

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 20 Session of 2013

INTRODUCED BY WASHINGTON, WARD, MENSCH, TEPLITZ, ERICKSON, BREWSTER, FONTANA, BAKER, RAFFERTY, YUDICHAK, KASUNIC, TARTAGLIONE, WILLIAMS, SMITH, FARNESE, WAUGH, BROWNE, SOLOBAY, PILEGGI, BOSCOLA, HUGHES, COSTA AND SCHWANK, MARCH 15, 2013

SENATOR MENSCH, AGING AND YOUTH, AS AMENDED, SEPTEMBER 24, 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 providing for exclusions from~~
4 ~~child abuse.~~

5 AMENDING TITLE 23 (DOMESTIC RELATIONS) OF THE PENNSYLVANIA <--
6 CONSOLIDATED STATUTES, IN CHILD PROTECTIVE SERVICES, FURTHER
7 PROVIDING FOR DEFINITIONS; AND MAKING EDITORIAL CHANGES.

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

10 ~~Section 1. Section 6303(a) heading and (b) of Title 23 of~~ <--
11 ~~the Pennsylvania Consolidated Statutes are amended and~~
12 ~~subsection (a) is amended by adding a definition to read:~~

13 ~~§ 6303. Definitions.~~

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

17 * * *

18 ~~"Child abuse." Except as otherwise provided in section 6304~~
19 ~~(relating to exclusions from child abuse), any of the following~~

1 ~~with respect to a child:~~

2 ~~(1) Recklessly or intentionally acting against a child~~
3 ~~with either of the following outcomes which occurred within~~
4 ~~two years of the date of the report to the department or~~
5 ~~county agency:~~

6 ~~(i) Causing bodily injury or serious bodily injury~~
7 ~~to a child.~~

8 ~~(ii) Creating a reasonable likelihood of bodily~~
9 ~~injury or serious bodily injury to a child. The actions~~
10 ~~may include the fabrication, feigning or intentionally~~
11 ~~exaggerating or inducing a medical symptom or disease~~
12 ~~which results in a potentially harmful medical evaluation~~
13 ~~or treatment to the child.~~

14 ~~(2) Recklessly or intentionally engaging in any of the~~
15 ~~following conduct that has occurred within two years of the~~
16 ~~date of the report to the department or county agency:~~

17 ~~(i) Kicking, burning, biting, stabbing, cutting or~~
18 ~~throwing a child in a manner that may endanger the child.~~

19 ~~(ii) Unreasonably confining or restraining a child,~~
20 ~~based upon the method, location or the duration of the~~
21 ~~confinement or restraint.~~

22 ~~(iii) Forcefully shaking a child if the child is~~
23 ~~under one year of age.~~

24 ~~(iv) Forcefully slapping a child if the child is~~
25 ~~under one year of age.~~

26 ~~(v) Interfering with the breathing of a child.~~

27 ~~(vi) Causing the child to be present at a location~~
28 ~~where any of the following is occurring:~~

29 ~~(A) A violation of 18 Pa.C.S. § 7508.2 (relating~~
30 ~~to operation of methamphetamine laboratory).~~

1 ~~(B) A felony violation of the act of April 14,~~
2 ~~1972 (P.L.233, No.64), known as The Controlled~~
3 ~~Substance, Drug, Device and Cosmetic Act.~~

4 ~~(vii) Operating a vehicle in which the child is a~~
5 ~~passenger while a violation of 75 Pa.C.S. § 3802~~
6 ~~(relating to driving under influence of alcohol or~~
7 ~~controlled substance) is occurring.~~

8 ~~(viii) Leaving a child alone with an individual who~~
9 ~~is 14 years of age or older and subject to registration~~
10 ~~under 42 Pa.C.S. Ch. 97 Subch. H (relating to~~
11 ~~registration of sexual offenders).~~

12 ~~(3) Causing or significantly contributing, by an act or~~
13 ~~series of acts, to the serious mental injury to a child.~~

14 ~~(4) Recklessly or intentionally acting to cause the~~
15 ~~sexual abuse or exploitation of a child.~~

16 ~~(5) Causing serious physical neglect of a child.~~

17 ~~(6) Attempting to engage in any conduct under paragraph~~
18 ~~(1), (2), (3) or (4).~~

19 ~~(7) Failing to act which:~~

20 ~~(i) has occurred within two years of the date of the~~
21 ~~report to the department or county agency; and~~

22 ~~(ii) does any of the following:~~

23 ~~(A) Causes bodily injury or creates a reasonable~~
24 ~~likelihood of bodily injury to a child.~~

25 ~~(B) Recklessly or intentionally engages in~~
26 ~~conduct under paragraph (2).~~

27 ~~(8) Causing harm or injury as set forth in paragraph (3)~~
28 ~~or (4) by failing to act.~~

