

No. 2014-29

AN ACT

SB 24

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions; providing for electronic reporting and for regulations; further providing for mandatory reporting and postmortem investigation of deaths, for establishment of pending complaint file, Statewide central register and file of unfounded reports, for establishment of Statewide toll-free telephone number, for continuous availability of department and for disposition of complaints received; providing for responsibility for investigation; and further providing for information in pending complaint and unfounded report files, for information in Statewide central register, for disposition of unfounded reports, for disposition of founded and indicated reports, for confidentiality of reports, for release of information in confidential reports, for studies of data in records, for information relating to prospective child-care personnel, for information relating to family day-care home residents, for cooperation of other agencies, for reports to Governor and General Assembly, for penalties and for county agency requirements for general protective services.

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

Section 1. The definitions of "child-care services" in section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes, added December 18, 2013 (P.L.1201, No.119), are amended and the section 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:

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"Child-care services." [Child day-care centers, group and family day-care homes, foster homes, adoptive parents, boarding homes for children, juvenile detention center services or programs for delinquent or dependent children; mental health, mental retardation, early intervention and drug and alcohol services for children; and other child-care services which are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with these departments or a county social services agency. The term does not include such services or programs which may be offered by public and private schools, intermediate units or area vocational-technical schools.

"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.

* * *

"Electronic technologies." The transfer of information in whole or in part by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic or photo-optical systems, or similar capabilities. The term includes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.

* * *

"Law enforcement official." The term includes the following:

- (1) *The Attorney General.*
- (2) *A Pennsylvania district attorney.*
- (3) *A Pennsylvania State Police officer.*
- (4) *A municipal police officer.*

"Mandated reporter." A person who is required by this chapter to make a report of suspected child abuse.

* * *

Section 2. Title 23 is amended by adding sections to read:

§ 6305. Electronic reporting.

(a) Departmental procedures.—The department shall establish procedures for the secure and confidential use of electronic technologies to transmit information under this chapter, including:

- (1) *the filing of reports and other required records, including those of the county agency; and*
- (2) *the verification of records and signatures on forms.*

(b) Confirmation of reports.—A confirmation by the department of the receipt of a report of suspected child abuse submitted electronically shall relieve the person making the report of making an additional oral or written report of suspected child abuse, subject to section 6313 (relating to reporting procedure).

(c) Effect on other law.—Nothing in this chapter shall be construed to supersede the act of December 16, 1999 (P.L.971, No.69), known as the Electronic Transactions Act. Any procedures developed by the department under this section shall comply with all applicable Federal and State laws regarding confidentiality of personally identifiable information.

§ 6306. Regulations.

The department shall promulgate regulations necessary to implement this chapter.

Section 3. Section 6317 of Title 23 is amended to read:

§ 6317. Mandatory reporting and postmortem investigation of deaths.

A person or official required to report cases of suspected child abuse, including employees of a county agency, who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the appropriate coroner *or medical examiner*. The coroner *or medical examiner* shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate county agency and, if the report is made by a hospital, the hospital.

Section 3.1. Section 6331 of Title 23, amended December 18, 2013 (P.L.1201, No.119), is amended to read:

§ 6331. Establishment of Statewide 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]):

(1) A pending complaint file of child abuse reports under investigation and a file of reports under investigation pursuant to Subchapter C.1 (relating to students in public and private schools).

(2) A Statewide central register of child abuse which shall consist of founded and indicated reports.

(3) A file of unfounded reports awaiting expunction.

(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.]
database):

(1) *Reports of suspected child abuse pending investigation.*

(2) *Reports with a status of pending juvenile court or pending criminal court action.*

(3) *Indicated and founded reports of child abuse.*

(4) *Unfounded reports of child abuse awaiting expunction.*

(5) *Unfounded reports accepted for services.*

(6) *Reports alleging the need for general protective services.*

(7) *General protective services reports that have been determined to be valid.*

(8) *Reports alleging the need for general protective services that have been determined invalid and are awaiting expunction.*

(9) *A family case record for all reports accepted for investigation, assessment or services.*

(10) *Information on reports made to the agency, but not accepted for investigation or assessment.*

(11) *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 3.2. Sections 6332(a), 6333 and 6334 of Title 23 are amended to read:

§ 6332. Establishment of Statewide toll-free telephone number.

