally abused for the sole reason he is in good faith being furnished treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof *or is not provided specified medical treatment in the practice of religious beliefs*, or solely on the grounds of environmental factors which are beyond the control of the person responsible for the child’s welfare such as inadequate housing, furnishings, income, clothing and medical care.

“Child protective service” means that section of each county [**public child welfare**] *children and youth social service* agency required to be established by section 16.

“Department” means the Department of Public Welfare of the Commonwealth of Pennsylvania.

“Expunge” means to strike out or obliterate entirely so that the expunged information may not be stored, identified, or later recovered by any means mechanical, electronic, or otherwise.

“Family or household members” means spouses, persons living as spouses, parents and children, or other persons related by consanguinity or affinity.

“Founded report” means a report made pursuant to this act if there has been any judicial adjudication based on a finding that a child who is a subject of the report has been abused.

“Indicated report” means a report made pursuant to this act if an investigation by the child protective service determines that substantial evidence of the alleged abuse exists based on (i) available medical evidence [**and**], (ii) the child protective service investigation or [(ii)] (iii) an admission of the acts of abuse by the child’s parent or person responsible for the child’s welfare.

“Secretary” means the Secretary of the Department of Public Welfare of the Commonwealth of Pennsylvania.

“Sexual abuse” means the obscene or pornographic photographing, filming or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child’s

health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the secretary.

“Subject of the report” means any child reported to the central register of child abuse and his parent, guardian or other person [legally] responsible also named in the report.

“Under investigation” means a report pursuant to this act which is being investigated to determine whether it is “founded,” “indicated,” or “unfounded.”

“Unfounded report” means any report made pursuant to this act unless the report is a “founded report” or unless an investigation by the appropriate child protective service determines that the report is an “indicated report.”

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 [suspected child abuse] under subsection (a) include, but are not limited to, any licensed physician, medical examiner, coroner, 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 6. Reporting Procedure.—(a) Reports [of suspected child abuse] from persons required to report under section 4 shall be made immediately by telephone and in writing within 48 hours after the oral report. Oral reports shall be made to the department pursuant to section 14 and may be made to the appropriate child protective service.

(b) When oral reports *of suspected abuse* are [made] initially [to the child protective service, the child protective service shall immediately prepare a child abuse report summary in such form as shall be prescribed by the department by regulation and shall immediately forward such report summary to the department to be] *received at the child protective service, the child protective service shall, after seeing to the immediate safety of the child and other children in the home, immediately notify the department of the receipt of the report, which is to be held in the pending complaint file as provided in section 14. The initial child abuse report summary shall be supplemented [as more facts become available, as the written report is received and] with a written report* when a determination is made as to whether a report of suspected child abuse is a founded report, an unfounded report or an indicated report.

(c) Written reports from persons required to report under section 4 shall be made to the appropriate child protective service in a manner and on forms prescribed by the department by regulation. Such written reports shall include the following information, if available: the names and addresses of the child and his parents or other person responsible for his care, if known; *where the suspected abuse occurred*; the child's age, and sex; the nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or his siblings; the name of the person or persons responsible for causing the suspected abuse, if known; family composition; *relationship of the suspected perpetrator to the child*; the source of the report; the person making the report and where he can be reached; the actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; [any] *and any other information which the department may, by regulation, require.*

(d) The failure of any person reporting cases of suspected child abuse to confirm an oral report in writing within 48 hours shall in no way relieve the child protective service from any duties prescribed by this act.

In such event, the child protective service shall proceed as if a written report were actually made.