29 ~~(9) Recklessly or intentionally performing an act which~~
30 ~~results in the death of a child.~~

1 ~~***~~

2 ~~[(b) Child abuse.]~~

3 ~~(1) The term "child abuse" shall mean any of the~~
4 ~~following:~~

5 ~~(i) Any recent act or failure to act by a~~
6 ~~perpetrator which causes nonaccidental serious physical~~
7 ~~injury to a child under 18 years of age.~~

8 ~~(ii) An act or failure to act by a perpetrator which~~
9 ~~causes nonaccidental serious mental injury to or sexual~~
10 ~~abuse or sexual exploitation of a child under 18 years of~~
11 ~~age.~~

12 ~~(iii) Any recent act, failure to act or series of~~
13 ~~such acts or failures to act by a perpetrator which~~
14 ~~creates an imminent risk of serious physical injury to or~~
15 ~~sexual abuse or sexual exploitation of a child under 18~~
16 ~~years of age.~~

17 ~~(iv) Serious physical neglect by a perpetrator~~
18 ~~constituting prolonged or repeated lack of supervision or~~
19 ~~the failure to provide essentials of life, including~~
20 ~~adequate medical care, which endangers a child's life or~~
21 ~~development or impairs the child's functioning.~~

22 ~~(2) No child shall be deemed to be physically or~~
23 ~~mentally abused based on injuries that result solely from~~
24 ~~environmental factors that are beyond the control of the~~
25 ~~parent or person responsible for the child's welfare, such as~~
26 ~~inadequate housing, furnishings, income, clothing and medical~~
27 ~~care.~~

28 ~~(3) If, upon investigation, the county agency determines~~
29 ~~that a child has not been provided needed medical or surgical~~
30 ~~care because of seriously held religious beliefs of the~~

1 ~~child's parents, guardian or person responsible for the~~
2 ~~child's welfare, which beliefs are consistent with those of a~~
3 ~~bona fide religion, the child shall not be deemed to be~~
4 ~~physically or mentally abused. The county agency shall~~
5 ~~closely monitor the child and shall seek court ordered~~
6 ~~medical intervention when the lack of medical or surgical~~
7 ~~care threatens the child's life or long term health. In cases~~
8 ~~involving religious circumstances, all correspondence with a~~
9 ~~subject of the report and the records of the Department of~~
10 ~~Public Welfare and the county agency shall not reference~~
11 ~~"child abuse" and shall acknowledge the religious basis for~~
12 ~~the child's condition, and the family shall be referred for~~
13 ~~general protective services, if appropriate.]~~

14 Section 2. Title 23 is amended by adding a section to read:

15 ~~§ 6304. Exclusions from child abuse.~~

16 ~~(a) Environmental factors. No child shall be deemed to be~~
17 ~~physically or mentally abused based on injuries that result~~
18 ~~solely from environmental factors that are beyond the control of~~
19 ~~the parent or person responsible for the child's welfare, such~~
20 ~~as inadequate housing, furnishings, income, clothing and medical~~
21 ~~care.~~

22 ~~(b) Practice of religious beliefs. If, upon investigation,~~
23 ~~the county agency determines that a child has not been provided~~
24 ~~needed medical or surgical care because of seriously held~~
25 ~~religious beliefs of the child's parents, guardian or person~~
26 ~~responsible for the child's welfare, which beliefs are~~
27 ~~consistent with those of a bona fide religion, the child shall~~
28 ~~not be deemed to be physically or mentally abused. The county~~
29 ~~agency shall closely monitor the child and shall seek court~~
30 ~~ordered medical intervention when the lack of medical or~~

~~1 surgical care threatens the child's life or long term health. In
2 cases involving religious circumstances, all correspondence with
3 a subject of the report and the records of the Department of
4 Public Welfare and the county agency shall not reference "child
5 abuse" and shall acknowledge the religious basis for the child's
6 condition, and the family shall be referred for general
7 protective services, if appropriate.~~

~~8 (c) Use of force for disciplinary purposes. Subject to
9 subsection (d), the use of reasonable force under the
10 circumstances against a child by a person responsible for a
11 child's welfare shall not be considered child abuse if any of
12 the following conditions apply:~~

~~13 (1) The use of reasonable force constitutes incidental,
14 minor or reasonable physical contact with the child or other
15 actions that are designed to maintain order and control.~~

~~16 (2) The use of reasonable force is necessary:~~

~~17 (i) to quell a disturbance or remove the child from
18 the scene of a disturbance that threatens physical injury
19 to persons or damage to property;~~

~~20 (ii) to prevent the child from self inflicted
21 physical harm;~~

~~22 (iii) for self defense or the defense of another
23 individual; or~~

~~24 (iv) to obtain possession of weapons or other
25 dangerous objects or controlled substances or
26 paraphernalia that are on the child or within the control
27 of the child.~~

