

## Frequently Asked Questions about Child Abuse in Pennsylvania

Updated December 10, 2015

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### **Section 1: Defining Child Abuse in Pennsylvania**

#### **What is child abuse in Pennsylvania?**

The term “child abuse” shall mean intentionally or recklessly doing any of the following:

- (1) Causing bodily injury to a child through any recent act or failure to act
- (2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
- (3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
- (4) Causing sexual abuse or exploitation of a child through any act or failure to act.

(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(7) Causing serious physical neglect of a child.

(8) Engaging in any of the following:

(i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child. (ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.

(iii) Forcefully shaking a child under one year of age.

(iv) Forcefully slapping or otherwise striking a child under one year of age.

(v) Interfering with the breathing of a child.

(vi) Causing the child to be present at a methamphetamine laboratory provided that the violation is being investigated by law enforcement?

(vii) Leaving a child unsupervised with an individual who is not the child's parent and who the actor knows or reasonably should have known:

(a) Is required to register as a tier II or Tier III sexual offender where the victim of the sexual offense was under 18 years of age when the crime was committed.

(b) Has been determined to be a sexually violent predator.

(c) Has been determined to be a sexually violent delinquent child.

(9) Causing the death of the child through any act or failure to act. 23 Pa.C.S. § 6303(b)(1-9).

### **How is "bodily injury" defined?**

It is the Impairment of physical condition or substantial pain.

### **What is considered "sexual abuse or exploitation" ?**

Any of the following:

(1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

(i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

This paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.

(2) Any of the following offenses committed against a child:

- i. Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
- ii. Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
- iii. Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- iv. Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- v. Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
- vi. Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
- vii. Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
- viii. Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
- ix. Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
- x. Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).
- xi. Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
- xii. Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
- xiii. Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children). 23 Pa. C.S. § 6303(a).

**What is considered “serious mental injury” ?**

Serious mental injury should be understood to be a “psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

(a) 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

(b) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.” 23 Pa. C.S. § 6303(a).

### **What is considered “serious physical neglect” ?**

Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(a) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(b) The failure to provide a child with adequate essentials of life, including food, shelter or medical care. 23 Pa.C.S. § 6303(a).

### **What is meant by “recent” within the definition of child abuse?**

“Any act committed within two years of the date of the report to the department or county agency.” 23 Pa.C.S. § 6303(a).

Note that “recent” does not apply to sexual abuse, serious mental injury, serious physical neglect or the death of a child. In other words, there is no two year time limit attached to these types of abuse.

### **What is excluded from the definition of child abuse?**

There are several exclusions from the definition of child abuse:

(i) **Environmental Factors:** It will not be considered child abuse and a child will not be found to be physically or mentally abused “based on injuries that result solely from environmental factors” (e.g., inadequate housing, furnishing, income, clothing and medical care) “that are beyond the control of the parent or person responsible for the child’s welfare.” 23 Pa.C.S. § 6304(a).

(ii) **Religious Beliefs:** If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. This exclusion shall not apply if the failure to provide needed medical or surgical care causes the death of the child. The exclusion also shall not apply to any child-care service, excluding an adoptive parent. 23 Pa.C.S. § 6304(b).

### **(iii) Use of Force for Supervision, Control and Safety:**

Nothing in Child Protective Services Law “shall be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of

supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.” 23 Pa.C.S. § 6304 (d) Rights of parents.

The use of reasonable force on or against a child by the child’s parent or a person responsible for the child’s welfare shall not be construed child abuse when any of the following conditions apply:

- (1) “The use of the reasonable force “constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.
- (2) The use of the reasonable force is necessary:
- (3)
  - i. to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;
  - ii. to prevent the child from self-inflicted physical harm;
  - iii. for self-defense or the defense of another individual; or
  - iv. to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child. 23 Pa.C.S. § 6304(c).

(iv) **Participating in Events that Involve Physical Contact with a Child.** Participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute “contact that is subject to the reporting requirements of this chapter.” 23 Pa.C.S. § 6304(e).