(a) General rule.—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 *or children allegedly in need of general protective services*. A county agency *or law enforcement official* shall use the Statewide toll-free telephone number *or electronic technologies* for determining the existence of **[prior founded or indicated]** reports of child abuse *or general protective services reports* in the Statewide **[central register]** *database* or reports under investigation **[in the pending complaint file]**.

* * *

§ 6333. Continuous availability of department.

The department shall be capable of receiving oral reports of child abuse **[made]**, *reports of children in need of general protective services, reports made by electronic technologies* pursuant to this chapter~~], reports under section 6353.2 (relating to responsibilities of county agency)]~~ and report summaries **[of child abuse]** from county agencies **[and]**. *The department* shall be capable of immediately identifying prior reports **[of child abuse and prior reports of abuse or injury under Subchapter C.1 (relating to students in public and private schools) in the Statewide central register]** *in the Statewide database* and reports under investigation **[in the pending complaint file]** *with a pending status* and of monitoring the provision of child protective services 24 hours a day, seven days a week.

§ 6334. Disposition of complaints received.

[(a) Notice to county agency.—Upon receipt of a complaint of suspected child abuse, the department shall immediately transmit orally to the appropriate county agency notice that the complaint of suspected child abuse has been received and the substance of the complaint. If the Statewide central register or the pending complaint file contains information indicating a prior report or a current investigation concerning a subject of the report, the department shall immediately notify the appropriate county agency of this fact. The appropriate county agency shall mean the agency in the county where the suspected child abuse occurred. If the residency of the subjects is a factor that requires the cooperation of more than one county agency, the department shall develop regulations to ensure the cooperation of those agencies in carrying out the requirements of this chapter.

(b) Referral for services or investigation.—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 the information to the county agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has reasonable cause to suspect after investigation that abuse occurred. If the agency has reasonable cause to suspect that abuse occurred, the agency shall notify the department, and the initial complaint shall be considered to have been a child abuse report.

(c) **Recording in pending complaint file.**—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. Upon receipt of a report under section 6353.2 (relating to responsibilities of county agency), the department shall maintain a record of the report in the report file under section 6331 (relating to establishment of pending complaint file, Statewide central register and file of unfounded reports).

(d) **Incidents occurring outside of this Commonwealth.**—

(1) A report of suspected child abuse occurring in another state where the child victim is identified as a resident of this Commonwealth and the other state child protective services agency cannot investigate the report because of statutory or policy limitations shall be assigned as a general protective services report to the county of the child's residence or as determined by the department.

(2) In addition to complying with the other requirements of this chapter and applicable regulations, a copy of the report shall be provided to the other state's child protective services agency and, when applicable under Pennsylvania law, to law enforcement officials where the incident occurred.

(3) Reports and information under this subsection shall be provided within seven calendar days of completion of the general protective services assessment under section 6375 (relating to county agency requirements for general protective services).]

(a) Receipt of reports by county agencies and law enforcement.—After ensuring the immediate safety of the child and any other child in the child's home, a county agency or law enforcement official that receives a report of suspected child abuse shall immediately notify the department of the report. If the report is an oral report by telephone, the county agency or law enforcement official shall attempt to collect as much of the information listed in section 6313(c) (relating to reporting procedure) as possible and shall submit the information to the department within 48 hours through a report in writing or by electronic technologies.

(b) Receipt of reports by department and referral to county agency.—The department shall immediately transmit an oral notice or a notice by electronic technologies to the county agency of the county where the suspected child abuse is alleged to have occurred. The notice shall contain the following information:

(1) That a report of suspected child abuse by a perpetrator has been received.

(2) The substance of the report.

(3) The existence in the Statewide database of a prior report or a current investigation or assessment concerning a subject of the report.

(c) Receipt of reports by department and referral to law enforcement.—If the department receives a report of suspected child abuse that also alleges that a criminal offense has been committed against the child, the department shall immediately transmit an oral notice or notice by electronic technologies to the appropriate law enforcement official in the

county where the suspected child abuse is alleged to have occurred. The notice shall contain the following information, consistent with section 6340(a)(9) and (10) (relating to release of information in confidential reports):

(1) That a report of suspected child abuse has been received.

(2) The substance of the report.

(3) The existence in the Statewide database under section 6331 (relating to establishment of Statewide database) of a prior report or a current investigation or assessment concerning a subject of the report.

(d) Notice of joint referrals.—When a report is referred to the county agency under subsection (b) and is also referred to a law enforcement official under subsection (c), the notice shall include information as to the name and contact information of any persons receiving the referral, if known.

