

CHILD ABUSE

The General Assembly intends that the reports required by this Act shall result in protective services being made available on behalf of children about whom reports of suspected child abuse are made in an effort to protect them from further abuse; to the extent permitted, involve law enforcement agencies in responding to child abuse; to establish in each county protective services for investigating reports swiftly and competently; to provide protection for children from further abuse; to provide rehabilitative services for children and parents involved in order to ensure the child's well-being; and to preserve, stabilize and protect the integrity of family life.

Definitions

1. "Child Abuse" shall mean any of the following:
 - a. Any recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.
 - b. An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.
 - c. Any recent act, failure to act or series of such acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.
 - d. Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or failure to provide essentials of life including adequate medical care which endangers a child's life or development or impairs the child's functioning. However, no child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors that are beyond the control of the person responsible for the welfare of the child, i.e. inadequate housing, furnishings, income, clothing and medical care.

2. "Child protective services" are those services and activities provided by the Department of Public Welfare and each county agency for child abuse cases.

3. "Cooperation with an investigation or assessment" includes, but is not limited to, a school or school district which permits authorized personnel from the Department of Public Welfare or county agency to interview a student while the student is in attendance at school.
4. "Department" is the Department of Public Welfare of the Common wealth.
5. "Expunge" shall be to strike out or obliterate entirely so that the expunged information may not be stored, identified or later recovered by any mechanical or electronic means or otherwise.
6. "Family members" includes spouses, parents and children or other persons related by consanguinity or affinity.
7. "Founded report" is a child abuse report made pursuant to this chapter if there has been any judicial adjudication based on a finding that a child who is a subject of the report has been abused including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegation of child abuse.
8. "Founded report" for school employees is a report relating to students in schools if there has been any judicial adjudication based on a finding that the victim has suffered serious bodily injury or sexual abuse or exploitation, including the entry of a plea of guilty or nolo contendere or a finding of guilt to a criminal charge involving the same factual circumstances involved in the allegations of the report.
9. "General protective services" are those services and activities provided by each county agency for nonabuse cases requiring protective services, as defined by the Department of Public Welfare in regulations.
10. "Indicated report" is a child abuse report made pursuant to this chapter if an investigation by the county agency or the Department of Public Welfare determines that substantial evidence of the alleged abuse exists based on any of the following: available medical evidence; the child protective service investigation; or an admission of the acts of abuse by the perpetrator.
11. "Indicated report for school employee" is a report made if an investigation by the county agency determines that substantial evidence of serious bodily

injury or sexual abuse or exploitation exists based on any of the following: available medical evidence; the county agency's investigation; or an admission of the acts of abuse by the school employee.

12. "Individual residing in the same home as the child" is an individual who is 14 years of age or older and who resides in the same home as the child.
13. "Perpetrator" is a person who has committed child abuse and is a parent of a child, a person responsible for the welfare of a child, an individual residing in the same home as a child, or a paramour of a child's parent.
14. "Person responsible for the child's welfare" is a person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of the child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in any public or private school, intermediate unit or area vocational technical school.
15. "Protective services" are those services and activities provided by the Department of Public Welfare and each county agency for children who are abused or are alleged to be in need of protection.
16. "Recent acts or omissions" are those committed within two years of the date of the report to the Department of Public Welfare or county agency.
17. "Risk assessment" is a Commonwealth-approved systematic process that assesses a child's need for protection or services based on the risk of harm to the child.
18. "School employee" is an individual employed by a public or private school, intermediate unit or area vocational-technical schools. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with students.
19. "Serious bodily injury" creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.
20. "Serious mental injury" is a psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment that:

renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

21. "Serious physical injury" is an injury that causes a child severe pain; or significantly impairs a child's physical functioning, either temporarily or permanently.
22. "Sexual abuse or exploitation" is the employment, use, persuasion, inducement, enticement or coercion of any child to engage in or assist any other person to engage in any sexually explicit conduct, or any simulation of any sexually explicit conduct, for the purpose of producing any visual depiction of any sexually explicit conduct, or the rape, molestation, incest, prostitution or other form of sexual exploitation of children.
23. "Student" is an individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.
24. "Subject of the report" is any child, parent, guardian or other person responsible for the welfare of a child of any alleged or actual perpetrator or school employee named in a report made to the Department of Public Welfare or a county agency under this chapter.
25. "Substantial evidence" outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.
26. "Under investigation" is a child abuse report pursuant to this chapter which is being investigated to determine whether it is "founded", "indicted" or "unfounded".

Persons Required to Report Suspected Child Abuse

Any person(s) 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 when they have reasonable cause to suspect, 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. Confidential communications made to an ordained member of the clergy are protected under 42 Pa. C.S. Sec. 5943.

Reporting Procedure

An immediate oral report shall be made by telephone to the Pennsylvania Department of Public Welfare and may be made to the appropriate county agency. Such reports shall be made in writing within 48 hours after the oral reports.

The report shall contain:

1. The names and addresses of the child and the parent(s) responsible for the care of the child, if known.
2. Where the suspected abuse occurred.
3. The age and sex of the subjects of the report.
4. The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.
5. The name and relationship of the person or persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by that person or persons.
6. Family composition.
7. The source of the report.
8. The person making the report and where that person can be reached.
9. 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.
10. Any other information which the department may require by regulations.

Immunity from Liability

Any physician or other person who participates in the making of a report of suspected child abuse, and any official or employe of a county agency who refers a report of suspected abuse to law enforcement authorities or provides services under this act shall be immune from any civil and criminal liability.

Penalties for Failure to Report

Any person or official required by this act to report a case of suspected child abuse who willfully fails to do so shall be guilty of a summary offense.