



## Children's Justice & Advocacy Report

To promote community responsibility so every Pennsylvania child is protected from child abuse, including sexual abuse.

### PA's path to secure a child-centered definition of child abuse Amendments to the Child Protective Services Law (1994 – 2012)

Year of Legislative Action (Bill/Resolution and Act # where applicable)	Purpose of the Legislative Change
<p><b>1994</b> <i>(House Bill 1001 became Act 151 of 1994 enacted in December 1994)</i></p>	<p>House Bill 1001 enacted in 1994 became Act 151 and it represented a substantial reworking of the Commonwealth's approach to protecting children.</p> <p>It was this legislation that created Pennsylvania's differential response to reports of suspected child abuse what is known as General Protective Services (GPS) cases. In the law, GPS was defined as "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."</p> <p>The prime sponsor of House Bill 1001 provided extensive comments to the Department of Public Welfare when they issued proposed regulations (#14-441) in response to Act 151.</p> <p>Then Representative Kevin Blaum wrote that the proposed regulations "thoroughly obfuscated and distorted legislative intent in regard to general protective services." Blaum raised concerns that DPW was limiting the definition to cases "involving neglect." He stipulated that doing so could be "disastrous" particularly for caseworkers "unable to differentiate between the two definitions, "serious physical neglect constituting child abuse and neglect constituting a need for general protective services)."</p> <p>He continued that caseworkers "may find themselves with a choice that the statute never intended: the caseworker could either substantiate the case as an indicated child abuse case or consider it a general protective services case, where the case would not become part of the state child abuse registry, there would be less paperwork and reporting to the state, and records could only be maintained at the county level if the family was accepted for services. In any case, the regulation appears to narrow the population of children and families for whom protective services</p>

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	<p>would be available.”</p> <p>Blaum reinforced, “The legislative intent was to provide services to families at an early stage before child abuse actually occurs.....to signal to the department and county children and youth agencies the Legislature’s commitment to prevention of child abuse and early identification of risk factors leading to child abuse.”</p> <ul style="list-style-type: none"> <li>➤ <b>NOTE:</b> <a href="#">55 Pa. Code Chapter 3490</a> currently define GPS as services “to prevent the potential for harm to a child who meets one of the following conditions including “Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals.” While generally perceived as “neglect” cases, GPS also involve incidents where a child has been physically harmed but the resulting injury did not meet the state definition of “child abuse”.</li> <li>➤ <b>NOTE:</b> The 2010 Report on Progress from the City of Philadelphia Community Oversight Board for the Department of Human Services, noted that across the Commonwealth, GPS cases can “frequently involve significant risk to the safety and well-being of the children involved.”<sup>1</sup> Also the Department of Public Welfare’s (DPW) data collection form (the CY 28) defines GPS as “Activities and services to protect rights, health and safety of children who are without proper parental supervision or who have been neglected, exploited, or injured by the parents to an extent not sufficient to be covered by the Child Protective Services Law.”</li> </ul> <p>Act 151 of 1994 also created a separate subsection related to reporting and investigating suspected child abuse involving a school employee. It was this legal change that required that suspected abuse be reported (to the school administrator not outside authorities) if involved sexual abuse or serious bodily injury of a child.</p>
<p><b>1997 - 1998</b> (<a href="#">House Resolution 127</a> adopted by PA House of Representatives, April 1997)</p>	<p>In response to the brutal rape and murder of a 16-month-old Berks County boy, then Representative Katie True fought adoption of House Resolution 127. This resolution created a select subcommittee of the House Aging and Youth Committee to investigate “recent events relating to child abuse and the adequacy of child protective service in general throughout this Commonwealth.” The Subcommittee released its report and recommendations in April 1998 after convening nearly a half dozen public hearings.</p> <p>Among the highlights were recommendations related to establishing protocols about how counties exchange information, furthering a multidisciplinary approach to responding to reports of child abuse</p>

<sup>1</sup> [Report on Progress from the City of Philadelphia Community Oversight Board for the Department of Human Services](#), page 9.