(e) Jurisdictional overlap.—If the residency of any subject of a report is a factor that requires the cooperation of more than one county agency, the department shall develop procedures to ensure the cooperation of those agencies in carrying out the requirements of this chapter.

(f) Referral for services or investigation.—If the report received does not suggest a need for protective services but does suggest a need for social services or other services or investigation, the department shall transmit the information to the county agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has reasonable cause to suspect after investigation that abuse occurred. If the agency has reasonable cause to suspect that abuse occurred, the agency shall notify the department, and the initial report shall be considered to have been a child abuse report.

(g) Recording of pending reports.—Upon receipt of a report of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the Statewide database. Upon receipt of a report under section 6353.2 (relating to responsibilities of county agency), the department shall maintain a record of the report in the Statewide database under section 6331.

(h) Child abuse in another state where the victim child and the alleged perpetrator are residents of the Commonwealth.—A report of suspected child abuse by a resident perpetrator occurring in another state shall be referred by the department to the county agency where the child resides in this Commonwealth and shall be investigated by the county agency as any other report of suspected child abuse by a perpetrator if the other state's child protective services agency cannot or will not investigate the report.

(i) Child abuse in another state where only the alleged perpetrator is a resident of this Commonwealth.—If suspected child abuse occurs in a jurisdiction other than this Commonwealth and only the alleged perpetrator is a resident of this Commonwealth, the report of suspected child abuse shall be referred to the county agency where the alleged perpetrator resides. The county agency shall do all of the following:

(1) Notify the children and youth social service agency of the jurisdiction in which the suspected child abuse occurred.

(2) If requested by the other agency, assist in investigating the suspected child abuse.

(j) Child abuse in another state where only the victim child is a resident of this Commonwealth.—A report of suspected child abuse occurring in another state where only the victim child resides in this Commonwealth and where the other state's child protective services agency cannot or will not investigate the report shall be assigned as a general protective services report to the county agency where the child resides.

(k) Copies of report.—A copy of a report of suspected child abuse under subsections (h), (i) and (j) shall be provided to the other state's child protective services agency and, if appropriate, to law enforcement officials where the incident occurred.

(l) Communication.—Reports and information under subsections (h), (i) and (j) shall be provided within seven calendar days of completion of the investigation.

Section 4. Title 23 is amended by adding a section to read:

§ 6334.1. Responsibility for investigation.

The department shall establish procedures regarding the following different responses to address suspected child abuse and protective services depending on the person's allegedly committing the suspected child abuse or causing a child to be in need of protective services:

(1) If the suspected child abuse is alleged to have been committed by a perpetrator, the appropriate county agency shall investigate the allegation as provided in this chapter.

(2) If the suspected child abuse is alleged to have been committed by a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, the appropriate county agency and law enforcement officials shall jointly investigate the allegation through the investigative team established in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse) and as provided in this chapter.

(3) If the suspected child abuse is alleged to have been committed by a person who is not a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, law enforcement officials where the suspected child abuse is alleged to have occurred shall be solely responsible for investigating the allegation.

(4) If a child is alleged to be in need of other protective services, the appropriate county agency shall assess the needs of the child as provided in this chapter.

Section 5. Sections 6335, 6336 and 6337 of Title 23 are amended to read:

§ 6335. [Information in pending complaint and unfounded report files.]

(a) Information authorized.—The information contained in the pending complaint file shall be limited to the information required in sections 6313(c) (relating to reporting procedure) and 6353.2 (relating to responsibilities of county agency). The information contained in the file for unfounded reports shall be limited to the information required by section 6336 (relating to information in Statewide central register).

(b) Access to information.—Except as provided in sections 6332 (relating to establishment of Statewide toll-free telephone number), 6334

(relating to disposition of complaints received), 6340 (relating to release of information in confidential reports) and 6342 (relating to studies of data in records), no person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall at any time have access to any information in the pending complaint file or Statewide central register. Information in the file of unfounded reports shall be available only to employees of the department pursuant to this subsection, to subjects of a report or law enforcement officials pursuant to section 6340 and to the Office of Attorney General pursuant to section 6345 (relating to audits by Attorney General) until the reports are expunged pursuant to section 6337 (relating to disposition of unfounded reports).] *Access to information in Statewide database.*

(a) Request for information.—A county agency or law enforcement official shall use the Statewide toll-free telephone number, or any manner prescribed by the department, to determine the existence of any prior reports involving a subject of the report. If the Statewide database contains information related to a report or a pending investigation or assessment concerning a subject of the report, the department shall immediately convey this information to the county agency or law enforcement official.