~~28 (d) Effect on rights of parents. Notwithstanding subsection
29 (c), this chapter does not restrict the generally recognized
30 existing rights of parents to use reasonable supervision and~~

1 ~~control when raising their children, subject to the provisions~~
2 ~~of 18 Pa.C.S. § 509 (relating to use of force by persons with~~
3 ~~special responsibility for care, discipline or safety of~~
4 ~~others).~~

5 ~~(e) Participation in events that involve physical contact~~
6 ~~with child. An individual participating in a practice or~~
7 ~~competition in an interscholastic sport, physical education or~~
8 ~~an extracurricular activity that involves physical contact with~~
9 ~~a child does not, in itself, constitute contact that is subject~~
10 ~~to the reporting requirements of this chapter.~~

11 ~~(f) Peer on peer contact. No child shall be deemed to be~~
12 ~~physically or mentally abused based on injuries that result~~
13 ~~solely from a fight or scuffle mutually entered into by mutual~~
14 ~~consent.~~

15 ~~Section 3. This act shall take effect in 60 days.~~

16 SECTION 1. THE DEFINITIONS OF "CHILD," "FOUNDED REPORT," <--
17 "INDICATED REPORT," "INDIVIDUAL RESIDING IN THE SAME HOME AS THE
18 CHILD," "NEAR FATALITY" AND "SCHOOL EMPLOYEE" IN SECTION 6303 (A)
19 OF TITLE 23 OF THE PENNSYLVANIA CONSOLIDATED STATUES ARE
20 AMENDED, THE SUBSECTION IS AMENDED BY ADDING DEFINITIONS,
21 SUBSECTION (B) IS AMENDED AND THE SECTION IS AMENDED BY ADDING
22 SUBSECTIONS TO READ:

23 § 6303. DEFINITIONS.

24 (A) GENERAL RULE.--THE FOLLOWING WORDS AND PHRASES WHEN USED
25 IN THIS CHAPTER SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
26 SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

27 * * *

28 "BODILY INJURY." IMPAIRMENT OF A PHYSICAL CONDITION OR
29 SUBSTANTIAL PAIN.

30 "CHILD." [INCLUDES A NEWBORN] AN INDIVIDUAL UNDER 18 YEARS

1 OF AGE.

2 * * *

3 "FOUNDED REPORT." [A CHILD ABUSE REPORT MADE PURSUANT TO
4 THIS CHAPTER IF THERE HAS BEEN ANY JUDICIAL ADJUDICATION BASED
5 ON A FINDING THAT A CHILD WHO IS A SUBJECT OF THE REPORT HAS
6 BEEN ABUSED, INCLUDING THE ENTRY OF A PLEA OF GUILTY OR NOLO
7 CONTENDERE OR A FINDING OF GUILT TO A CRIMINAL CHARGE INVOLVING
8 THE SAME FACTUAL CIRCUMSTANCES INVOLVED IN THE ALLEGATION OF
9 CHILD ABUSE.] A CHILD ABUSE REPORT INVOLVING A PERPETRATOR THAT
10 IS MADE PURSUANT TO THIS CHAPTER, IF ANY OF THE FOLLOWING
11 APPLIES:

12 (1) THERE HAS BEEN A JUDICIAL ADJUDICATION BASED ON A
13 FINDING THAT A CHILD WHO IS A SUBJECT OF THE REPORT HAS BEEN
14 ABUSED AND THE ADJUDICATION INVOLVES THE SAME FACTUAL
15 CIRCUMSTANCES INVOLVED IN THE ALLEGATION OF CHILD ABUSE. THE
16 JUDICIAL ADJUDICATION MAY INCLUDE ANY OF THE FOLLOWING:

17 (I) THE ENTRY OF A PLEA OF GUILTY OR NOLO
18 CONTENDERE.

19 (II) A FINDING OF GUILT TO A CRIMINAL CHARGE.

20 (III) A FINDING OF DEPENDENCY UNDER 42 PA.C.S. §
21 6341 (RELATING TO ADJUDICATION) IF THE COURT HAS ENTERED
22 A FINDING THAT A CHILD WHO IS THE SUBJECT OF THE REPORT
23 HAS BEEN ABUSED.

24 (IV) A FINDING OF DELINQUENCY UNDER 42 PA.C.S. §
25 6341 IF THE COURT HAS ENTERED A FINDING THAT THE CHILD
26 WHO IS THE SUBJECT OF THE REPORT HAS BEEN ABUSED BY THE
27 CHILD WHO WAS FOUND TO BE DELINQUENT.

