

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 726

Sponsor:

Printer's No. 2012

1 Amend Bill, page 1, line 3, by inserting after "definitions;"
2 and

3 Amend Bill, page 1, lines 4 through 6, by striking out "; AND
4 FURTHER PROVIDING FOR DISPOSITION OF FOUNDED" in line 4, all of
5 line 5 and "CONFIDENTIAL REPORTS AND FOR INVESTIGATION OF
6 REPORTS" in line 6

7 Amend Bill, page 1, lines 17 through 19; page 2, lines 1
8 through 4, by striking out all of said lines on said pages and
9 inserting

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

17 Amend Bill, page 2, lines 12 and 13, by striking out
18 "[Includes] An individual under 18 years of age. The" in line 12
19 and all of line 13 and inserting

20 [Includes a newborn.] An individual under 18 years of
21 age.

22 Amend Bill, page 2, by inserting between lines 14 and 15

23 "Founded report." [A child abuse report made pursuant to
24 this chapter if there has been any judicial adjudication based
25 on a finding that a child who is a subject of the report has
26 been abused, including the entry of a plea of guilty or nolo
27 contendere or a finding of guilt to a criminal charge involving
28 the same factual circumstances involved in the allegation of
29 child abuse.] A child abuse report involving a perpetrator that

1 is made pursuant to this chapter, if any of the following
2 applies:

3 (1) There has been a judicial adjudication based on a
4 finding that a child who is a subject of the report has been
5 abused and the adjudication involves the same factual
6 circumstances involved in the allegation of child abuse. The
7 judicial adjudication may include any of the following:

8 (i) The entry of a plea of guilty or nolo
9 contendere.

10 (ii) A finding of guilt to a criminal charge.

11 (iii) A finding of dependency under 42 Pa.C.S. §
12 6341 (relating to adjudication) if the court has entered
13 a finding that a child who is the subject of the report
14 has been abused.

15 (iv) A finding of delinquency under 42 Pa.C.S. §
16 6341 if the court has entered a finding that the child
17 who is the subject of the report has been abused by the
18 child who was found to be delinquent.

19 (2) There has been an acceptance into an accelerated
20 rehabilitative disposition program and the reason for the
21 acceptance involves the same factual circumstances involved
22 in the allegation of child abuse.

23 (3) There has been a consent decree entered in a
24 juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to
25 juvenile matters), the decree involves the same factual
26 circumstances involved in the allegation of child abuse and
27 the terms and conditions of the allegation include an
28 acknowledgment, admission or finding that a child who is the
29 subject of the report has been abused by the child who is
30 alleged to be delinquent.

31 (4) A final protection from abuse order has been granted
32 under section 6108 (relating to relief), when the child who
33 is a subject of the report is one of the individuals
34 protected under the protection from abuse order and:

35 (i) only one individual is charged with the abuse in
36 the protection from abuse action;

37 (ii) only that individual defends against the
38 charge;

39 (iii) the adjudication involves the same factual
40 circumstances involved in the allegation of child abuse;
41 and

42 (iv) the protection from abuse adjudication finds
43 that the child abuse occurred.

44 * * *

45 "Indicated report." [A child abuse report made pursuant to
46 this chapter if an investigation by the county agency or the
47 Department of Public Welfare determines that substantial
48 evidence of the alleged abuse exists based on any of the
49 following:

50 (1) Available medical evidence.

51 (2) The child protective service investigation.

1 (3) An admission of the acts of abuse by the
2 perpetrator.]

3 (1) Subject to paragraphs (2) and (3), a report of child
4 abuse made pursuant to this chapter if an investigation by
5 the Department of Public Welfare or county agency determines
6 that substantial evidence of the alleged abuse by a
7 perpetrator exists based on any of the following:

8 (i) Available medical evidence.

9 (ii) The child protective service investigation.

10 (iii) An admission of the acts of abuse by the
11 perpetrator.

12 (2) A report may be indicated under paragraph (1)(i) or
13 (ii) for any child who is the victim of child abuse,
14 regardless of the number of alleged perpetrators.

15 (3) A report may be indicated under paragraph (1)(i) or
16 (ii) listing the perpetrator as "unknown" if substantial
17 evidence of abuse by a perpetrator exists, but the department
18 or county agency is unable to identify the specific
19 perpetrator.

20 * * *

21 Amend Bill, page 2, line 30; page 3, lines 1 through 13, by
22 striking out all of said lines on said pages and inserting

23 "Parent." A biological parent, adoptive parent or legal
24 guardian.

25 Amend Bill, page 3, by inserting between lines 14 and 15

26 "Recent act." Any act committed within two years of the date
27 of the report to the Department of Public Welfare or county
28 agency.

29 Amend Bill, page 3, lines 22 through 25, by striking out all
30 of said lines

31 Amend Bill, page 4, line 5, by inserting after

32 "UNCONSCIONABLE"

33 egregious

34 Amend Bill, page 9, line 14, by inserting a bracket before
35 "(B) "

36 Amend Bill, page 9, line 15, by striking out the bracket
37 before "(1) "

38 Amend Bill, page 10, line 26, by striking out all of said

1 line and inserting

2 (b.1) Child abuse.--The term "child abuse" shall mean
3 intentionally, knowingly or

4 Amend Bill, page 10, by inserting between lines 29 and 30

5 (2) Fabricating, feigning or intentionally exagggerating
6 or inducing a medical symptom or disease which results in a
7 potentially harmful medical evaluation or treatment to the
8 child through any recent act.