(v) **Child-on-Child Contact.** Harm or injury to a child that results from the act of another child “unless the child who caused the harm or injury is a perpetrator. No child shall be deemed a perpetrator of child abuse solely due to physical or mental injuries that result from a fight or scuffle “entered into by mutual consent.” Acts constituting certain crimes against a child (rape, involuntary deviate sexual intercourse, sexual assault, indecent assault, indecent exposure) “shall be subject to the reporting requirements of this chapter.” 23 Pa.C.S. § 6304(f).

(vi) **Defensive Force.** Reasonable force for self-defense or the defense of another individual, consistent with the provisions of with 18 Pa.C.S. § § 505(relating to use of force for self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse. 23 Pa.C.S. § 6304(g).

#### Who can be a “perpetrator” of child abuse?

A perpetrator of child abuse is any person who committed child abuse and includes:

- A parent of a child,
- A spouse or former spouse of the child’s parent,
- A paramour or former paramour of the child’s parent,

- A person 14 years of age or older and responsible for the welfare of a child or having direct contact with children as an employee of child-care services, a school or through a program, activity or service<sup>1</sup>,
- An individual 14 years of age or older residing in the same home as a child, or
- An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.” 23 Pa.C.S. § 6303(a).

Only the following individuals can be considered a perpetrator for failing to act:

- A parent of the child,
- A spouse or former spouse of the child’s parent,
- A paramour of the child’s parent,
- A person 18 years of age or older and responsible for the child’s welfare, and
- A person 18 years of age or older who resides in the same home as the child may be considered a perpetrator for failing to act. 23 Pa.C.S. § 6303(a).

**What does it mean to be a person “responsible for the child’s welfare” or “having direct contact with children” ?**

A 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 a child in lieu of parental care, supervision and control.” 23 Pa.C.S. § 6303(a).

A person having direct contact with children is defined as “The care, supervision, guidance or control of children or routine interaction with children.” Note that “routine interaction” is then defined as “Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.” 23 Pa.C.S. § 6303(a).

**Section 2: Reporting Child Abuse in Pennsylvania**

**Who must legally report suspected child?**

The following adults are mandated reporters and shall make a report of suspected child abuse when the person has reasonable cause to suspect that a child is a victim of child abuse:

1. Any person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State,

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<sup>1</sup> Program, activity or service is defined as “Any of the following in which children participate and which is sponsored by a school or a public or private organization: a youth camp or program, a recreational camp or program, a sports or athletic program, a community or social outreach program, an enrichment or educational program, or a troop, club or similar organization.

2. A medical examiner, coroner, funeral director,
3. An employee of a health care facility or provider licensed by the Department of Health who is engaged in the admission, examination, care or treatment of individuals,
4. A school employee,
5. An employee of a child care service who has direct contact with children in the course of employment,
6. A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization,
7. Any paid or unpaid individual who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service is a person responsible for the child's welfare or has direct contact with children;
8. An employee of a social services agency who has direct contact with children in the course of employment,
9. A peace officer or law enforcement official,
10. An emergency medical services provider certified by the Department of Health,
11. An employee of a public library who has direct contact with children in the course of employment,
12. Any individual who is supervised or managed by someone under (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), and (13); category.
13. An independent contractor;
14. An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children;
15. A foster parents; and
16. And adult family member who is responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children subject to supervision of licensure by the department. 23 Pa.C.S. § 6311(a)(1-16).

**What does it mean to be a person “responsible for the child’s welfare” or “having direct contact with children” ?**



A 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 a child in lieu of parental care, supervision and control." 23 Pa.C.S. § 6303(a).

A person having direct contact with children is defined as "The care, supervision, guidance or control of children or routine interaction with children." Note that "routine interaction" is then defined as "Regular and repeated contact that is integral to a person's employment or volunteer responsibilities." 23 Pa.C.S. § 6303(a).

