



Children's Justice & Advocacy Report

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

Child Protection Check-up

What got done  and what remains to be done 



ASSAULTS AGAINST CHILDREN

[Senate Bill 28](#) (Senator Pat Browne), increased the penalties for simple assault and aggravated assault of a child. With regard to simple assault, the legislation now captures offenses committed a perpetrator who is 18, 19 or 20 year olds. Aggravated assault now involves the serious bodily injury of a child under the age of 13 by any person 18 years of age or older. The legislation also increased the grading of aggravated assault when the child is under the age of 6 and the perpetrator is 18 years of age or older.

SB 28 = Act 118 of 2013 (effective January 1, 2014)

Still pending before the General Assembly is [House Bill 435](#) (PN 2010), which amends Section 6344.2 of the Child Protective Services Law (*Information relating to other persons having contact with children*), to make it applicable to any "person apply for a paid or unpaid position as a person responsible for the welfare of a child."

The pending legislation also requires that all persons subject to the background check provisions would have to repeat them every 24 months.

Another enacted bill – [House Bill 434](#) – requires comprehensive background checks for school employees, including student teachers, who are not subject to background provisions within the Public School Code. House Bill 434 was enacted into law on May 14th.



BACKGROUND CHECKS

The Task Force on Child Protection sought to require comprehensive background checks for all persons having "contact with children" regardless of whether that contact was in a paid or unpaid capacity. Building upon current law, certain crimes or acts against a child determined to be child abuse would require a permanent ban, while others would require a shorter exclusion period impacting a person's ability to work or volunteer directly with children.

Outstanding issues on background checks revolve around what should constitute grounds for denying employment or working with children as well as efforts to be certain that there is consistency across disciplines and laws (e.g., Public School Code and CPSL).

Similar to historical trends, there remains differences of opinions about whether an

indicated report – one where the child welfare investigation, medical evidence or admission by the perpetrator have determined abuse occurred within the civil system – should, by statute, lead to any ban on employment or becoming a volunteer.

Indicated cases often involve young children, who have been sexually abused, potentially influencing whether the case proceeds in criminal courts as well as the civil child welfare route. These cases also underscore the importance of multidisciplinary child-friendly interventions and investigations, which may improve the odds of criminal prosecution and conviction.

NEXT STEPS for [House Bills 435](#): The legislation unanimously passed the PA House in June 2013 and is pending in the Senate Public Health and Welfare Committee.

HB 434 = Act 45 of 2014 (some provisions effective immediately, the remaining on 12/31/14)



CHILD PORNOGRAPHY

[House Bill 321](#) (Representative Marcy Toepel) provided for sentencing enhancements in child pornography cases that have “aggravating circumstances” (e.g., age of the child or number of images).

HB 321 = Act 105 of 2013 (effective January 1, 2014)



CHILDREN’S ADVOCACY CENTER DEDICATED FUNDING STREAM

[House Bill 316](#), which was signed into law on April 7th, that is projected to bring \$2.86 million in annual funding to further the child-centered, coordinated and specialized interventions that occur as part of a Children’s Advocacy Center or to further the investigative work of Multidisciplinary Investigative Teams (MDITs).

Legislation to develop a dedicated funding stream for CACs was first introduced in 2004.

House Bill 316 increases the cost of a certified birth certificate from \$10 to \$20 beginning July

1st. Initially the revenue generated, which is expected to be \$3.813 million annually, will be directed to the Department of Public Welfare (DPW) for training of mandated reporters and other child abuse costs related to implementing the comprehensive child protection reforms enacted in 2013 and 2014. Beyond the initial year, 75 percent of the funding or about \$2.86 million will annually be directed to CACs/MDITs and the remaining \$950,000 (give or take a little) will remain available to DPW for training of mandated reporters or other child abuse related costs.

[House Bill 89](#) (Representative Ron Marsico), which was also signed on April 7th, repealed a part of the state vehicle code that authorized the sale of DARE (drug abuse resistance education) specialty license plates. Revenue remaining in this restricted account will be directed to the PA Commission on Crime and Delinquency (PCCD) to help fund CACs. Approximately \$410,000 remained in the DARE account.

