

Through Act 179, several changes to the Child Protective Services Law were signed into law by Gov. Rendell. A summary of the changes follows.

Overview of Changes to Child Protective Services Law

Effective Date: May 2007 (unless otherwise noted)

Mandated Child Abuse Reporters: Mandated reporters are obligated to report suspected child abuse to ChildLine without regard for the relationship between the alleged abuser and the child. That is, the mandated reporter need not be concerned about whether the alleged abuser fits the definition of a perpetrator under the CPSL. Mandated reporters are defined as a person who, in the course of their employment, occupation, or practice of a profession comes into contact with children shall report or cause a report to be made when they suspect child abuse. This includes when a person has reasonable cause to suspect on the basis of medical, professional, or other training and experience that a child under the care, supervision, guidance, or training of that person or of an agency, institution, organization, or other entity with which that person is affiliated is a victim of child abuse, including abuse by an individual who is not a perpetrator (under the CPSL). The child no longer needs to come directly before the mandated reporter in order for them to be obligated to make a report. Confidential communications to clergy continue to be exempt while confidential communications made to an attorney were added as an exemption.

Penalties for Failure to Report or to Refer Suspected Child Abuse: Penalties for failing to report suspected child abuse or to make a referral to the appropriate authorities have been increased to a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for subsequent violations.

Defining Sexual Abuse or Exploitation: Sexual Abuse or Exploitation is now defined as: (1) The employment, use, persuasion, inducement, enticement, or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct. (2) The employment, use, persuasion, inducement, enticement, or coercion of a child to engage in or assist another individual to engage in simulation of sexually explicit conduct for the purpose of producing visual depiction, including photographing, videotaping, computer depicting, and filming. It also includes any of the following offenses committed against a child: rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, sexual abuse, or sexual exploitation.

Endangering Welfare of Children: “A parent, guardian, or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection, or support.” The offense also includes circumstances where a person, in an official capacity, prevents or interferes with the making of a report of suspected child abuse. Persons supervising the welfare of a child are defined as a person other than a parent or guardian that provides care, education, training, or control of a child.

Investigating Suspected Abuse By Non-Family, Caregiver Perpetrators: In situations where a report of suspected child abuse is made, but the alleged abuse was committed by a person who does not meet the definition of a perpetrator under the CPSL, then ChildLine

shall report immediately to the district attorney, the district attorney's designee, or other law enforcement official, in accordance with the county protocols for investigative teams.

Background Checks for Potential Employees: Organizations where employees have a significant likelihood of contact with children must obtain Child Abuse Clearances and criminal background checks. This applies to all employees who are likely to have regular contact with children, in the form of care, guidance, supervision or training. Employment must be denied if the prospective employee has a founded report of child abuse within the last five years or been convicted of certain crimes, including criminal homicide, aggravated assault, kidnapping, rape, statutory sexual assault, harassment and stalking, unlawful restraint, sexual assault, aggravated indecent assault, indecent assault, indecent exposure, incest, concealing the death of a child, endangering the welfare of children, dealing in infant children, involuntary deviate intercourse, or a felony related to prostitution, obscene and other sexual material and performances, corruption of minors, and the sexual abuse of children. Failure to require the submission of clearances prior to hiring is subject to penalties (misdemeanor of the third degree).

Background Checks for Foster/Adoptive Homes and Family Day-Care Homes: Anyone living in the home of a prospective foster or adoptive parent for at least 30 days in a calendar year will be required to undergo background checks, if they are at least 14 years old. Approval of the foster or adoptive parent will be denied if any of the clearances come back with either a founded report of child abuse or student abuse or guilty of crimes listed above. In Family Day-Care homes, all individuals 18 years and over are subject to background checks, if residing in the home for at least 30 days in a calendar year.

Child Abuse Prevention and Treatment Act: PA was the last state to become compliant with this act. The act includes changes to the termination of parental rights when the parent of a child has been convicted of criminal homicide or aggravated assault. The Act also includes the creation of at least three Citizen Review Panels for the examination of the policies, procedures, and practices of local and state welfare agencies to evaluate efficacy, as well as reviewing all child fatalities and near fatalities. CAPTA also requires quarterly reports to the General Assembly of all fatalities and near-fatalities associated with child abuse and/or neglect. Infants who are born and identified as being affected by illegal substances including those having withdrawal symptoms resulting from prenatal drug exposure will require that a call be made immediately to the county Children and Youth agency to ensure that the county agency provided or arrange for appropriate services.

Megan's Law – Sex Offender Information Provided Online: Access to online information regarding convicted sex offenders has been increased to include street addresses and municipalities where the convicted sex offender resides. The information will also include whether the victim was a child, but the identity of the child will not be provided. Additional details about the offender, the offense, and the date of conviction will also be available. Change of address notification has also been reduced from 10 days to 48 hours.

Child Sexual Abuse – Criminal Statute of Limitations: The statute of limitations for criminal prosecution of sexual abuse against a child has been extended until the victim reaches her/his 50th birthday.

Child Sexual Abuse – Mandatory Minimum Sentences: Criminal penalties for the conviction of rape, involuntary deviate sexual intercourse, and aggravated indecent assault have doubled to ten years when the victim is under 16. Second offenders will face 25 years to life, and third-time offenders will receive life sentences, if convicted.

Children’s Advocacy Centers Recognized: Children’s Advocacy Centers are now defined as an organization whose primary purpose is to provide a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse.” The Centers will assist county agencies, investigative teams, and law enforcement by providing services such as forensic interviews, medical evaluations, therapeutic interventions, victim support and advocacy, team case reviews, and a system for tracking cases. (Note: Takes effect in late January 2007)

Standardized Rape Kit: A Statewide Sexual Assault Evidence Collection Program (administered by the Department of Health (DOH)) will develop, in conjunction with PA Coalition Against Rape (PCAR), minimum standard requirements for all rape kits used in hospitals and health care facilities. DOH will provide consultation to identify the correct use and application of rape kits in order to maximize the health and safety of the victim and the potential to collect useful admissible evidence to prosecute individuals accused of sexual assault.

Children’s Trust Fund 501 (c) (3): The Children’s Trust Fund will now be able to solicit private funds through Friends of Children’s Trust Fund to increase the dollars available to support child abuse and neglect prevention efforts across the Commonwealth.