

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 433 Session of 2013

INTRODUCED BY AUMENT, WATSON, GINGRICH, MALONEY, MOUL, STEPHENS, YOUNGBLOOD, SCHLOSSBERG, HICKERNELL, MUNDY, ROCK, KORTZ, SACCONI, MAJOR, CUTLER, KAUFFMAN, O'NEILL, BAKER, SWANGER, COHEN, R. MILLER, FLECK, C. HARRIS, CLYMER, MILNE, BENNINGHOFF, MURT, DENLINGER, STURLA, EVERETT, GIBBONS, QUINN, V. BROWN AND FARRY, FEBRUARY 8, 2013

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for disposition of founded and indicated reports,
4 for amendment or expunction of information and, for <--
5 investigation of reports; AND FOR EVIDENCE IN COURT <--
6 PROCEEDINGS.

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

9 Section 1. Section 6338(a) of Title 23 of the Pennsylvania
10 Consolidated Statutes is amended to read:

11 § 6338. Disposition of founded and indicated reports.

12 (a) General rule.--When a report of suspected child abuse or
13 a report under Subchapter C.1 (relating to students in public
14 and private schools) is determined by the appropriate county
15 agency to be a founded report or an indicated report, the
16 information concerning that report of suspected child abuse
17 shall be expunged immediately from the pending complaint file,

1 and an appropriate entry shall be made in the Statewide central  
2 register. [Notice of the determination must be given to the  
3 subjects of the report, other than the abused child, and to the  
4 parent or guardian of the affected child or student along with  
5 an explanation of the implications of the determination. Notice  
6 given to perpetrators of child abuse and to school employees who  
7 are subjects of indicated reports for school employees or  
8 founded reports for school employees shall include notice that  
9 their ability to obtain employment in a child-care facility or  
10 program or a public or private school may be adversely affected  
11 by entry of the report in the Statewide central register. The  
12 notice shall also inform the recipient of his right, within 45  
13 days after being notified of the status of the report, to appeal  
14 an indicated report, and his right to a hearing if the request  
15 is denied.] Notice of the determination that a report is a  
16 founded or indicated report shall be made as provided in section  
17 6368(c.2) (relating to investigation of reports).

18 \* \* \*

19 Section 2. ~~Section 6341(c) of Title 23 is amended and the~~ <--  
20 ~~section is~~ SECTIONS 6341(A) AND (C) AND 6368(A) OF TITLE 23 ARE <--  
21 AMENDED AND THE SECTIONS ARE amended by adding subsections to  
22 read:

23 § 6341. Amendment or expunction of information.

24 \* \* \* <--

25 ~~(b.1) Hearing. The appeal hearing authorized under~~  
26 ~~subsection (b) shall be scheduled according to the following~~  
27 ~~procedures:~~

28 ~~(1) Within ten days of receipt of an appeal pursuant to~~  
29 ~~this section, the department shall schedule a hearing on the~~  
30 ~~merits of the appeal.~~

1       ~~(2) The department shall make reasonable efforts to~~  
2 ~~coordinate the hearing date with both the appellee and~~  
3 ~~appellant.~~

4       ~~(3) Proceedings before the Bureau of Hearings and~~  
5 ~~Appeals shall commence within 45 days of the date the~~  
6 ~~scheduling order is entered. Proceedings and hearings shall~~  
7 ~~be scheduled to be heard on consecutive days whenever~~  
8 ~~possible but, if not on consecutive days, then the proceeding~~  
9 ~~or hearing shall be concluded not later than 30 days from~~  
10 ~~commencement.~~

11       ~~(4) The investigative agency shall bear the burden of~~  
12 ~~proving by substantial evidence that the report should remain~~  
13 ~~categorized as an indicated report.~~

14       ~~(5) Evidence that a child has suffered child abuse of~~  
15 ~~such a nature as would ordinarily not be sustained or exist~~  
16 ~~except by reason of the act or failure to act of the alleged~~  
17 ~~perpetrator shall be prima facie evidence of child abuse by~~  
18 ~~either or both of the parents or any other person responsible~~  
19 ~~for the child's welfare. Once the investigative agency has~~  
20 ~~established that prima facie evidence of child abuse exists,~~  
21 ~~the burden shall shift to the appellee to establish that the~~  
22 ~~appellee was not the individual responsible for the welfare~~  
23 ~~of the child or that the child was not the victim of child~~  
24 ~~abuse by a perpetrator.~~