(b) Verification of need.—Information may be released under this section if a request for information is made orally or in writing and the department has done all of the following:

(1) Identified the requester, including electronic verification of the requester's identity.

(2) Determined whether the requester is authorized to obtain the information under this section.

(3) Provided notice to the requester that access and dissemination of the information is restricted as provided by this chapter.

(4) Obtained an affirmation by the requester that the request is within the scope of that person's official duties and the provisions of this chapter.

(c) Use by county agency or law enforcement official.—A county agency or law enforcement official may only request the information under subsection (a) for the purposes of investigating reports of child abuse, assessing allegations that a child is in need of general protective services, providing protective services to a child or investigating a crime against a child criminal offense. The following shall apply where information is requested pursuant to this section:

(1) A law enforcement official may use information contained in the Statewide database for the purpose of investigating a criminal offense as follows:

(i) Information regarding indicated and founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for the purposes of investigating a crime involving harm or threatened harm to a child, an alleged violation of section 6319 (relating to penalties for failure to report or to refer) or 6349 (relating to penalties) or an alleged violation of 18 Pa.C.S. § 4906.1 (relating to

false reports of child abuse) or 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).

(2) A county agency may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the county agency when determining that a new report of suspected abuse is an indicated report.

(3) The department may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the department when determining that a new report of suspected abuse is an indicated report.

(4) Information in the Statewide database may not be used for any purpose not authorized by this chapter.

(d) Authorized releases for governmental functions.—No person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall have access to any information in the Statewide database except as provided under this section and the following:

(1) Section 6334 (relating to disposition of complaints received).

(2) Section 6340 (relating to release of information in confidential reports).

(3) Section 6342 (relating to studies of data in records).

(4) Section 6343 (relating to investigating performance of county agency).

(5) Section 6343.1 (relating to citizen review panels).

(6) Section 6347 (relating to reports to Governor and General Assembly).

(e) Clearances.—Information provided in response to inquiries under section 6344 (relating to information relating to prospective child-care personnel), 6344.1 (relating to information relating to family day-care home residents) or 6344.2 (relating to information relating to other persons having contact with children) shall not include unfounded reports of child abuse or reports related to general protective services and shall be limited to the following:

(1) Whether the person was named as a perpetrator of child abuse in a founded or indicated report.

(2) Whether there is an investigation pending in which the individual is an alleged perpetrator.

(3) The number, date of the incidents upon which the report is based and the type of abuse or neglect involved in any reports identified under paragraph (1).

(f) Electronic technologies.—Requests under this section may be made using electronic technologies if appropriate verification is made in accordance with subsection (b).

§ 6336. Information in Statewide [central register] database.

(a) Information authorized.—The Statewide [central register] database shall include and shall be limited to the following information:

(1) The names, Social Security numbers, age, *race, ethnicity* and sex of the subjects of the reports.

(2) The date or dates and the nature and extent of the alleged instances [of suspected child abuse] *that created the need for protective services.*

(3) The home addresses of the subjects of the report.

(4) The county in which the [suspected abuse occurred] *alleged incidents that created the need for protective services occurred.*

(5) Family composition.

(6) The name and relationship to the [abused] child *in question and* of other persons named in the report.

(7) Factors contributing to the [abuse] *need for protective services.*

(8) The source of the report.

(9) Services planned or provided.

(10) [Whether the report is a founded report or an indicated report.] *If the report alleges child abuse, whether the report was determined to be founded, indicated or unfounded.*

(11) *If the report alleged the child was in need of general protective services, whether the report was valid or invalid.*

(12) *If the report was accepted for services and the reasons for the acceptance.*

(13) *If the report was not accepted for services, the reason the report was not accepted and whether the family was referred to other community services.*

[(11)] (14) Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency.

[(12)] (15) The progress of any legal proceedings brought on the basis of the report of suspected child abuse.

[(13)] (16) Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.

(17) *In the case of an unfounded or invalid report, if it is later determined that the initial report was a false report, a notation to that effect regarding the status of the report.*

(18) *Unfounded reports of child abuse, limited to the information authorized under section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports).*

(19) *Any additional information provided in section 6313(c) (relating to reporting procedure).*

(20) Any additional demographic information that the department requires to comply with section 6342 (relating to studies of data in records).

