

## LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO SENATE BILL NO. 30

Sponsor: Mensch

Printer's No. 689

1 Amend Bill, page 1, lines 3 through 5, by striking out ", for  
2 immunity from liability, for" in line 3, all of line 4 and  
3 "information; and providing" in line 5 and inserting  
4 ; repealing provisions relating to immunity from liability;  
5 further providing for establishment of pending complaint file,  
6 Statewide central register and file of unfounded reports;  
7 repealing provisions relating to amendment or expunction of  
8 information; and providing for disposition of reports upon  
9 completion of assessment or investigation, for appeals of  
10 indicated reports and

11 Amend Bill, page 1, lines 15 through 19; page 2, lines 1  
12 through 30; page 3, lines 1 through 6, by striking out all of  
13 said lines on said pages and inserting

14 "Child-care services." As follows:

15 (1) Includes any of the following:

16 (i) Child day-care centers.

17 (ii) Group day-care homes.

18 (iii) Family day-care homes.

19 (iv) Foster homes.

20 (v) Adoptive parents.

21 (vi) Boarding homes for children.

22 (vii) Juvenile detention center services or programs  
23 for delinquent or dependent children.

24 (viii) Mental health services for children.

25 (ix) Services for children with intellectual  
26 disabilities.

27 (x) Early intervention services for children.

28 (xi) Drug and alcohol services for children.

29 (xii) Day-care services or programs that are offered  
30 by a school.

31 (xiii) Other child-care services that are provided  
32 by or subject to approval, licensure, registration or  
33 certification by the Department of Public Welfare or a  
34 county social services agency or that are provided

1 pursuant to a contract with the Department of Public  
2 Welfare or a county social services agency.

3 (2) The term does not include child-care services or  
4 programs which may be offered by public and private schools,  
5 intermediate units or area-vocational-technical schools.

6 \* \* \*

7 "School." A facility providing elementary, secondary or  
8 postsecondary educational services. The term includes the  
9 following:

10 (1) Any school of a school district.

11 (2) An area vocational-technical school.

12 (3) A joint school.

13 (4) An intermediate unit.

14 (5) A charter school or regional charter school.

15 (6) A cyber charter school.

16 (7) A private school licensed under the act of January  
17 28, 1988 (P.L.24, No.11), known as the Private Academic  
18 Schools Act.

19 (8) A private school accredited by an accrediting  
20 association approved by the State Board of Education.

21 (9) A nonpublic school.

22 (10) A community college which is an institution now or  
23 hereafter created pursuant to Article XIX-A of the act of  
24 March 10, 1949 (P.L.30, No.14), known as the Public School  
25 Code of 1949, or the former act of August 24, 1963 (P.L.1132,  
26 No.484), known as the Community College Act of 1963.

27 (11) An independent institution of higher education  
28 which is an institution of higher education which is operated  
29 not for profit, located in and incorporated or chartered by  
30 the Commonwealth, entitled to confer degrees as set forth in  
31 24 Pa.C.S. § 6505 (relating to power to confer degrees) and  
32 entitled to apply to itself the designation "college" or  
33 "university" as provided for by standards and qualifications  
34 prescribed by the State Board of Education pursuant to 24  
35 Pa.C.S. Ch. 65 (relating to private colleges, universities  
36 and seminaries).

37 (12) A State-owned university.

38 (13) A State-related university.

39 (14) A private school licensed under the act of December  
40 15, 1986 (P.L.1585, No.174), known as the Private Licensed  
41 Schools Act.

42 (15) The Hiram G. Andrews Center.

43 (16) A private residential rehabilitative institution as  
44 defined in section 914.1-A(c) of the Public School Code of  
45 1949.

