

Pennsylvania Library Laws

Title 24. PA. C.S. Education – Public Library Code

Public School Code of 1949 (Act of Mar. 10, 1949, P.L. 30, No. 14 Cl. 24)

Fiscal Code (Act of Apr. 9, 1929, P.L. 343, No. 176 Cl. 72)

Fiscal Code – Omnibus Amendments – Line Item Veto (Act of Jul. 10, 2014, P.L. 1053, No. 126 Cl. 72)

Child Internet Protection Act (Act of Nov. 30, 2004, P.L. 1556, No. 197 Cl. 35)

Title 18. PA. C.S. Crimes and Offenses

Title 23 PA. C.S. Domestic Relations – Child Protective Services Act

Keystone Recreation, Park and Conservation Fund Act (Act of Jul. 2, 1993, P.L. 359, No. 50 Cl. 32)

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**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION**

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Introduction

This publication compiles Pennsylvania statutes that apply to public libraries in Pennsylvania. The source for these laws is the Pennsylvania General Assembly's website (<https://www.legis.state.pa.us/cfdocs/legis/li/public/>).

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1 **Title 24. PA. C.S. Education**

2 **Part VI. Libraries**

3 **Subpart A. Public Libraries**

4 **Chapter 93: Public Library Code**

5 Subchapter

6 A. General Provisions

7 B. Public Library System

8 C. State Aid to Libraries

9 D. Municipal Support for Libraries

10 E. Miscellaneous Provisions

11 **Enactment.** Chapter 93 was added November 1, 2012, P.L.1683, No.210, effective immediately.

12 **Special Provisions in Appendix.** See section 2 of Act 210 of 2012 in the appendix to this title for special
13 provisions relating to continuation of prior law.

14 **Cross References.** Chapter 93 is referred to in section 1302 of Title 8 (Boroughs and Incorporated
15 Towns); section 13605 of Title 11 (Cities).

16 **Subchapter A: General Provisions**

17 Sec.

18 9301. Scope of chapter.

19 9302. Definitions.

20 **§ 9301. Scope of chapter.**

21 This chapter relates to public libraries.

22 **§ 9302. Definitions.**

23 The following words and phrases when used in this chapter shall have the meanings
24 given to them in this section unless the context clearly indicates otherwise:

25 **"Advisory council."** The Advisory Council on Library Development established in
26 section 9312 (relating to advisory council).

27 **"Basic standards."** Standards promulgated by the State Librarian and approved by
28 the advisory council which are essential and must be achieved by:

29 (1) A local library to qualify for State aid under sections 9334 (relating to quality
30 libraries aid) and 9336 (relating to equal distribution grants).

1 (2) A branch library or a bookmobile to qualify for the State aid under section
2 9336.

3 **"County library."** Any local library or division of a local library which derives
4 income from the commissioners of the county for the express purpose of making its
5 resources and services available without charge to all county residents and bringing
6 direct library service to those residents not served by other local libraries located within
7 the same county. For the purposes of this chapter, a local library operating a distinct
8 county library division shall be considered as two agencies, a local library and county
9 library, which are merged or conjoined.

10 **"Department."** The Department of Education of the Commonwealth.

11 **"Direct service area."** The municipality to which the governing body of a library is
12 responsible for extending all its library services without charge.

13 **"Financial effort."** The sum expended annually by a local library for the
14 establishment, operation and maintenance of library services, which:

15 (1) Derives from local taxes, gifts, endowments and other local sources, as may
16 be provided under rules and regulations adopted by the advisory council.

17 (2) Is used to determine eligibility for State aid.

18 **"Financial effort equal to one-half mill."** The financial effort equal to one-half mill
19 times the market value of taxable property, as determined by the State Tax Equalization
20 Board, in the municipalities for which aid is claimed or in the direct service area of a
21 local library, whichever is applicable.

22 **"Financial effort equal to one-quarter mill."** The financial effort equal to one-
23 quarter mill times the market value of taxable property, as determined by the State Tax
24 Equalization Board, in the municipalities for which aid is claimed or in the direct service
25 area of a local library, whichever is applicable.

26 **"Internet."** The international nonproprietary computer network of both Federal and
27 non-Federal interoperable packet-switched data networks.

28 **"Library system."** A county-level or multicounty-level federation of at least two
29 local libraries which:

30 (1) Serves at least 25,000 people.

31 (2) Has voluntarily agreed to participate in the federation.

32 (3) Has delegated the policymaking functions to a system board of directors.

1 **"Local government support."** Support from a municipality within a direct service
2 area for the normal, recurring operating costs of a library or a library system serving that
3 direct service area from appropriations, general purpose taxes, special library taxes or
4 direct payment of any library expense. The term shall not include costs of shared
5 services, in-kind costs or employment program costs.

6 **"Local library."** Any free, public, nonsectarian library, whether established and
7 maintained by a municipality or by a private association, corporation or group, which
8 serves the informational, educational and recreational needs of all the residents of the
9 area for which its governing body is responsible, by providing free access to:

10 (1) An organized and currently useful collection of printed items and other
11 materials, including free lending and reference services.

12 (2) The services of a staff trained to recognize and provide for these needs.

13 **"Locality."** Any city, borough, town, township or school district of the second, third
14 or fourth class.

15 **"Minimum standards."** Standards promulgated by the State Librarian and
16 approved by the advisory council which must be achieved by a local library or library
17 system to qualify for aid under section 9335 (relating to incentive for excellence aid).

18 **"Municipal officers."** Any of the following:

19 (1) The mayor and council of a city.

20 (2) The mayor and council of a borough or town.

21 (3) The commissioners or supervisors of a township.

22 (4) The commissioners of a county.

23 (5) The board of school directors of a school district of the second, third or fourth
24 class.

25 **"Municipality."** Any county or locality which establishes or maintains a local library.