28 (2) THERE HAS BEEN AN ACCEPTANCE INTO ACCELERATED
29 REHABILITATIVE DISPOSITION PROGRAM AND THE REASON FOR THE
30 ACCEPTANCE INVOLVES THE SAME FACTUAL CIRCUMSTANCES INVOLVED

1 IN THE ALLEGATION OF CHILD ABUSE.

2 (3) THERE HAS BEEN A CONSENT DECREE ENTERED IN A
3 JUVENILE PROCEEDING UNDER 42 PA.C.S. CH. 63 (RELATING TO
4 JUVENILE MATTERS), THE DECREE INVOLVES THE SAME FACTUAL
5 CIRCUMSTANCES INVOLVED IN THE ALLEGATION OF CHILD ABUSE AND
6 THE TERMS AND CONDITIONS OF THE ALLEGATION INCLUDE AN
7 ACKNOWLEDGMENT, ADMISSION OR FINDING THAT A CHILD WHO IS THE
8 SUBJECT OF THE REPORT HAS BEEN ABUSED BY THE CHILD WHO IS
9 ALLEGED TO BE DELINQUENT.

10 (4) A FINAL PROTECTION FROM ABUSE ORDER HAS BEEN GRANTED
11 UNDER SECTION 6108 (RELATING TO RELIEF), WHEN THE CHILD WHO
12 IS A SUBJECT OF THE REPORT IS ONE OF THE INDIVIDUALS
13 PROTECTED UNDER THE PROTECTION FROM ABUSE ORDER AND:

14 (I) ONLY ONE INDIVIDUAL IS CHARGED WITH THE ABUSE IN
15 THE PROTECTION FROM ABUSE ACTION;

16 (II) ONLY THAT INDIVIDUAL DEFENDS AGAINST THE
17 CHARGE; AND

18 (III) THE PROTECTION FROM ABUSE ADJUDICATION FINDS
19 THAT THE ABUSE OCCURRED AND PROHIBITS FURTHER CONTACT
20 BETWEEN THE INDIVIDUAL AND THE CHILD.

21 * * *

22 "INDICATED REPORT." [A CHILD ABUSE REPORT MADE PURSUANT TO
23 THIS CHAPTER IF AN INVESTIGATION BY THE COUNTY AGENCY OR THE
24 DEPARTMENT OF PUBLIC WELFARE DETERMINES THAT SUBSTANTIAL
25 EVIDENCE OF THE ALLEGED ABUSE EXISTS BASED ON ANY OF THE
26 FOLLOWING:

27 (1) AVAILABLE MEDICAL EVIDENCE.

28 (2) THE CHILD PROTECTIVE SERVICE INVESTIGATION.

29 (3) AN ADMISSION OF THE ACTS OF ABUSE BY THE
30 PERPETRATOR.]

1 (1) SUBJECT TO PARAGRAPHS (2) AND (3), A REPORT OF CHILD
2 ABUSE MADE PURSUANT TO THIS CHAPTER IF AN INVESTIGATION BY
3 THE DEPARTMENT OR COUNTY AGENCY DETERMINES THAT SUBSTANTIAL
4 EVIDENCE OF THE ALLEGED ABUSE BY A PERPETRATOR EXISTS BASED
5 ON ANY OF THE FOLLOWING:

6 (I) AVAILABLE MEDICAL EVIDENCE.

7 (II) THE CHILD PROTECTIVE SERVICE INVESTIGATION.

8 (III) AN ADMISSION OF THE ACTS OF ABUSE BY THE
9 PERPETRATOR.

10 (2) A REPORT MAY BE INDICATED UNDER PARAGRAPH (1) (I) OR
11 (II) FOR ANY CHILD IN NEED OF CHILD PROTECTIVE SERVICES,
12 REGARDLESS OF THE NUMBER OF ALLEGED PERPETRATORS OR THE
13 INABILITY TO IDENTIFY THE SPECIFIC PERPETRATOR AMONG TWO OR
14 MORE ALLEGED PERPETRATORS.

15 (3) A REPORT MAY BE INDICATED BY A COUNTY AGENCY UNDER
16 PARAGRAPH (1) ONLY UPON THE APPROVAL OF THE COUNTY AGENCY
17 ADMINISTRATOR, OR DESIGNEE, AND A COUNTY AGENCY SOLICITOR.

18 * * *

19 "INTENTIONALLY." AS SPECIFIED IN 18 PA.C.S. § 302 (RELATING
20 TO GENERAL REQUIREMENTS OF CULPABILITY).

21 "KNOWINGLY." AS SPECIFIED IN 18 PA.C.S. § 302 (RELATING TO
22 GENERAL REQUIREMENTS OF CULPABILITY).

23 * * *

24 "PARENT." A BIOLOGICAL PARENT, ADOPTIVE PARENT OR LEGAL
25 GUARDIAN.

26 * * *

27 "RECKLESSLY." AS SPECIFIED IN 18 PA.C.S. § 302 (RELATING TO
28 GENERAL REQUIREMENTS OF CULPABILITY).