25       ~~(b.2) Testimony by closed circuit television. At the~~  
26 ~~request of the investigative agency, the administrative law~~  
27 ~~judge or hearing officer shall order that the testimony of the~~  
28 ~~child victim or child material witness be taken under oath or~~  
29 ~~affirmation in a room other than the hearing room and televised~~  
30 ~~by closed circuit equipment to be viewed by the tribunal. Only~~

1 ~~the attorneys for the appellant and appellee, the court~~  
2 ~~reporter, the administrative law judge or hearing officer,~~  
3 ~~persons necessary to operate the equipment and any person whose~~  
4 ~~presence would contribute to the welfare and well being of the~~  
5 ~~child may be present in the room with the child during his~~  
6 ~~testimony. The administrative law judge or hearing officer shall~~  
7 ~~permit the appellee to observe and hear the testimony of the~~  
8 ~~child but shall ensure that the child cannot hear or see the~~  
9 ~~appellee. The administrative law judge or hearing officer shall~~  
10 ~~make certain that the appellee has adequate opportunity to~~  
11 ~~communicate with counsel for the purposes of providing an~~  
12 ~~effective examination.~~

13 ~~(b.3) Admissibility of certain statements. An out of court~~  
14 ~~statement not otherwise admissible by statute or rule of~~  
15 ~~evidence is admissible in evidence in a proceeding under this~~  
16 ~~section if the following apply:~~

17 ~~(1) The statement was made by a child under the age of~~  
18 ~~ten years or by a child ten years of age or older who is~~  
19 ~~intellectually disabled.~~

20 ~~(2) The statement alleges, explains, denies or describes~~  
21 ~~any of the following:~~

22 ~~(i) An act of sexual penetration or contact~~  
23 ~~performed with or on the child.~~

24 ~~(ii) An act of sexual penetration or contact with or~~  
25 ~~on another child observed by the child making the~~  
26 ~~statement.~~

27 ~~(iii) An act involving bodily injury or serious~~  
28 ~~physical neglect of the child by another.~~

29 ~~(iv) An act involving bodily injury or serious~~  
30 ~~physical neglect of another child observed by the child~~

1 ~~making the statement.~~

2 ~~(3) The administrative law judge or hearing officer~~  
3 ~~finds that the time, content and circumstances of the~~  
4 ~~statement and the reliability of the person to whom the~~  
5 ~~statement is made provide sufficient indicia of reliability.~~

6 ~~(4) The proponent of the statement notifies other~~  
7 ~~parties of an intent to offer the statement and the~~  
8 ~~particulars of the statement sufficiently in advance of the~~  
9 ~~proceeding at which the proponent intends to offer the~~  
10 ~~statement into evidence, to provide the parties with a fair~~  
11 ~~opportunity to meet the statement.~~

12 ~~For purposes of this subsection, an out of court statement~~  
13 ~~includes a video, audio or other recorded statement.~~

14 (A) GENERAL RULE.--AT ANY TIME: <--

15 (1) THE SECRETARY MAY AMEND OR EXPUNGE ANY RECORD UNDER  
16 THIS CHAPTER UPON GOOD CAUSE SHOWN AND NOTICE TO THE  
17 APPROPRIATE SUBJECTS OF THE REPORT.

18 (2) ANY PERSON NAMED AS A PERPETRATOR, AND ANY SCHOOL  
19 EMPLOYEE NAMED, IN AN INDICATED REPORT OF CHILD ABUSE MAY,  
20 WITHIN [45] 90 DAYS OF BEING NOTIFIED OF THE STATUS OF THE  
21 REPORT, [REQUEST] APPEAL TO THE SECRETARY TO AMEND OR EXPUNGE  
22 AN INDICATED REPORT ON THE GROUNDS THAT IT IS INACCURATE OR  
23 IT IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS  
24 CHAPTER.