26 **"Per capita."** Amounts per person residing in the direct service area of the local
27 library or library system determined on the basis of the most recent official United States
28 Census report for purposes of calculating payment under sections 9334 (relating to
29 quality libraries aid), 9335 (relating to incentive for excellence aid), 9338 (relating to
30 district library center aid) and 9340 (relating to equalization aid).

31 **"Surplus financial effort."** The financial effort which is in excess of \$5 per capita
32 for each person residing in the direct service area of the local library.

1 **Cross References.** Section 9302 is referred to in section 13605 of Title 11 (Cities).

2 **Subchapter B: Public Library System**

3 Sec.

4 9311. State Library and State Librarian.

5 9312. Advisory council.

6 9313. Statewide library resource centers.

7 9314. District library centers.

8 9315. Development of local libraries.

9 9316. Acquisition of real property for library purposes.

10 9317. County libraries and library taxes.

11 9318. Local library governance.

12 9319. Certification of library personnel.

13 9320. Collaborative ventures.

14 **§ 9311. State Library and State Librarian.**

15 a) **Appointment of State Librarian.**-- The department shall appoint a suitably
16 qualified State Librarian to exercise the powers and duties set forth in this section, who
17 shall also serve as Deputy Secretary for Libraries.

18 (b) **Powers and duties.**--The State Librarian shall have the power and duty to:

19 (1) Control, direct, supervise and manage the State Library as an agency
20 providing information and fostering continuing education in the State education
21 program.

22 (2) Maintain a law library as part of the State Library.

23 (3) Maintain a definitive, organized collection of all Commonwealth publications
24 in the State Library, receive copies of all publications of all agencies of the
25 Commonwealth and provide for the distribution of those publications to other
26 libraries.

27 (4) Designate selected academic or local libraries within this Commonwealth as
28 State government document depository libraries under criteria and regulations
29 approved by:

30 (i) The advisory council.

31 (ii) The Joint Committee on Documents, in the case of documents published
32 under the act of July 31, 1968 (P.L.769, No.240), referred to as the
33 Commonwealth Documents Law.

34 (5) Coordinate a Statewide system of local libraries.

1 (6) Establish service standards for local libraries applying for aid under sections
2 9334 (relating to quality libraries aid) and 9335 (relating to incentive for excellence
3 aid), which standards shall recognize and encourage the use and development of
4 current and emerging technologies and concern the following:

5 (i) Minimum standards for number and quality of library staff.

6 (ii) Resources of books and other materials.

7 (iii) Hours of operation.

8 (iv) Continuing professional development.

9 (v) Collections expenditures.

10 (vi) Physical facilities.

11 (vii) Accessibility, including physical and electronic access to library
12 materials.

13 (7) Advise local libraries, district library centers, Statewide library resource
14 centers, municipalities and groups regarding:

15 (i) The selection of books, cataloging and other details of library
16 management.

17 (ii) The location of new local libraries.

18 (iii) Those items listed in paragraph (6).

19 (iv) The best means of establishing and administering a library.

20 (8) Inspect local libraries, district library centers and Statewide library resource
21 centers and require reports in any manner that the State Librarian deems proper.

22 (9) Purchase and maintain a general collection of books, periodicals,
23 newspapers, maps, slides, films and other library materials for the use of State and
24 local governments, libraries and the public generally.

25 (10) Make available all library materials of the State Library for circulation to
26 local libraries and the public generally under rules and regulations promulgated by
27 the State Librarian.

28 (11) Promote and demonstrate library services throughout this Commonwealth.

29 (12) Collect, preserve and publish library statistics

1 (13) Study library problems throughout this Commonwealth and make the
2 resultant findings available to all libraries within the State that request the findings.

3 (14) Conduct and arrange training programs for and certify library personnel.

4 (15) Whenever necessary, for the purpose of administering the library laws of
5 this Commonwealth, act as arbiter in defining the direct service area of any library.

6 (16) Receive funds allocated to the Commonwealth for library purposes by the
7 Federal Government or private agencies and administer those funds in library
8 maintenance, improvement or extension programs consistent with Federal and State
9 library objectives.

10 (17) Promote and support cooperation among the various types of libraries in
11 Pennsylvania for the purpose of increasing the services and resources available
12 through libraries.

13 (18) Subject to approval by the advisory council, promulgate rules and
14 regulations for the purpose of carrying out the library powers and duties that are
15 imposed by law.

16 (c) **Restrictions on circulation.**--The State Librarian may restrict the circulation of
17 library materials from the State Library that are rare or used intensively in the State
18 Library for reference or other purposes.

19 **Cross References.** Section 9311 is referred to in section 9374 of this title.

20 **§ 9312. Advisory council.**

21 (a) **Creation.**--The Advisory Council on Library Development is established and
22 administered by the department.

23 (b) **Appointment by Governor.**--The advisory council shall consist of 12 members
24 appointed by the Governor, as follows:

25 (1) Three trustees of local libraries.

26 (2) Six professional librarians.

27 (3) Three laypeople.

28 (c) **Ex officio members.**--The Secretary of Education and the State Librarian shall
29 be ex officio members of the advisory council.

1 (d) **Term of office.**--Each member of the advisory council shall serve for four years,
2 from the third Tuesday of January of the year in which he takes office or until his
3 successor has been appointed and qualified.

4 (e) **Expenses.**--Except for reimbursement for travel and other actual expenses
5 incurred in the performance of his duties, each member of the advisory council shall
6 serve without compensation.

7 (f) **Chairperson.**--The Governor shall designate one member of the advisory
8 council as chairperson.

9 (g) **Meetings.**--The advisory council shall meet at least four times a year at such
10 times and places as it shall determine.

11 (h) **Powers and duties.**--The advisory council shall have the following powers and
12 duties:

13 (1) Advise the Governor and the Secretary of Education regarding the
14 appointment of the State Librarian.