29 * * *

30 "SERIOUS PHYSICAL NEGLECT." ANY OF THE FOLLOWING WHEN

1 COMMITTED BY A PERPETRATOR THAT ENDANGERS A CHILD'S LIFE OR
2 HEALTH, THREATENS A CHILD'S WELL-BEING, CAUSES BODILY INJURY OR
3 IMPAIRS A CHILD'S HEALTH, DEVELOPMENT OR FUNCTIONING:

4 (1) A REPEATED, PROLONGED OR EGREGIOUS FAILURE TO
5 SUPERVISE A CHILD IN A MANNER THAT IS APPROPRIATE CONSIDERING
6 THE CHILD'S DEVELOPMENTAL AGE AND ABILITIES.

7 (2) THE FAILURE TO PROVIDE A CHILD WITH ADEQUATE
8 ESSENTIALS OF LIFE, INCLUDING FOOD, SHELTER OR MEDICAL CARE.

9 * * *

10 [(B) CHILD ABUSE.--

11 (1) THE TERM "CHILD ABUSE" SHALL MEAN ANY OF THE
12 FOLLOWING:

13 (I) ANY RECENT ACT OR FAILURE TO ACT BY A
14 PERPETRATOR WHICH CAUSES NONACCIDENTAL SERIOUS PHYSICAL
15 INJURY TO A CHILD UNDER 18 YEARS OF AGE.

16 (II) AN ACT OR FAILURE TO ACT BY A PERPETRATOR WHICH
17 CAUSES NONACCIDENTAL SERIOUS MENTAL INJURY TO OR SEXUAL
18 ABUSE OR SEXUAL EXPLOITATION OF A CHILD UNDER 18 YEARS OF
19 AGE.

20 (III) ANY RECENT ACT, FAILURE TO ACT OR SERIES OF
21 SUCH ACTS OR FAILURES TO ACT BY A PERPETRATOR WHICH
22 CREATES AN IMMINENT RISK OF SERIOUS PHYSICAL INJURY TO OR
23 SEXUAL ABUSE OR SEXUAL EXPLOITATION OF A CHILD UNDER 18
24 YEARS OF AGE.

25 (IV) SERIOUS PHYSICAL NEGLECT BY A PERPETRATOR
26 CONSTITUTING PROLONGED OR REPEATED LACK OF SUPERVISION OR
27 THE FAILURE TO PROVIDE ESSENTIALS OF LIFE, INCLUDING
28 ADEQUATE MEDICAL CARE, WHICH ENDANGERS A CHILD'S LIFE OR
29 DEVELOPMENT OR IMPAIRS THE CHILD'S FUNCTIONING.

30 (2) NO CHILD SHALL BE DEEMED TO BE PHYSICALLY OR

1 MENTALLY ABUSED BASED ON INJURIES THAT RESULT SOLELY FROM
2 ENVIRONMENTAL FACTORS THAT ARE BEYOND THE CONTROL OF THE
3 PARENT OR PERSON RESPONSIBLE FOR THE CHILD'S WELFARE, SUCH AS
4 INADEQUATE HOUSING, FURNISHINGS, INCOME, CLOTHING AND MEDICAL
5 CARE.

6 (3) IF, UPON INVESTIGATION, THE COUNTY AGENCY DETERMINES
7 THAT A CHILD HAS NOT BEEN PROVIDED NEEDED MEDICAL OR SURGICAL
8 CARE BECAUSE OF SERIOUSLY HELD RELIGIOUS BELIEFS OF THE
9 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 CHILD SHALL NOT BE DEEMED TO BE
12 PHYSICALLY OR MENTALLY ABUSED. THE COUNTY AGENCY SHALL
13 CLOSELY MONITOR THE CHILD AND SHALL SEEK COURT-ORDERED
14 MEDICAL INTERVENTION WHEN THE LACK OF MEDICAL OR SURGICAL
15 CARE THREATENS THE CHILD'S LIFE OR LONG-TERM HEALTH. IN CASES
16 INVOLVING RELIGIOUS CIRCUMSTANCES, ALL CORRESPONDENCE WITH A
17 SUBJECT OF THE REPORT AND THE RECORDS OF THE DEPARTMENT OF
18 PUBLIC WELFARE AND THE COUNTY AGENCY SHALL NOT REFERENCE
19 "CHILD ABUSE" AND SHALL ACKNOWLEDGE THE RELIGIOUS BASIS FOR
20 THE CHILD'S CONDITION, AND THE FAMILY SHALL BE REFERRED FOR
21 GENERAL PROTECTIVE SERVICES, IF APPROPRIATE.]