### **When must a mandated reporter make a report?**

A mandatory reporter shall immediately make a report of suspected child abuse if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

- (i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service.
- (ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.
- (iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.
- (iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse. 23 Pa.C.S. § 6311(b).

### **When is it mandatory to make a report for a child under the age of one?**

A health care provider (see below for the definition of "health care provider" ) involved in the delivery or care of a child under one year of age "shall immediately make a report or cause a report to be made" to the local county children and youth agency when the infant is "born and identified as being affected by any of the following:

1. Illegal substance abuse by the child's mother.
2. Withdrawal symptoms resulting from prenatal drug exposure unless the child's mother, during the pregnancy, was: under the care of a prescribing medical professional; and in compliance with the directions for the administration of a prescription drug as directed by the prescribing medical professional.
3. A Fetal Alcohol Spectrum Disorder.

Pennsylvania law is derived from provisions within the federal Child Abuse Prevention and Treatment Act (CAPTA). While such a report by a health care provider is required by federal, it is not considered a report of child abuse or neglect. Instead the report is made so that the county agency can "perform a safety assessment or risk assessment, or both, for the child and determine

whether child protective services or general protective services are warranted.” The county children and youth agency must “immediately ensure the safety of the child and see the child immediately if emergency protective custody is required or has been or shall be taken or if it cannot be determined from the report whether emergency protective custody is needed. The county agency must contact the parents of the child within 24 hours and “physically see” the child within 48 hours after receiving the report from the health care provider. 23 Pa.C.S. § 6386 (a),(b) and (c).

"Health care provider" 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. 23 Pa.C.S. § 6303 (a).

### **How does a mandated reporter make a report of suspected child abuse?**

Pennsylvania mandated reporters have two options in Pennsylvania to report suspected child abuse 23 Pa.C.S. § 6313 (a) :

1. The mandated reporter shall immediately make an oral report of suspected abuse via ChildLine -the statewide toll-free telephone number (1-800-932-0313) operated by the Department of Human Services. . A mandated reporter making an oral report of suspected child abuse to ChildLine shall also make a written report known as a CY 47, which may be submitted electronically, within 48 hours to the department or county agency assigned to the case. The CY47 form should include the following information:
  - a) The names and addresses of the child and the parents or other person responsible for the care of the child if known. Where the suspected abuse occurred.
  - b) The age and sex of the subjects of the report.
  - c) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.
  - d) 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.
  - e) Family composition.
  - f) The source of the report.
  - g) The person making the report and where that person can be reached.
  - h) 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.
  - i) Any other information which the department may require by regulation.” 23 Pa.C.S. § 6313(c).

2. The mandated reporter shall immediately file a written report electronically through ChildLine's web-based portal ([www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis)). If the mandated reporter makes the report electronically online, they do not need to file a CY 47.

Persons other than mandated reporters who want to report suspected child abuse are asked to make the report orally.

**What does a mandated reporter do if the child died?**

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. 23 Pa.C.S. § 6317.

**Are persons other than mandated reporters allowed to make a report of suspected child abuse?**

Any person may make an oral or written report of suspected child abuse, which may be submitted electronically, or cause a report of suspected child abuse to be made to the department, county agency or law enforcement if that person has reasonable cause to suspect that a child is a victim of child abuse. 23 Pa.C.S. § 6312.

**Will the identity of the person reporting child abuse be revealed?**

With exception of revealing the reporter's identity to law enforcement officials and the district attorney as part of a criminal investigation related to a crime against a child or a false report of child abuse, the identity of the person making the report may not be revealed. Protecting the identity of the person making the report or who cooperated in an investigation is a responsibility that extends to "the department, county, institution, school, facility or agency or designated agent of the person in charge." Law enforcement is also required to treat "all reporting sources as confidential informants." 23 Pa.C.S. § 6340(c).