25 (3) A PERSON NAMED AS A PERPETRATOR IN A FOUNDED REPORT  
26 OF CHILD ABUSE MAY PETITION A COURT FOR THE AMENDMENT OR  
27 EXPUNCTION OF THE FOUNDED REPORT IN THE STATEWIDE CENTRAL  
28 REGISTER BASED ON NEWLY DISCOVERED EVIDENCE THAT THE REPORT  
29 OF CHILD ABUSE IS INACCURATE OR IS BEING MAINTAINED IN A  
30 MANNER INCONSISTENT WITH THIS CHAPTER. THE FOLLOWING SHALL

1 APPLY:

2 (I) FOR FOUNDED REPORTS THAT ARE NOT BASED ON A  
3 CRIMINAL CONVICTION, THE PETITION SHALL BE FILED WITH THE  
4 COURT THAT DETERMINED THE REPORT TO BE A FOUNDED REPORT.  
5 IF THE COURT DETERMINES THAT THE REPORT OF CHILD ABUSE IS  
6 INACCURATE OR IS BEING MAINTAINED IN A MANNER  
7 INCONSISTENT WITH THIS CHAPTER, THE COURT SHALL ORDER THE  
8 DEPARTMENT TO AMEND OR EXPUNGE THE RECORD IN THE  
9 STATEWIDE CENTRAL REGISTER. THE DEPARTMENT SHALL COMPLY  
10 WITH THE COURT'S ORDER WITHIN 15 DAYS OF THE DATE OF THE  
11 ORDER.

12 (II) THIS PARAGRAPH DOES NOT APPLY TO FOUNDED  
13 REPORTS THAT ARE BASED ON A CRIMINAL CONVICTION.

14 \* \* \*

15 (B.1) GOOD CAUSE.--

16 (1) FOR THE AMENDMENT OR EXPUNCTION OF A REPORT OF CHILD  
17 ABUSE IN THE STATEWIDE CENTRAL REGISTER PURSUANT TO  
18 SUBSECTION (A) (1), GOOD CAUSE SHALL CONSTITUTE ANY OF THE  
19 FOLLOWING:

20 (I) NEWLY DISCOVERED CLEAR AND CONVINCING EVIDENCE  
21 THAT AN INDICATED REPORT OF CHILD ABUSE IS INACCURATE OR  
22 IS BEING MAINTAINED IN A MANNER INCONSISTENT WITH THIS  
23 CHAPTER.

24 (II) A DETERMINATION THAT THE PERPETRATOR IN AN  
25 INDICATED REPORT OF ABUSE NO LONGER REPRESENTS A  
26 SIGNIFICANT RISK TO CHILDREN AND THAT NO SIGNIFICANT  
27 PUBLIC PURPOSE WOULD BE SERVED BY THE CONTINUED LISTING  
28 OF THE PERSON AS A PERPETRATOR IN THE STATEWIDE CENTRAL  
29 REGISTER, IF ALL OF THE FOLLOWING APPLY:

30 (A) THE PERSON DID NOT CAUSE SERIOUS BODILY

1 INJURY TO OR SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

2 (B) AT LEAST FIVE YEARS HAVE PASSED SINCE THE  
3 ENTRY OF THE PERSON'S NAME INTO THE STATEWIDE CENTRAL  
4 REGISTER.

5 (C) THE PERSON IS NOT IDENTIFIED AS THE  
6 PERPETRATOR IN ANY OTHER FOUNDED OR INDICATED REPORT  
7 OF CHILD ABUSE.

8 (D) THE PERSON WOULD NOT BE PROHIBITED FROM  
9 EMPLOYMENT INVOLVING CHILDREN UNDER THIS CHAPTER.

10 (2) A PERSON LISTED AS THE PERPETRATOR IN AN INDICATED  
11 REPORT OF CHILD ABUSE MAY MAKE A WRITTEN REQUEST THAT THE  
12 SECRETARY AMEND OR EXPUNGE A REPORT OF CHILD ABUSE IN THE  
13 STATEWIDE CENTRAL REGISTER FOR GOOD CAUSE, AS PROVIDED IN  
14 THIS SUBSECTION. THE REQUEST SHALL BE IN A FORM ACCEPTABLE TO  
15 THE DEPARTMENT.