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	<p>and the frequency of face-to-face visits with children and families.</p> <p>In 2008, advocates for children wrote to True outlining issues they hoped would be included in the final report of the Subcommittee, including how the state defines child abuse. Advocates noted, “The report must educate the reader about how abuse is defined in this Commonwealth and to elaborate on the differences between child protective services and general protective services.” The definition, however, was not more fully explored by the Subcommittee.</p> <p>In an April 5, 1998 editorial, the Reading Eagle praised the efforts of the Subcommittee, but also noted “Our concern is that the process has taken a great deal of time and money, which might have been put to better use acting directly on the known situation in the Fisher case.” The editorial board then concluded, “Hopefully, the True subcommittee’s groundwork and changes in Welfare Department policies will produce steps that will help safeguard potential abuse victims. Saving defenseless children from the horrors of abuse would be at least a minimal memorial to Maxwell Fisher.”</p>
<p><b>1998 - 1999</b> (<a href="#">House Resolution 426</a> adopted by PA House of Representatives, May 1998)</p>	<p>House Resolution 426 directed the Legislative Budget and Finance Committee to “conduct a performance audit of the Commonwealth’s children and youth agencies.” The Resolution said that “there was a need to study the effectiveness of the operation and management of the Commonwealth’s children and youth services delivery system in meeting statutory and regulatory responsibilities for at-risk children and families.”</p> <p>The <a href="#">LBFC audit</a> was released in June 1999. Many of the issues identified by the audit were those tackled a dozen years later by the Task Force on Child Protection created by the General Assembly and Governor Corbett in December 2011.</p> <p>Among the findings of the LBFC audit:</p> <ul style="list-style-type: none"> <li>• <b>LBFC audit:</b> “In 1996, Pennsylvania had the second lowest rate of substantiated reports of abuse and neglect in the nation. In 1996, Pennsylvania substantiated only 2.1 reports of abuse and neglect per 1,000 children, the second lowest rate in the nation. Pennsylvania’s rate is low, in part, because Pennsylvania includes only severe cases of abuse and neglect in its figures, whereas most other states have broader definitions of abuse and neglect. Even if less severe cases are included, Pennsylvania’s rate of substantiated abuse is still below the national average.”<sup>2</sup> <ul style="list-style-type: none"> <li>➤ <b>NOTE:</b> <i>In 2011, Pennsylvania’s rate of substantiated child abuse was 1.2 per 1,000 children whereas nationally 9.1 per 1,000 children were victims. Through the years, including in a comparison done by</i></li> </ul> </li> </ul>

<sup>2</sup> Pennsylvania Legislative Budget and Finance Committee audit on Pennsylvania’s Children and Youth System released June 1999, page S-8.

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	<p><i>Prevent Child Abuse Pennsylvania (PCA-PA) in January 2003 the state’s statistical outlier status has been presented with the hope it would be objectively examined. The January 2003 document prepared by PCA-PA noted, “Pennsylvania has by far the lowest reported rate of substantiated child victimization (per 1,000 children in the overall population) of all states in the country.” The document went on to discuss the “startling picture” the statistics told.</i></p> <ul style="list-style-type: none"> <li>• <b>LBFC audit:</b> “Child abuse substantiation rates vary widely from county to county. In 1998, 24 percent of all reports of suspected child abuse were found to be substantiated, meaning that either child abuse occurred or the investigation found substantial evidence of such abuse.....We also found a weak, but statistically significant, relationship between county substantiation rates and the number of reports of child abuse received per caseworker. This suggests that counties with higher workloads may be slightly less inclined to substantiate new reports of abuse than counties where workloads are more moderate.”<sup>3</sup> <ul style="list-style-type: none"> <li>➤ <b>NOTE:</b> <i>In 2012, Pennsylvania’s rate of substantiated reports of child abuse was 13.4 percent (a per 1,000 child rate of 1.3). Substantiation rates varied from county to county with Fulton County substantiating 40 percent of its reports (a per 1,000 child rate of 4.3), Philadelphia at 14.6 percent (a per 1,000 child rate of 1.9) and Allegheny County with a rate of 4.4 percent (a per 1,000 child rate of 0.3).<sup>4</sup></i></li> </ul> </li> <li>• <b>LBFC audit:</b> “The ratio of child protective services to general protective services varies widely from county to county. Counties provide child protective services when children are found to have been abused. Counties are also required to provide general protective services in less severe cases that do not fall under the legal definition of child abuse. We found that six counties reported spending more on CPS expenditures than GPS, while 31 counties reported spending more than twice as much on GPS as CPS services. The Department is in the process of implementing a standard risk assessment tool that should allow valid comparisons between counties. Such benchmarking should help identify counties that may not be providing appropriate levels of service.”<sup>5</sup> <ul style="list-style-type: none"> <li>➤ <b>NOTE:</b> <i>Pennsylvania’s differential response to child</i></li> </ul> </li> </ul>