CACs/MDITs will not go without until July 2015, because the recently enacted 2014-2015 state budget ([House Bill 2328](#)) along with the budget implementation bill ([House Bill 278](#)) included a total of \$2,250,000 for CACs. Within that appropriation, \$250,000 was earmarked by the PA Senate for a mobile CAC.

In addition, federal Children’s Justice Act (CJA) dollars are supporting CACs/MDITs and the Pennsylvania Chapter of CACs/MDITs. DPW and PCCD have also announced a mini-grant program where MDITs can apply for up to \$10,000 to build or enhance local MDITs.

HB 316 = Act 28 of 2014 (effective July 1, 2014)
HB 89 = Act 27 of 2014 (effective June 7, 2014)



CUSTODY AND CHILD WELFARE INVOLVEMENT

House Bill 414 (Representative Bernie O’Neill) was signed into law in December 2013. The legislation addresses the “factors” to be considered by the courts when they are asked to determine a child’s custody.

When custody “of any form” is to be decided by the court, they are to consider whether a child is the “subject of an indicated or founded report of

child abuse” or whether a party involved in the pursuit of custody or a member of their household “has been identified as a the perpetrator in an indicated or founded report of child abuse.” The court should also determine whether a party involved in the pursuit of custody (or a member of the household) have been provided child welfare services (Child Protective or General Protective Services). Also the type and reason for the provision of services to the involved party. The legislation directs the Department of Public Welfare (DPW) and county children and youth service (CYS) agencies to “fully cooperate with the court and assist the court in fulfilling its duties.”

HB 414 = Act 107 of 2013 (effective January 1, 2014)



DATA, GENERAL PROTECTIVE SERVICES

Senate Bill 24 (Senator Randy Vulakovich) was signed into law on

April 7th. This legislation requires that the Commonwealth finally track **both** Child Protective Services (CPS) **and** General Protective Services (GPS) reports.

The state’s child abuse registry will be renamed the statewide database and include enhanced information, including tracked GPS reports as well as false reports. Information in this database will not be shared with the general public, but rather is available to and shared with key stakeholders. For instance, information like GPS data will be available to law enforcement as they are investigating a potential crime against a child, but this data will not be available to the public or potential employers.

Senate Bill 24 also provided further clarification about how information should be shared when abuse may have happened in another state, but the victim child and alleged perpetrator are residents of Pennsylvania.

SB 24 = Act 29 of 2014
(Effective December 31, 2014)



DEFINITION OF CHILD ABUSE & WHO CAN BE A PERPETRATOR

House Bill 726 (Representative Scott Petri) was signed into law in December 2013

bringing about historic and child-centered change to how child abuse is defined.

Most significant is the lowering of the bar to bodily injury for what can constitute child abuse. Bodily injury results in “impairment of physical condition or substantial pain.” Serious physical injury, which has required “severe pain” and injuries that “significantly impairs a child’s physical functioning,” is eliminated.

Bodily injury will be the standard, as well, in a school setting, which reverses the long practice in Pennsylvania of requiring a higher bar (e.g., serious bodily injury) before a child’s injuries – occurring in a school setting - could be substantiated as child abuse.

Also, certain acts (known as per se acts) which endanger a child – regardless of whether an injury occurs – can be child abuse (e.g., kicking, biting, burning, throwing or forcefully shaking or slapping a child under age one).

And serious physical neglect no longer requires that it be repeated or prolonged, but instead could be a singular egregious event.

Non-accidental is eliminated. Determining child abuse will be linked to whether a person acted (or failed to act) “intentionally, knowingly or recklessly.”

The law retains a parent’s right to discipline their child and other exclusions, including the denial of “needed medical or surgical care” based on a parent or relative - with whom the child resides - having “sincerely held religious” reasons for denying the treatment. This religious exclusion, however, will not apply if the child dies from the withheld medical or surgical care.