(21) A family case record for each family accepted for investigation, assessment or services which shall be maintained consistent with regulatory requirements.

(22) With respect to cases that are not accepted for child abuse investigation or general protective services assessment or are referred to community services:

(i) The reason the report was not accepted.

(ii) Any information provided to the referral source or the family related to other services or option available to address the report.

(23) Any other information that is necessary to maintain the names of persons convicted of a violation under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) or the names of persons who made a false report of the need for general protective services.

No information other than that permitted in this subsection shall be retained in the Statewide [central register] *database*.¹

[(b) Type of information released.—Except as provided in sections 6334 (relating to disposition of complaints received), 6335 (relating to information in pending complaint and unfounded report files), 6340 (relating to release of information in confidential reports) and 6342 (relating to studies of data in records), persons receiving information from the Statewide central register or pending complaint file may be informed only as to:

(1) Whether the report is a founded or indicated abuse or is under investigation.

(2) The number of such reports.

(3) The nature and extent of the alleged or actual instances of suspected child abuse.

(4) The county in which the reports are investigated.

(5) Any other information available which would further the purposes of this chapter.

(c) Limitation on release of information.—Except as provided in sections 6334, 6335, 6340 and 6342, no information shall be released from the Statewide central register or pending complaint file unless pursuant to section 6332 (relating to establishment of Statewide toll-free telephone number) and unless the department has positively identified the representative of the county agency requesting the information and the department has inquired into and is satisfied that the representative has a legitimate need, within the scope of official duties and the provisions of section 6332, to obtain the information. Information in the Statewide central register or pending complaint file shall not be released for any purpose or to any individual not specified in section 6340.]

§ 6337. Disposition [of unfounded reports] and expunction of unfounded reports and general protective services reports.

¹"Statewide central register." in enrolled bill.

(a) General rule.—When a report of suspected child abuse is determined by the appropriate county agency to be an unfounded report, the information concerning that report of suspected child abuse shall be maintained for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged from the **[pending complaint file] Statewide database**, as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department, and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department. *The expunction shall be mandated and guaranteed by the department.*

(b) Absence of other determination.—If an investigation of a report of suspected child abuse conducted by the appropriate county agency pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is a founded report, an indicated report or an unfounded report, or unless within that same 60-day period court action has been initiated and is responsible for the delay, the report shall be considered to be an unfounded report, and all information identifying the subjects of the report shall be expunged no later than 120 days following the expiration of one year after the date the report was received by the department. The agency shall advise the department that court action or an arrest has been initiated so that the **[pending complaint file] Statewide database** is kept current regarding the status of all legal proceedings and expunction is delayed.

(c) **[Expunction of information.—All information identifying the subjects of any report of suspected child abuse and of any report under Subchapter C.1 (relating to students in public and private schools) determined to be an unfounded report shall be expunged from the pending complaint file pursuant to this section. The expunction shall be mandated and guaranteed by the department.]** *Unfounded reports accepted for services.—Information on an unfounded report shall be retained in the Statewide database if the county agency has accepted the family for services and the report of suspected child abuse is clearly identified as an unfounded report. The county agency shall notify the department immediately upon closure of the case, and the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the family case was closed. If the subject child of the unfounded report becomes 23 years of age prior to the closure of the family case, the unfounded report shall be expunged when the subject child reaches 23 years of age.*

(d) *Expunction of valid general protective services reports.—Information concerning valid general protective services reports shall be maintained in the Statewide database as follows:*

(1) *Reports that are assessed by the county agency and are determined to be valid, but are not accepted for services, shall be reported to the department and entered into the Statewide database. The reports shall be maintained for a period of five years. Following the expiration of five years after the date the report was received by the department, the report shall be expunged from the Statewide database*

as soon as possible, but no later than 120 days after the five-year period following the date the report was received by the department.

(2) Reports that are assessed by the county agency and accepted for services shall be reported to the department and entered into the Statewide database. The reports shall be maintained for a period of five years after the closure of services by the county agency. Following the expiration of five years after the closure of services by the county agency, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the five-year period following the closure of services by the county agency.

(3) The expunction of information on general protective services under this subsection shall be mandated and guaranteed by the department.

(e) Expunction of invalid general protective services reports.—When a report alleging the need for general protective services is determined by the appropriate county agency to be an invalid report, the information concerning that report shall be maintained for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department. The expunction shall be mandated and guaranteed by the department.