<sup>3</sup> Pennsylvania Legislative Budget and Finance Committee audit on Pennsylvania’s Children and Youth System released June 1999, page S-7.

<sup>4</sup> Pennsylvania Department of Public Welfare’s 2012 Annual Child Abuse Report, page 9.

<sup>5</sup> Pennsylvania Legislative Budget and Finance Committee audit on Pennsylvania’s Children and Youth System released June 1999, page S-7.

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	<p><i>abuse reports known as General Protective Services (GPS) began with enactment of Act 151 of 1994. In 2012, Pennsylvania recorded 26,664 reports of suspected child abuse that resulted in an investigation. After investigation, 3,565 of these reports were substantiated as child abuse. In that same year, the state’s child abuse reporting hotline – ChildLine – received 39,328 referrals for General Protective Services (GPS).<sup>6</sup> GPS referrals are also made directly to county children and youth agencies and never registered at ChildLine or in a statewide database. A central theme in testimony during the work of the Task Force on Child Protection related to GPS and the lack of reliable data that is tracked and maintained statewide, including as a means to inform future assessments or investigations involving the same child or family. The <a href="#">Task Force recommended</a> that both CPS and GPS cases be tracked in a statewide database. They said doing so had “several purposes” including that all cases “of suspected child abuse are fully investigated and all information regarding prior involvement of the child or other subjects of the report with the protective services system is accessible.” The Task Force’s report notes, “Testimony at the hearings indicated that the lack of access to prior reports and the expungement process serves to handicap investigators.”<sup>7</sup></i></p>
<p><b>1998</b> (<a href="#">House Bill 1992</a> became Act 127 enacted in December 1998)</p>	<p>House Bill 1992 was sponsored by then Berks County Representative Sheila Miller. It amended who could have access to confidential information under the Child Protective Services Law to include magisterial district judges when a criminal case before them involves child abuse as well as law enforcement if the report they are investigating involved “serious physical injury.”</p> <p>Up until this 1998 change, police were permitted access to child welfare information only if the report involved “serious bodily injury” or sexual abuse. As envisioned it opened the door to more interaction/working together between law enforcement and child welfare officials. It went on then to define the types of serious physical injuries that required this information sharing between law enforcement and children and youth to include “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.”</p> <p>The bill also amended the requirements related to the multidisciplinary team (MDT) so that a county agency assured such</p>

<sup>6</sup> Pennsylvania Department of Public Welfare’s 2012 Annual Child Abuse Report, page 29.

<sup>7</sup> Report of the Task Force on Child Protection issued November 2012, page 37.