House Bill 726 resolves situations where child abuse was documented (often medically diagnosed), but the exact perpetrator could not be determined and thus the report would be unfounded. Going forward a report of child abuse can be substantiated in situations where there are multiple perpetrators or if the perpetrator is unknown.

Also enacted in December was **Senate Bill 23** (Senator Lisa Baker). This legislation expanded

the list of persons who can be a perpetrator of child abuse as defined by the Child Protective Services Law (CPSL). Going forward, a perpetrator will now include a parent's spouse or former spouses, a parent's former paramour as well as relatives (over the age of 18) not living with the child.

The legislation also includes a requirement that if a young person (under the age of 18) is placed on the state child abuse registry (known as the database going forward), generally there should be an automatic removal of the youth at the age of 21 or after five years have elapsed from the youth being added to the database. There are some circumstances that would result in the youth remaining on the registry beyond age 21, including that the report was founded (vs. indicated), the youth was involved in a subsequent incident, the youth is a sexually violent delinquent subject to registration, or a deadly weapon was involved.

HB 726 = Act 108 of 2013
(Effective December 31, 2014)
SB 23 = Act 117 of 2013
(Effective December 31, 2014)



DUE PROCESS & INDICATED REPORTS

Senate Bill 30 (Senator Ted Erickson) was signed into law in December. The legislation provides for timely hearings when a person is pursuing an administrative appeal of a child abuse report that was indicated by child welfare officials. The Bureau of Hearings and Appeals (BHA) must schedule a hearing within 10 days of the request being filed. A hearing date and proceedings would have to be held within 90 days unless all parties agree to a delay. Decisions after the hearing must be rendered within 45 days.

Senate Bill 30 also assured that the level of evidence to retain a perpetrator of an indicated report of child abuse within the statewide database would be substantial. This resolves an outstanding issue that has complicated child welfare investigations after a Pennsylvania appeals court established the threshold at "clear and convincing." With enactment of Senate Bill 30, the evidentiary standard of substantial is affirmed by the General Assembly.



FALSE REPORTS

Senate Bill 28 (Senator Pat Browne), which was signed into law by Governor Corbett in December, amended the Crimes Code to include false reports of child abuse. "Intentionally or knowingly" making a false report of child abuse or "inducing" a child to make a false claim of child abuse is a misdemeanor of the 2nd degree.

Act 118 of 2013 – effective January 1, 2014

Senate Bill 30 (Senator Ted Erickson) was also signed into law in December. This legislation requires that the Department of Public Welfare (DPW) retain "false reports of child abuse" and also required tracking of "invalid General Protective Services" reports within the statewide database to be able to track "patterns" of "intentionally" false reports. However, House Bill 434, which became Act 45 of 2014, removed the language around "invalid general protective services" reports.

SB 30 = Act 119 of 2013 (effective July 1, 2014)



FOUNDED and INDICATED REPORTS

For founded reports, House Bill 726 (the larger child abuse definition legislation) expanded the types of judicial adjudications that can serve as the basis for determining a report of child abuse to be a founded report when the alleged child abuse involves the same "factual circumstances" that led to the judicial adjudication. Going forward founded reports can also be determined based on the following:

1. A person is accepted into an accelerated rehabilitative disposition program (ARD),
2. A consent decree has been entered in a juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters); or
3. A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order.

Indicated reports, which are determined based on available medical evidence or the children and youth investigation or the admission of the perpetrator, will now require a review before a final determination is made about substantiating the report and placing the alleged perpetrator in the statewide database.

If it is the county children and youth agency that undertook the child abuse investigation, then a review of indicated reports will need to be done by the CYS administrator (or their designee) as well as the county agency solicitor.

If the investigation was conducted by the regional or state office of the Department of Public Welfare (DPW) then a review by the Secretary of DPW (or their designee) and DPW's legal counsel will be required.

The evidentiary standard for indicated cases remains substantial.