15 (2) Advise and make recommendations to the Governor, the Secretary of
16 Education and the State Librarian regarding the general policies and operations of
17 the State Library and the State system of aid to libraries.

18 (3) Constitute a board of appeal regarding disputes arising from decisions of the
19 State Librarian which affect the amount of a library's State aid or a library's eligibility
20 for State aid. In any appeal, the ex officio members of the advisory council shall not
21 have voting rights, and a majority of the members of the advisory council shall
22 determine the outcome of the appeal.

23 (4) Aid in increasing public understanding of and formulating plans for furthering
24 the purposes of this chapter.

25 (5) Promulgate rules and regulations for the approval of plans for the use of
26 State funds and for the process and procedure to appeal funding and eligibility
27 decisions.

28 (6) Approve or disapprove library district service areas which are recommended
29 by the State Librarian.

30 **Special Provisions in Appendix.** See section 2(5) of Act 210 of 2012 in the appendix to this title for
31 special provisions relating to composition of advisory council.

32 **Cross References.** Section 9312 is referred to in section 9302 of this title.

1 **§ 9313. Statewide library resource centers.**

2 (a) **Designation.**--The State Librarian shall designate four Statewide library
3 resource centers to be located at the following places:

- 4 (1) Free Library of Philadelphia.
- 5 (2) Pennsylvania State Library.
- 6 (3) Pennsylvania State University Library.
- 7 (4) Carnegie Library of Pittsburgh.

8 (b) **Powers and duties.**--A Statewide library resource center shall:

- 9 (1) Have the responsibility and power to acquire major research collections.
- 10 (2) Make research collections available to the residents of this Commonwealth
11 on a Statewide basis under rules and regulations promulgated by a board consisting
12 of the head librarians of all Statewide library resource centers and under the
13 chairmanship of the State Librarian.

14 **§ 9314. District library centers.**

15 (a) **Designation.**--With the approval of the advisory council, the State Librarian shall
16 designate up to 30 libraries throughout this Commonwealth as district library centers
17 which may include:

- 18 (1) any local library;
- 19 (2) any State college library;
- 20 (3) the Pennsylvania State University Library; or
- 21 (4) any privately supported college or university library which agrees to serve as
22 a district library center.

23 (b) **Powers and duties.**--A district library center may:

- 24 (1) Coordinate the services of local libraries within the district library center
25 system by contracting with a municipality or board of trustees or managers of a local
26 library to become part of the system.
- 27 (2) Provide direct library service without charge to all residents of the district.
- 28 (3) Provide supplementary library services to all local libraries within the district.

1 (4) Exchange or provide services with other district library centers or contract for
2 the provision of library services with other district library centers.

3 **§ 9315. Development of local libraries.**

4 (a) **Vote on library tax; approval.**--The qualified voters of a municipality shall
5 determine at a special election whether to establish an annual special library tax on all
6 taxable property of the municipality for the establishment of, maintenance of and aid to
7 a local library under the following procedures:

8 (1) Subject to paragraph (2), the municipal officers of a municipality may submit
9 to the qualified voters the question of the library tax at any time.

10 (2) If petitioned for by 3% of the number of individuals who voted in the last
11 preceding general or municipal election, the municipal officers of a municipality shall
12 submit to the qualified voters the question of the library tax.

13 (3) A special election under this subsection shall be held at the time of the next
14 general, municipal or primary election that occurs not less than 60 days from:

15 (i) the date of the decision of the municipal officers to submit the question of
16 the library tax; or

17 (ii) the date of submission of the petition under paragraph (2).

18 (4) If the majority of votes cast approves of the library tax, at the first meeting
19 following the official announcement of the results of the election, the municipal
20 officers shall:

21 (i) Take the necessary steps to levy and collect the tax.

22 (ii) Appoint a board of library directors to have exclusive control of the library
23 and library tax revenue as provided in section 9318 (relating to local library
24 governance).

25 (b) **Timing and amount of tax rate.**--The following shall apply:

26 (1) Subject to paragraph (2), the library tax established under this section shall
27 be an annual tax which shall remain in effect until another vote is taken to change it.

28 (2) The municipal officers of the municipality that have approved the library tax
29 may increase the rate without submitting the question to the voters.

30 (c) **Levy and collection.**--The library tax shall be levied and collected in the same
31 manner as other taxes in the municipality and shall be in addition to all other taxes,
32 unless the municipality incorporates the library tax in the general levy.

1 (d) **Use of tax proceeds.**--The library tax may not be used for any purpose other
2 than the establishment of, maintenance of and aid to a local library.

3 (e) **Contract for library service.**--The following shall apply:

4 (1) A municipality may contract with the managers or owners of an existing local
5 library for public library service to the residents of the municipality, whether the
6 library is located in the same or another municipality. The contract may be renewed
7 as permitted by the terms of the contract.

8 (2) The municipal officers of a municipality may make appropriations from
9 current municipal revenue or moneys raised by the library tax to pay the contractual
10 obligations under paragraph (1).

11 (3) If a special library tax is levied, all income from the tax shall be used for the
12 establishment of, maintenance of and aid to the local library with which the municipal
13 officers have entered into contract.

14 (f) **Limitation on establishment of new libraries.**--The following shall apply:

15 (1) No new library may be established under the provisions of this chapter in any
16 municipality where there is a local library which:

17 (i) is open to the use of all the residents of the municipality; and

18 (ii) meets the minimum standards recommended by the State Librarian as
19 conditions for participation in State aid.

20 (2) All State aid authorized under this chapter shall be given to an existing local
21 library meeting the provisions of paragraph (1).

