

§ 6311. Persons required to report suspected child abuse

(a) General rule.--A person who, in the course of employment, occupation or practice of a profession, comes into contact with children shall report or cause a report to be made in accordance with section 6313 (relating to reporting procedure) when the 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 child abuse by an individual who is not a perpetrator. [FN1] Except with respect to confidential communications made to a member of the clergy which are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen), and except with respect to confidential communications made to an attorney which are protected by 42 Pa.C.S. § 5916 (relating to confidential communications to attorney) or 5928 (relating to confidential communications to attorney), the privileged communication between any professional person required to report and the patient or client of that person shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.

(b) Enumeration of persons required to report.--Persons required to report under subsection (a) include, but are not limited to, any licensed physician, osteopath, medical examiner, coroner, funeral director, dentist, optometrist, chiropractor, podiatrist, intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, Christian Science practitioner, member of the clergy, school administrator, school teacher, school nurse, social services worker, day-care center worker or any other child-care or foster-care worker, mental health professional, peace officer or law enforcement official.

(c) Staff members of institutions, etc.--Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification, the person in charge or the designated agent, if any, shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with section 6313. This chapter does not require more than one report from any such institution, school, facility or agency.

(d) Civil action for discrimination against person filing report.--Any person who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, makes or causes the report to be made and, as a result thereof, is discharged from his employment or in any other manner is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, may commence an action in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred for appropriate relief. If the court finds that the person is an individual who, under this section, is required to report or cause a report of suspected child abuse to be made and who, in good faith, made or caused to be made a report of suspected child abuse and, as a result thereof, was discharged or discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment, it may issue an order granting appropriate relief, including, but not

limited to, reinstatement with back pay. The department may intervene in any action commenced under this subsection.

1. Validity

Fourth Amendment was not violated when public school administrators questioned student, pursuant to Pennsylvania Child Protective Services Law, to determine whether there was "reason to believe" that student was abused and thus, there was no constitutional violation for purposes of § 1983 action brought by parents and student against school; interest of the state outweighed student's interest, administrators were entrusted with custodial responsibility for student, and Law imposed extra duty of care on administrators, namely that of reporting suspected child abuse when there is "reason to believe" that such abuse is occurring. Picarella v. Terrizzi, M.D.Pa.1995, 893 F.Supp. 1292. Civil Rights 1065; Schools 169.5

Intrusion upon parents' familial relationships as result of public school administrators' questioning student, pursuant to Pennsylvania Child Protective Services Law, to determine whether there was reason to believe that student was abused was not unreasonable or unwarranted and thus, there was no constitutionally cognizable claim of unwarranted interference in familial relationships for purposes of § 1983 action brought against school by parents and student; intrusion into familial relationships was outweighed by state's interest in providing protection from abuse to student. Picarella v. Terrizzi, M.D.Pa.1995, 893 F.Supp. 1292. Civil Rights 1065

2. Reason to believe

Under Pennsylvania Child Protective Services Law, particular persons who come into contact with children must make reasoned decision based upon their own backgrounds as to whether there is reason to believe that child is the victim of abuse and failure to do so exposes these persons to criminal prosecution. Picarella v. Terrizzi, M.D.Pa.1995, 893 F.Supp. 1292. Infants 13.5(1)

While school teachers and administrators may not make a determination as to whether report of sexual abuse of child is "founded" or "unfounded," they certainly make the initial determination as to whether there is "reason to believe" that there has been abuse pursuant to Pennsylvania Child Protective Services Law. Picarella v. Terrizzi, M.D.Pa.1995, 893 F.Supp. 1292. Infants 13.5(1)

Under Pennsylvania Child Protective Services Law, enumerated persons such as school teachers and administrators who are required to report possible child abuse when they have reason to believe that child is abused are required to make a discretionary judgment and asking questions in the context of exercising such judgment is entirely reasonable. Picarella v. Terrizzi, M.D.Pa.1995, 893 F.Supp. 1292. Infants 13.5(1)

Under provision of 11 P.S. § 2204 (repealed; see, now, this section) requiring person to have “reason to believe * * * that a child coming before them * * * is an abused child” to make report to county welfare agency, reporter's diagnosis need not be absolute. Roman v. Appleby, E.D.Pa.1983, 558 F.Supp. 449. Infants 17