HB 726 = Act 108 of 2013
(Effective December 31, 2014)



INVESTIGATION OF CHILD CARE OR SCHOOL EMPLOYEES

Since 1994, Pennsylvania law has required that if a report of suspected child abuse involved child care service personnel (broadly defined), the child care agency must implement a “plan of supervision or alternative arrangement” toward ensuring the safety of the child “and other children” who are in the care of the agency. State regulations (55. Pa.Code 3490.56) have included a safety plan if the person who is the subject of the child abuse report at a child-care agency is a “volunteer.”

[Senate Bill 1116](#) amended this section of the CPSL to now make the plan of supervision or alternative arrangement applicable to child-care services and school employees, including an “independent contractor” of the agency or school. Consistent with current law, this plan must be “approved by the county agency and kept on file with the agency until the investigation is completed.”

Child-care services includes, but is not limited to, child day care centers, group day care

homes, family day care homes, foster homes, adoptive parents, early intervention services for children, and juvenile detention center services or programs. School is also now broadly defined, including but not limited to, public and non-public K-12 school and institutions of higher education. In addition the definition of school employee now includes a person “who provides a program, activity or service sponsored by a school.”

SB1116 = Act 123 of 2013 (effective March 18, 2014)



MEDICAL and CYS INFORMATION, SHARING

Senate Bill 27 (Senator Robert Mensch) seeks to elevate the exchange of information between licensed medical practitioners and children and youth services. The legislation requires a licensed medical practitioner as part of a “case of suspected child abuse” to provide a variety of information including:

- Relevant medical information...regarding the child's prior and current health;
- Information from a subsequent examination;
- Information regarding treatment of the child; and
- Relevant medical information regarding any other child in the child's household.

The medical practitioner can share the information without gaining parental consent.

Meanwhile, the county children and youth agency “if requested” can share information with a licensed medical practitioner if they are “providing ongoing care to the child.” CYS would be required to provide the practitioner with “information regarding the condition and well-being of the child and the progress and outcome of an investigation” as well as access to “protective services records” related to the child or other children in the home “if it relates to the medical evaluation of the child.” Also the CYS agency would have to notify the practitioner of the identity of other licensed medical practitioners “providing medical care to the child to obtain the child's medical records.”

CYS would also have to notify the child's primary care provider or other licensed medical practitioner who provides "ongoing care to the child" if the agency initiates an assessment, investigation or begins providing services to the child."

Finally, the CYS agency would have to provide the practitioner with the "final status of a child abuse report following an investigation, whether it is indicated, founded or unfounded."

NEXT STEPS for Senate Bill 27: The bill remains pending before the PA House Children and Youth and is expected to be amended before it advances to the full House.



MULTIDISCIPLINARY INVESTIGATIVE TEAMS

Senate Bill 1116 (Senator LeAnna

Washington) was signed into law on

December 18, 2013. This legislation reaffirms the value of a multidisciplinary approach to responding to and investigating child abuse, which has been a legal requirement for PA counties (e.g., children and youth and the district attorney) since the 1990s.

The legislation renames the current multidisciplinary team to the multidisciplinary review team. It does not alter what the role of this review team is still requiring that it meet "at any time, but not less than annually." Teams are to be convened to review substantiated cases of child abuse and the response of the agency and other agencies providing services to the child.

The legislation also then renames the current Investigative team to now refer to it as the multidisciplinary investigative team (MDIT). This bill adds some clarifying language to the Child Protective Services Law (CPSL) stipulating that the team "shall be used to coordinate child-abuse investigations between county agencies and law enforcement." The recent change retrained the requirement that the county agency and district attorney develop a protocol for convening the MDIT. The protocol is to be developed toward avoiding "duplication of fact-finding efforts and interviews to minimize the trauma to the child."

Senate Bill 1116 didn't address another team required at the county level – the Act 33 or

Fatality/Near-Fatality Review Team. This may well represent a missed opportunity to better outline the distinct role and interplay between the varied required teams (e.g., multidisciplinary review team, the MDIT and the Act 33 fatality/near-fatality review team).