(f) County agency records.—County agency records of protective services shall be used and maintained in a manner that is consistent with the use and maintenance of information in the Statewide database, as provided under this chapter. If required under this chapter to amend or expunge information in the Statewide database, the department shall notify the appropriate county agency of the amendment or expungement within ten days. The county agency shall amend or expunge its records in a commensurate manner within ten days of receiving notification from the department.

Section 5.1. Section 6338(a) and (c) of Title 23, amended December 18, 2013 (P.L.1170, No.108), are amended to read:

§ 6338. Disposition of founded and indicated reports.

(a) General rule.—When a report of suspected child abuse or a report under Subchapter C.1 (relating to students in public and private schools) is determined by the appropriate county agency to be a founded report or an indicated report, the [information concerning that report of suspected child abuse shall be expunged immediately from the pending complaint file, and an appropriate entry shall be made in the Statewide central register] status of the report shall be changed from pending to founded or indicated in the Statewide database. Notice of the determination that a report is a founded, indicated or unfounded report shall be made as provided in section 6368(f) (relating to investigation of reports).

* * *

(c) Retention of information.—[A subfile shall be established in the Statewide central register to] The Statewide database shall indefinitely retain the names of perpetrators of child abuse and school employees who are subjects of founded or indicated reports only if the individual's Social

Security number or date of birth is known to the department. The **[subfile entry in the Statewide database]** shall not include identifying information regarding other subjects of the report.

Section 5.2. Sections 6339, 6340(a)(9), (10), (12) and (13), (b), (c) and (d) and 6342(a) of Title 23 are amended to read:

§ 6339. Confidentiality of reports.

Except as otherwise provided in this subchapter, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and **[written]** reports made pursuant to section **[6313(b) and (c)] 6313** (relating to reporting procedure) 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 or a county agency shall be confidential.

§ 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:

* * *

(9) Law enforcement officials of any jurisdiction, as long as the information is relevant in the course of investigating cases of:

(i) Homicide or other criminal offense set forth in section 6344(c) (relating to information relating to prospective child-care personnel), sexual abuse[, **sexual**] or exploitation, ***bodily injury or serious bodily injury [or serious physical injury perpetrated by persons whether or not related to the victim] caused by a perpetrator or nonperpetrator.***

(ii) **[Child abuse perpetrated by persons who are not family members.] *Child abuse other than that identified under subparagraph (i) by a nonperpetrator.***

(iii) Repeated physical injury to a child under circumstances which indicate that the child's health, safety or welfare is harmed or threatened.

(iv) A missing child report.

(10) The district **[attorney or his designee] attorney's office** or other law enforcement official, as set forth in **[the]** county protocols for ***multidisciplinary*** investigative teams required in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse), shall receive, immediately after the county agency has ensured the safety of the child, reports of abuse[, **either orally or in writing,**] according to regulations **[promulgated by the department]**, from the ***department or*** county agency in which the initial report of suspected child abuse or initial inquiry into the report gives evidence that the abuse is:

(i) a criminal offense set forth **[in] under** section **[6344(c)] 6344.3 (relating to grounds for denying employment or participation in program, activity or service)**, not including an offense under 18 Pa.C.S. § 4304 (relating to endangering welfare of children) or an equivalent crime under Federal law or **[the]** law of another state[, **sexual abuse, sexual exploitation or serious bodily injury perpetrated by persons, whether or not related to the victim]; or**

(ii) child abuse [perpetrated by persons who are not family members; or

(iii) serious physical injury involving extensive and severe bruising, burns, broken bones, lacerations, internal bleeding, shaken baby syndrome or choking or an injury that significantly impairs a child's physical functioning, either temporarily or permanently] *under section 6334.1 (relating to responsibility for investigation).*

* * *

(12) A mandated reporter of suspected child abuse [as defined in *under* section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child[, **but the information permitted to be released to the mandated reporter**] shall be limited to the following:

(i) [The final status of] *Whether* the child abuse report [following the investigation, whether it be] *is* indicated, founded or unfounded.

(ii) Any services provided, arranged for or to be provided by the county agency to protect the child.

(13) [Persons required to make reports under Subchapter C.1 (relating to students in public and private schools). Information under this paragraph shall be limited to the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.] *School administrators and child-care service employers, as provided under this paragraph. The following shall apply:*

(i) *If the alleged perpetrator is a school employee or child-care service employee, school administrators and child-care service employers shall receive notice of a pending allegation and the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.*

(ii) *Information disclosed pursuant to this paragraph shall be provided to the school administrator or child-care service employer within ten days of the completion of the investigation.*

(iii) *If the perpetrator is a school employee, the notice of the final status of the report shall be sent to the Department of Education within ten days of the completion of the investigation.*

* * *

(b) Release of information to subject [of report].—[At any time and upon] *Upon* a written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide [central register] *database* or in any report filed pursuant to section 6313 (relating to reporting procedure).