Section 7. Obligations of Persons Required to Report.—Any person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the areas of trauma visible on a child who is subject to a report and, if medically indicated, cause to be performed a radiological examination on the child. **[Any] Medical summaries or reports of the** photographs or x-rays taken shall be sent to the child protective service at the time the written report is sent, or as soon thereafter as possible. **Child protective services shall have access to the actual photographs and x-rays and may obtain them or duplicates of them upon request.**

Section 8. Taking a Child into Protective Custody.—(a) A child may be taken into custody:

(1) As provided by **[section 11 of the act of December 6, 1972 (P.L.1464, No.333), known as] the Juvenile Act, 42 Pa.C.S. § 6324 (relating to taking into custody).**

(2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by such director, of any hospital or other medical institution where the child is being treated, if such protective custody is immediately necessary to protect the child from further serious physical injury, sexual abuse or serious physical neglect; provided that no child shall be held in such custody for more than 24 hours unless the appropriate child protective service is immediately notified that the child has been taken into custody and the child protective service obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. The courts of common pleas of each judicial district shall insure that a judge is available on a 24 hour a day, 365 days a year basis to accept and decide such actions brought by a child protective service under this subsection within such 24-hour period.

(b) Any individual taking a child into protective custody under this act shall immediately and within 24 hours in writing, notify the child's parent, guardian or other custodian of the child's whereabouts, the reasons for the need to take the child into protective custody, and shall immediately notify the appropriate child protective service in order that proceedings under the Juvenile Act may be initiated, if appropriate.

(c) In no case shall protective custody under this act be maintained longer than 72 hours without a detention hearing. If at the detention hearing it is determined that protective custody shall be continued, the child protective services agency shall, within 48 hours file a petition with the court under the Juvenile Act.

(d) No child taken into protective custody under this act shall be detained during such protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.

(e) A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the case worker designated by the child protection service to be responsible for such child shall be held within 48 hours of the time that the child is taken into such custody for the purpose of (i) explaining to such parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, and (ii) to expedite, wherever possible, the return of the child to the custody of such parent, guardian or other custodian where such custody is no longer necessary.

Section 10. **Mandatory Reporting and Postmortem Investigation of Deaths.**—Any person or official required to report cases of suspected child abuse, including employees of a county **[public child welfare] children and youth social service** agency, and its child protective service, who has reasonable cause to suspect that a child died as a result of child abuse shall report that fact to the coroner. The coroner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate child protective service and, if the report is made by a hospital, the hospital.

Section 11. **Immunity from Liability.**—Any person, hospital, institution, school, facility or agency participating in good faith in the making of a report or testifying in any 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 8, shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report **[cases of child abuse]** pursuant to section 4 shall be presumed.

Section 14. **Record Keeping Duties of the Department.**—(a) There shall be established in the department (i) a pending complaint file of child abuse reports under investigation and (ii) a Statewide central register of child abuse, which shall consist of founded and indicated reports of child abuse.

(b) The department shall be capable of receiving oral reports of child abuse made pursuant to this act and report summaries of child abuse from child protective services and shall be capable of immediately identifying prior reports of child abuse in the Statewide central register *and reports under investigation in the pending complaint file* and of monitoring the provision of child protective services 24 hours a day, seven days a week.

(c) The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse. A child protective service may use the Statewide toll-free telephone number for determining the existence of prior founded or indicated reports of child abuse in the Statewide central register *or reports under investigation in the pending complaint file*. A child protective service may only request and receive

information pursuant to this subsection either on its own behalf because it has **[before it a child suspected of being an abused child] received a report of suspected child abuse** or on behalf of a physician examining or treating a child or on behalf of the director or a person specifically designated in writing by such director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by such director suspects the child of being an abused child.

(d) Except as provided in subsections (f) and (m) *and section 15*, no information shall be released from the Statewide central register *or pending complaint file* unless pursuant to subsection (c) and unless the department has positively identified the representative of the child protective service requesting the information and the department has inquired into and is satisfied that such person has a legitimate need, within the scope of his official duties and the provisions of subsection (c), to obtain *such* information **[from the Statewide central register]**. Information in the Statewide central register *or pending complaint file* shall not be released for any purpose or to any individual not specified in **[this section] section 15**.

(e) Except as provided in subsections (f) and (m), persons receiving information from the Statewide central register *or pending complaint file* may be informed only as to whether **[a prior] the report is a** founded or indicated **[report exists] abuse or is under investigation**, the number of such reports, the nature and extent of the alleged *or actual* instances of **[suspected] child abuse**, and **[whether the reports are founded reports or indicated reports.] the county in which such reports are investigated**.