46 \* \* \*

47 Amend Bill, page 4, lines 14 and 15, by striking out "section  
48 6379(d) (relating to immunity from liability)" and inserting

49 18 Pa.C.S. § 4906.1 (relating to false reports of child

1 abuse)

2 Amend Bill, page 4, lines 18 through 20, by striking out "a  
3 school, a" in line 18, all of line 19 and "detention facility"  
4 in line 20 and inserting

5 child-care services

6 Amend Bill, page 4, lines 24 through 30; pages 5 and 6, lines  
7 1 through 30; page 7, lines 1 through 29, by striking out all of  
8 said lines on said pages and inserting

9 Section 4. Section 6341 of Title 23 is repealed:  
10 [§ 6341. Amendment or expunction of information.

11 (a) General rule.--At any time:

12 (1) The secretary may amend or expunge any record under  
13 this chapter upon good cause shown and notice to the  
14 appropriate subjects of the report.

15 (2) Any person named as a perpetrator, and any school  
16 employee named, in an indicated report of child abuse may,  
17 within 45 days of being notified of the status of the report,  
18 request the secretary to amend or expunge an indicated report  
19 on the grounds that it is inaccurate or it is being  
20 maintained in a manner inconsistent with this chapter.

21 (b) Review of grant of request.--If the secretary grants the  
22 request under subsection (a)(2), the Statewide central register,  
23 appropriate county agency, appropriate law enforcement officials  
24 and all subjects shall be so advised of the decision. The county  
25 agency and any subject have 45 days in which to file an  
26 administrative appeal with the secretary. If an administrative  
27 appeal is received, the secretary or his designated agent shall  
28 schedule a hearing pursuant to Article IV of the act of June 13,  
29 1967 (P.L.31, No.21), known as the Public Welfare Code, and  
30 attending departmental regulations. If no administrative appeal  
31 is received within the designated time period, the Statewide  
32 central register shall comply with the decision of the secretary  
33 and advise the county agency to amend or expunge the information  
34 in their records so that the records are consistent at both the  
35 State and local levels.

36 (c) Review of refusal of request.--If the secretary refuses  
37 the request under subsection (a)(2) or does not act within a  
38 reasonable time, but in no event later than 30 days after  
39 receipt of the request, the perpetrator or school employee shall  
40 have the right to a hearing before the secretary or a designated  
41 agent of the secretary to determine whether the summary of the  
42 indicated report in the Statewide central register should be  
43 amended or expunged on the grounds that it is inaccurate or that  
44 it is being maintained in a manner inconsistent with this  
45 chapter. The perpetrator or school employee shall have 45 days

1 from the date of the letter giving notice of the decision to  
2 deny the request in which to request a hearing. The appropriate  
3 county agency and appropriate law enforcement officials shall be  
4 given notice of the hearing. The burden of proof in the hearing  
5 shall be on the appropriate county agency. The department shall  
6 assist the county agency as necessary.

7 (d) Stay of proceedings.--Any administrative appeal  
8 proceeding pursuant to subsection (b) shall be automatically  
9 stayed upon notice to the department by either of the parties  
10 when there is a pending criminal proceeding or a dependency or  
11 delinquency proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating  
12 to juvenile matters), including any appeal thereof, involving  
13 the same factual circumstances as the administrative appeal.

14 (e) Order.--The secretary or designated agent may make any  
15 appropriate order respecting the amendment or expunction of such  
16 records to make them accurate or consistent with the  
17 requirements of this chapter.

18 (f) Notice of expunction.--Written notice of an expunction  
19 of any child abuse record made pursuant to the provisions of  
20 this chapter shall be served upon the subject of the record who  
21 was responsible for the abuse or injury and the appropriate  
22 county agency. Except as provided in this subsection, the county  
23 agency, upon receipt of the notice, shall take appropriate,  
24 similar action in regard to the local child abuse and school  
25 employee records and inform, for the same purpose, the  
26 appropriate coroner if that officer has received reports  
27 pursuant to section 6367 (relating to reports to department and  
28 coroner). Whenever the county agency investigation reveals,  
29 within 60 days of receipt of the report of suspected child  
30 abuse, that the report is unfounded but that the subjects need  
31 services provided or arranged by the county agency, the county  
32 agency shall retain those records and shall specifically  
33 identify that the report was an unfounded report of suspected  
34 child abuse. An unfounded report regarding subjects who receive  
35 services shall be expunged no later than 120 days following the  
36 expiration of one year after the termination or completion of  
37 services provided or arranged by the county agency.]