22 (B.1) CHILD ABUSE.--EXCEPT AS OTHERWISE PROVIDED IN THIS
23 SECTION, ANY OF THE FOLLOWING WITH RESPECT TO A CHILD:

24 (1) KNOWINGLY, RECKLESSLY OR INTENTIONALLY ACTING OR
25 FAILING TO ACT AGAINST A CHILD WITH EITHER OF THE FOLLOWING
26 OUTCOMES WHICH OCCURRED WITHIN TWO YEARS OF THE DATE OF THE
27 REPORT TO THE DEPARTMENT OR COUNTY AGENCY:

28 (I) CAUSING BODILY INJURY OR SERIOUS BODILY INJURY
29 TO A CHILD.

30 (II) CREATING A REASONABLE LIKELIHOOD OF BODILY

1 INJURY OR SERIOUS BODILY INJURY TO A CHILD. THE ACTIONS
2 MAY INCLUDE, BUT ARE NOT LIMITED TO, THE FABRICATION,
3 FEIGNING OR INTENTIONALLY EXAGGERATING OR INDUCING A
4 MEDICAL SYMPTOM OR DISEASE WHICH RESULTS IN A POTENTIALLY
5 HARMFUL MEDICAL EVALUATION OR TREATMENT TO THE CHILD.

6 (2) KNOWINGLY, RECKLESSLY OR INTENTIONALLY ENGAGING IN
7 ANY OF THE FOLLOWING CONDUCT THAT HAS OCCURRED WITHIN TWO
8 YEARS OF THE DATE OF THE REPORT TO THE DEPARTMENT OR COUNTY
9 AGENCY:

10 (I) KICKING, BURNING, BITING, STABBING, CUTTING OR
11 THROWING A CHILD IN A MANNER THAT MAY ENDANGER THE CHILD.

12 (II) UNREASONABLY CONFINING OR RESTRAINING A CHILD,
13 BASED UPON THE METHOD, LOCATION OR THE DURATION OF THE
14 CONFINEMENT OR RESTRAINT.

15 (III) FORCEFULLY SHAKING A CHILD IF THE CHILD IS
16 UNDER ONE YEAR OF AGE.

17 (IV) FORCEFULLY SLAPPING OR STRIKING A CHILD IF THE
18 CHILD IS UNDER ONE YEAR OF AGE.

19 (V) INTERFERING WITH THE BREATHING OF A CHILD.

20 (VI) CAUSING THE CHILD TO BE PRESENT AT A LOCATION
21 WHERE ANY OF THE FOLLOWING OFFENSES, SUBJECT TO
22 INVESTIGATION BY LAW ENFORCEMENT, IS OCCURRING:

23 (A) A VIOLATION OF 18 PA.C.S. § 7508.2 (RELATING
24 TO OPERATION OF METHAMPHETAMINE LABORATORY).

25 (B) A FELONY VIOLATION OF THE ACT OF APRIL 14,
26 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED
27 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

28 (VII) OPERATING A VEHICLE IN WHICH THE CHILD IS A
29 PASSENGER WHILE A VIOLATION OF 75 PA.C.S. § 3802
30 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR

1 CONTROLLED SUBSTANCE) IS OCCURRING.

2 (VIII) LEAVING A CHILD ALONE WITH AN INDIVIDUAL,
3 OTHER THAN THE CHILD'S PARENT, WHO HAS BEEN:

4 (A) CONVICTED OF ANY TIER II OR TIER III SEXUAL
5 OFFENSE UNDER 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO
6 REGISTRATION OF SEXUAL OFFENDERS), WHERE THE VICTIM
7 OF THE SEXUAL OFFENSE WAS UNDER 18 YEARS OF AGE WHEN
8 THE CRIME WAS COMMITTED.

9 (B) DETERMINED TO BE A SEXUALLY VIOLENT PREDATOR
10 UNDER 42 PA.C.S. § 9799.24 (RELATING TO ASSESSMENTS)
11 OR ANY OF ITS PREDECESSORS.

12 (C) DETERMINED TO BE A SEXUALLY VIOLENT
13 DELINQUENT CHILD AS DEFINED IN 42 PA.C.S. § 9799.12
14 (RELATING TO DEFINITIONS).

15 (3) KNOWINGLY, RECKLESSLY OR INTENTIONALLY CAUSING OR
16 SIGNIFICANTLY CONTRIBUTING, BY AN ACT OR SERIES OF ACTS OR
17 FAILING TO ACT, TO THE SERIOUS MENTAL INJURY TO A CHILD.

18 (4) KNOWINGLY, RECKLESSLY OR INTENTIONALLY ACTING TO
19 CAUSE THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

20 (5) CAUSING SERIOUS PHYSICAL NEGLECT OF A CHILD.

21 (6) ATTEMPTING TO ENGAGE IN ANY CONDUCT UNDER PARAGRAPH
22 (1), (3) OR (4).

