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## **Senate Aging & Youth Committee**

**Senator Bob Mensch**

*Chairman*

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### **Analysis Senate Bill 30, P.N. 689**

**Prime Sponsor: Senator Ted Erickson**

#### **Overview**

Amends Title 23 (Domestic Relations) by establishing accountability and due process protections for individuals working with delinquent children in juvenile detention facilities and residential rehabilitative institutions and creates an offense for filing false claims of suspected child abuse.

#### **Summary**

Amends the Child Protective Services Law by:

- Defining "detention facility" as a privately or publicly owned and operated facility that is designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily.
- Defining "detention facility employee" as an individual employed by a detention facility. The term includes an independent contractor and employees.
- Defining "private residential rehabilitative institution" as having the same meaning as given to it in section 914.1-A(c) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.
- Defining "private residential rehabilitative institution employee" as an individual employed by a private residential rehabilitative institution. The term includes an independent contractor and employees.
- Defining "school" as a facility providing elementary, secondary or postsecondary educational services. The term includes every public, nonpublic, private and parochial school, including each of the following:
  - A school or a class within a school under the supervision of the Department of Education.

- A State-related and State-owned college or university.
  - A public or private college or university.
  - A community college.
  - A vocational-technical school.
  - An intermediate unit.
  - A charter or regional charter school.
  - A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.
  - A nonprofit school located in this Commonwealth, other than a public school, wherein a resident of this Commonwealth may legally fulfill the compulsory school attendance requirements of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and which meets the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).
- Permitting subfiles of both founded and indicated reports to be retained indefinitely within the statewide central register.
    - Subfile of names of perpetrators of indicated and founded reports of child abuse if the individuals Social Security number or date of birth is known to the department.
    - Subfile of the names of persons who made an intentionally false report of suspected child abuse, including the name of the subject child, which shall only be made available to law enforcement, the department or county agency investigating new allegations of suspected child abuse at a school, private residential rehabilitative institution or a detention facility to determine the existence of a pattern of false reports.
- Allowing any private residential rehabilitative institution employee or detention facility employee who is named as a perpetrator on an indicated report to make a request for amendment or expungement to the secretary within 45 days of being notified of the status of the report.
- Giving a private residential rehabilitative institution employee or detention facility employee the ability to appeal the secretary's refusal to act through a summary hearing.
- Establishing process for appeals from refusal of request:
    - Grants a school employee, private residential rehabilitative institution employee or detention facility employee who is named in an indicated report who files an appeal, an initial hearing and ruling within 45 days of the date the appeal was received by the secretary. If a ruling on the matter is not issued within 45 days, the report shall be marked unfounded and expunction shall be granted.

- The initial hearing must be conducted before the secretary or the designated agent of the secretary for the purpose of determining whether credible and substantial evidence exists to support the determination made by the department or the county agency. All evidence gathered by the department or county agency as part of its investigation leading to a determination shall be disclosed to the appellant employee sufficiently in advance of the hearing. If the secretary or designee concludes that insufficient evidence exists to support the determination, the report shall be marked unfounded and expunction shall be granted. If the secretary or designee concludes that sufficient evidence has been presented, the matter shall be scheduled for a full hearing on the merits. If a full hearing is necessary and the appellant is a private residential rehabilitative institution employee or detention facility employee, the secretary or designee must also determine whether the appellant should continue to work with children and under what, if any, restrictions shall be imposed based on the nature and extent of the evidence presented. Restrictions may only be imposed if, based on evidence presented, the appellant presents a danger to the subject child or other minors under his or her care.
- The department or county agency bears the burden of proof at any hearing conducted before the secretary or designee.
- Requiring the county agency to take appropriate action to provide a written notice of expunction in regard to local child abuse and private residential rehabilitative institution employee or detention facility employee.
- Providing immunity from liability:
  - A person, hospital, institution, school, facility, agency or agency employee acting in good faith and without actual malice has immunity from civil and criminal liability resulting from any of the following:
    - Making a report of suspected child abuse or causing a report of suspected child abuse to be made, or making a referral for general protective services, regardless of whether the report is required to be made under this chapter.
    - Cooperating or consulting with an investigation under this chapter, 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.
    - Engaging in any action taken relating to photographs, medical tests and X-rays of child subject to report, relating to taking child into protective custody, relating to admission to private

and public hospitals or relating to mandatory reporting and postmortem investigation of deaths.

- Departmental and county agency immunity.--An official or employee of the department or county agency who refers a report of suspected child abuse to law enforcement authorities or provides services has immunity from civil and criminal liability resulting from the action.
- 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 unless actual malice is proven.
- Makes it a second-degree misdemeanor for intentionally making a false report of suspected child abuse against a school, private residential rehabilitative institution, detention facility, school employee, private residential rehabilitative institution employee or detention facility employee.

**Effective Date**

60 days