22 (g) **Multiple libraries in municipality.**--If two or more libraries receive State aid
23 from the same municipality and were established on or before July 20, 1917, any
24 appropriation authorized by this chapter shall be divided between those libraries
25 according to the terms of any agreement previously entered into between those libraries
26 and approved by the State Librarian.

27 **§ 9316. Acquisition of real property for library purposes.**

28 (a) **Purchase or lease of real property.**--A municipality may acquire lands and
29 buildings for local library purposes by the:

30 (1) purchase, setting apart or lease of lands and buildings or parts of buildings
31 already owned by the municipality;

32 (2) erection of buildings; or

1 (3) alteration of existing buildings to make them suitable for local library
2 purposes.

3 (b) **Acquisition costs.**--A municipality may provide for the cost of an acquisition
4 under subsection (a) in the same manner as other buildings are acquired for use for
5 municipal purposes.

6 (c) **Use of library tax proceeds.**--If a municipality has authorized a library tax, the
7 directors of the library may remit any funds accumulated in excess of the necessary
8 costs of establishing, maintaining or aiding the library to the municipal officers of the
9 municipality, which funds shall be used for the purposes provided in subsection (a).

10 (d) **Taking of private property.**--A municipality may, by ordinance or resolution,
11 purchase, enter upon and appropriate private property within its limits for the purpose of
12 erecting or enlarging public library buildings.

13 (e) **Board of viewers.**--The court of common pleas shall appoint a board of viewers
14 for the assessment of damages caused by the taking of private property for public
15 library purposes if:

16 (1) a petition is filed by the municipal officers or any interested person; and

17 (2) the municipality and the owners of the private property cannot agree on the
18 compensation to be paid for the property.

19 (f) **Viewing proceedings.**--The proceedings before the board of viewers for the
20 allowance of damages for property taken, injured or destroyed and the proceedings
21 upon its report shall be as provided in other cases where such municipality appropriates
22 private property for municipal purposes.

23 (g) **Bond issue.**--The qualified voters of a municipality shall determine at a special
24 election whether to execute a bonded indebtedness for purchasing grounds and
25 erecting buildings for library purposes under the following procedures:

26 (1) If petitioned for by 5% of the registered voters of a municipality, the municipal
27 officers of a municipality shall submit to the qualified voters the question of execution
28 of a bonded indebtedness.

29 (2) A special election under this subsection shall be held at the time of the next
30 general, municipal or primary election.

31 **§ 9317. County libraries and library taxes.**

32 (a) **Establishment prohibited in certain cases.**--If a locality maintains a library
33 that is not part of the direct service area of a county library, no county library may be

1 established or maintained and no county library tax may be imposed unless, prior to
2 establishment of any library tax, the municipal officers of that locality or the board of
3 trustees or managers of any endowed or association library in that locality that was not
4 established under this chapter or any of its predecessors have:

5 (1) signified the intent by ordinance or resolution to become part of the direct
6 service area of the county library and merge any existing library in the locality with
7 the county library; or

8 (2) contracted with the county commissioners as to the terms and conditions
9 under which the existing library will become a part of the direct service area of the
10 county library.

11 (b) Use of books and other property.--Title to the books and other property of a
12 library that is supported by a locality or any endowed library or association library in that
13 locality that was not established under this chapter or its predecessors shall remain with
14 locality or with the board of trustees or managers. The books and other property may be
15 used by the county library in accordance with the terms of a written agreement between
16 the county commissioners and the municipal officers or board of trustees or managers
17 of the library that is supported by the locality. Title to the books and other property may
18 be transferred to the county library.

19 (c) **Merger at a later date.**--If a direct service area of a county library is established
20 and a locality has not joined in its establishment, the locality may join the direct service
21 area at a later date if the municipal officers or the board of trustees or managers of that
22 library enter into an agreement with the county board of library directors to merge its
23 facilities with the county library.

24 (d) **Imposition of county library tax restricted.**--No county library tax may be
25 levied on any property in a locality that:

26 (1) Maintains a local library by public tax funds.

27 (2) Prior to the levy of the county library tax, has not elected to join the direct
28 service area of the county library.

29 (e) **Referendum to separate from county library.**--If a locality has established and
30 maintained a separate local library and a county library also exists at that time, the
31 qualified voters of the locality shall determine at a special election whether the locality
32 shall be a part of the direct service area of the county library and be subject to any tax
33 for the establishment of, maintenance of and aid to the county library under the
34 following procedures:

1 (1) If petitioned for by 3% of the number of individuals voting in the last
2 preceding general or municipal election in the locality, the officers of the locality shall
3 submit the question to the qualified voters.

4 (2) A special election under this subsection shall be held at the time of the next
5 general, primary or municipal election that occurs not less than 60 days from the
6 date of the submission of the petition.

7 (3) A special election under this subsection shall be held no more than once in
8 five years.

9 (4) If the majority of votes cast approves the removal of the locality from the
10 direct service area of the county library and the imposition of the county library tax,
11 the locality shall no longer be a part of the direct service area of the county library
12 and shall not be subject to the levy and payment of any county library tax.

13 **§ 9318. Local library governance.**

14 (a) **Board of library directors.**--The following shall apply:

15 (1) A local library established under this chapter or the former act of June 14,
16 1961 (P.L.324, No.188), known as The Library Code, shall be governed exclusively
17 by a board of library directors as follows:

18 (i) Except as provided in subparagraph (ii), the board shall be composed of
19 not fewer than five nor more than seven members.

20 (ii) If two or more municipalities contribute to the establishment of,
21 maintenance of and aid to a local library, the municipalities may appoint a
22 maximum of nine members to serve on the board as they mutually agree.

23 (2) The municipal officers of a municipality shall appoint a majority of the
24 members of the local library board if the municipality maintains or aids a local library
25 that is established:

26 (i) after June 14, 1961; and

27 (ii) by deed, gift or testamentary provision or in any manner other than under
28 section 9351 (relating to financial support for libraries authorized) or 9352
29 (relating to popular subscription).