Also held as confidential are reports related to reporting procedures, written reports, photographs, X-rays taken during investigation of the alleged child abuse and in the possession of the Department of Human Services or a county agency. 23 Pa.C.S. § 6339.

**Will the mandated reporter know what happens for the child after the report is made?**

A mandatory reporter of suspected child abuse who made a report about the abuse has limited information released to them by the department including: (a) the final status of the child abuse report following the investigation, whether it be indicated, founded, or unfounded. (b) any services provided, arranged for or to be provided by the county agency to protect the child." 23 Pa.C.S. 6340(a)(12)(i)-(ii).

The mandated reporter may contact the department or the county child welfare agency to request information, however, the law specifies that the department or child welfare agency are required to only release the information listed in subsection (a) and (b) above.

**Does a person reporting child abuse, in good faith, have protections from civil and criminal liabilities?**

A person, hospital, institution, school, facility, agency or agency employee acting in good faith shall have immunity from civil and criminal liability that might otherwise result from any of the following:

(i) Making a report of suspected child abuse or making a referral for general protective services, regardless of whether the report is required to be made under this chapter.

(ii) Cooperating or consulting with an investigation under this chapter, including providing information to a child fatality or near-fatality review team.

(iii) Testifying in a proceeding arising out of an instance of suspected child abuse or general protective services.

(iv) Engaging in any action authorized under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths). 23 Pa.C.S 6318(a).

**What is the “presumption of good faith?”**

A person required to report suspected child abuse and persons who are required to make referrals to law enforcement officers will be presumed to be making those reports in good faith. 23 Pa.C.S. § 6318(b). In the context of reporting suspected child abuse, “good faith” means that the primary intention of the individual making the report is to protect the child from suspected maltreatment.

**What can happen if a mandatory reporter willfully fails to report suspected child abuse?**

A mandatory reporter who “willfully fails” to report suspected child abuse can be subjected to criminal charges and penalties.

When a mandated reporter “willfully fails” to report suspected child abuse and the “child abuse constitutes a felony of the first degree or higher” and “the person or official has direct knowledge of the nature of the abuse” it is a third degree felony that can result in the mandated reporter being incarcerated for up to seven years and pay a fine up to fifteen thousand dollars. 23 Pa.C.S. § 6319(a). A person who commits a second or subsequent offense faces increased penalties.

If the mandated reporter’s willful failure continues despite that the person “knows or has reasonable cause to believe the child is being subjected to child abuse” then the person commits a misdemeanor of the first degree unless the child abuse constitutes a felony of the first degree or higher than the failure to report offense is a felony of the third degree. 23 Pa.C.S. § 6319(b).

The statute of limitation is either the statute of limitation for the crime committed against the minor child or five years, whichever is greater. 23 Pa.C.S. § 6319(d).

ChildLine accepts phone calls 24 hours a day, 7 days a week and trained personnel “will provide information, counseling and referral services” to ensure that the children of Pennsylvania are safe from child abuse.

### **What happens if person makes a false report of child abuse?**

A person commits a misdemeanor of the second degree punishable of up to two years in prison and a \$5,000 fine, if the person “intentionally or knowingly makes a false report of child

Abuse” or “intentionally or knowingly induces a child to make a false claim of child abuse.” 18 Pa.C.S. § 4906.1.

### **Do mandated reporters have to complete training on recognizing and reporting child abuse?**

Yes, certain mandated reporters must complete training about recognizing and reporting child abuse in Pennsylvania.

To learn more about who is required to be trained, review the information at this site <http://www.keepkidssafe.pa.gov/training/index.htm>.