16 (3) WITHIN 90 DAYS OF THE RECEIPT OF A REQUEST UNDER  
17 PARAGRAPH (2), THE SECRETARY SHALL DETERMINE WHETHER GOOD  
18 CAUSE EXISTS TO AMEND OR EXPUNGE THE RECORD IN THE STATEWIDE  
19 CENTRAL REGISTER. THE SECRETARY MAY CONSIDER ANY RELEVANT  
20 FACTOR WHEN DETERMINING WHETHER GOOD CAUSE EXISTS TO AMEND OR  
21 EXPUNGE THE RECORD. IF THE SECRETARY DETERMINES THAT GOOD  
22 CAUSE EXISTS, THE DEPARTMENT SHALL AMEND OR EXPUNGE THE  
23 RECORD WITHIN 15 DAYS OF THE SECRETARY'S DETERMINATION. THE  
24 DEPARTMENT SHALL NOTIFY THE PERSON IN WRITING WITHIN TEN DAYS  
25 OF THE SECRETARY'S DETERMINATION. THE NOTICE SHALL INCLUDE  
26 ALL OF THE FOLLOWING INFORMATION:

27 (I) WHETHER OR NOT THE RECORD IN THE STATEWIDE  
28 CENTRAL REGISTER WILL BE AMENDED OR EXPUNGED PURSUANT TO  
29 THE PERSON'S REQUEST.

30 (II) THE DATE OF THE DETERMINATION.

1           (III) THE REASONS FOR THE DETERMINATION.

2           (IV) THE PERSON'S RIGHT TO APPEAL THE DETERMINATION  
3 TO A COURT WITHIN 30 DAYS, AS PROVIDED BY PARAGRAPH (4).

4           (4) IF THE SECRETARY DETERMINES THAT GOOD CAUSE DOES NOT  
5 EXIST TO AMEND OR EXPUNGE A RECORD PURSUANT TO A REQUEST  
6 UNDER PARAGRAPH (2), THE PERSON MAKING THE REQUEST MAY APPEAL  
7 THE DETERMINATION TO THE COURT OF COMMON PLEAS IN THE COUNTY  
8 WHERE THE CHILD ABUSE OCCURRED WITHIN 30 DAYS OF THE DATE OF  
9 NOTICE. THE DEPARTMENT SHALL BE GIVEN NOTICE OF AN APPEAL  
10 UNDER THIS PARAGRAPH, AND MAY PARTICIPATE IN ANY COURT  
11 PROCEEDING RELATED TO THE APPEAL. IF THE COURT DETERMINES  
12 THAT GOOD CAUSE EXISTS TO AMEND OR EXPUNGE THE RECORD, THE  
13 COURT SHALL ORDER THE DEPARTMENT TO AMEND OR EXPUNGE THE  
14 RECORD IN THE STATEWIDE CENTRAL REGISTER. THE DEPARTMENT  
15 SHALL COMPLY WITH THE COURT'S ORDER WITHIN 15 DAYS OF THE  
16 DATE OF THE ORDER.

17           (B.2) HEARING.--A PERSON MAKING AN APPEAL UNDER SUBSECTION  
18 (A) (2) SHALL HAVE THE RIGHT TO A TIMELY HEARING TO DETERMINE THE  
19 MERITS OF THE APPEAL. A HEARING ON THE APPEAL OF A PERSON NAMED  
20 AS A PERPETRATOR AUTHORIZED UNDER SUBSECTION (A) (2) SHALL BE  
21 SCHEDULED ACCORDING TO THE FOLLOWING PROCEDURES:

22           (1) WITHIN 30 DAYS OF RECEIPT OF AN APPEAL PURSUANT TO  
23 THIS SECTION, THE DEPARTMENT SHALL SCHEDULE A HEARING ON THE  
24 MERITS OF THE APPEAL.

25           (2) THE DEPARTMENT SHALL MAKE REASONABLE EFFORTS TO  
26 COORDINATE THE HEARING DATE WITH BOTH THE APPELLEE AND  
27 APPELLANT.

28           (3) AFTER REASONABLE EFFORTS REQUIRED BY PARAGRAPH (2)  
29 HAVE BEEN MADE, THE DEPARTMENT SHALL ENTER A SCHEDULING  
30 ORDER, AND PROCEEDINGS BEFORE THE BUREAU OF HEARINGS AND



1 APPEALS SHALL COMMENCE WITHIN 45 DAYS OF THE DATE THE  
2 SCHEDULING ORDER IS ENTERED, UNLESS GOOD CAUSE FOR EXTENDING  
3 THIS DEADLINE CAN BE SHOWN. IN NO CIRCUMSTANCE MAY  
4 PROCEEDINGS COMMENCE MORE THAN 90 DAYS AFTER A SCHEDULING  
5 ORDER IS ENTERED. PROCEEDINGS AND HEARINGS SHALL BE SCHEDULED  
6 TO BE HEARD ON CONSECUTIVE DAYS WHENEVER POSSIBLE BUT, IF NOT  
7 ON CONSECUTIVE DAYS, THEN THE PROCEEDING OR HEARING SHALL BE  
8 CONCLUDED NOT LATER THAN 30 DAYS FROM COMMENCEMENT.