(f) Upon receipt of a complaint of suspected child abuse the department shall forthwith transmit **[in writing (and orally, if such is deemed advisable)] orally** to the appropriate child protective service notice that such complaint of suspected child abuse has been received and the substance of that complaint. If the Statewide central register *or the pending complaint file* contains information indicating a previous **[founded or indicated] report or a current investigation** concerning a subject of such report, the department shall immediately notify the appropriate child protective service of this fact. *If the complaint received does not suggest suspected child abuse but does suggest a need for social services or other services or investigation, the department shall transmit such information to the county children and youth social services agency or other public agency for appropriate action. Such information shall not be considered a child abuse report unless the agency to which the information was referred, has reason to believe after investigation that abuse occurred. If the agency has reason to believe that abuse occurred, the agency shall notify the department and the initial complaint shall be considered to have been a child abuse report.* No information other than that permitted in subsection (i) shall be retained in the Statewide central register, the pending complaint file or otherwise by the department.

(g) Upon receipt of a complaint of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the pending complaint file. No information other than that permitted to be retained in the Statewide central register in subsection (i) shall be retained in the pending complaint file. Except as provided in **[subsection] subsections (c), (f) and (m) and section 15**, no person, other than an employee of the department in the course of his official duties in connection with the department's responsibilities under this act shall at any time have access to any information in the pending complaint file *or Statewide central register*.

(h) When a report of suspected child abuse is determined by the appropriate child protective service to be a founded report or an indicated report, the information concerning such report of suspected child abuse shall be expunged forthwith from the pending complaint file and an appropriate entry shall be made in the Statewide central register. *Notice of such determination must be given to the subjects of the report other than the abused child along with an explanation of the implications of such a finding.* When a report of suspected child abuse is determined by the appropriate child protective service to be an unfounded report, the information concerning such report of suspected child abuse shall be expunged **[forthwith]** from the pending complaint file *within 12 months of the date the report was received by the department* and no information other than that authorized by subsection (k), which shall not include any identifying information on any subject of such report, shall be retained by the department.

(i) The Statewide central register shall include and shall be limited to the following information: the names, *age and sex* of the subjects of the reports; the date or dates and the nature and extent of the alleged instances of suspected child abuse; the home addresses of subjects of the report; **[the age of the children suspected of being abused;]** the **[locality] county** in which the suspected abuse occurred; *family composition; the name and relationship to the abused child of the person or persons responsible for causing the abuse; the source of the report; services planned or provided;* whether the report is a founded report, an indicated report; and the progress of any legal proceedings brought on the basis of the report of suspected child abuse.

(j) If within 30 days from the date of an initial report of suspected child abuse the appropriate child protective service has not properly investigated such report and informed the department that the report is an indicated report or an unfounded report, or unless within that same 30-day period the report is determined to be a founded report, the department shall immediately begin an inquiry into the performance of the child protective service, which inquiry may include a performance audit of the child protective service as provided in section 20. On the basis of that inquiry, the department is hereby authorized, and its duty shall be, to take appropriate action to require that the provisions of this act be strictly followed, which action may include, without limitation,

the institution of appropriate legal action and/or the withholding of reimbursement for all or part of the activities of the county **[public child welfare] children and youth social service** agency.

(k) If an investigation of a report of suspected child abuse conducted by the appropriate child protective service pursuant to this act does not determine within 60 days of the date of the initial report of such instance of suspected child abuse that the report is an indicated report or an unfounded report, or unless within that same 60-day period **[the report is determined to be a founded report]** *court action has been initiated and is responsible for the delay*, said report shall be considered to be an unfounded report and all information identifying the subjects of such report shall be expunged **[forthwith.] within 12 months. The agency shall so advise the department that court action has been initiated so that the pending complaint file is kept up-to-date regarding the status of all legal proceedings and expungement delayed.** Nothing in this subsection shall in any way limit the powers and duties of the department as provided in subsection (j).

