
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 726 Session of
2013

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MARSICO, MILLARD, MURT, O'NEILL, ROZZI, SANTARSIERO AND
SAYLOR, FEBRUARY 14, 2013

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 14, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions and for investigation of reports;
4 and providing for factors to consider when investigating
5 child abuse.

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

8 Section 1. The definitions of "child," "nonaccidental,"
9 "recent acts or omissions," "serious physical injury" and
10 "sexual abuse or exploitation" in section 6303(a) of Title 23 of
11 the Pennsylvania Consolidated Statutes are amended, subsection
12 (a) is amended by adding definitions and subsection (b) is
13 amended to read:

14 § 6303. Definitions.

15 (a) General rule.--The following words and phrases when used
16 in this chapter shall have the meanings given to them in this
17 section unless the context clearly indicates otherwise:

18 * * *

1 "Bodily injury." Impairment of physical condition or
2 substantial pain.

3 "Child." [Includes] An individual under 18 years of age. The
4 term includes a newborn.

5 * * *

6 "Nonaccidental." [An injury that is the result of an
7 intentional act that is committed with disregard of a
8 substantial and unjustifiable risk] Conduct that is knowing or
9 intentional or is committed with conscious disregard of a
10 substantial and unjustifiable risk.

11 * * *

12 "Recent [acts or omissions." Acts or omissions] act or
13 failure to act." Any act or failure to act committed within two
14 years of the date of the report to the Department of Public
15 Welfare or county agency.

16 * * *

17 ["Serious physical injury." An injury that:

- 18 (1) causes a child severe pain; or
19 (2) significantly impairs a child's physical
20 functioning, either temporarily or permanently.]

21 "Serious physical neglect." Any of the following when
22 committed by a perpetrator that endangers a child's life or
23 health, threatens a child's well-being, causes bodily injury or
24 impairs a child's health, development or functioning:

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

28 (2) The failure to provide a child with adequate
29 essentials of life, including food, shelter or medical care.

30 ["Sexual abuse or exploitation." Any of the following:

1 (1) The employment, use, persuasion, inducement,
2 enticement or coercion of a child to engage in or assist
3 another individual to engage in sexually explicit conduct.

4 (2) The employment, use, persuasion, inducement,
5 enticement or coercion of a child to engage in or assist
6 another individual to engage in simulation of sexually
7 explicit conduct for the purpose of producing visual
8 depiction, including photographing, videotaping, computer
9 depicting and filming.

10 (3) Any of the following offenses committed against a
11 child:

12 (i) Rape.

13 (ii) Sexual assault.

14 (iii) Involuntary deviate sexual intercourse.

15 (iv) Aggravated indecent assault.

16 (v) Molestation.

17 (vi) Incest.

18 (vii) Indecent exposure.

19 (viii) Prostitution.

20 (ix) Sexual abuse.

21 (x) Sexual exploitation.]

22 "Sexual abuse or exploitation." Any of the following:

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

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

30 (ii) Participating in sexually explicit conversation

1 either in person, by telephone, by computer or by a
2 computer-aided device.

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

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

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

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

15 (i) Rape, as defined in 18 Pa.C.S. § 3121 (relating
16 to rape).

17 (ii) Statutory sexual assault, as defined in
18 18 Pa.C.S. § 3122.1 (relating to statutory sexual
19 assault).

20 (iii) Involuntary deviate sexual intercourse, as
21 defined in 18 Pa.C.S. § 3123 (relating to involuntary
22 deviate sexual intercourse).

23 (iv) Sexual assault, as defined in
24 18 Pa.C.S. § 3124.1 (relating to sexual assault).

25 (v) Institutional sexual assault, as defined in
26 18 Pa.C.S. § 3124.2 (relating to institutional sexual
27 assault).

28 (vi) Aggravated indecent assault, as defined in
29 18 Pa.C.S. § 3125 (relating to aggravated indecent
30 assault).