(c) Protecting identity [of person making report].—Except for reports [pursuant to] *under* subsection (a)(9) and (10) *and in response to a law enforcement official investigating allegations of false reports under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse)*, the release of data that would identify the person who made a report of suspected child abuse or [the person] who cooperated in a subsequent investigation is prohibited unless the [secretary] *department* finds that the release will not

be detrimental to the safety of **[that] the** person. Law enforcement officials shall treat all reporting sources as confidential informants.

(d) Exclusion of **[administrative]** information.—**[Information]** *Except as provided under section 6341(c.2)(4) (relating to amendment or expunction of information), information* maintained in the Statewide **[central register which was]** *database* obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official[, **as provided by regulation**]. *Information in the Statewide database or a confidential report provided under section 6341(c.2)(4) shall be subject to subsection (c).*

§ 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]** *Statewide database and by* 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]** *Statewide database* if required for Federal financial participation in funding of agencies.

* * *

Section 6. Section 6344(b)(2), (o)(1) and (p)(1) of Title 23 are amended and the section is amended by adding a subsection to read:

§ 6344. Information relating to prospective child-care personnel.

* * *

(b) Information submitted by prospective employees.—Administrators of child-care services shall require applicants to submit with their applications the following information obtained within the preceding one-year period:

* * *

(2) A certification from the department as to whether the applicant is named in the **[central register]** *Statewide database as the alleged perpetrator in a pending child abuse investigation or* as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee.

* * *

(h.1) Form of payment.—Payment of the fee authorized under subsection (h) may be made by an individual or organization by check, money order, credit card or debit card.

* * *

(o) Use of information.—A foster family care agency may not approve a prospective foster parent if the prospective foster parent or an individual 14 years of age or older who resides for at least 30 days in a calendar year with the prospective foster parent meets either of the following:

(1) Is named in the **[central register]** *Statewide database* as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the **[central register]** *Statewide database* as the perpetrator

of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.

* * *

(p) Use of information.—A prospective adoptive parent may not be approved if the prospective adoptive parent or an individual 14 years of age or older who resides for at least 30 days in a calendar year with the prospective adoptive parent meets either of the following:

(1) Is named in the [central register] *Statewide database* as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section or is named in the [central register] *Statewide database* as the perpetrator of a founded report for a school employee committed within the five-year period immediately preceding verification pursuant to this section.

* * *

Section 7. Sections 6344.1(b) and (c)(1), 6346 and 6347(a) of Title 23 are amended to read:

§ 6344.1. Information relating to family day-care home residents.

* * *

(b) Required information.—Child abuse record information required under subsection (a) shall include certification by the department as to whether the applicant is named in the [central register] *Statewide database* as the perpetrator of a founded report, indicated report, founded report for school employee or indicated report for school employee.

(c) Effect on registration.—The department shall refuse to issue or renew a registration certificate or shall revoke a registration certificate if the family day-care home provider or individual 18 years of age or older who has resided in the home for at least 30 days in a calendar year:

(1) is named in the [central register] *Statewide database* on child abuse established under Chapter 63 (relating to child protective services) as the perpetrator of a founded report committed within the immediately preceding five-year period; or

* * *

§ 6346. Cooperation of other agencies.

(a) General rule.—The secretary may request and shall receive from Commonwealth agencies, political subdivisions, an authorized agency or any other agency providing services under the local protective services plan any assistance and data that will enable the department and the county agency to fulfill their responsibilities properly, including law enforcement [personnel] *officials* when assistance is needed in conducting an investigation or an assessment of *safety or* risk to the child. School districts shall cooperate with the department and the agency by providing them upon request with the information as is consistent with law.

(b) Willful failure to cooperate.—Any agency, school district or facility or any person acting on behalf of an agency, school district or facility that violates this section by willfully failing to cooperate with the department or a county agency when investigating a report of suspected child abuse or a report under Subchapter C.1 (relating to students in public and private schools) or when assessing *safety or* risk to a child commits a [summary

offense] *misdemeanor of the third degree* for a first violation and a misdemeanor of the [third] *second* degree for subsequent violations.