30 (3) The municipal officers of a municipality shall not appoint more than two
31 members of the local library board if the municipality maintains or aids a local library
32 that was established prior to June 14, 1961, by deed, gift or testamentary provision
33 or by any association, corporation or group.

1 (b) **Appointment; terms of office.**--

2 (1) The municipal officers of the municipality in which the local library is
3 established shall appoint any members of the board and fill any vacancies on the
4 board that they are authorized to appoint in subsection (a).

5 (2) A library director shall serve for a term of three years or until a successor is
6 appointed.

7 (3) A vacancy on the board shall be filled for the unexpired term.

8 (c) **Compensation.**--No member of the board shall receive any salary for service as
9 a director.

10 (d) **Officers and agents.**--The board shall elect a president, secretary and treasurer
11 from its membership and any other officers and agents that the board deems
12 necessary.

13 (e) **Bond.**--The treasurer of the board shall obtain a bond in an amount to be
14 determined by the board to provide satisfactory surety to the municipality.

15 (f) **Control of all funds.**--Any money appropriated for the establishment or
16 maintenance of a local library and all moneys, if any, received from other sources for
17 the use of the library shall be under the exclusive control of and disbursed under the
18 direction of the board.

19 (g) **Cooperative plans.**--The board may contract with the board of directors of
20 another library to establish a cooperative plan for improving library services.

21 (h) **Annual report.**--The following shall apply:

22 (1) The board and any library receiving municipal appropriations shall make an
23 annual report to the proper municipal authorities of:

24 (i) Any moneys received by the library from the municipality.

25 (ii) Any disbursements of moneys received by the library from the
26 municipality.

27 (iii) The accounts of the treasurer of the board, which shall be audited in the
28 same manner as other municipal expenditures.

29 (2) The annual report shall include:

30 (i) An itemized statement of all receipts from all sources.

- 1 (ii) All expenditures.
- 2 (iii) A description of the condition of the library and any branches.
- 3 (iv) An accounting of the volumes, maps, pamphlets and other materials of
- 4 the library, including:
 - 5 (A) The total number of materials in the library's possession.
 - 6 (B) The number of materials added by purchase, gift or otherwise.
 - 7 (C) The number of materials lost or withdrawn.
- 8 (v) The number of registered borrowers and readers.
- 9 (vi) A statement of the circulation of materials.
- 10 (vii) Any other information and suggestions as the board desires.
- 11 (3) A copy of each annual report shall be sent to the State Library.

12 **Cross References.** Section 9318 is referred to in sections 9315, 9352 of this title.

13 **§ 9319. Certification of library personnel.**

14 (a) **Categories of personnel.**--The State Librarian shall certify library personnel

15 according to the following categories and with the following qualifications:

16 (1) Library assistants shall have two years of college education in addition to in-

17 service library training.

18 (2) Provisional librarians shall have a college degree and introductory education

19 in library service.

20 (3) Professional librarians shall have a college degree in addition to one or more

21 academic years of professional library education.

22 (b) **Equivalent experience.**--The State Librarian may promulgate rules and

23 regulations providing for the certification of persons in the categories set forth in

24 subsection (a) based on actual library experience as equivalent to the minimum

25 educational requirements under subsection (a).

26 (c) **Continuing education.**--The State Librarian may promulgate rules and

27 regulations relating to continuing education requirements for library assistants,

28 provisional librarians and professional librarians.

1 (d) **Excepted personnel.**--This section does not apply to clerks, typists, volunteer
2 workers or other personnel who do not need special library training.

3 **§ 9320. Collaborative ventures.**

4 (a) Interlibrary cooperative programs.--The State Librarian shall provide financial
5 support for the development and maintenance of cooperative programs from funds
6 appropriated to the State Library for the purpose of:

7 (1) Supporting interlibrary cooperative programs.

8 (2) Promoting cooperation among various types of libraries.

9 (3) Preserving the existing financial support of any single type of library.

10 (b) **Joint action by municipalities.**--The following shall apply:

11 (1) Two or more municipalities may unite in establishing and maintaining a local
12 library under the terms of an agreement entered into between them.

13 (2) The agreement shall be in writing and shall set forth:

14 (i) The purpose of the agreement.

15 (ii) The terms for support and control of the local library.

16 (iii) The conditions under which the agreement may be altered or terminated.

17 (3) The agreement is not valid until it is:

18 (i) Accepted by a majority vote of the municipal officers of each municipality
19 that is a party to the agreement.

20 (ii) Signed by the proper officer of each municipality that is a party to the
21 agreement.

22 **Subchapter C: State Aid to Libraries**

23 Sec.

24 9331. Qualification in general.

25 9332. Waiver of standards.

26 9333. State system of aid to libraries.

27 9334. Quality libraries aid.

28 9335. Incentive for excellence aid.

29 9336. Equal distribution grants.

30 9337. County coordination aid.

31 9338. District library center aid.

- 1 9339. Statewide library resource center aid.
- 2 9340. Equalization aid.
- 3 9341. Transfer of funds among allocations.
- 4 9342. Special rules for specific fiscal years.
- 5 9343. Basic aid to local libraries.
- 6 9344. Incentive aid to local libraries.

7 **§ 9331. Qualification in general.**

8 (a) **General rule.**--A local library shall comply with standards under this chapter and
9 regulations promulgated under this chapter regarding hours of operation, staffing,
10 continuing professional development, collections expenditures and any other standards
11 related to library operations.

12 (b) **Submission of plan.**--The following shall apply:

13 (1) Any local library desiring to receive State aid under this chapter shall submit
14 a plan for the use of the funds to the State Librarian.

15 (2) No payments shall be made until the plan is approved by the State Librarian
16 in accordance with rules and regulations approved by the advisory council.