3. Privileges

A licensed psychologist who in good faith reports a suspected case of child abuse as required under the Child Protective Services Act, 23 Pa.C.S.A. § 6311, enjoys a conditional privilege and is not liable for defamation or infliction of emotional distress in the absence of abuse of the privilege. Player v. Singer, 18 Pa. D. & C.4th 505, 1992 WL 675141, Unreported (1992), affirmed in part, reversed in part 643 A.2d 715, 434 Pa.Super. 732, appeal denied 652 A.2d 839, 539 Pa. 669. Libel And Slander 43

4. Churches

Genuine issues of material fact, as to whether diocese, church, bishop, another priest, and benedictine monk were negligent per se for failing to report their suspicions of child abuse as required by Pennsylvania statute, precluded summary judgment on claim of negligence per se by parishioner who was sexually abused as teenager by parish priest. Doe v. Liberatore, M.D.Pa.2007, 478 F.Supp.2d 742, reconsideration denied 2007 WL 1450705. Federal Civil Procedure 2515

Franciscan friars, archdiocese, cardinals and other defendants had no statutory duty under Child Protective Services Law to report alleged sexual abuse by priest committed when parishioner was minor, where parishioner's contact with defendants occurred after parishioner reached age of majority. Baselice v. Franciscan Friars Assumption BVM Province, Inc., 879 A.2d 270, Super.2005, appeal denied 891 A.2d 729, 586 Pa. 733. Infants 13.5(1)

Church employees did not have sufficient cause to give rise to duty to report abuse, pursuant to Child Protective Services Act, where the only information they ever had on the subject was a comment by minister concerning his own passing suspicions, which he did not support by reference to any specific evidence of abuse, for purposes of action brought against church by minor, who was allegedly sexually abused by minister, asserting claim of negligence per se arising from alleged violation of Act. R.A. ex rel. N.A. v. First Church of Christ, 748 A.2d 692, Super.2000, appeal denied 760 A.2d 855, 563 Pa. 689. Infants 13.5(1); Religious Societies 30

Alleged victim of sexual abuse by a priest in the 1980s failed to state a claim for negligence per se against diocese, despite amendments to Pennsylvania's Child Protective Services Law (CPSL) that culminated in 1995 with clergy being added to the list of individuals who had to report suspected child abuse; the victim did not show that clergy were reasonably expected to report suspected child abuse before 1995, and, more importantly, did not demonstrate that the defendant

diocese had reason to suspect the priest of child abuse in the 1980s. Hartz v. Diocese of Greensburg, C.A.3 (Pa.)2004, 94 Fed.Appx. 52, 2004 WL 637137, Unreported. Infants 12(10); Infants 13.5(2); Religious Societies 30

5. Hospitals

Hospital and its employees were not required to investigate true source of child's injury before reporting suspected child abuse where child was brought to hospital by parent with swelling on her head. Heinrich v. Conemaugh Valley Memorial Hosp., 648 A.2d 53, 436 Pa.Super. 465, Super.1994. Infants 13.5(1)

Hospital and its agents, who reported that they suspected mother's child was abused, were required to report the suspected abuse and were immune from any liability resulting from child abuse investigations. Heinrich v. Conemaugh Valley Memorial Hosp., 648 A.2d 53, 436 Pa.Super. 465, Super.1994. Infants 13.5(1); Infants 13.5(2)

Even if child welfare agency failed to move as swiftly as it might have in petitioning court for custody, its conduct could not be attributed to hospital which had acted in a proper and timely matter in reporting an instance of suspected child abuse, and hospital could not be faulted for subsequent delays in placement of child, who had been an eligible medical assistance patient, and was entitled to reimbursement from the department of public welfare for period between child's medical recovery and her placement in a foster home; only when delay in placement directly results from a hospital's failure to inform the department of the need for future placement will the department be justified in withholding reimbursement. St. Christopher's Hospital for Children v. Com., Dept. of Public Welfare, 372 A.2d 504, 30 Pa.Cmwlth. 88, Cmwlth.1977. Health 487(4)

