

COMMITTEE BILL ANALYSIS

Bill: House Bill 1201

Printer's No.: 1792

Sponsor: Rep. Barbin

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Synopsis: This bill amends the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, to further provide for the protection of the names of minor victims of sexual or physical abuse in court proceedings and to update the list of State licensing boards to which district attorneys must make post-trial reports when a health care practitioner has been found guilty of a felony.

Summary:

Minor victims

Subchapter D of Chapter 59 of the Judicial Code governs issues relating to child victims and witnesses. The bill amends sections 5981, 5982 and 5988 of Subchapter D to protect the names of minors who are victims of sexual or physical assault. A definition of minor is added to mean an individual who, at the time of the commission of the offense involving sexual or physical abuse, is under 18 years of age. The name of the minor victim shall not be disclosed by officers or employees of the court to the public, and any records revealing the name of the minor victim shall not be open to public inspection.

This prohibition shall apply regardless of the date of the commencement of the prosecution. A minor victim who is 18 years of age or older at the time of the commencement of the prosecution may waive the prohibition and allow the court to release the name of the minor victim. The court shall develop procedures to implement the waiver provision.

Report by district attorney

Section 9561 of the Judicial Code requires the district attorney to make a report to the appropriate State licensing board when a health care professional is convicted of a felony. Whenever a health care professional has been found guilty, has pleaded guilty or has entered a plea of nolo contendere to a felony in Pennsylvania, the district attorney of the county in which the case was prosecuted shall notify the appropriate State board within 30 days of the court's entry of a finding of guilt, acceptance of a guilty plea or acceptance of a plea of nolo contendere.

The bill amends the definition of State board to make section 9561 consistent with the boards currently existing within the Department of State and adds language to include any other health-related administrative board which issues professional or occupational licenses within the department to protect against future changes.

Effective date

This act takes effect in 60 days.

Background: The House of Representatives passed House Bill 1201 on May 15, 2013 by a vote of 196 to 0.

As originally introduced, House Bill 1201 addressed the post-trial reports made by district attorneys to State licensing boards. According to the sponsor, the Report of the Task Force on Child Protection found that the list of licensing boards to which mandated post-trial reports are made by district attorneys is obsolete. Several of the boards of the Bureau of Professional and Occupation Affairs have changed names and new boards have been created. House Bill 1201 was introduced to bring section 9561 up-to-date by correctly listing the licensing boards to which these reports shall be made.

House amendment

The House of Representatives amended House Bill 1201 to include the substance of House Bill 342 prohibiting the disclosure of the names of minor victims. Current law provides child victims with some protection. “Child” is defined as an individual under 16 years of age. The law is not clear how this protection applies to a victim of child sexual abuse who is now an adult.

According to the sponsor, currently, under the Judicial Code, unless the court otherwise orders the names to be released, the names of child victims cannot be disclosed by court officers to the public. Further, unless the court so orders, public records cannot reveal the name of child victims. Hence, it is up to the trial court to decide whether the name of child victims can be made public.

The need for this legislation is illustrated by the case of a child victim who is now testifying in court as an adult. The legislation amends Subchapter D of Chapter 59 of the Judicial Code by providing that the court may not disclose the name of child victims of physical and sexual abuse when the victim was under the age of 18 *at the time of the offense* regardless of when the prosecution commences. Further, any records revealing the name of the victim shall not be open to public inspection. In addition, the legislation allows a child victim who is at least 18 years of age to waive the provisions of non-disclosure and allow the court to release the person’s name.