17 (3) Subsequent changes and modifications in a library plan may be submitted at
18 any time for approval by the State Librarian.

19 (c) **Partial State aid.**--A local library may receive partial State aid under this
20 chapter, as determined by the State Librarian, if the local library:

21 (1) is not able to comply with all standards under this chapter and regulations
22 promulgated under this chapter regarding hours of operation, staffing, continuing
23 professional development, collections, expenditures and any other standards related
24 to library operations; and

25 (2) is ineligible for a waiver pursuant to section 9332 (relating to waiver of
26 standards).

27 (d) **Participation in district library center cooperative program; referendum.**--

28 No State aid shall be given to a local library until the library participates in the district
29 library center cooperative program through either of the following procedures:

30 (1) The local library board shall commit the library to participate in the district
31 library center cooperative program, including attendance at district meetings and the
32 use of interlibrary loans and interlibrary references.

1 (2) If the local library board does not act to participate in the district library center
2 cooperative program:

3 (i) A petition regarding participation is circulated within the direct service area
4 of the library and signed by at least 3% of the total number of persons voting in
5 the last preceding general or municipal election.

6 (ii) The petition is presented to the municipal officers who shall forward the
7 petition to the county board of elections.

8 (iii) After determining that the petition contains a sufficient number of
9 signatures, the county board of elections places the question of participation in
10 the district library center cooperative program on the ballot in the municipalities
11 comprising the direct service area from which the petition was submitted.

12 (iv) A majority of the persons vote on the question in the affirmative.

13 (e) **Internet access policy.** --A local library that provides access to the Internet or
14 an online service shall adopt a policy regarding access by minors to Internet and online
15 sites that contain or make reference to explicit sexual materials as defined in 18 Pa.
16 C.S. § 5903 (relating to obscene and other sexual materials and performances).

17 **§ 9332. Waiver of standards.**

18 (a) **Triggering event.**--If the Commonwealth appropriation for libraries in any fiscal
19 year is less than that provided in the immediately preceding fiscal year, upon application
20 by the board of directors of the local library, the State Librarian may waive standards
21 under this chapter and regulations promulgated under this chapter regarding hours of
22 operation, staffing, continuing professional development, collections expenditures and
23 any other standards related to library operations.

24 (b) **Board of directors resolution.**--The following shall apply:

25 (1) The board of directors of a local library may adopt a resolution at a regularly
26 scheduled meeting of the board to apply for a waiver of any standards as provided in
27 subsection (a) if meeting those standards places an economic hardship on the
28 library's operating budget.

29 (2) Prior to the adoption of policies or procedures for which a waiver is being
30 sought under paragraph (1), the department shall approve the policies or
31 procedures.

32 (c) **Application form and contents.**--The application for waiver shall:

33 (1) Be in a manner and in a form developed by the State Librarian.

1 (2) Specify the need for the waiver.

2 (3) Provide supporting data and information to explain the benefits to be
3 obtained by the waiver.

4 (d) **Review of waiver application.**--The State Librarian shall have 30 days from
5 receipt of an application submitted under this section to approve, disapprove or request
6 modifications to the application.

7 (e) **Deemed approval.**--If the State Librarian fails to act within the time period
8 allotted under subsection (d), the waiver shall be deemed approved.

9 (f) **Effect of disapproval.**--If the State Librarian disapproves the application for
10 waiver, he shall transmit the basis for disapproval to the board of directors of the local
11 library.

12 (g) **Reapplication.**--The board of directors of a local library may submit a revised
13 application for waiver to the State Librarian.

14 (h) **Contents of approval.**--The State Librarian may approve a waiver application in
15 whole or in part. As to any part of an approved waiver application, the approval shall
16 detail the extent to which each affected standard, policy or procedure may be revised by
17 the board of directors.

18 (i) **Duration of waiver.**--Each waiver shall be effective for the duration of the fiscal
19 year for which it was requested.

20 **Cross References.** Section 9332 is referred to in sections 9331, 9342 of this title.

21 **§ 9333. State system of aid to libraries.**

22 (a) **Establishment.**--A system of State aid to assist in the support and maintenance
23 of local libraries, county libraries, library systems, district library centers and Statewide
24 library resource centers is established.

25 (b) **Aid available to any local library or library system.**--Subject to the standards
26 and eligibility requirements under this chapter, the following categories of aid are
27 available to any local library or Library systems:

28 (1) Quality libraries aid under section 9334 (relating to quality libraries aid).

29 (2) Incentive for excellence aid under section 9335 (relating to incentive for
30 excellence aid).

31 (3) Equal distribution grants under section 9336 (relating to equal distribution
32 grants).

1 (4) Equalization aid under section 9340 (relating to equalization aid).

2 (c) **County libraries.**--Subject to the provisions of section 9337 (relating to county
3 coordination aid), a county library or library system may receive county coordination aid.

4 (d) **Library centers.**--A district library center or Statewide library resource center
5 shall receive state aid subject to:

6 (1) Section 9338 (relating to district library center aid).

7 (2) Section 9339 (relating to Statewide library resource center aid).

8 (e) **Allocation of annual appropriation.**--Except as provided in section 9342
9 (relating to special rules for specific fiscal years), the Commonwealth's total annual
10 appropriation for the system of State aid established by this chapter shall be allocated
11 as follows:

12 (1) In each year that the Commonwealth's appropriation under this chapter
13 equals or exceeds \$17,500,000, 2.75% shall be allocated first for equalization aid.

14 (2) If paragraph (1) applies, the remainder of the appropriation and the entire
15 appropriation in fiscal years in which paragraph (1) does not apply shall be allocated
16 as follows:

17 (i) Twenty-five percent or a minimum of 25¢ per capita for each person
18 residing in the direct service areas of the libraries or library systems which qualify
19 for quality libraries aid shall be allocated as quality libraries aid.