This legislation does address the actions county children and youth agencies are to take when they receive a child abuse report, including that if the investigation "indicates bodily injury" a medical exam may be pursued. Initially as drafted, the legislation permitted that the other children living in the household also be considered as in need of a medical exam, but that language was eventually eliminated. Further medical tests were also permitted where there is "reasonable cause to suspect that there is a history of prior or current abuse." This was broader to include "neglect," but that has been taken out of the pending legislation.

A report will still be referred to law enforcement when the person alleged to have abused the child could not be considered a "perpetrator" under the CPSL. These are known – now and going forward - as law enforcement only (LEO) cases.

Also the child welfare agency can still respond with an assessment for General Protective Services (GPS) "if the investigation determines that the child is being harmed by factors beyond the control of the parent or other person responsible for the child's welfare." In these cases the county is to "take all steps available to remedy and correct these conditions, including the coordination of social services for the child and the family or referral of the family to appropriate agencies for the provision of services."

SB1116 = Act 123 of 2013 (effective March 18, 2014)



MURDER OF INFANT PERSONS

In 2010, [Act 204 of 2012](#) directed the Pennsylvania Commission on Sentencing to provide for a sentencing enhancement when a person is convicted of 3rd degree murder and the victim is under the age of 13. This move to increase the criminal penalties was spurred in

response to the murder of 14-month-old [Zachary killed in 2005](#) by his mother's paramour. Zachary's mother and law enforcement officials were frustrated that, at the time, the sentence for 3rd degree murder could be as little as 6 years. Zachary's law in 2012 led to the ability for a sentencing enhancement in 3rd degree child murder cases.

House Bill 112, which was introduced in order to create a felony crime when a sports official (e.g., coach, volunteer or employee) of a nonprofit association sexually assaults a child involved in a sports program, was amended by Senate leaders to now require a mandatory 15 year minimum sentence when a persons is convicted of 3rd degree murder involving a child.

HB 112 = Act 56 of 2014 (effective August 17, 2014)



NEAR-FATALITY DEFINED, PUBLIC DISCLOSURE PROVISIONS

Senate Bill 31 (Senator Wayne Fontana) redefines "near-fatality." Current law defines it as "An act that, as certified by a physician, places a child in serious or critical condition. With enactment of Senate Bill 31, it would be defined as, "A child's serious or critical condition, as certified by a physician, where that child is a subject of the report of child abuse."

Senate Bill 31 also grants to counties the same opportunity as the Department of Public Welfare (DPW) to publicly release certain information when it is suspected a child died or nearly-died from child abuse, but the investigation and required Act 33 (of 2008) fatality/near-fatality reports have not yet been completed.

Even as the legislation would permit public disclosure of certain information by counties as well as DPW, it rescinds the ability of either party to disclose the identity of a child who experienced a near-fatality.

SB 31 = Act 44 of 2014 (Effective s 12/31/14)



PASS THE TRASH, MISCONDUCT BY SCHOOL EMPLOYEES

When the Pennsylvania Senate unveiled its dozen plus bills in response to the 2012

recommendations of the Task Force on Child Protection, they included [Senate Bill 46](#) as a priority.

The bill, which is not a first attempt by Pennsylvania Senator Antony "Tony" Williams (D-Philadelphia), is often referred to as "pass the trash" legislation. This reference relates to situations where a school may know about or even have investigated a school employee for misconduct, including sexual misconduct with a student, but the information is not included in the employee's record or "confidentiality agreements" have been negotiated so any such information is not shared as the employee moves on to another career setting – often another school.

Senate Bill 46 amends the Public School Code to add a section on Employment History Review requiring an "extensive employment review for applicants that have direct contact with children." Among the information an application would have to provide:

- All information about current and former employers "that were school entities or where the applicant was employed in positions that involved direct contact with children;"
- Written authorization for any employment information or history documents to be shared with the hiring school; and
- "A written statement disclosing whether the applicant has been a subject of an abuse or sexual misconduct investigation by any employer, State licensing agency, law enforcement agency or child protective services agency, unless the investigation resulted in a finding that the allegations were false." This statement would also address whether the applicant was ever "disciplined, discharged, nonrenewed, asked to resign from employment, resigned from or otherwise separated from any employment while allegations of abuse or sexual misconduct were pending or under investigation, or due to an adjudication or findings of abuse or sexual misconduct."

