

No. 2008-33

AN ACT

SB 1147

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing, in child protective services, for definitions, for immunity from liability, for release of information in confidential reports, for studies of data in records, for investigating performance of county agencies, for citizen review panels, for child abuse services and for reporting; and providing for report on child abuse and criminal history information requirements.

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 definitions 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:

“Children’s advocacy center.” A local public agency in this Commonwealth or a not-for-profit entity incorporated in this Commonwealth which:

(1) is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)); and

(2) operates within this Commonwealth for the primary purpose of providing a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse that, at a minimum, either onsite or through a partnership with another entity or entities, assists county agencies, investigative teams and law enforcement by providing services, including forensic interviews, medical evaluations, therapeutic interventions, victim support and advocacy, team case reviews and a system for case tracking.

“Substantiated child abuse.” Child abuse as to which there is an indicated report or founded report.

Section 1.1. Section 6318(a) 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.

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Section 2. Section 6340(a) of Title 23 is amended by adding a paragraph to read:

§ 6340. Release of information in confidential reports.

(a) General rule.—Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

* * *

(17) A member of a child fatality or near fatality review team under section 6365(d).

* * *

Section 2.1. Section 6342 of Title 23 is amended to read:

§ 6342. Studies of data in records.

(a) *Studies.*—The department may conduct or authorize the conducting of studies of the data contained in the pending complaint file and the Statewide central register and county agencies and distribute the results of the studies. No study may contain the name or other information by which a subject of a report could be identified. 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.

(b) *Data form.*—*The department shall develop a data form to facilitate the collection of statistical and demographic information from a child fatality or near fatality review team and a county agency, which can be incorporated into a study conducted by the department.*

Section 3. Section 6343 of Title 23 is amended by adding a subsection to read:

§ 6343. Investigating performance of county agency.

* * *

(c) *Department reviews and reports of child fatalities and near fatalities.*—

(1) The department shall conduct a child fatality and near fatality review and provide a written report on any child fatality or near fatality, if child abuse is suspected. The department shall summarize:

(i) the circumstances of the child's fatality or near fatality;

(ii) the nature and extent of its review;

(iii) statutory and regulatory compliance by the county agency in the county where:

(A) the fatality or near fatality occurred; and

(B) the child resided within the 16 months preceding the fatality or near fatality;

(iv) its findings; and

(v) recommendations for reducing the likelihood of future child fatalities and near fatalities resulting from child abuse.

(2) The department's child fatality or near fatality review shall be commenced immediately upon receipt of a report to the department that a child died or nearly died as a result of suspected child abuse. The department shall provide assistance and relevant information to the child fatality or near fatality review team and attempt to coordinate its fact-finding efforts and interviews with the team to avoid duplication. The department's child fatality or near fatality review and report shall be completed as soon as possible but no later than six months from receipt of the initial report of the child fatality or near fatality.

(3) Prior to completing its report, the department may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:

(i) The identity of the child.

(ii) If the child was in the custody of a public or private agency, the identity of the agency.

(iii) The identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality.

(iv) A description of services provided under subparagraph (iii).

(v) The identity of the county agency that convened a child fatality or near fatality review team with respect to the child.

(4) Upon completion of the review and report, the department's child fatality or near fatality report shall be made available to the county agency, the child fatality or near fatality review team and designated county officials under section 6340(a)(11) (relating to release of information in confidential reports). The report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's report shall be made available to the public, but identifying information shall be removed from the contents of the report except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The report shall not be released to the public if the district attorney certifies that release of the report may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at

which time the report shall be released unless a new certification is made by the district attorney.

Section 4. Section 6343.1(a) and (b)(2)(ii) of Title 23 are amended to read:

§ 6343.1. Citizen review panels.

(a) Establishment.—The department shall establish a minimum of three citizen review panels. *The department may designate a child fatality or near fatality review team under section 6365(d) (relating to services for prevention, investigation and treatment of child abuse) as a citizen review panel as long as the team has the capacity to perform as a citizen review panel.*

(b) Function.—The panels shall examine all of the following:

* * *

(2) Other criteria the panel considers important to ensure the protection of children, including:

* * *

(ii) a review of child fatalities and near fatalities[.], *including, but not limited to, a review of any child fatality or near fatality involving a child in the custody of a public or private agency where there is no report of suspected child abuse and the cause of death is neither the result of child abuse nor natural causes.*

* * *

Section 5. Sections 6365 and 6367 of Title 23 are amended by adding subsections to read:

§ 6365. Services for prevention, investigation and treatment of child abuse.

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(d) Child fatality or near fatality review team and written report.—

(1) A child fatality or near fatality review team shall be convened by a county agency in accordance with a protocol developed by the county agency, the department and the district attorney in a case when a child dies or nearly dies as a result of child abuse as to which there is an indicated report or when the county agency has not made a status determination within 30 days. The team may convene after a county agency makes a determination of an indicated report and shall convene no later than 31 days from the receipt of the oral report to the department of the suspected child abuse. A county agency in the county where the abuse occurred and in any county where the child resided within the 16 months preceding the fatality or near fatality shall convene a child fatality or near fatality review team. A team shall consist of at least six individuals who are broadly representative of the county where the team is established and who have expertise in prevention and treatment of child abuse. With consideration given to the circumstances of each case and availability of individuals to serve as members, the team may consist of the following individuals:

(i) A staff person from the county agency.