23 (7) KNOWINGLY, RECKLESSLY OR INTENTIONALLY PERFORMING AN
24 ACT OR FAILING TO ACT WHICH RESULTS IN THE DEATH OF A CHILD.

25 (B.2) CHILD-ON-CHILD CONTACT.--HARM OR INJURY TO A CHILD
26 THAT RESULTS FROM THE ACT OF ANOTHER CHILD SHALL NOT CONSTITUTE
27 CHILD ABUSE UNLESS:

28 (1) THE ACT CONSTITUTES ONE OF THE FOLLOWING CRIMES:

29 (I) RAPE AS DEFINED IN 18 PA.C.S. § 3121 (RELATING
30 TO RAPE);

1 (II) INVOLUNTARY DEVIATE SEXUAL INTERCOURSE AS
2 DEFINED IN 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY
3 DEVIATE SEXUAL INTERCOURSE);

4 (III) SEXUAL ASSAULT AS DEFINED IN 18 PA.C.S. §
5 3124.1 (RELATING TO SEXUAL ASSAULT); OR

6 (IV) AGGRAVATED INDECENT ASSAULT AS DEFINED IN 18
7 PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT ASSAULT).

8 (2) THE CHILD WHO CAUSED THE HARM OR INJURY IS A
9 PERPETRATOR AS DEFINED HEREIN.

10 (C) ENVIRONMENTAL FACTORS.--NOTWITHSTANDING SUBSECTION
11 (B.1), THE TERM "CHILD ABUSE" SHALL NOT BE CONSTRUED TO DEEM A
12 CHILD TO BE PHYSICALLY OR MENTALLY ABUSED BASED ON INJURIES THAT
13 RESULT SOLELY FROM ENVIRONMENTAL FACTORS THAT ARE BEYOND THE
14 CONTROL OF THE PARENT OR PERSON RESPONSIBLE FOR THE CHILD'S
15 WELFARE, SUCH AS INADEQUATE HOUSING, FURNISHINGS, INCOME,
16 CLOTHING AND MEDICAL CARE. THIS SUBSECTION SHALL NOT APPLY TO A
17 FOSTER PARENT, AN INDIVIDUAL WHO HAS DIRECT OR REGULAR CONTACT
18 WITH A CHILD THROUGH ANY PROGRAM, ACTIVITY OR SERVICE SPONSORED
19 BY A SCHOOL, FOR-PROFIT ORGANIZATION OR RELIGIOUS OR OTHER NOT-
20 FOR-PROFIT ORGANIZATION, A SCHOOL EMPLOYEE, CHILD CARE EMPLOYEE
21 OR AN EMPLOYEE OF A RESIDENTIAL FACILITY.

22 (D) PARTICIPATION IN EVENTS THAT INVOLVE PHYSICAL CONTACT
23 WITH CHILD.--NOTWITHSTANDING SUBSECTION (B.1), THE TERM "CHILD
24 ABUSE" SHALL NOT BE CONSTRUED, IN ITSELF, TO APPLY TO AN
25 INDIVIDUAL PARTICIPATING IN A PRACTICE OR COMPETITION IN AN
26 INTERSCHOLASTIC SPORT, PHYSICAL EDUCATION OR AN EXTRACURRICULAR
27 ACTIVITY THAT INVOLVES PHYSICAL CONTACT WITH A CHILD.

28 (E) PRACTICE OF RELIGIOUS BELIEFS.--IF UPON INVESTIGATION
29 THE COUNTY AGENCY DETERMINES THAT A CHILD HAS NOT BEEN PROVIDED
30 NEEDED MEDICAL OR SURGICAL CARE BECAUSE OF SINCERELY HELD

1 RELIGIOUS BELIEFS OF THE CHILD'S PARENTS, GUARDIAN OR PERSON
2 RESPONSIBLE FOR THE CHILD'S WELFARE, WHICH BELIEFS ARE
3 CONSISTENT WITH THOSE OF A BONA FIDE RELIGION, THE CHILD SHALL
4 NOT BE DEEMED TO BE PHYSICALLY OR MENTALLY ABUSED. THE COUNTY
5 AGENCY SHALL CLOSELY MONITOR THE CHILD AND SHALL SEEK COURT-
6 ORDERED MEDICAL INTERVENTION WHEN THE LACK OF MEDICAL OR
7 SURGICAL CARE THREATENS THE CHILD'S LIFE OR LONG-TERM HEALTH. IN
8 CASES INVOLVING RELIGIOUS CIRCUMSTANCES, ALL CORRESPONDENCE WITH
9 A SUBJECT OF THE REPORT AND THE RECORDS OF THE DEPARTMENT OF
10 PUBLIC WELFARE AND THE COUNTY AGENCY SHALL NOT REFERENCE "CHILD
11 ABUSE" AND SHALL ACKNOWLEDGE THE RELIGIOUS BASIS FOR THE CHILD'S
12 CONDITION AND THE FAMILY SHALL BE REFERRED FOR GENERAL
13 PROTECTIVE SERVICES, IF APPROPRIATE. THIS SUBSECTION SHALL NOT
14 APPLY TO FOSTER PARENTS, AN INDIVIDUAL WHO HAS DIRECT OR REGULAR
15 CONTACT WITH A CHILD THROUGH ANY PROGRAM, ACTIVITY OR SERVICE
16 SPONSORED BY A SCHOOL, FOR-PROFIT ORGANIZATION OR RELIGIOUS OR
17 OTHER NOT-FOR-PROFIT ORGANIZATION, SCHOOL EMPLOYEES, CHILD CARE
18 EMPLOYEES AND EMPLOYEES OF RESIDENTIAL FACILITIES.