Penn State’s Center for the Protection of Children has designed an online learning module directed at training early childhood practitioners—that is, individuals who work or volunteer in a childcare setting addressing the needs of young children. This learning module can be completed online at no cost to the mandated reporter. The training is Act 31 approved to meet Pennsylvania's requirements for mandated reporter training for early childhood practitioners. To learn more or to complete the training click here - <https://www.ilookoutforchildabuse.com/UserAuth/Welcome.action>

### **Section 3: Investigating child abuse in Pennsylvania**

#### **What happens after a report of suspected child abuse is made?**

After the report of suspected child abuse is made to Childline, the specially trained staff at ChildLine forward the report to a children and youth agency, law enforcement or to both law enforcement and the children and youth agency. ChildLine makes the determination based on the person(s) in the report alleged to have committed the child abuse.

For instance, if the suspected child abuse is alleged to have been committed by a perpetrator as defined within the Child Protective Services Law (CPSL), then a county children and youth agency will investigate the report.

If the suspected child abuse is alleged to have been committed by a perpetrator **and** the suspected child abuse may constitute a criminal offense against a child, then the report is to be investigated jointly by the county children and youth agency and law enforcement officials. The investigation is to be conducted through a multidisciplinary investigative team (MDIT) operating with an established protocol intended to minimize a child’s trauma and avoid duplication in fact finding, including interviews that are conducted.

When the suspected child abuse is alleged to have been committed by a person, who cannot be a perpetrator under the CPSL and the allegations may involve a criminal offense against a child then the investigation will be handled by law enforcement only.

In situations where the report reveals that a child is in need of other protective services and a child abuse investigation may not be necessary then it is the children and youth agency that will be responsible for responding to the report. This is often known as a General Protective Services (GPS) Report. 23 Pa.C.S. § 6334.1.

**A child abuse investigation shall include the following:**

- (i) A determination of the safety of, or risk of harm to, the child or any other child if each child continues to remain in the existing home environment.
- (ii) A determination of the nature, extent and cause of any condition listed in the report.
- (iii) Any action necessary to provide for the safety of the child or any other child in the child's household.
- (iv) The taking of photographic identification of the child or any other child in the child's household, which shall be maintained in the case file.
- (v) Communication with the department's service under section 6332 (relating to establishment of Statewide toll-free telephone number). 23 Pa.C.S. § 6368(c).

**During the child abuse investigation, all of the following shall apply:**

- (i) The county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination under this section.
- (ii) If the investigation indicates bodily injury, the county agency may require that a medical examination by a certified medical practitioner be performed on the child.
- (iii) Where there is reasonable cause to suspect that there is a history of prior or current abuse, the medical practitioner has the authority to arrange for further medical tests or the county agency has the authority to request further medical tests.
- (iv) The investigation shall include interviews with all subjects of the report, including the alleged perpetrator. If a subject of the report is not able to be interviewed or cannot be located, the county agency shall document its reasonable efforts to interview the subject and the reasons for its inability to interview the subject. The interview may be reasonably delayed if notice of the investigation “is likely to threaten the safety of a victim, a subject of the report who is not a perpetrator or the investigating county agency worker; cause the perpetrator to abscond; or significantly interfere with the conduct of a criminal investigation.. 23 Pa.C.S. § 6368(d) (m).

**What is the response time of a report of child abuse?**

- (i) **Response to direct reports.** Upon receipt of a report of suspected child abuse by a perpetrator from an individual, the county agency shall ensure the safety of the child

and any other child in the child's home and *immediately* contact the department of child services.

(ii) **Response to reports referred to county agency by department.** Upon receipt of a report of suspected child abuse from the department, the county agency shall immediately commence an investigation and see the child within the following time frames:

(1) Immediately, if:

(i) Emergency protective custody is required, has been or will be taken; or

(ii) It cannot be determined from the report whether emergency protective custody is needed; or

(2) Within 24 hours of receipt of the report in all other cases.” 23 Pa.C.S § 6368(b).

**What happens if the report of suspect child abuse is unfounded?**

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 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. 23 Pa.C.S 6337.

**What happens if the report of suspected child abuse is founded?**

When a report of suspected child abuse is determined by the appropriate county agency to be a founded report or an indicated report, the 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). 23 Pa.C.S § 6338.