- (ii) A member of the advisory committee of the county agency.*
 - (iii) A health care professional.*
 - (iv) A representative of a local school, educational program or child care or early childhood development program.*
 - (v) A representative of law enforcement or the district attorney.*
 - (vi) An attorney-at-law trained in legal representation of children or an individual trained under 42 Pa.C.S. § 6342 (relating to court-appointed special advocates).*
 - (vii) A mental health professional.*
 - (viii) A representative of a children's advocacy center that provides services to children in the county. The individual under this subparagraph must not be an employee of the county agency.*
 - (ix) The county coroner or forensic pathologist.*
 - (x) A representative of a local domestic violence program.*
 - (xi) A representative of a local drug and alcohol program.*
 - (xii) An individual representing parents.*
 - (xiii) Any individual whom the county agency or child fatality or near fatality review team determines is necessary to assist the team in performing its duties.*
- (2) Members of the team shall be responsible for all of the following:*
- (i) Maintaining confidentiality of information under sections 6339 (relating to confidentiality of reports) and 6340.*
 - (ii) Providing and discussing relevant case-specific information.*
 - (iii) Attending and participating in all meetings and activities as required.*
 - (iv) Assisting in the development of the report under paragraph (4)(v).*
- (3) The county agency, in accordance with the protocol and in consultation with the team, shall appoint an individual who is not an employee of the county agency to serve as chairperson.*
- (4) The team shall perform the following:*
- (i) Review the circumstances of the child's fatality or near fatality resulting from suspected or substantiated child abuse.*
 - (ii) Review the delivery of services to the abused child and the child's family provided by the county agency and review services provided to the perpetrator by the county agency in each county where the child and family resided within the 16 months preceding the fatality or near fatality and the services provided to the child, the child's family and the perpetrator by other public and private community agencies or professionals. This subparagraph includes law enforcement, mental health services, programs for young children and children with special needs, drug and alcohol programs, local schools and health care providers.*

(iii) Review relevant court records and documents related to the abused child and the child's family.

(iv) Review the county agency's compliance with statutes and regulations and with relevant policies and procedures of the county agency.

(v) Within 90 days of convening, submit a final written report on the child fatality or near fatality to the department and designated county officials under section 6340(a)(11). Within 30 days after submission of the report to the department, the report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The report shall be made available to the public, but identifying information shall be removed from the contents of the report except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The report shall not be released to the public if the district attorney certifies that release of the report may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney. The report shall include:

(A) Deficiencies and strengths in:

(I) compliance with statutes and regulations; and

(II) services to children and families.

(B) Recommendations for changes at the State and local levels on:

(I) reducing the likelihood of future child fatalities and near fatalities directly related to child abuse and neglect;

(II) monitoring and inspection of county agencies; and

(III) collaboration of community agencies and service providers to prevent child abuse and neglect.

(e) Response by department.—Within 45 days of receipt of a report of a child fatality or near fatality under subsection (d), the department shall review the findings and recommendations of the report and provide a written response to the county agency and the child fatality review team or near fatality review team. The department's response to the report of the child fatality or near fatality review team shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's response shall be made available to the public, but identifying information shall be removed from

the contents of the response, except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The response shall not be released to the public if the district attorney certifies that release of the response may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney.

(f) Construction.—The provisions of this section shall be construed to assist in the improvement of services designed to identify and prevent child abuse. The provisions shall not be construed to impede or interfere with criminal prosecutions of persons who have committed child abuse.

§ 6367. Reports to department and coroner.

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(c) Child deaths and near fatalities.—A county agency shall immediately provide information to the department regarding its involvement with the child and with the child's parent, guardian or custodian when a child dies or nearly dies and child abuse is suspected. The county agency shall inform the department of any history of child protective or general protective services provided to the child prior to the child's death or near fatality and of services provided to other children of the child's parent, guardian or custodian by the county agency or by court order. The county agency shall inform the department if the child was in the agency's custody at the time of the child's death or near fatality. The county agency shall provide this information in writing on forms provided by the department within 48 hours of the oral report.

Section 6. Within 12 months of the effective date of this section, the Department of Public Welfare shall submit a report to the Governor and General Assembly on implementation of child abuse and criminal history information requirements under the act of December 18, 2007 (P.L.469, No.73), entitled "An act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for information relating to prospective child-care personnel." Information shall include, but not be limited to:

(1) A summary of the requirements of the act of December 18, 2007 (P.L.469, No.73), entitled "An act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for information relating to prospective child-care personnel."

(2) The number of applicants for child-care services, day-care providers and foster and adoptive parents and adult persons who reside in their homes who are impacted by the requirements.

(3) Fees for Federal criminal history record checks.

(4) A description of the administrative process for the electronic transmission of fingerprints to the Federal Bureau of Investigation for Federal criminal history records.

(5) Any findings and recommendations.

Section 7. This act shall take effect in 180 days.

APPROVED—The 3rd day of July, A.D. 2008.

EDWARD G. RENDELL