Abuse in Senate Bill 46 would be defined to mirror the Child Protective Services Law (CPSL) while Sexual Misconduct is more fully defined in the proposed legislation.

Earlier this year, Representative David Maloney (R-Berks) introduced companion legislation [House Bill 2063](#), which has been approved by the PA House Education Committee opted to move another recently introduced bill –

NEXT STEPS for Senate Bill 46: The PA House would need to vote on the legislation and then return it to the Senate for a concurrence vote and then it would land on the Governor's desk.
NEXT STEPS for House Bill 2063: This legislation passed the PA House of Representatives and has been assigned to the Senate Education Committee.



PREVENTION

In June 2013, the PA House of Representatives unanimously adopted [House Resolution 163](#). The resolution gave the Joint State Government Commission (JSGC) 18 months to study the degree to which “evidence-based child abuse and neglect prevention programs” are operating in Pennsylvania and across the country.

JSGC was also to evaluate the “effectiveness and relative costs” of these evidence-based programs. They were to explore opportunities for child abuse and neglect prevention methods to be integrated into programs and policies. Finally, the report and recommendations expected by the PA House should dig deeper on “all existing” federal, state and local funding streams that pay for child abuse prevention and neglect services and then to identify ways to “create incentives for the adoption and implementation of evidence-based child abuse and neglect prevention programs” across the Commonwealth.

Meanwhile, legislation to raise additional revenue for Pennsylvania’s Children’s Trust Fund has not advanced. Since 1988 (Act 151), the Children’s Trust Fund (CTF) has been funded via a \$10 surcharge on marriage licenses and divorce filing fees. The raised revenue is directed, by the CTF, into community-

based child abuse prevention strategies. The CTF is governed by a 15-member public/private board (6 legislative, 9 non-legislative Pennsylvanians appointed by the Governor) and is housed within the Office of Child Development and Early Learning (OCDEL). Successful CTF grantees engage in collaboration with local partners, including across multiple systems, meet demonstrated benchmarks and are sustained by resources beyond CTF dollars. Collected revenue from the fees are managed by the PA Department of Treasury’s Commonwealth Investment Program. Pursuits have been made through the years to increase the resources available through the CTF including:

- Increasing the marriage license and divorce filing fee (increase to \$35 the marriage license fee and to \$25 the fee on divorce filings);
- Voluntary check off on PA individual tax returns to designate a contribution to the CTF

Representative Angel Cruz (D-Philadelphia) has introduced [House Bill 2054](#) to create a specialty license plate to “Stop Child Abuse.” The \$15 fee per plate would be directed to the Department of Public Welfare’s Bureau of Child Welfare Services not the CTF. Also outstanding is the degree to which there is a common understanding and consistency – across child-serving systems – as how best to define “prevention” and “evidence-based.”

Meanwhile, Act 71 of 2014 realized an effort by Representative Mauree Gingrich to bring child exploitation education into school health curriculums for children in grades K-8.

Beginning with the 2015-2016 school year, each school entity “may develop an age-appropriate child exploitation awareness education program.” School entities may also include training “in the professional development plan” submitted to the PA Department of Education showing how the school entity will “provide four hours of such training every five years for professional educators assigned to teacher courses into which child exploitation awareness education has been incorporated.”

The PA Department of Education, in consultation with “at least one organization addressing child exploitation” shall develop a “model” curriculum and “compile, develop and post” on its website “recommended guidelines and educational materials” related to this training.

Child exploitation is not defined in the adopted legislation. A school entity includes a school district, cyber charter school, intermediate unit and area vocational-technical school.

HB 1559 = Act 71 of 2014 (effective August 26, 2014)



PRIVACY FOR CHILD VICTIMS

When a person is a victim of sexual or physical abuse their identity cannot be released by the courts. If court proceedings are commenced after the child victim is over the age of 18, the victim may give consent to be identified.