(l) All information identifying the subjects of any report of suspected child abuse determined to be an unfounded report shall be expunged **[forthwith]** from the pending complaint file **[and the Statewide central register]** *within 12 months of the date the report was received by the department.* Such expungement shall be mandated and guaranteed by the department and persons or officials authorized to keep such records as mentioned in this subsection and subsection (n) of this section who willfully fails to do so shall be guilty of a summary offense, except that for a second and subsequent offense shall be guilty of a misdemeanor of the third degree. Furthermore, the Attorney General shall conduct a mandated audit done randomly but at least once **[every three months]** during each year on an unannounced basis to ensure that the expungement requirements are being fully and properly conducted.

(m) The department may conduct or authorize the conducting of studies of the data contained in the pending complaint file and the Statewide central **[register]** *registers and county agencies and* distribute the results of such studies, provided that no such study shall contain the name or other information by which a subject of a report could be identified. *Furthermore, the department may allow Federal auditors access to nonidentifiable duplicates of reports in the pending complaint file and the Statewide central register if required for Federal financial participation in funding of agencies.*

(n) All information identifying the subjects of all indicated reports and all information identifying the subject child of all founded reports shall be expunged when the subject child reaches the age of 18, *unless another report is received involving the same child, his sibling or offspring, or another child in the care of the persons responsible for the subject child's welfare. The identifying information may then be maintained in the register for five years after the subsequent case or report is closed.* Such expungement shall be mandated pursuant to subsection (l).

(o) At any time, the secretary may amend, seal or expunge any record upon good cause shown and notice to the *appropriate* subjects of the report. Once sealed, a record shall not be otherwise available except as provided in subsection (m) of this section or except if the secretary, upon notice to the subjects of the report, gives his personal approval for an appropriate reason.

(p) All existing files, reports and records relating to child abuse collected or filed by and in the department prior to this act shall immediately come under the control of the department pursuant to this act, and within six months from the effective date of this act the department shall destroy all individually identifiable records concerning child abuse except for the purposes of statistical study by the department pursuant to subsection (m).

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 [public child welfare] *children and youth social service* agency or a child protective service shall be confidential and shall only be made available to:

(1) A duly authorized official of a child protective service in the course of his official duties, *multidisciplinary team members assigned to the case, and duly authorized persons providing services pursuant to section 17(8)*.

(2) A physician examining or treating a child or the director or a person specifically designated in writing by such director of any hospital or other medical institution where a child is being treated, where the physician or the director or his designee suspect the child of being an abused child.

(3) A guardian ad litem for the child.

(4) A duly authorized official *or agent* of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 20.

(5) A court of competent jurisdiction pursuant to a court order.

(6) *A standing committee of the General Assembly, as specified in section 24.*

(7) *The Attorney General.*

(8) *Federal auditors if required for Federal financial participation in funding of agencies provided that Federal auditors may not have access to identifiable reports.*

(9) *Law enforcement officials in the course of investigating cases of (i) homicide, sexual abuse or exploitation, or serious bodily injury as perpetrated by persons whether related or not related to the victim; (ii) child abuse perpetrated by persons who are not family or household members or (iii) repeated physical injury to a child under circumstances which indicate that the child's health or welfare is harmed or threatened.*

(10) Law enforcement officials who shall receive reports of abuse in which the initial review gives evidence that the abuse is homicide, sexual abuse or exploitation, or serious bodily injury perpetrated by persons whether related or not related to the victim, or child abuse perpetrated by persons who are not family or household members. Reports referred to law enforcement officials shall be on such forms provided by and according to regulations promulgated by the department. For purposes of section 15(a) "serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(11) County commissioners, to whom the department shall forward specific files upon request, for review when investigating the competence of county children and youth employees.

(b) At any time, a subject of a report may receive, upon written request, a copy of all information except that prohibited from being disclosed by subsection (c), contained in the Statewide central register or in any report filed pursuant to section 6.

(c) The release of data that would identify the person who made a report of suspected child abuse or person who cooperated in a subsequent investigation, is hereby prohibited unless the secretary finds that such release will not be detrimental to the safety of such person.