20 (ii) Twenty-five percent or a minimum of 25¢ per capita for each person
21 residing in the direct service areas of the libraries or library systems which qualify
22 for incentive for excellence aid shall be allocated as incentive for excellence aid.

23 (iii) Five percent shall be allocated for equal distribution grants.

24 (iv) Ten percent shall be allocated for county coordination aid.

25 (v) Thirty percent or a minimum of 25¢ per capita for each person residing in
26 the direct service areas of the libraries or library systems which are served by a
27 district library center shall be allocated for district library center aid.

28 (vi) Five percent shall be allocated for Statewide library resource center aid.

29 **Cross References.** Section 9333 is referred to in sections 9336, 9341, 9343, 9344 of this title.

1 **§ 9334. Quality libraries aid.**

2 (a) **Regular financial effort required.**--To qualify for quality libraries aid, a local
3 library or library system shall make a minimum financial effort of \$5 per capita for each
4 person residing in the municipalities that will be part of the direct service area in which
5 the library is applying for aid.

6 (b) **Exception for economically distressed municipalities.**--A local library or
7 library system which applies for State aid on behalf of an economically distressed
8 municipality, as defined in section 9340(b) (relating to equalization aid), shall expend a
9 minimum of \$2 per capita for each person residing in the municipality.

10 (c) **Standards.**--To receive aid under this section, a local library or library system
11 shall meet the following basic standards:

12 (1) The local library or library system shall participate in the Access
13 Pennsylvania Statewide Library Card Program, as provided by rules and regulations
14 promulgated under this chapter.

15 (2) The local library or library system shall lend materials free of charge on a
16 reciprocal basis to all types of libraries in this Commonwealth.

17 (3) The local library or library system shall provide interlibrary loans free of
18 charge to residents of the library's direct service area.

19 (4) Unless the State Librarian promulgates rules and regulations after the
20 effective date of this section that require different hours of operation, the local library
21 or library system shall be open for service for the following minimum number of
22 hours:

23 (i) At least 26 hours per week during those times best suited to the needs of
24 residents of its service area, including at least six hours during the weekend
25 period beginning on Saturday and ending on Sunday.

26 (ii) Weekend hours may be reduced to four hours during time periods as
27 community-use patterns warrant, for a maximum of ten weeks per year.

28 (5) The library director of the local library or library system shall annually attend
29 at least eight hours of continuing education programs approved by the Office of
30 Commonwealth Libraries.

31 (6) The local library or library system shall participate in the county library plan
32 for the coordination of countywide services. In the absence of a county library, the
33 local library or library system shall participate in the development of a coordinated
34 county services plan with the district library center serving the municipalities in which

1 the local library or library system is located. The State Librarian may on a case-by-
2 case basis grant a waiver of participation in certain provisions of the plan.

3 (d) **Allocation method.**--Quality libraries aid shall be allocated to qualifying local
4 libraries and library systems on a per capita basis in the following manner:

5 (1) The annual allocation of funds available for quality libraries aid shall be
6 divided by the total population on which all libraries and library systems qualify for
7 State aid to yield a per capita amount of quality libraries aid.

8 (2) The per capita amount of quality libraries aid calculated in paragraph (1) shall
9 be multiplied by the total population residing within the municipalities served by a
10 library or library system which qualifies for aid.

11 **Cross References.** Section 9334 is referred to in sections 9302, 9311, 9333, 9335, 9336, 9337 of this
12 title.

13 **§ 9335. Incentive for excellence aid.**

14 (a) **Regular financial effort required.**--To qualify for incentive for excellence aid, a
15 local library or library system shall make a financial effort greater than \$5 per capita for
16 each person residing in the municipalities that will be part of the direct service area in
17 which the library is applying for aid.

18 (b) **Standards.**--To receive aid under this section, a local library or library system
19 shall meet the following minimum standards:

20 (1) The local library or library system shall qualify for quality libraries aid under
21 section 9334 (relating to quality libraries aid).

22 (2) The local library or library system shall annually spend not less than 12% of
23 its operating budget on collections, excluding costs of an unusual, emergency or
24 nonrecurring nature. A local library or library system that spends more than 12% in
25 the year in which it qualified for incentive for excellence aid shall increase the total
26 amount spent on collections each succeeding year by the lesser of:

27 (i) five percent of its operating budget; or

28 (ii) the percentage increase in the appropriation for improvement of library
29 services.

30 (3) Unless the State Librarian promulgates rules and regulations after the
31 effective date of this section that require different hours of operation, the local library
32 or a member library within a library system shall be open for full services for the
33 following minimum number of hours:

1 (i) At least 45 hours per week during those times best suited to the needs of
2 residents of its service area, including at least seven hours during the weekend
3 period beginning on Saturday and ending on Sunday.

4 (ii) Weekend hours may be reduced to four hours during time periods as
5 community-use patterns warrant, for a maximum of ten weeks per year.

6 (iii) A local library or member library within a library system may reduce total
7 weekly hours by three hours per week during the ten-week period of reduced
8 Saturday and Sunday hours if approved by the State Librarian.

9 (4) The local library or member library within a library system shall require at
10 least six hours of continuing education every two years for paid staff working at least
11 20 hours per week in direct support of the library service.

12 (c) **Allocation method.**--The annual allocation of funds available for incentive for
13 excellence aid shall be allocated proportionately to qualifying local libraries or library
14 systems as follows:

15 (1) Tier 1 funding, which is up to 80¢ for each \$1 per capita or portion thereof of
16 surplus financial effort that a local library or library system shows that exceeds
17 100%, but does not exceed 150%, of the minimum financial effort required to receive
18 quality libraries aid.