9 (4) THE INVESTIGATIVE AGENCY SHALL BEAR THE BURDEN OF  
10 PROVING BY CLEAR AND CONVINCING EVIDENCE THAT THE REPORT  
11 SHOULD REMAIN CATEGORIZED AS AN INDICATED REPORT.

12 ~~(b.4)~~ (B.3) Prompt decision.--The administrative law judge <--  
13 or hearing officer's decision IN A HEARING UNDER SUBSECTION <--  
14 (B.2) shall be entered, filed and served upon the parties within  
15 45 45 days of the date upon which the proceeding or hearing is <--  
16 concluded unless, within that time, the tribunal extends the  
17 date for the decision by order entered of record showing good  
18 cause for the extension. In no event shall an extension delay  
19 the entry of the decision more than 30 60 days after the <--  
20 conclusion of the proceeding or hearing.

21 (c) [Review of refusal of request.--If the secretary refuses  
22 the request under subsection (a) (2) or does not act within a  
23 reasonable time, but in no event later than 30 days after  
24 receipt of the request, the perpetrator or school employee shall  
25 have the right to a hearing before the secretary or a designated  
26 agent of the secretary to determine whether the summary of the  
27 indicated report in the Statewide central register should be  
28 amended or expunged on the grounds that it is inaccurate or that  
29 it is being maintained in a manner inconsistent with this  
30 chapter. The perpetrator or school employee shall have 45 days

1 from the date of the letter giving notice of the decision to  
2 deny the request in which to request a hearing. The appropriate  
3 county agency and appropriate law enforcement officials shall be  
4 given notice of the hearing. The burden of proof in the hearing  
5 shall be on the appropriate county agency. The department shall  
6 assist the county agency as necessary.] Reconsideration and  
7 appeal.--Parties to a proceeding or hearing held under this <--  
8 section SUBSECTION (B.2) have 15 calendar days from the mailing <--  
9 date of the final order of the Bureau of Hearings and Appeals to  
10 request the secretary to reconsider the decision or appeal to  
11 Commonwealth Court. Parties to a proceeding or hearing held  
12 under this section have 30 calendar days from the mailing date  
13 of the final order of the Bureau of Hearings and Appeals to  
14 perfect an appeal to the Commonwealth Court. The filing for  
15 reconsideration shall not toll the 30 days provided.

16 (c.1) Notice of decision.--Notice of the decision shall be  
17 made to the central register, the appropriate county agency, any  
18 appropriate law enforcement officials and all subjects of the  
19 report.

20 \* \* \*

21 Section 3. Section 6368 of Title 23 is amended by adding <--  
22 subsections to read:

23 § 6368. Investigation of reports.

24 (A) GENERAL RULE.--UPON RECEIPT OF EACH REPORT OF SUSPECTED <--  
25 CHILD ABUSE, THE COUNTY AGENCY SHALL IMMEDIATELY COMMENCE AN  
26 APPROPRIATE INVESTIGATION AND SEE THE CHILD IMMEDIATELY IF  
27 EMERGENCY PROTECTIVE CUSTODY IS REQUIRED OR HAS BEEN OR SHALL BE  
28 TAKEN OR IF IT CANNOT BE DETERMINED FROM THE REPORT WHETHER  
29 EMERGENCY PROTECTIVE CUSTODY IS NEEDED. OTHERWISE, THE COUNTY  
30 AGENCY SHALL COMMENCE AN APPROPRIATE INVESTIGATION AND SEE THE