(d) At any time, a subject of a report may request the secretary to amend, seal or expunge information contained in the [pending complaint file and the] Statewide central register [or order that the appropriate child protective service to amend, seal or expunge the information contained in its files pertaining to any report filed pursuant to section 6.] on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this act. If the secretary grants the request the Statewide central register, appropriate child protective service agency and all subjects shall be so advised within seven days from the date of this decision. The child protective service agency and any subject have 45 days in which to file an appeal with the secretary. If such an appeal is received, the secretary or his designated agency shall schedule a hearing pursuant to the provisions of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," and attending departmental regulations. If no appeal is received within the designated time period, the Statewide central register shall comply with the decision of the secretary and advise the child protective service agency to amend, seal or expunge the information in their records so that the records are consistent at both the State and local levels. If the secretary refuses or does not act within a reasonable time, but in no event later than 30 days after receipt of such request, the subject shall have the right to a hearing before the secretary or [his] the designated agent or the secretary to determine whether the summary in the Statewide central register or the contents of any report filed pursuant to section 6 should be amended, sealed or expunged on the grounds that it is inaccurate or it is being maintained in a manner incon-

sistent with this act. The appropriate child protective service shall be given notice of the hearing. The burden of proof in such hearing shall be on the **[department and]** appropriate child protective service. *The department shall assist the child protective service as necessary.* In such hearings, the fact that there was a court finding of child abuse shall be presumptive evidence that the report was substantiated. The secretary or **[his]** *the* designated agent *of the secretary* is hereby authorized and empowered to make any appropriate order respecting the amendment or expungement of such records to make **[it]** *them* accurate or consistent with the requirements of this act.

(e) Written notice of any expungement **[or amendment]** of any record, made pursuant to the provisions of this act, shall be served upon **[each]** *the* subject of such record *who was responsible for the abuse* and the appropriate child protective service. The latter, upon receipt of such notice, shall take appropriate, similar action in regard to the local child abuse records and inform, for the same purpose, the appropriate coroner, if such officer has received reports pursuant to clause (3) of section 17. *Whenever the investigation reveals that the report is unfounded but that the subjects need services and voluntarily accept services, the county children and youth social service agency may retain those portions of its records which do not specifically identify the source of the investigation or report as suspected child abuse.*

(f) Any person who wilfully fails to obey a final order of the secretary or his designated agent to amend or expunge the summary of the report in the Statewide central register or the contents of any report filed pursuant to section 6 shall be guilty of a summary offense.

(g) Any person who wilfully releases or permits the release of any data and information contained in the pending complaint file, the Statewide central register or the child welfare records required by this act including records maintained by any county **[public child welfare]** *children and youth social service* agency and any child protective service to persons or agencies not permitted by this act shall be guilty of a misdemeanor of the third degree.

Section 16. Child Protective Service Responsibilities and Organization; Local Plan.—(a) **[Every]** *Unless the department finds it is unfeasible, every* county **[public child welfare]** *children and youth social service* agency shall establish a “child protective service” within each agency. The child protective service shall perform those functions assigned by this act to it and only such others that would further the purposes of this act. It shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this act and organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual children and families. The child protective service of the county **[public child welfare]** *children and youth social service* agency shall be the sole *civil* agency responsible for receiving and investigating all reports of child abuse made pursuant to this act, specifically including, but not limited to reports of child abuse in facilities operated by the

department and other public agencies, for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development, and to preserve and stabilize family life wherever appropriate; provided, however, that when the suspected abuse has been committed by the agency or any of its agents or employees, the department shall assume the role of the agency *with regard to the investigation and directly refer the child for services. Further, where suspected child abuse has occurred and an employee or agent of the department or the county children and youth social service agency or a private or public institution is a subject of the report, the department, agency or institution shall be informed of the investigation so that it may take appropriate action.*

(b) Any other provision of law notwithstanding, but consistent with subsection (a), the county **[public child welfare] children and youth social service** agency, based upon the local plan of services as provided in subsection (c), may purchase and utilize the services of any appropriate public or private agency.