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	<p>a team was convened “at any time, but not less than annually” in order to review substantiated reports of child abuse “including responses by the county agency” or to assist in the development of a plan of services for the family.</p> <ul style="list-style-type: none"> <li>➤ <b>NOTE:</b> PA regulations drafted by the Department of Public Welfare in response to Act 151 of 1994 (55 Pa. Code Chapter 3490.62 related to repeated child abuse) were the subject of comments from Representative Kevin Blaum. As drafted, DPW was requiring that an MDT be required if a child was a victim of “three or more substantiated incidents of child abuse.” Blaum urged DPW to change the regulation so that the MDT “is convened immediately following a second report of suspected or substantiated child abuse.” He asked, “If a child is a victim of three instances of substantiated abuse, it is a wonder that the child is still alive. Do we only form multidisciplinary teams that are child fatality review teams?” Current regulations require that an MDT be convened “if the child is a victim of one substantiated incident of child abuse and the county agency receives a subsequent report of suspected child abuse....”</li> <li>➤ <b>NOTE:</b> The MDT has been renamed the multidisciplinary review team in <a href="#">Senate Bill 1116</a> which is awaiting Governor Corbett’s signature.</li> </ul> <p>House Bill 1992 also created the Investigative team convened by the district attorney under a protocol jointly developed by the county agency and the DA. The protocol was to address the team’s role and actions in child abuse reports that “involved a crime against a child. The protocols were to address how cases are to be referred, information shared with a goal of avoiding duplicative fact-finding and trauma to the child.</p> <ul style="list-style-type: none"> <li>➤ <b>NOTE:</b> This team is being renamed the multidisciplinary investigative team through <a href="#">Senate Bill 1116</a>, which is on Governor Corbett’s desk for signature.</li> </ul> <p>The legislation required that records be retained by the department for no longer than 120 days after one year has expired from the time a children and youth agency terminated services provided/arranged for by the agency. Waived the \$10 fee for a child abuse background check when the applicant for such a check intends to volunteer with Big Brothers/Big Sisters.</p> <p>Act 127 combined with Act 126 of 1998 amending the Juvenile Act to ensure that the Commonwealth was in compliance with the federal Adoption and Safe Families Act (ASFA). Administrative actions in response to these laws addressed risk assessment tools and the degree to which face-to-face contact had to occur with children</p>

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	involved in the child welfare system.
<p align="center"><b>1998</b> (<a href="#">House Bill 2264</a> enacted in 1998)</p>	Amended Title 42 to include a section on Court Appointed Special Advocates
<p align="center"><b>1999 - 2004</b> (<a href="#">Senate Resolution 97</a> adopted by the PA House and Senate in 1999, subsequent resolutions extending the Task Force)</p>	<p>Directed the Joint State Government to convene a Task Force and Advisory Committee on Services to Children and Youth. A companion resolution (<a href="#">House Resolution 277</a>) was introduced in the House by Representative Julie Harhart (R-Northampton).</p> <p>The resolution sought “ongoing study of the children and youth services delivery system in this Commonwealth in order to ascertain whether it is meeting the needs of at-risk children and families and, if it is not meeting those needs, to recommend appropriate corrective measures.”</p> <p>The Task Force and Advisory Committee’s work were extended by Senate Resolution 114 in 2001 and <a href="#">a comprehensive report</a> was issued by JSGC and the Advisory Committee in November 2002.</p> <p>While the 1999 audit of the Legislative Budget and Finance Committee informed the JSGC work, the very front end of the children and youth services delivery system, including the definition, were never examined as part of the 1999-2002 JSGC effort. This resulted from the resolution including language that directed the “initial are” of the work to be “review of placement services for children who cannot live with their birth family.”</p> <p><a href="#">Hearings on the recommendations</a> made by the JSGC Advisory Committee on Services to Children and Youth were held in 2004 as required by House Resolution 131 approved in 2003.</p>
<p align="center"><b>2002</b> (<a href="#">Senate Bill 654</a> became Act 201 of 2002 enacted in December 2002)</p>	<p>Created the Newborn Protection Act so that a parent would not be “criminally liable” if they left a newborn in the care of a hospital so long as the child had not been abused.</p> <p>Amended the Child Protective Services Law to include a definition of child and newborn as well as the section about taking a child into “protective custody.” Also amended the CPSL related to the “prevention, investigation and treatment of child abuse” duties of county children and youth agencies to include “outreach and counseling services to prevent infant newborn abandonment.”</p>
<p align="center"><b>2004</b> (<a href="#">House Bill 2308</a> became Act 160 of 2004 enacted in November 2004)</p>	House Bill 2308 amended the definition section of the Child Protective Services Law (CPSL) to include a definition of private agency and resource family. It also expanded persons required to undergo background checks and outlined information that was to be considered as agencies assessed the suitability of persons seeking to be a foster parent. The legislation also created a resource family registry.
<p align="center"><b>2006</b> (<a href="#">House Bill 2670</a> became Act 146 in November 2006)</p>	Added a definition of near-fatality and non-accidental to the Child Protective Services Law (CPSL) with non-accidental defined as “an injury that is the result of an intentional act that is committed with disregard of a substantial and unjustifiable risk.”