1 CHILD WITHIN 24 HOURS OF RECEIPT OF THE REPORT. THE  
2 INVESTIGATION SHALL INCLUDE A DETERMINATION OF THE RISK OF HARM  
3 TO THE CHILD OR CHILDREN IF THEY CONTINUE TO REMAIN IN THE  
4 EXISTING HOME ENVIRONMENT, AS WELL AS A DETERMINATION OF THE  
5 NATURE, EXTENT AND CAUSE OF ANY CONDITION ENUMERATED IN THE  
6 REPORT, ANY ACTION NECESSARY TO PROVIDE FOR THE SAFETY OF THE  
7 CHILD OR CHILDREN AND THE TAKING OF PHOTOGRAPHIC IDENTIFICATION  
8 OF THE CHILD OR CHILDREN TO BE MAINTAINED WITH THE FILE. DURING  
9 THE INVESTIGATION, THE COUNTY AGENCY SHALL PROVIDE OR ARRANGE  
10 FOR SERVICES NECESSARY TO PROTECT THE CHILD WHILE THE AGENCY IS  
11 MAKING A DETERMINATION PURSUANT TO THIS SECTION. IF THE  
12 INVESTIGATION INDICATES SERIOUS PHYSICAL INJURY, A MEDICAL  
13 EXAMINATION SHALL BE PERFORMED ON THE SUBJECT CHILD BY A  
14 CERTIFIED MEDICAL PRACTITIONER. WHERE THERE IS REASONABLE CAUSE  
15 TO SUSPECT THERE IS A HISTORY OF PRIOR OR CURRENT ABUSE, THE  
16 MEDICAL PRACTITIONER HAS THE AUTHORITY TO ARRANGE FOR FURTHER  
17 MEDICAL TESTS OR THE COUNTY AGENCY HAS THE AUTHORITY TO REQUEST  
18 FURTHER MEDICAL TESTS. THE INVESTIGATION SHALL INCLUDE  
19 COMMUNICATION WITH THE DEPARTMENT'S SERVICE UNDER SECTION 6332  
20 (RELATING TO ESTABLISHMENT OF STATEWIDE TOLL-FREE TELEPHONE  
21 NUMBER). THE INVESTIGATION SHALL INCLUDE INTERVIEWS WITH ALL  
22 SUBJECTS OF THE REPORT, INCLUDING THE ALLEGED PERPETRATOR. IF A  
23 SUBJECT OF THE REPORT IS NOT ABLE TO BE INTERVIEWED OR CANNOT BE  
24 LOCATED, THE COUNTY AGENCY SHALL DOCUMENT ITS REASONABLE EFFORTS  
25 TO INTERVIEW THE SUBJECT AND THE REASONS FOR ITS INABILITY TO  
26 INTERVIEW THE SUBJECT. PRIOR TO INTERVIEWING A SUBJECT OF THE  
27 REPORT, THE COUNTY AGENCY SHALL ORALLY NOTIFY THE SUBJECT WHO IS  
28 ABOUT TO BE INTERVIEWED OF THE EXISTENCE OF THE REPORT, THE  
29 SUBJECT'S RIGHTS UNDER 42 PA.C.S. §§ 6337 (RELATING TO RIGHT TO  
30 COUNSEL) AND 6338 (RELATING TO OTHER BASIC RIGHTS) AND THE

1 SUBJECT'S RIGHTS PURSUANT TO THIS CHAPTER IN REGARD TO AMENDMENT  
2 OR EXPUNGEMENT. WITHIN 72 HOURS FOLLOWING ORAL NOTIFICATION TO  
3 THE SUBJECT, THE COUNTY AGENCY SHALL GIVE WRITTEN NOTICE TO THE  
4 SUBJECT. THE NOTICE AND INTERVIEW MAY BE REASONABLY DELAYED IF  
5 NOTIFICATION IS LIKELY TO THREATEN THE SAFETY OF THE VICTIM, A  
6 NONPERPETRATOR SUBJECT OR THE INVESTIGATING COUNTY AGENCY  
7 WORKER, TO CAUSE THE PERPETRATOR TO ABSCOND OR TO SIGNIFICANTLY  
8 INTERFERE WITH THE CONDUCT OF A CRIMINAL INVESTIGATION. HOWEVER,  
9 THE WRITTEN NOTICE MUST BE PROVIDED TO ALL SUBJECTS PRIOR TO THE  
10 COUNTY AGENCY'S REACHING A FINDING ON THE VALIDITY OF THE  
11 REPORT.

12 \* \* \*

13 (c.1) Review of indicated reports.--A final determination  
14 that a report of suspected child abuse is indicated shall be  
15 made by the county agency solicitor and the county administrator  
16 or the designee of the administrator.