1 (vii) Indecent assault, as defined in
2 18 Pa.C.S. § 3126 (relating to indecent assault).

3 (viii) Indecent exposure, as defined in
4 18 Pa.C.S. § 3127 (relating to indecent exposure).

5 (ix) Incest, as defined in 18 Pa.C.S. § 4302
6 (relating to incest).

7 (x) Prostitution, as defined in 18 Pa.C.S. § 5902
8 (relating to prostitution and related offenses).

9 (xi) Sexual abuse, as defined in 18 Pa.C.S. § 6312
10 (relating to sexual abuse of children).

11 (xii) Unlawful contact with a minor, as defined in
12 18 Pa.C.S. § 6318 (relating to unlawful contact with
13 minor).

14 (xiii) Sexual exploitation, as defined in
15 18 Pa.C.S. § 6320 (relating to sexual exploitation of
16 children).

17 * * *

18 (b) Child abuse.--

19 (1) The term "child abuse" shall mean any of the
20 following:

21 (i) Any recent act or failure to act by a
22 perpetrator which causes nonaccidental [serious physical
23 injury] bodily injury to a child [under 18 years of age].

24 (ii) An act or failure to act, or a series of such
25 acts or failures to act, by a perpetrator which causes,
26 or substantially contributes to, nonaccidental serious
27 mental injury to [or] a child.

28 (iii) An act or failure to act by a perpetrator
29 which causes sexual abuse or sexual exploitation of a
30 child [under 18 years of age].

1 [(iii)] (iv) Any recent act, failure to act or
2 series of such acts or failures to act by a perpetrator
3 which creates [an imminent] a substantial and
4 unjustifiable risk of [serious physical injury] bodily
5 injury to or sexual abuse or sexual exploitation of a
6 child [under 18 years of age].

7 [(iv)] (v) Serious physical neglect by a perpetrator
8 [constituting prolonged or repeated lack of supervision
9 or the failure to provide essentials of life, including
10 adequate medical care, which endangers a child's life or
11 development or impairs the child's functioning].

12 (2) [No child shall be deemed to be physically or
13 mentally abused based on injuries that result solely from
14 environmental factors that are beyond the control of the
15 parent or person responsible for the child's welfare, such as
16 inadequate housing, furnishings, income, clothing and medical
17 care.

18 (3) If, upon investigation, the county agency determines
19 that a child has not been provided needed medical or surgical
20 care because of seriously held religious beliefs of the
21 child's parents, guardian or person responsible for the
22 child's welfare, which beliefs are consistent with those of a
23 bona fide religion, the child shall not be deemed to be
24 physically or mentally abused. The county agency shall
25 closely monitor the child and shall seek court-ordered
26 medical intervention when the lack of medical or surgical
27 care threatens the child's life or long-term health. In cases
28 involving religious circumstances, all correspondence with a
29 subject of the report and the records of the Department of
30 Public Welfare and the county agency shall not reference

1 "child abuse" and shall acknowledge the religious basis for
2 the child's condition, and the family shall be referred for
3 general protective services, if appropriate.] The term "child
4 abuse" does not include any of the following:

5 (i) Physical or mental injuries that result solely
6 from environmental factors that are beyond the control of
7 the parent or person responsible for the child's welfare,
8 such as inadequate housing, furnishings, income, clothing
9 and medical care.

10 (ii) A refusal to provide needed medical,
11 psychological or surgical care that is the result of
12 seriously held religious beliefs, consistent with those
13 of a bona fide religion, by the child's parents, guardian
14 or person responsible for the child's welfare.

15 (iii) The use of force by a parent or guardian or
16 other person similarly responsible for the general care
17 and supervision of a child or a person acting at the
18 request of the parent, guardian or their responsible
19 person, if all of the following apply:

20 (A) the force is used for the purpose of
21 safeguarding or promoting the welfare of the child,
22 including the prevention or punishment of the child's
23 misconduct;

24 (B) the force used is not designed to cause or
25 known to create a substantial risk of causing death,
26 serious bodily injury, disfigurement, extreme pain or
27 mental distress or gross degradation; and

28 (C) the use of force is reasonable considering
29 the circumstances, the physical and mental maturity
30 of the child and the physical and mental condition of

1 the child.