6. Photo lab workers

Pennsylvania Child Protective Services Law's (PCPSL) requirement that workers whose employment brings them regularly into contact with children must report suspected child abuse to law enforcement authorities did not apply to photo lab workers, and thus, workers were not entitled to Law's presumption that those required to make such reports did so in good faith and were thereby immune from liability for such reports. Caswell v. BJ's Wholesale Co., E.D.Pa.1998, 5 F.Supp.2d 312. Infants 13.5(1)

7. Sexual assault counselors

Sexual assault counselors have a duty under Child Protective Services Act to reveal allegations of child abuse to police. Com. v. Askew, 666 A.2d 1062, 446 Pa.Super. 301, Super.1995, reargument denied, appeal denied 683 A.2d 876, 546 Pa. 635. Infants 13.5(1)

8. Social service agencies

County Children and Youth Services must file an indicated report of child abuse if it determines that, based on either available medical evidence, its investigation, or an admission of the acts of abuse by the perpetrator, substantial evidence of abuse exists. K.S. v. Com., Dept. of Public Welfare, 564 A.2d 561, 129 Pa.Cmwth. 31, Cmwth.1989. Infants 133

§ 6312. Persons permitted to report suspected child abuse

In addition to those persons and officials required to report suspected child abuse, any person may make such a report if that person has reasonable cause to suspect that a child is an abused child.

§ 6313. Reporting procedure

(a) **General rule.**--Reports from persons required to report under section 6311 (relating to persons required to report suspected child abuse) shall be made immediately by telephone and in writing within 48 hours after the oral report.

(b) **Oral reports.**--Oral reports shall be made to the department pursuant to Subchapter C (relating to powers and duties of department) and may be made to the appropriate county agency. When oral reports of suspected child abuse are initially received at the county agency, the protective services staff shall, after seeing to the immediate safety of the child and other children in the home, immediately notify the department of the receipt of the report, which is to be held in the pending complaint file as provided in Subchapter C. The initial child abuse report summary shall be supplemented with a written report when a determination is made as to whether a report of suspected child abuse is a founded report, an unfounded report or an indicated report.

(c) **Written reports.**--Written reports from persons required to report under section 6311 shall be made to the appropriate county agency in a manner and on forms the department prescribes by regulation. The written reports shall include the following information if available:

- (1) The names and addresses of the child and the parents or other person responsible for the care of the child if known.
- (2) Where the suspected abuse occurred.
- (3) The age and sex of the subjects of the report.
- (4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.

(5) The name and relationship of the person or persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by that person or persons.

(6) Family composition.

(7) The source of the report.

(8) The person making the report and where that person can be reached.

(9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.

(10) Any other information which the department may require by regulation.

(d) Failure to confirm oral report.--The failure of a person reporting cases of suspected child abuse to confirm an oral report in writing within 48 hours shall not relieve the county agency from any duties prescribed by this chapter. In such event, the county agency shall proceed as if a written report were actually made.

1. Limitations

Legislature did not intend in Child Protective Services Law to create statute of limitations for reports of child abuse; time limits prescribed by statute were intended for protection of child, not to shield alleged abuser. Cruz v. Com., Dept. of Public Welfare, 472 A.2d 725, 80 Pa.Cmwlth. 360, Cmwlth.1984. Infants 133

2. Verification

Child service agencies and individual personnel who reported suspected child abuse were not required to verify child's allegations of abuse prior to reporting, and agencies' reports were presumed to be made in good faith. Brozovich v. Circle C Group Homes, Inc., 548 A.2d 698, 120 Pa.Cmwlth. 417, Cmwlth.1988. Infants 17

§ 6314. Photographs, medical tests and X-rays of child subject to report

A person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county agency at the time the written report is sent or as soon thereafter as possible. The county agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 6318. Immunity from liability

(a) General rule.--A person, hospital, institution, school, facility, agency or agency employee that participates in good faith in the making of a report, whether required or not, cooperating with an investigation, including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse, the taking of photographs or the removal or keeping of a child pursuant to section 6315 (relating to taking child into protective custody), and any official or employee of a county agency who refers a report of suspected abuse to law enforcement authorities or provides services under this chapter, shall have immunity from civil and criminal liability that might otherwise result by reason of those actions.

(b) Presumption of good faith.--For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.

§ 6319. Penalties for failure to report or to refer

A person or official required by this chapter to report a case of suspected child abuse or to make a referral to the appropriate authorities who willfully fails to do so commits a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.