17 (c.2) Notice of final determination.--IMMEDIATELY UPON <--  
18 CONCLUSION OF THE CHILD ABUSE INVESTIGATION, THE COUNTY AGENCY  
19 SHALL PROVIDE NOTICE OF ITS DETERMINATION TO THE DEPARTMENT, IN  
20 A FORM ACCEPTABLE TO THE DEPARTMENT. Within 24 business hours of  
21 the conclusion of the child abuse investigation, the <--  
22 investigator RECEIPT OF NOTICE FROM THE COUNTY AGENCY, THE <--  
23 DEPARTMENT shall send notice of the final determination to the  
24 subjects of the report and the mandated reporter if a report was  
25 made under section 6313 (relating to reporting procedure). The  
26 notice shall include the following information:

27 (1) The status of the report.

28 (2) The perpetrator's right to request the secretary to  
29 amend OR EXPUNGE the report. <--

30 (3) The right of the subjects of the report to services

1 from the county agency.

2 (4) The effect of the report upon future employment  
3 opportunities involving children.

4 (5) The fact that the name of the perpetrator, the  
5 nature of the abuse and the final status of the A FOUNDED OR <--  
6 INDICATED report will be entered in the Statewide central  
7 register.

8 (6) The perpetrator's right to file an appeal of an  
9 indicated finding of abuse pursuant to section 6341 (relating  
10 to amendment or expunction of information) within 45 90 days <--  
11 of the conclusion of the investigation that determined the <--  
12 report to be indicated DATE OF NOTICE. <--

13 (7) The perpetrator's right to a fair hearing on the  
14 merits on an appeal of an indicated report filed pursuant to  
15 section 6341.

16 (8) The burden on the investigative agency to prove its  
17 case by ~~substantial~~ CLEAR AND CONVINCING evidence in an <--  
18 appeal of an indicated report.

19 ~~(c.3) Reasonable efforts to provide notice. If the~~ <--  
20 ~~investigative agency is unable to provide notice as required in~~  
21 ~~subsection (c.2), it shall notify the department in writing of~~  
22 ~~the efforts made. If the department concludes that due diligence~~  
23 ~~was made to provide notice, no further efforts to provide notice~~  
24 ~~shall be required.~~

25 (C.3) REASONABLE EFFORTS TO PROVIDE NOTICE.--IF THE <--  
26 DEPARTMENT HAS MAILED THE NOTICE REQUIRED BY SUBSECTION (C.2),  
27 BUT THE NOTICE IS RETURNED AS UNDELIVERABLE, THE DEPARTMENT  
28 SHALL MAKE REASONABLE EFFORTS TO PROVIDE NOTICE AND DOCUMENT THE  
29 REASONS FOR ITS INABILITY TO PROVIDE NOTICE. IF THE DEPARTMENT  
30 IS UNABLE TO PROVIDE NOTICE WITH RESPECT TO AN INDICATED REPORT,

1 THE ENTRY IN THE STATEWIDE CENTRAL REGISTER SHALL INCLUDE  
2 INFORMATION THAT THE DEPARTMENT WAS UNABLE TO PROVIDE NOTICE.  
3 NO FURTHER EFFORTS TO PROVIDE NOTICE SHALL BE REQUIRED, EXCEPT  
4 THAT THE DEPARTMENT SHALL RESUME REASONABLE EFFORTS TO PROVIDE  
5 NOTICE IF NEW INFORMATION IS RECEIVED REGARDING THE WHEREABOUTS  
6 OF AN INDIVIDUAL WHO IS ENTITLED TO RECEIVE NOTICE UNDER  
7 SUBSECTION (C.2).

8 \* \* \*

9 SECTION 3. SECTION 6381 OF TITLE 23 IS AMENDED BY ADDING A <--  
10 SUBSECTION TO READ:

11 § 6381. EVIDENCE IN COURT PROCEEDINGS.

12 \* \* \*

13 (E) CHILD VICTIMS AND WITNESSES.--IN ADDITION TO THE  
14 PROVISIONS OF THIS SECTION, ANY CONSIDERATION AFFORDED TO A  
15 CHILD VICTIM OR WITNESS PURSUANT TO 42 PA.C.S. CH. 59, SUBCH. D  
16 (RELATING TO CHILD VICTIMS AND WITNESSES) IN ANY PROSECUTION OR  
17 ADJUDICATION SHALL BE AFFORDED TO A CHILD IN CHILD ABUSE  
18 PROCEEDINGS IN COURT OR IN ANY DEPARTMENT ADMINISTRATIVE HEARING  
19 PURSUANT TO SECTION 6341 (RELATING TO AMENDMENT OR EXPUNCTION OF  
20 INFORMATION).

21 Section 4. This act shall take effect in ~~60~~ 120 days. <--