
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 AND BOSCOLA, MARCH 15, 2013

REFERRED TO AGING AND YOUTH, MARCH 15, 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 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 6303(a) heading and (b) of Title 23 of
8 the Pennsylvania Consolidated Statutes are amended and
9 subsection (a) is amended by adding a definition to read:

10 § 6303. Definitions.

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

14 * * *

15 "Child abuse." Except as otherwise provided in section 6304
16 (relating to exclusions from child abuse), any of the following
17 with respect to a child:

18 (1) Recklessly or intentionally acting against a child

1 with either of the following outcomes which occurred within
2 two years of the date of the report to the department or
3 county agency:

4 (i) Causing bodily injury or serious bodily injury
5 to a child.

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

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

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

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

20 (iii) Forcefully shaking a child if the child is
21 under one year of age.

22 (iv) Forcefully slapping a child if the child is
23 under one year of age.

24 (v) Interfering with the breathing of a child.

25 (vi) Causing the child to be present at a location
26 where any of the following is occurring:

27 (A) A violation of 18 Pa.C.S. § 7508.2 (relating
28 to operation of methamphetamine laboratory).

29 (B) A felony violation of the act of April 14,
30 1972 (P.L.233, No.64), known as The Controlled

1 Substance, Drug, Device and Cosmetic Act.

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

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

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

12 (4) Recklessly or intentionally acting to cause the
13 sexual abuse or exploitation of a child.

14 (5) Causing serious physical neglect of a child.

15 (6) Attempting to engage in any conduct under paragraph
16 (1), (2), (3) or (4).

17 (7) Failing to act which:

18 (i) has occurred within two years of the date of the
19 report to the department or county agency; and

20 (ii) does any of the following:

21 (A) Causes bodily injury or creates a reasonable
22 likelihood of bodily injury to a child.

23 (B) Recklessly or intentionally engages in
24 conduct under paragraph (2).

25 (8) Causing harm or injury as set forth in paragraph (3)
26 or (4) by failing to act.

27 (9) Recklessly or intentionally performing an act which
28 results in the death of a child.

29 * * *

30 [(b) Child abuse.--

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

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

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

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

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

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

26 (3) If, upon investigation, the county agency determines
27 that a child has not been provided needed medical or surgical
28 care because of seriously held religious beliefs of the
29 child's parents, guardian or person responsible for the
30 child's welfare, which beliefs are consistent with those of a

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

12 Section 2. Title 23 is amended by adding a section to read:
13 § 6304. Exclusions from child abuse.

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

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

1 a subject of the report and the records of the Department of
2 Public Welfare and the county agency shall not reference "child
3 abuse" and shall acknowledge the religious basis for the child's
4 condition, and the family shall be referred for general
5 protective services, if appropriate.

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

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

14 (2) The use of reasonable force is necessary:

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

18 (ii) to prevent the child from self-inflicted
19 physical harm;

20 (iii) for self-defense or the defense of another
21 individual; or

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

26 (d) Effect on rights of parents.--Notwithstanding subsection
27 (c), this chapter does not restrict the generally recognized
28 existing rights of parents to use reasonable supervision and
29 control when raising their children, subject to the provisions
30 of 18 Pa.C.S. § 509 (relating to use of force by persons with

1 special responsibility for care, discipline or safety of
2 others).

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

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

13 Section 3. This act shall take effect in 60 days.