(c) No later than once each year as required by the department each county agency child protective service shall **[prepare and submit to the department after consultation with local law enforcement agencies, the court and appropriate public or private agencies and after a public hearing, a local plan for the provision of child protective services which shall describe the implementation of this act including the organization, staffing, mode of operations and financing of the child protective service as well as the provisions made for purchase of service and inter-agency relations. The local plan may take effect immediately. Within 60 days the] prepare and submit a local plan for the provision of child protective services. The local plan may be a component of a county human service plan or a children and youth plan which may be required by the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."** The department shall certify whether or not the local plan fulfills the purposes of and meets the requirements set forth in this act. If the department certifies that the local plan does not do so, the department shall state the reasons therefor and may withhold reimbursement for all or part of the activities of the agency. If the department finds that a proposed local plan does not meet the requirements set forth in this act, the child protective service shall revise the local plan in accordance with the department's reasons for disapproval.

(d) Each child protective service shall make available among its services for the prevention and treatment of child abuse multidisciplinary teams, instruction **[in] and** education for parenthood, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, and the establishment of groups organized by former abusing parents to encourage self-reporting and self-treatment of present abusers.

(e) The department may waive the requirements that a county establish a separate child protective service upon a showing by the county that:

(1) a separate child protective service (i) would not be conducive to the best interests of all children within the county who need public child welfare services; and (ii) would not be feasible or economical and,

(2) the goals and objectives of the act will continue to be met if a waiver is granted. If the department grants a waiver pursuant to this subsection, the county shall be bound by all other provisions of this act, including requirements concerning the maintenance and disclosure of confidential information and records.

Section 18. Cooperation of Other Agencies.—The secretary may request and shall receive from departments, boards, bureaus, or other agencies of the Commonwealth, or any of its political subdivisions, or any duly authorized agency, or any other agency providing services under the local child protective services plan such assistance and data as will enable the department and the child protective services to fulfill their responsibilities properly, *including law enforcement personnel when assistance is needed in conducting an investigation of alleged child abuse. School districts shall cooperate with the department and the agency by providing them upon request with such information as is consistent with law.*

Section 23. The Guardian Ad Litem.—(a) The court, when a proceeding has been initiated ~~[arising out of]~~ *alleging* child abuse, shall appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney-at-law. The guardian ad litem shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian pursuant to this act. The guardian ad litem shall be charged with the representation of the child's best interests at every stage of the proceeding and shall make such further investigation necessary to ascertain the facts, interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the child.

(b) The court shall have the duty, upon consideration of the petition of any attorney for the child, to order a local child protective service or other agency to establish and/or implement, fully and promptly, appropriate services, treatment, and plans for a child found in need of them. Additionally, the court, upon consideration of the petition of any attorney for the child, shall have the duty to terminate or alter the conditions of any placement, temporary or permanent, of a child.

Section 24. Legislative Oversight.—For purposes of (1) providing information that will aid the General Assembly in its oversight responsibilities; (2) enabling the General Assembly to determine whether the programs and services mandated by this act are effectively meeting the goals of this legislation; (3) assisting the General Assembly in measuring the costs and benefits of this program and the effects and/or side-effects of mandated program services; (4) permitting the General Assembly to

determine whether the confidentiality of records mandated by this act is being maintained at the State and local level; and (5) providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this act, beginning one year from the effective date of this act, **[the Senate Committee on Aging and Youth and the House Committee on Health and Welfare] a committee of the House as designated by the Speaker of the House of Representatives and a committee of the Senate designated by the President pro tempore of the Senate**, either jointly and/or separately, shall begin a review into the manner in which this act has been administered at the State and local level.

Section 2. (a) Except as provided in subsection (b) this act shall take effect in 60 days.

(b) The amendments to section 15 of the act shall take effect immediately and shall apply to all past, present and future records held by a county children and youth social service agency.

APPROVED—The 10th day of June, A. D. 1982.

DICK THORNBURGH