38 Amend Bill, page 7, line 30, by striking out "a section" and  
39 inserting

40 sections

41 Amend Bill, page 7, by inserting after line 30

42 § 6341.1. Disposition of reports upon completion of  
43 investigation.

44 (a) Final determination.--Upon completion of an  
45 investigation by a county agency, the county agency shall inform  
46 the department that:

47 (1) the child abuse report or complaint has been

1 determined to be unfounded, indicated or founded; and

2 (2) whether there is any acceptance for services. If  
3 there is no acceptance for services, the county agency shall  
4 state whether the family was referred for other community  
5 services.

6 Each case shall bear a notation as to the effect of its  
7 outcome.

8 (b) Review of indicated reports.--A final determination that  
9 a report of suspected child abuse is indicated shall be made by  
10 the county agency solicitor and the county administrator or the  
11 designee of the administrator.

12 (c) Failure to make determination.--

13 (1) Subject to paragraph (2), a report of suspected  
14 child abuse shall be considered to be an unfounded report if  
15 within 60 days of the date of the initial report an  
16 investigation of the report by the county agency does not  
17 determine that the report is a founded report, indicated  
18 report or unfounded report.

19 (2) If court action has been initiated but the court has  
20 not determined that the report is a founded report, and the  
21 lack of such a determination results in the county agency not  
22 being able to make its determination under paragraph (1), the  
23 report shall be identified in the Statewide database as  
24 pending and the status of the report shall be updated in the  
25 Statewide database following the court determination.

26 (d) Notification of court action.--The county agency shall  
27 advise the department that court action or an arrest has been  
28 initiated so that the database is kept current regarding the  
29 status of all legal proceedings.

30 (e) Notice of final determination.--Within 24 business hours  
31 of entering of the information into the Statewide central  
32 registry, the department shall send notice of the final  
33 determination to the subjects of the report, other than the  
34 abused child, and the mandated reporter if a report was made  
35 under section 6313 (relating to reporting procedure). For the  
36 purpose of this section, notice of the report shall be deemed  
37 received by the intended recipient if the report was mailed to  
38 the recipient's last known post office address and was not  
39 returned to the department as undeliverable by the postal  
40 service. The notice shall include in following information:

41 (1) The status of the report.

42 (2) The perpetrator's right to request the secretary to  
43 amend the report.

44 (3) The right of the subjects of the report to services  
45 from the county agency.

46 (4) The effect of the report upon future employment  
47 opportunities involving children.

48 (5) The fact that the name of the perpetrator, the  
49 nature of the abuse and the final status of the report will  
50 be kept on file indefinitely if the Social Security number or  
51 date of birth is known.

1           (6) The perpetrator's right to appeal an indicated  
2 finding of abuse within 45 days of the conclusion of the  
3 investigation that determined the report to be indicated.

4           (7) The perpetrator's right to a fair hearing on the  
5 merits on an appeal of an indicated report.

6           (8) The burden on the investigative agency to prove its  
7 case by substantial evidence in an appeal of an indicated  
8 report.

9           (f) Amendment by secretary.--At any time the secretary may  
10 amend any record under this chapter upon good cause shown and  
11 notice to the appropriate subjects of the report and the county  
12 agency having jurisdiction over the report.

13           (g) Request by perpetrator.--Any person named as a  
14 perpetrator in an indicated report may request the secretary to  
15 amend the report on the grounds that it is inaccurate or is  
16 being maintained in a manner inconsistent with this chapter. The  
17 request shall be filed within 45 days of the date of the notice  
18 of the final determination that the report is indicated.

19           (h) Review of refusal of request.--If the secretary refuses  
20 the request under subsection (f) or does not act within a  
21 reasonable time, but in no event later than 30 days after  
22 receipt of the request, the perpetrator shall have the right to  
23 a hearing before the secretary or a designated agent of the  
24 secretary to determine whether the summary of the indicated  
25 report in the Statewide central register should be amended or  
26 expunged on the grounds that it is inaccurate or that it is  
27 being maintained in a manner inconsistent with this chapter. The  
28 perpetrator shall have 45 days from the date of the letter  
29 giving notice of the decision to deny the request in which to  
30 request a hearing. The appropriate county agency and appropriate  
31 law enforcement officials shall be given notice of the hearing.  
32 The burden of proof in the hearing shall be on the appropriate  
33 county agency. The department shall assist the county agency as  
34 necessary.