**What happens if the child goes to the hospital?**

(i) Children who are believed to be suffering from any physical or mental condition that may constitute child abuse be brought to a hospital. “Children appearing to suffer any physical or mental condition which may constitute child abuse shall be admitted to, treated and maintained in facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.” 23 Pa.C.S. § 6316(a).

**What if the child is a newborn?**

(i) A newborn taken into protective custody pursuant to section 6315(a)(3) (relating to taking child into protective custody) shall be admitted to, treated and maintained in facilities of public and private hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care. Once a newborn is taken into protective custody pursuant to section 6315(a)(3), the newborn shall be considered immediately eligible for Medicaid for payment of medical services provided. Until otherwise provided by court order, the county agency shall assume the responsibility for making decisions regarding the newborn's medical care. 23 Pa.C.S. § 6316.

**Can the child be refused care by the hospital?**

No. The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) or (a.1) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital. 23 Pa.C.S. § 6316 (b).

**When can a child be taken into protective custody?**

**(i) A child can be taken into protective custody:**

- (a) Pursuant to an order of the court under this chapter. Prior to entering a protective custody order removing a child from the home of the parent, guardian or custodian, the court must determine that to allow the child to remain in the home is contrary to the welfare of the child.
- (b) Pursuant to the laws of arrest.
- (c) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from his surroundings, and that his removal is necessary.
- (d) By a law enforcement officer or duly authorized officer of the court if there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian.
- (e) By a law enforcement officer or duly authorized officer of the court if there are reasonable ground. 42 Pa.C.S. § 6324.

**(ii) In addition, a child may be taken into protective custody:**

- (a) By a physician examining or treating the child or by the director, or a person specifically designated in writing by the director, of any hospital or other medical institution where the child is being treated if protective custody is immediately necessary to protect the child under this chapter.
- (b) By a physician or the director, or a person specifically designated by the director, of a hospital pursuant to Chapter 65 (relating to newborn protection) if the child is a newborn.
- (c) By a police officer at a police station under Chapter 65.



(d) Subject to this section and after receipt of a court order, the county agency shall take a child into protective custody for protection from abuse. No county agency worker may take custody of the child without judicial authorization based on the merits of the situation. 23 Pa.C.S. § 6315(a).

**How long can a child be held in protective custody?**

No child may be held in protective custody for more than 24 hours unless the appropriate county agency is immediately notified that the child has been taken into custody and the county agency obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. Each court shall insure that a judge is available 24 hours a day, 365 days a year to accept and decide the actions brought by a county agency under this subsection within the 24-hour period. 23 Pa.C.S. § 6315(b).

**Who is given notice that the child is being held in protective custody?**

(1) Except as provided in paragraph (2), an individual taking a child into protective custody shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child, unless prohibited by court order, and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate county agency in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.

(2) In the case of a newborn taken into custody by a physician or director or person specifically designated by the hospital if the child is a newborn, the county agency shall within 24 hours make diligent efforts to notify a parent, guardian, custodian or other family member of the whereabouts of the newborn, unless prohibited by court order, and the reasons for the need to take the newborn into protective custody. 23 Pa.C.S. § 6315(c).

**Where is the child held when in protective custody?**

No child taken into protective custody under this chapter may be detained during the protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose. 23 Pa.C.S. § 6315(e).

**Can medical practitioners and children and youth agencies share information about a child's medical health information?**

In circumstances which negatively affect the medical health of a child, a certified medical practitioner "shall, in a timely manner, provide the county agency" with certain information as the county agency undertakes any of the following actions related to the child:

1. An assessment for general protective services (GPS);
2. A child abuse investigation; or
3. When the family has been accepted for services by a county agency (NOTE: As defined at 23 Pa.C.S. § 6303(a) "accept for service" is defined as "Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters)).