HB 1201 = Act 109 of 2013
(Effective February 16, 2014)



REPORTING CHILD ABUSE

Senate Bill 21 (Senator Kim Ward)

the omnipotent mandatory reporting bill was signed into law on April 15, 2013 by Governor Corbett. This legislation expands the list of enumerated persons legally responsible to make a report of suspected child abuse to authorities. For instance, the bill further delineates the types of persons working in varied (and vast) “schools” that have a mandate to report, including institutions of higher learning.

The legislation also makes the duty to report requirement applicable to persons “paid and unpaid” working or volunteering directly with children in a “program, activity or service” (e.g., youth camp, youth sports program, troop or club).

The legislation also repeals the perennial practice permitting employees inside of schools or other institutions to report inside the

institution’s chain of command before the report ever made it to outside authorities.

House Bill 436 (Representative Todd Stephens) was drafted as a comprehensive remedy to bring greater clarity and streamlining to PA’s mandatory child abuse reporting law. As part of the negotiations between the PA Senate and House, this legislation became the vehicle for penalties when a person “willfully fails” to make or cause a report to be made related to suspected child abuse.

Current law sets a violation for “willfully” failing to report as a misdemeanor of the 3rd degree the first time it happens and a misdemeanor of the second degree “for a second or subsequent violation.” HB 436 generally grades the offense as a misdemeanor of the 2nd degree, but stiffer penalties are possible.

Offense	Longest permitted Minimum confinement	Longest permitted Maximum confinement	Maximum Fine
Summary	90 days county jail	90 days county jail	\$300
Misdemeanor 3rd degree	6 months	1 year	\$2,500
Misdemeanor 1st degree	2.5 years	5 years	\$10,000
Misdemeanor 2nd degree	1 year	2 years	\$5,000
Felony 3rd degree	3.5 years	7 years	15,000

For instance, it would be a felony of the 3rd degree if a person “willfully” fails to report and the “child abuse constitutes a felony of the 1st degree or higher” and the person “has direct knowledge of the nature of the abuse.”

House Bill 436 also assures that there is no wrong door in reporting. In other words while the preferred method is for reports to go through the state’s child abuse reporting hotline – ChildLine, a person who calls a local children and youth agency or law enforcement directly instead would not be considered a violation of the reporting requirements. The legislation also provides for statute of limitations (SOL) that is either five years or the same SOL applicable to the crime committed against the child.

[Senate Bill 33](#) (Senator Bob Mensch) provides for employment protection when a person either as a mandated or permissive reporter and they acted in “good faith” in making the report. The protection is not applicable to a person who is later found to be a perpetrator or a person who is criminally convicted for failing to make a report.

[Senate Bill 24](#) (Senator Randy Vulakovich) provides the tools for modern reporting and sharing of information by permitting the use of “electronic technologies.”

SB 21 = Act 33 of 2014
(Effective December 31, 2014)
HB 436 = Act 32 of 2014 (effective June, 16 2014)
SB 33 = Act 34 of 2014
(Effective December 31, 2014)
SB 24 = Act 29 of 2014
(Effective December 31, 2014)



REPORTING INFANTS AFFECTED BY ILLEGAL SUBSTANCE ABUSE, WITHDRAWAL SYMPTOMS OR FASD

Senate Bill 29 requires a health care provider to “immediately” make a report or cause a report to be made if the health care provider is involved in the delivery or care of an infant or child under the age of one affected by any of the following:

- “(1) Illegal substance abuse by the child’s mother.
- (2) Withdrawal symptoms resulting from prenatal drug exposure.
- (3) A Fetal Alcohol Spectrum Disorder.”

A health care provider in Senate Bill 29 is defined as “A licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.”

Upon receiving a report required by Senate Bill 29, the county children and youth agency would then have to perform a safety and/or risk assessment to determine if the child is in need of protective or general protective services. The county would have to respond “immediately” if the child needs to be taken into protective custody or the need for such an action isn’t certain from the report. Children and youth would also have to be in contact with the parents within 24 hours and then see the child within 48 hours of the report. Finally the agency would be responsible for providing or arranging “reasonable services to ensure the child is provided with proper parental care, control and supervision.”

