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## Senate Aging & Youth Committee

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### Summary of House Bill 726, P.N. 2012

PRIME SPONSOR: Rep. Petri

#### **A. Synopsis:**

Amends the Child Protective Services Law (CPSL) to provide for the definition of “child abuse” and related terms.

#### **B. Bill Summary:**

HB 726 currently amends the definitions of *bodily injury*, *child*, *intentionally*, *knowingly*, *peer*, *perpetrator*, *person responsible for the child’s welfare*, *recent act or failure to act*, *recklessly*, *relative*, *serious physical neglect* and *sexual abuse or exploitation*. The bill also removes definitions for *nonaccidental* and *serious physical injury* from the CPSL.

The main provision of the bill is the new definition of *child abuse*, which means intentionally, knowingly or recklessly performing certain acts outlined in the bill. The bill also outlines certain exceptions from *child abuse*. The definition of *child abuse* in HB 726 is similar to the language included in SB 20 (Washington), which passed the Aging and Youth Committee unanimously in September.

The bill also contains a provision (§6338, relating to disposition of founded and indicated reports) providing for the removal of juvenile perpetrators from the child abuse registry.

Effective date: 60 days

#### **C. Analysis of Amendment #A04826 to House Bill 726, P.N. 2012**

##### **Amendment Sponsor:**

This amendment is the result of meetings with the House, Governor’s staff, DPW, the Juvenile Court Judges’ Commission and the Pennsylvania Commission on Crime and Delinquency. This amendment mainly addresses the definitions section of the CPSL and would clarify some previously unaddressed issues.

##### **Definitions added by the amendment include:**

- *Founded Report.* A judicial adjudication based on the finding that a child has been abused and the adjudication involves the same factual circumstances as the allegations. The judicial adjudication may include any of the following:
  - Plea of guilt or nolo contendere.
  - Finding of guilt.
  - Finding of dependency.
  - Finding of delinquency.
  - Accepted into an Accelerated Rehabilitation Disposition (ARD).
  - A consent decree entered into in a juvenile proceeding.
  - A final Protection from Abuse (PFA).
  
- *Indicated Report.* DPW or a county agency determines substantial evidence that abuse occurred based on medical evidence, child services investigation, or admission of abuse by the perpetrator. A report can be indicated regardless of the number of perpetrators. A report may only be indicated by approval of the county agency administrator or their designee and a county solicitor
  
- *Parent.* A biological or adoptive parent or legal guardian

**The following definitions would be modified:**

- *Child.* An individual under 18 years of age.
  
- *Recent act* is defined separately from the term *recent act or failure to act* as that term is used separately in the CPSL.

**The term *child abuse* would be amended by the following:**

- Adds a restatement of culpability that if the actions were not knowingly, recklessly, or intentionally done the act could not be considered child abuse.
  
- Feigning or exaggerating a medical symptom or disease which results in potentially harmful medical evaluation or treatment of a child is added as a form of child abuse.
  
- It would constitute child abuse to cause a child to be present at a methamphetamine laboratory or leave a child with an individual, other than the child's parent, who has been convicted of or be determined:
  - Any Tier II or III sexual offense, where the victim was under 18.
  - A sexually violent predator.
  - A sexually violent delinquent.

**The following would be excluded from the definition of child abuse:**

- Environmental factors, such as housing, income, clothing, or medical care.
  - This would exclude anyone who is not a parent or person responsible for the child's welfare from claiming this exclusion.
  
- Practice of religious beliefs.
  - This would exclude anyone who is not a parent or relative within the third degree of consanguinity with whom the child resides from claiming this exclusion.

- Use of force for safety purposes would be permissible by a child's own parent or a person responsible for the child's welfare in order to quell a disturbance, remove a child, prevent self-inflicted harm, self-defense or defense of another, or to obtain possession of weapons or dangerous objects.
- Rights of parents. – The amendment reiterates that nothing in the CPSL should be construed to restrict the existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their child.
- Child-on-child contact. – Harm or injury to a child as a result of the acts of another child would not be considered child abuse unless:
  - The crimes involved were rape, involuntary deviate sexual intercourse, sexual assault or aggravated indecent assault.
  - The child who caused the harm is a perpetrator.
 Mutually entered fights would be excluded from being considered child abuse.
- Participation in sporting events or activities in which physical contact with a child is involved would also not constitute child abuse.

The amendment also removes the definitions of *peer*, *perpetrator*, *person responsible for the child's welfare* and *relative*, as well as Section 6338 (relating to disposition of founded and indicated reports) from this particular bill. These definitions and that section are addressed in other bills included in the Child Abuse bill package.

The effective date would be amended to December 31, 2014.