2 Section 2. Section 6368 of Title 23 is amended by adding a
3 subsection to read:

4 § 6368. Investigation of reports.

5 * * *

6 (e) If, upon investigation, the county agency determines
7 that a child has not been provided needed medical, psychological
8 or surgical care because of seriously held religious beliefs of
9 the child's parents, guardian or person responsible for the
10 child's welfare, which beliefs are consistent with those of a
11 bona fide religion, the county agency shall closely monitor the
12 child and shall seek court-ordered medical intervention when the
13 lack of medical or surgical care threatens the child's life or
14 long-term health. In cases involving religious circumstances,
15 all correspondence with a subject of the report and the records
16 of the department and the county agency shall not reference
17 "child abuse" and shall acknowledge the religious basis for the
18 child's condition, and the family shall be referred for general
19 protective services, if appropriate.

20 Section 3. Title 23 is amended by adding a section to read:
21 § 6368.1. Factors to consider when investigating child abuse.

22 (a) Investigation of suspected physical abuse.--When
23 investigating suspected physical abuse, the county agency shall
24 consider all relevant factors, including the following:

25 (1) Whether bodily injury occurred, based on an obvious
26 bodily injury or a substantial likelihood that the child's
27 injury caused substantial pain or impairment of physical
28 condition during or after the time of injury, considering the
29 age, size, physical and mental condition of the child.

30 (2) Whether the injury was nonaccidental.

1 (3) Whether the injury was caused by the alleged
2 perpetrator's act or failure to act.

3 (4) Whether the injury was caused by justifiable force
4 that does not constitute child abuse under this chapter.

5 (b) Investigation of suspected sexual abuse or
6 exploitation.--When investigating suspected sexual abuse or
7 exploitation, the county agency shall consider all relevant
8 factors, including whether the alleged perpetrator's act or
9 failure to act caused sexual abuse or exploitation of the child.

10 (c) Investigation of suspected emotional abuse.--When
11 investigating suspected emotional abuse, the county agency shall
12 consider all relevant factors, including the following:

13 (1) Whether serious mental injury occurred to the child.

14 (2) Whether the serious mental injury was nonaccidental.

15 (3) Whether the alleged perpetrator caused or
16 substantially contributed to the serious mental injury.

17 (d) Investigation of creation of risk.--When investigating
18 whether suspected child abuse occurred by creating risk, the
19 county agency shall consider all relevant factors, including the
20 following:

21 (1) Whether the alleged perpetrator's actions created
22 foreseeable danger of bodily injury to or sexual abuse or
23 exploitation of the child.

24 (2) Whether the alleged perpetrator created a
25 substantial and unjustifiable risk of bodily injury to or
26 sexual abuse or exploitation of the child.

27 (3) Whether the perpetrator's actions served any
28 legitimate purpose.

29 (e) Investigation of suspected serious physical neglect.--
30 When investigating suspected serious physical neglect, the

1 county agency shall consider all relevant factors, including the
2 following:

3 (1) Whether the alleged perpetrator was responsible for
4 providing the supervision of the child or the essentials of
5 life that was not provided to the child.

6 (2) Whether the alleged perpetrator knew or should have
7 known that the child was in need of adequate essentials of
8 life or age-appropriate supervision.

9 (3) Whether the child's life or health was endangered,
10 the child's well-being was threatened, bodily injury was
11 caused to the child, or the child's health, development or
12 functioning was impaired.

13 (4) Whether a failure to supervise the child was
14 repeated, prolonged or egregious given the physical and
15 mental maturity of the child and the physical and mental
16 condition of the child.

17 (5) Whether the child lacked adequate food, shelter or
18 timely medical care.

19 Section 4. This act shall take effect in 60 days.