9 Amend Bill, page 10, line 30, by striking out "(2)" and
10 inserting

11 (3)

12 Amend Bill, page 11, line 3, by striking out "(3)" and
13 inserting

14 (4)

15 Amend Bill, page 11, line 5, by striking out "(4)" and
16 inserting

17 (5)

18 Amend Bill, page 11, line 7, by striking out "(5)" and
19 inserting

20 (6)

21 Amend Bill, page 11, line 10, by striking out "(6)" and
22 inserting

23 (7)

24 Amend Bill, page 11, line 11, by striking out "(7)" and
25 inserting

26 (8)

27 Amend Bill, page 11, line 12, by striking out "OR" and
28 inserting a comma

29 Amend Bill, page 11, line 14, by striking out "PHYSICALLY
30 RESTRAINING" and inserting

31 restraining or confining

32 Amend Bill, page 11, line 16, by inserting after "RESTRAINT"

1 or confinement

2 Amend Bill, page 11, line 19, by inserting after "FORCEFULLY"

3 slapping or otherwise

4 Amend Bill, page 11, lines 23 through 30; page 12, lines 1
5 through 3, by striking out all of said lines on said pages and
6 inserting

7 while a violation of 18 Pa.C.S. § 7508.2
8 (relating to operation of methamphetamine laboratory)
9 is occurring, provided that the violation is being
10 investigated by law enforcement.

11 (vii) Leaving a child unsupervised with an
12 individual, other than the child's parent, who the actor
13 knows or reasonably should have known:

14 (A) Is required to register as a Tier II or Tier
15 III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H
16 (relating to registration of sexual offenders), where
17 the victim of the sexual offense was under 18 years
18 of age when the crime was committed.

19 (B) Has been determined to be a sexually violent
20 predator under 42 Pa.C.S. § 9799.24 (relating to
21 assessments) or any of its predecessors.

22 (C) Has been determined to be a sexually violent
23 delinquent child as defined in 42 Pa.C.S. § 9799.12
24 (relating to definitions).

25 Amend Bill, page 12, line 4, by striking out "(8)" and
26 inserting

27 (9)

28 Amend Bill, page 12, by inserting between lines 5 and 6

29 (c) Restatement of culpability.--Conduct that causes
30 injury or harm to a child or creates a risk of injury or harm
31 to a child shall not be considered child abuse if there is no
32 evidence that the person acted intentionally, knowingly or
33 recklessly when causing the injury or harm to the child or
34 creating a risk of injury or harm to the child.

35 Amend Bill, page 12, line 6, by striking out "(C)" and
36 inserting

37 (d)

38 Amend Bill, page 14, line 30; page 15, lines 1 and 2, by
39 striking out "THAT ARE BEYOND THE CONTROL OF" in line 30 on page
40 14 and all of lines 1 and 2 on page 15 and inserting

1 , such as inadequate housing, furnishings, income, clothing and
2 medical care, that are beyond the control of the parent or
3 person responsible for the child's welfare with whom the child
4 resides. This subsection shall not apply to any child-care
5 service as defined in this chapter, excluding an adoptive
6 parent.

7 Amend Bill, page 15, line 6, by striking out "GUARDIAN" and
8 inserting

9 relative within the third degree of consanguinity and
10 with whom the child resides

11 Amend Bill, page 15, by inserting between lines 22 and 23

12 (5) This subsection shall not apply to any child-care
13 service as defined in this chapter, excluding an adoptive
14 parent.

15 Amend Bill, page 15, lines 25 and 26, by striking out "A
16 PERSON RESPONSIBLE FOR SUPERVISION, CONTROL OR SAFETY OF THE
17 CHILD" and inserting

18 the child's own parent or person responsible for the
19 child's welfare

20 Amend Bill, page 16, lines 13 through 30, by striking out all
21 of said lines and inserting

22 (d) Rights of parents.--Nothing in this chapter shall be
23 construed to restrict the generally recognized existing rights
24 of parents to use reasonable force on or against their children
25 for the purposes of supervision, control and discipline of their
26 children. Such reasonable force shall not constitute child
27 abuse.

28 Amend Bill, page 17, lines 8 through 10, by striking out all
29 of said lines and inserting

30 (f) Child-on-child contact.--

31 (1) Harm or injury to a child that results from the act
32 of another child shall not constitute child abuse unless the
33 child who caused the harm or injury is a perpetrator.

34 (2) Notwithstanding paragraph (1), the following shall
35 apply:

36 (i) Acts constituting any of the following crimes
37 against a child shall be subject to the reporting
38 requirements of this chapter:

39 (A) rape as defined in 18 Pa.C.S. § 3121
40 (relating to rape);

41 (B) involuntary deviate sexual intercourse as

1 defined in 18 Pa.C.S. § 3123 (relating to involuntary
2 deviate sexual intercourse);

3 (C) sexual assault as defined in 18 Pa.C.S. §
4 3124.1 (relating to sexual assault);

5 (D) aggravated indecent assault as defined in 18
6 Pa.C.S. § 3125 (relating to aggravated indecent
7 assault);

8 (E) indecent assault, as defined in 18 Pa.C.S. §
9 3126 (relating to indecent assault);

10 (F) indecent exposure, as defined in 18 Pa.C.S.
11 § 3127 (relating to indecent exposure).

12 (ii) No child shall be deemed to be a perpetrator of
13 child abuse based solely on physical or mental injuries
14 caused to another child in the course of a dispute, fight
15 or scuffle entered into by mutual consent.

16 (iii) A law enforcement official who receives a
17 report of suspected child abuse is not required to make a
18 report to the department under section 6334(a) (relating
19 to disposition of complaints received), if the person
20 allegedly responsible for the child abuse is a
21 nonperpetrator child.

22 Amend Bill, page 17, lines 17 through 30; pages 18 through
23 21, lines 1 through 30; page 22, lines 1 through 10, by striking
24 out all of said lines on said pages and inserting
25 Section 3. This act shall take effect December 31, 2014.