35           (i) Appeal.--Subject to the provisions of section 6341.2  
36 (relating to appeals of indicated reports), the perpetrator may  
37 appeal a denial of the request under subsection (g), and the  
38 county may appeal the granting of the request.

39           (j) Order.--The secretary or designated agent may make any  
40 appropriate order respecting the amendment of an indicated  
41 report to make it accurate or consistent with the requirements  
42 of this chapter.

43 § 6341.2. Appeals of indicated reports.

44           (a) Time to appeal.--Appeals made under section 6341.1(j)  
45 (relating to disposition of reports upon completion of  
46 investigation) must be received by the secretary within 45 days  
47 of the conclusion of the investigation determining that the  
48 report of suspected child abuse is an indicated report. Failure  
49 to timely file an appeal shall preclude any appeal of the  
50 indicated finding of child abuse.

51           (b) Stay of proceedings.--An administrative appeal

1 proceeding under this section shall be automatically stayed upon  
2 notice to the department by either of the parties when there is  
3 a pending criminal proceeding or a dependency or delinquency  
4 proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile  
5 matters), including any appeal thereof, involving the same  
6 factual circumstances as the administrative appeal.

7 (c) Hearing.--The appeal hearing shall be scheduled  
8 according to the following procedures:

9 (1) Within ten days of receipt of an appeal pursuant to  
10 this section, the department shall schedule a hearing on the  
11 merits of the appeal.

12 (2) The department shall make reasonable efforts to  
13 coordinate the hearing date with both the appellee and  
14 appellant.

15 (3) Proceedings before the Bureau of Hearings and  
16 Appeals shall commence within 90 days of the date the  
17 scheduling order is entered. Proceedings and hearings shall  
18 be scheduled to be heard on consecutive days whenever  
19 possible, but if not on consecutive days, then the proceeding  
20 or hearing shall be concluded no later than 30 days from  
21 commencement.

22 (4) The investigative agency shall bear the burden of  
23 proving by substantial evidence that the report should remain  
24 categorized as an indicated report.

25 (5) Evidence that a child has suffered child abuse of  
26 such a nature as would ordinarily not be sustained or exist  
27 except by reason of the act or failure to act of the alleged  
28 perpetrator shall be prima facie evidence of child abuse by  
29 either or both of the parents or any other person responsible  
30 for the child's welfare. Once the investigative agency has  
31 established that prima facie evidence of child abuse exists,  
32 the burden shall shift to the appellee to establish that the  
33 appellee was not the individual responsible for the welfare  
34 of the child or that the child was not the victim of child  
35 abuse by a perpetrator.

36 (d) Testimony by closed-circuit television when available.--  
37 At the request of the investigative agency, the administrative  
38 law judge or hearing officer shall order that the testimony of  
39 the child victim or child material witness be taken under oath  
40 or affirmation in a room other than the hearing room and  
41 televised by close-circuit equipment to be viewed by the  
42 tribunal. Only the attorneys for the appellant and appellee, the  
43 court reporter, the administrative law judge or hearing officer,  
44 persons necessary to operate the equipment and any person whose  
45 presence would contribute to the welfare and well-being of the  
46 child may be present in the room with the child during the  
47 child's testimony. The administrative law judge or hearing  
48 officer shall permit the appellee to observe and hear the  
49 testimony of the child but shall ensure that the child cannot  
50 hear or see the appellee. The administrative law judge or  
51 hearing officer shall make certain that the appellee has

1 adequate opportunity to communicate with counsel for the  
2 purposes of providing an effective examination.

3 (e) Admissibility of certain statements.--An out-of-court  
4 statement, including a video, audio or other recorded statement,  
5 not otherwise admissible by statute or rule of evidence is  
6 admissible in evidence in a proceeding under this section if the  
7 following apply:

8 (1) The statement was made by a child under ten years of  
9 age or by a child ten years of age or older who is  
10 intellectually disabled.