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	<p>Established a minimum of three Citizen Review Panels to invite volunteer members of the community with expertise in protecting children to review the “policies, procedures and practices of state and local agencies” toward evaluating “the extent to which state and local child protective system agencies are effectively discharging their child protection responsibilities.”</p> <p>Required that on a quarterly basis counties report to the Department of Public Welfare “a summary of the findings with nonidentifying information about each case of child abuse or neglect which has resulted in a child fatality or near-fatality.” DPW is then to provide the General Assembly with a quarterly report of these findings.</p> <p>Required the “mandatory reporting of infants born and identified as being affected by illegal substance abuse.”</p> <p>This legislation was central to the Commonwealth becoming compliant with the federal Child Abuse Prevention and Treatment Act (CAPTA). Pennsylvania was the last state in the country to become CAPTA compliant. Compliance assured the state was eligible for a portion of prevention funds available under CAPTA as well as triggered the state’s eligibility for federal Children’s Justice Act (CJA) funding.</p>
<p><b>2006</b> (<a href="#">Senate Bill 1054</a> becomes Act 179 in November 2006)</p>	<p>This legislation was the vehicle to close what became apparent loopholes in mandatory reporting of suspected child abuse, in part, due to grand jury reports issues by the Philadelphia District Attorney’s office.</p> <p>The legislation removed the requirement that reporting be required only if the child came “before” a person “in their professional or official capacity” replacing it with language about the child being “under the care, supervision, guidance or training of that person or of an agency, institution, organization or other entity with which that person is affiliated.”</p> <p>It also required reporting regardless of the person who is suspected of abusing the child could be a “perpetrator” under the Child Protective Services Law (e.g., parent, paramour of the parent, person over the age of 14 living with the child or a person responsible for the welfare of the child).</p> <p>This legislation also broadened persons subject to background checks and extended the statute of limitations in criminal cases involving certain child sexual abuse cases until the child reached the age of 50.</p> <p>Beyond the amendments to the Child Protective Services Law, this legislation also amended the Crimes Code (Title 18) to amend the definition of endangering the welfare of children. The definition was changed to include situations where a person “in an official capacity,</p>



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	prevents or interferes with the making of a report of suspected child abuse.” It also included a “person that employs or supervises” within the language about violating a “duty of care, protection or support.”
<p><b>2008</b> (<a href="#">Senate Bill 1154</a> becomes Act 33 in July 2008)</p>	<p>Required that the Department of Public Welfare conduct a child fatality and near-fatality review “and provide a written report” that is subject to public disclosure with certain redaction requirements any time a child dies or nearly dies due to “suspected” child abuse.</p> <p>Act 33 was intended to improve upon existing child fatality review occurring in counties as a result of a state issued Bulletin (#3490-00-01) effective in January 2001. The Bulletin’s purposes was “to establish protocols for a systemic review of case circumstances involving child deaths as a result of suspected child abuse in order to make recommendations for change to improve child protection within communities and to reduce the likelihood of future child fatalities.”</p> <p>The Department of Public Welfare issued this Bulletin with a vision “to improve the level of protection available for children from abuse and neglect.” Legislation was introduced in 2001 as well (e.g., House Bill 1153). To date, the Commonwealth has not issued a final bulletin to the counties to implement Act 33 of 2008, which has caused confusion about some provisions related to reviewing and reporting on child abuse fatalities and near-fatalities.</p> <p>As a result of Act 33, fatalities and near-fatalities must be reviewed locally when the incident involves a report that is “indicated” as child abuse or where a determination has not occurred within 30 days of the report of the fatality or near-fatality. The team, which is to be chaired by a person outside the children and youth agency, is convened under a protocol “developed by the county agency, the department and the district attorney.” The team must include at least six individuals who “are broadly representative” of the county and who “have expertise in prevention and treatment of child abuse.” Like DPW, the locally developed report and recommendations are subject to public disclosure with some redaction requirements and unless the district attorney has certified that releasing the report “may compromise a pending criminal investigation or proceeding.”</p> <p>Amended the CPSL with regard to the duties of Pennsylvania’s Citizen Review Panels to stipulate that in addition to be able to review fatalities and near-fatalities generally, the panels can also review fatalities and near fatalities “involving a child in the custody of the 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.”</p> <p>The legislation also Included a definition of Children’s Advocacy Center in the Child Protective Services Law.</p>