Senate Bill 29 included language similar to a [recommendation made by the Task Force on Child Protection](#), which indicated they were addressing the issue to ensure state law was “consistent with the assurance and requirements provisions” of the federal Child Abuse Prevention and Treatment Act (CAPTA). The Task Force, however, limited the applicability to newborns.

SB 29 = Act 4 OF 2014 (effective April 22, 2014)



3-DIGIT REPORTING OF CHILD ABUSE

[Senate Bill 26](#) (John T. Yudichak) has been stalled in the PA Senate and similar legislation was never introduced in the PA House. This legislation, which mirrored a recommendation of the Task Force on Child Protection, directed the Department of Public Welfare (DPW) to work with the Federal Communications Commission to establish a 3-digit reporting system (e.g., 611).

NEXT STEPS for Senate Bill 26: The legislation requires a vote of the Senate Appropriations Committee before it can be voted on by the full Senate. It would then head to the PA House of Representatives for further votes.



SCHOOL ABUSE

[Senate Bill 31](#) (Senator Wayne Fontana) repeals the separate subsection in the Child Protective Services Law (CPSL) that, since 1994, has uniquely defined abuse in a school setting and

provided for reporting practices different than abuse in other settings.

The legislation also includes a comprehensive definition of “school” which proved problematic in the wake of the Sandusky child sexual abuse scandal which gave rise to questions about whether a university setting was a “school” and thus subject to mandatory reporting provisions. This same definition was included in the enacted Senate Bill 21 (signed by Governor Corbett on April 15th).

Fontana’s legislation also requires that a report of suspected child abuse not be reported up and inside a school or institution rather than reports “immediately” be made to ChildLine or law enforcement and then “thereafter” notify the person in charge at the school/institution.

Fontana’s legislation to end the bifurcated approach to abuse in a school setting generated a companion bill from Representative David Maloney ([House Bill 434](#)), which was also signed into law in May.

SB 31 = Act 44 of 2014 (Effective 12/31/14)
HB 434 = Act 45 of 2014 (some provisions effective immediately, the remaining on 12/31/14)



TRAINING FOR MANDATED REPORTERS

House Bill [431](#) (Representative Gingrich) was originally introduced as a bill solely aimed at requiring that each licensing board within the [Pennsylvania Department of State](#) (DOS) with “jurisdiction over professional licensees identified as mandated reporters” assure these persons document they have been trained to recognize and report suspected child abuse.

Eventually the Pennsylvania Senate combined another Gingrich bill ([House Bill 432](#)) into House Bill 431 ensuring that this bill is now far more comprehensive in its applicability applicable to “operators of institutions, facilities or agencies which care for children and are subject to supervision” by the Department of Public Welfare (DPW) and who have “direct contact with children.”

“Operators and caregivers” would have to receive three hours of training “prior to the issuance of a license, approval or registration certificate” and then three hours of training “every five years thereafter.” Direct contact with children is defined as the “care, supervision, guidance or control of children or routine interaction with children.”

Meanwhile, persons applying for a license or certification (e.g., Medicine, Dentistry, Psychology, Social Workers) would have to provide “acceptable documentation” that they have completed “at least three hours of approved child abuse recognition and reporting training.” The training would have to be approved by the Department of Public Welfare (DPW) and may occur “as part of the continuing education requirement of the license.” Persons applying for a renewal license or certification would have to demonstrate that they had completed “at least two hours of approved continuing education per licensure cycle.” The training for new applicants and those renewing a license or certification would have to “address,” but not be limited to “recognition of the signs of child abuse and the reporting requirements for suspected child abuse in the Commonwealth.”

All the mandated reporters covered by the amended House Bill 431 could be exempted by from the training or continuing education requirement if the person can submit “acceptable” documentation that the person has “already completed child abuse recognition training” so long as the training was one approved by the Department of Education in consultation with DPW or was a training program approved by DPW. Exemption could also occur if the training received “equals or exceeds” the training required in House Bill 431.

HB 431 = Act of 2014 (effective December 31, 2014)