11 (2) The statement alleges, explains, denies or describes  
12 any of the following:

13 (i) An act of sexual penetration or contact  
14 performed with or on the child.

15 (ii) An act of sexual penetration or contact with or  
16 on another child observed by the child making the  
17 statement.

18 (iii) An act involving bodily injury or serious  
19 physical neglect of the child by another.

20 (iv) An act involving bodily injury or serious  
21 physical neglect of another child observed by the child  
22 making the statement.

23 (3) The administrative law judge or hearing officer  
24 finds that the time, content and circumstances of the  
25 statement and the reliability of the person to whom the  
26 statement is made provide sufficient indicia of reliability.

27 (4) The proponent of the statement notifies other  
28 parties of an intent to offer the statement and the  
29 particulars of the statement sufficiently in advance of the  
30 proceeding at which the proponent intends to offer the  
31 statement into evidence to provide the parties with a fair  
32 opportunity to meet the statement.

33 (f) Prompt decision.--The administrative law judge or  
34 hearing officer's decision shall be entered, filed and served  
35 upon the parties within 15 days of the date upon which the  
36 proceeding or hearing is concluded unless, within that time, the  
37 tribunal extends the date for the decision by order entered of  
38 record showing good cause for the extension. In no event shall  
39 an extension delay the entry of the decision more than 45 days  
40 after the conclusion of the proceeding or hearing.

41 (g) Reconsideration and appeal.--Parties to a proceeding or  
42 hearing held under this section have 15 calendar days from the  
43 mailing date of the final order of the Bureau of Hearings and  
44 Appeals to request the secretary to reconsider the decision or  
45 appeal to Commonwealth Court. Parties to a proceeding or hearing  
46 held under this section have 30 calendar days from the mailing  
47 date of the final order of the Bureau of Hearings and Appeals to  
48 perfect an appeal to the Commonwealth Court. The filing for  
49 reconsideration shall not toll the 30 days provided.

50 (h) Notice of decision.--Notice of the decision shall be  
51 made to the Statewide database, the appropriate county agency,



1 any appropriate law enforcement officials and all subjects of  
2 the report.

3 (i) Notice of expunction.--Written notice of an expunction  
4 of any child abuse record made pursuant to the provisions of  
5 this chapter shall be served upon the subject of the record who  
6 was responsible for the abuse or injury and the appropriate  
7 county agency. Except as provided in this subsection, the county  
8 agency, upon receipt of the notice, shall take appropriate,  
9 similar action in regard to the local child abuse and school  
10 employee or child-care services employee records and inform, for  
11 the same purpose, the appropriate coroner if that officer has  
12 received reports pursuant to section 6367 (relating to reports  
13 to department and coroner). Whenever the county agency  
14 investigation reveals, within 60 days of receipt of the report  
15 of suspected child abuse, that the report is unfounded but that  
16 the subjects need services provided or arranged by the county  
17 agency, the county agency shall retain those records and shall  
18 specifically identify that the report was an unfounded report of  
19 suspected child abuse. An unfounded report regarding subjects  
20 who receive services shall be expunged no later than 120 days  
21 following the expiration of one year after the termination or  
22 completion of services provided or arranged by the county  
23 agency.

24 Amend Bill, page 8, lines 7 and 8, by striking out "or  
25 causing a report of suspected child abuse to be made,"

26 Amend Bill, page 8, line 15, by inserting after "abuse"  
27 or general protective services

28 Amend Bill, page 8, line 24, by inserting after "abuse"  
29 or general protective services

30 Amend Bill, page 9, line 5, by inserting after "abuse"  
31 pursuant to 18 Pa.C.S. § 4906.1 (relating to false  
32 reports of child abuse)

33 Amend Bill, page 9, lines 5 and 6, by striking out "school,  
34 private" in line 5 and all of line 6 and inserting  
35 person,

36 Amend Bill, page 9, line 8, by striking out "or" and  
37 inserting a comma

38 Amend Bill, page 9, line 8, by inserting after "employee"  
39 where it occurs the second time

1 or child-care services employee

2 Amend Bill, page 9, line 10, by striking out "in 60 days" and  
3 inserting

4 January 1, 2014