19 (F) USE OF REASONABLE FORCE FOR SAFETY PURPOSES.--
20 NOTWITHSTANDING SUBSECTION (B.1), THE TERM "CHILD ABUSE" SHALL
21 NOT BE CONSTRUED TO APPLY TO THE USE OF REASONABLE FORCE UNDER
22 THE CIRCUMSTANCES AGAINST A CHILD BY A PERSON RESPONSIBLE FOR
23 THE CHILD'S WELFARE IF ANY OF THE FOLLOWING APPLY:

24 (1) THE USE OF REASONABLE FORCE CONSTITUTES INCIDENTAL,
25 MINOR OR REASONABLE PHYSICAL CONTACT WITH THE CHILD OR OTHER
26 ACTIONS THAT ARE DESIGNED TO MAINTAIN ORDER AND CONTROL.

27 (2) THE USE OF REASONABLE FORCE IS NECESSARY:

28 (I) TO QUELL A DISTURBANCE OR REMOVE THE CHILD FROM
29 THE SCENE OF A DISTURBANCE THAT THREATENS PHYSICAL INJURY
30 TO PERSONS OR DAMAGE TO PROPERTY;

1 (II) TO PREVENT THE CHILD FROM SELF-INFLICTED
2 PHYSICAL HARM;
3 (III) FOR SELF-DEFENSE OR THE DEFENSE OF ANOTHER
4 INDIVIDUAL; OR
5 (IV) TO OBTAIN POSSESSION OF WEAPONS OR OTHER
6 DANGEROUS OBJECTS OR CONTROLLED SUBSTANCES OR
7 PARAPHERNALIA THAT ARE ON THE CHILD OR WITHIN THE CONTROL
8 OF THE CHILD.

9 (G) RIGHTS OF PARENTS.--NOTHING IN THIS SECTION SHALL BE
10 CONSTRUED TO RESTRICT THE GENERALLY RECOGNIZED EXISTING RIGHTS
11 OF PARENTS TO USE REASONABLE SUPERVISION AND CONTROL WHEN
12 RAISING THEIR CHILDREN.

13 SECTION 2. SECTION 6340(A)(5) OF TITLE 23 IS AMENDED TO
14 READ:

15 § 6340. RELEASE OF INFORMATION IN CONFIDENTIAL REPORTS.

16 (A) GENERAL RULE.--REPORTS SPECIFIED IN SECTION 6339
17 (RELATING TO CONFIDENTIALITY OF REPORTS) SHALL ONLY BE MADE
18 AVAILABLE TO:

19 * * *

20 (5) A COURT OF COMPETENT JURISDICTION, INCLUDING A
21 MAGISTERIAL DISTRICT JUDGE, A JUDGE OF THE PHILADELPHIA
22 MUNICIPAL COURT AND A JUDGE OF THE PITTSBURGH MAGISTRATES
23 COURT, PURSUANT TO COURT ORDER OR SUBPOENA IN A CRIMINAL
24 MATTER INVOLVING A CHARGE OF CHILD ABUSE UNDER SECTION
25 [6303(B)] 6303(B.1) (RELATING TO DEFINITIONS). DISCLOSURE
26 THROUGH TESTIMONY SHALL BE SUBJECT TO THE RESTRICTIONS OF
27 SUBSECTION (C).

28 * * *

29 SECTION 3. THE DEFINITION OF "CHILD ABUSE" IN SECTION 6502
30 OF TITLE 23 IS AMENDED TO READ:

1 § 6502. DEFINITIONS.

2 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
3 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
4 CONTEXT CLEARLY INDICATES OTHERWISE:

5 "CHILD ABUSE." CHILD ABUSE AS DEFINED IN SECTION [6303(B)]
6 6303(B.1) (RELATING TO DEFINITIONS).

7 * * *

8 SECTION 4. THIS ACT SHALL TAKE EFFECT JANUARY 1, 2014.