The certified medical practitioner shall provide the county agency with the following information:

1. “Relevant medical information known to the certified medical practitioner regarding the child’s prior and current health.
2. Information from a subsequent examination.
3. Information regarding treatment of the child.
4. Relevant medical information known regarding any other children in the child’s household where such information may contribute to the assessment, investigation or provision of services by the county agency to the child or other children in the household.” 23 Pa.C.S § 6340.1(a).

Parental consent is not required for the certified medical practitioner to provide the information to the county children and youth agency. 23 Pa.C.S § 6340.1(b).

In circumstances which negatively affect the medical health of a child, the county children and youth agency “shall notify” the certified medical practitioner, who is the child’s primary care provider, of the following:

1. “The final status of any assessment or general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.
2. Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311.
3. If accepted for services, any service provided, arranged for or to be provided by the county agency.” 23 Pa.C.S § 6340.1(d).

A county children and youth agency “shall provide” a child’s primary care physician or a certified medical practitioner providing medical care to a child with the following information “in order to ensure the proper medical care of the child:”

1. “The final status of any assessment or general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.
2. Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311 (relating to persons required to report suspected child abuse).
3. If accepted for services, any service provided, arranged for or to be provided by the county agency.
4. The identity of other certified medical practitioners providing medical care to the child to obtain the child’s medical records to allow for coordination of care between medical practitioners.” 23 Pa.C.S § 6340.1(c).

**Can any information from reports be released?**

Reports, and the information contained in the reports, will only be made available to:

- (a)** An authorized official of a county agency, of a Federal agency that has a need for such information to carry out its responsibilities under law to protect children from abuse and neglect or of an agency of another state that performs protective services analogous to those services performed by county agencies or the department in the course of the official's duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to voluntary or court-ordered services; findings of child abuse).
- (b)** A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child or a child alleged to be in need of protection under this chapter.
- (c)** A guardian ad litem or court designated advocate for the child.
- (d)** An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of county agency).
- (e)** A court of competent jurisdiction, including a magisterial district judge, a judge of the Philadelphia Municipal Court and a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under section 6303(b) (relating to definitions). Disclosure through testimony shall be subject to the restrictions of subsection (c).
  - (i)** A court of common pleas in connection with any matter involving custody of a child as set forth in sections 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services).
- (f)** A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).
- (g)** The Attorney General.
- (h)** Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not remove identifiable reports or copies thereof from the department or county agencies.
  - (i)** 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 employees having contact with children; adoptive and foster parents), sexual abuse or exploitation, bodily injury or serious bodily injury caused by a perpetrator or non-perpetrator.
    - (ii)** Child abuse other than that identified under subparagraph (i) by a non-perpetrator.
    - (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's office or other law enforcement official, as set forth in 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 according to regulations, 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 under section 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 law of another state; or

(ii) child abuse under section 6334.1 (relating to responsibility for investigation).

(11) Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:

(i) The board of commissioners in counties other than counties of the first class.

(ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L.665, No.155), known as the First Class City Home Rule Act.

(iii) An individual serving as a county chief executive as designated by a county home rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.

(12) A mandated reporter of suspected child abuse under section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child, shall be limited to the following:

(i) Whether the child abuse report is indicated, founded or unfounded.

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

(13) 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.

(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the prospective parent may make an informed decision to adopt.

**(15)** Appropriate officials of another county or state regarding an investigation related to child abuse or protective services when a family has moved to that county or state. Reports under this paragraph shall include general protective service reports and related information. Reports and information under this paragraph shall be provided within seven calendar days. The department shall promulgate regulations as necessary to carry out the purposes of this paragraph.

**(16)** Members of citizen review panels convened pursuant to section 6343.1 (relating to citizen review panels), provided that such members shall not disclose to any person or government official any identifying information about any specific child protective services case with respect to which the panel is provided information.

**(17)** A member of a child fatality or near fatality review team under section 6365(d). 23 Pa.C.S. § 6340.

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