(c) Cooperation of county agency and law enforcement [agencies] *officials*.—Consistent with the provisions of this chapter, the county agency and law enforcement [agencies] *officials* shall cooperate and coordinate, to the fullest extent possible, their efforts to respond to and investigate reports of suspected child abuse and to reports under Subchapter C.1.

(d) Advice to county agency.—Whenever a report of suspected child abuse is referred from a county agency to a law enforcement [agency] *official* pursuant to section 6340(a)(9) and (10) (relating to release of information in confidential reports), as soon as possible, and without jeopardizing the criminal investigation or prosecution, the law enforcement [agency] *official* shall advise the county agency as to whether a criminal investigation has been undertaken and the results of the investigation and of any criminal prosecution. The county agency shall ensure that the information is referred to the Statewide [central register] *database*.

§ 6347. Reports to Governor and General Assembly.

(a) General rule.—No later than May 1 of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the [central register of child abuse and child] *Statewide database and* protective services provided by county agencies. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department, *the reports of general protective services made to the department or county agencies* and the reports under Subchapter C.1 (relating to students in public and private schools), together with a report on the implementation of this chapter and its total cost to the Commonwealth, the evaluation of the secretary of services offered under this chapter and recommendations for repeal or for additional legislation to fulfill the purposes of this chapter. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom. The report shall also include an explanation of services provided to children who were the subjects of founded or indicated reports while receiving child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

* * *

Section 8. Section 6349(a) and (b) of Title 23 are amended, subsection (c) is carried without amendment and the section is amended by adding a subsection to read:

§ 6349. Penalties.

(a) Failure to amend or expunge information.—

(1) A person or official authorized to keep the records mentioned in section 6337 (relating to disposition [of unfounded reports] *and expunction of unfounded reports and general protective services reports*) or 6338 (relating to disposition of founded and indicated reports) who willfully fails to amend or expunge the information when required commits a [summary offense] *misdemeanor of the third degree* for the first violation and a misdemeanor of the [third] *second* degree for a second or subsequent violation.

(2) A person who willfully fails to obey a final order of the secretary or designated agent of the secretary to amend or expunge the summary of the report in the Statewide **[central register] database** or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a **[summary offense] misdemeanor of the third degree**.

(b) Unauthorized release of information.—A person who willfully releases or permits the release of any information contained in the **[pending complaint file, the Statewide central register] Statewide database** or the county agency records required by this chapter to persons or agencies not permitted by this chapter to receive that information commits a misdemeanor of the **[third] second** degree. Law enforcement **[agencies] officials** shall insure the confidentiality and security of information under this chapter. A person, including **[an employee of]** a law enforcement **[agency] official**, who violates the provisions of this subsection shall, in addition to other civil or criminal penalties provided by law, be denied access to the information provided under this chapter.

(b.1) Unauthorized access or use of information.—A person who willfully accesses, attempts to access or uses information in the Statewide database for a purpose not authorized under this chapter commits a misdemeanor of the second degree. A person who uses information in the Statewide database for a purpose not authorized under this chapter with intent to harass, embarrass or harm another person commits a misdemeanor of the first degree.

(c) Noncompliance with child-care personnel regulations.—An administrator, or other person responsible for employment decisions in a child-care facility or program, who willfully fails to comply with the provisions of section 6344 (relating to information relating to prospective child-care personnel) commits a violation of this chapter and shall be subject to a civil penalty as provided in this subsection. The department shall have jurisdiction to determine violations of section 6344 and may, following a hearing, assess a civil penalty not to exceed \$2,500. The civil penalty shall be payable to the Commonwealth.

Section 9. Section 6375(c) of Title 23 is amended to read:

§ 6375. County agency requirements for general protective services.

* * *

(c) Assessment for services.—

(1) Within 60 days of receipt of a report, an assessment shall be completed and a decision on whether to accept the family for service shall be made. The county agency shall provide or arrange for services necessary to protect the child during the assessment period.

(1.1) The county agency shall immediately notify the department upon the completion of the assessment whether the report was determined to be valid or invalid and whether the family was accepted for services or referred to community services.

(1.2) The county agency shall immediately notify the department upon the closure of services for a child or family that has been accepted for services.

(2) Each county agency shall implement a State-approved risk assessment process in performance of its duties.

* * *

Section 10. This act shall take effect December 31, 2014.

APPROVED—The 7th day of April, A.D. 2014

TOM CORBETT