19 (2) Tier 2 funding, which is up to 10¢ for each \$1 per capita or portion thereof of
20 surplus financial effort that a local library or library system shows that exceeds
21 150%, but does not exceed 300%, of the minimum financial effort required to receive
22 quality libraries aid. Eligibility for Tier 2 funding does not preclude receipt of Tier 1
23 funding.

24 (d) **Offsets prohibited.**--The following shall apply:

25 (1) Unless the State Librarian accepts evidence of substantial curtailment of
26 financial ability of the community, a local library or library system may not use
27 incentive for excellence aid to reduce its financial effort for normal and recurring
28 operating costs.

29 (2) A plan for the use of incentive for excellence aid by a local library or library
30 system may not be approved if the plan projects a decrease in local government
31 support for normal and recurring operating costs from a previous level unless the
32 State Librarian determines that the decrease is:

33 (i) directly attributable to a gift or endowment to a local library; or

1 (ii) there is a substantial decrease in the financial ability of the municipality on
2 behalf of which the library or library system applied for aid.

3 **Cross References.** Section 9335 is referred to in sections 9302, 9311, 9333, 9337 of this title.

4 **§ 9336. Equal distribution grants.**

5 (a) **Eligibility.**--The following libraries shall be eligible for equal distribution grants:

6 (1) Each district library center which, in its capacity as a local or county library,
7 has a population in its local or county direct service area that is 12% or less of the
8 population of the designated direct service area of the entire district library center.

9 (2) Any local libraries and library systems that meet the eligibility requirements
10 for quality libraries aid under section 9334 (relating to quality libraries aid).

11 (b) **Additional funding.**--After all eligible county libraries have been paid the total
12 amounts for which they qualify under section 9337 (relating to county coordination aid)
13 for the fiscal year, any funds remaining from the allocation for county coordination aid
14 under section 9333(e)(2)(iv) (relating to State system of aid to libraries) shall be
15 transferred and made a part of the allocation for equal distribution grants.

16 (c) **Allocation method.**--The following shall apply:

17 (1) Each eligible district library center shall receive 5¢ per capita for each person
18 residing in the entire district.

19 (2) The balance of the funds available for equal distribution grants shall be
20 divided equally among local libraries and library systems as determined in
21 subsection (d).

22 (d) **Calculation of grants to local libraries and library systems.**--A local library
23 and library system shall receive equal distribution grants determined as follows:

24 (1) The total amount of money allocated shall be divided by the number of local
25 libraries, branch libraries and bookmobiles in this Commonwealth which achieve or
26 exceed the applicable basic standards.

27 (2) Each library system shall receive an equal grant for each qualifying member
28 local library, branch library and bookmobile.

29 (3) Each local library shall receive an equal grant for the central library and each
30 qualifying branch library and bookmobile.

31 **Cross References.** Section 9336 is referred to in sections 9302, 9333, 9337 of this title.

1 **§ 9337. County coordination aid.**

2 (a) **General matching rule.**--In the case of a county library or library system in a
3 county of the second through eighth class, State aid shall be given in an amount
4 measured by the amount appropriated by the county government from county moneys
5 and shall be determined as follows:

<u>Class of County</u>	<u>Percentage Match</u>
2	5%
2A and 3	30%
4	50%
5	50%
6	100%
7	100%
8	100%

6 (b) **Source of county moneys.**--County moneys appropriated by the county
7 government to the county library or library system may consist of funds from:

8 (1) the county general fund;

9 (2) a special library tax;

10 (3) a district established under section 3110-B of the act of July 28, 1953
11 (P.L.723, No.230), known as the Second Class County Code, for the support and
12 maintenance of the county library; or

13 (4) other sources.

14 (c) **Payments to county libraries or library systems in counties of the second**
15 **through eighth class.**--The following shall apply:

16 (1) A county library or library system in a county of the second through eighth
17 class shall be paid the greater of either:

18 (i) an amount equal to the percentage match in subsection (a) multiplied by
19 the level of county support paid; or

20 (ii) an amount equal to the amount paid under section 9342(b)(1) (relating to
21 special rules for specific fiscal years), provided that:

22 (A) the amount paid under section 9342(b)(1) was 10% above the amount
23 of county coordination aid received by the county in fiscal year 1999-2000;
24 and

25 (B) the level of county support paid is maintained.

1 (2) If the level of county support decreases from the previous fiscal year, then
2 the amount paid under this subsection shall be an amount equal to the percentage
3 match in subsection (a) for the county multiplied by the reduced level of county
4 support paid.

5 (d) **Priority of payments.**--The following shall apply:

6 (1) Payments to a county library or library system in a county of the second
7 through seventh class shall be made from the funds remaining after payments have
8 first been made to all county libraries or library systems in counties of the eighth
9 class as provided in subsection (c) and shall be an amount equal to the level of
10 county support as calculated under subsection (c) for each class of county.

11 (2) If the funds remaining after payments are made to counties of the eighth
12 class as provided in subsection (c) are insufficient to pay the total amount for which
13 each county library and library system in counties of the second through seventh
14 class qualifies, then each shall be paid proportionately from the funds remaining.

15 (e) **Use of funds.**--A county library or library system shall expend funds received
16 under this section to implement a countywide cooperative plan to improve and extend
17 service. The plan shall coordinate areas of library service and administration, including
18 library resources and collections, technology, personnel and services to children, adults
19 and special populations.

20 (f) **Recipients of payments.**--County coordination aid shall be paid to the board of
21 library directors in charge of each qualifying county library or library system.

22 (g) **Annual report.**--A report of the expenditure of State moneys received under this
23 section shall be made annually to the county government and the State Librarian in
24 such form as may be required by the State Librarian.

25 (h) **Eligibility for other types of State aid.**--Library systems may apply for
26 additional amounts of State aid under sections 9334 (relating to quality libraries aid),
27 9335 (relating to incentive for excellence aid), and 9336 (relating to equal distribution
28 grants).

29 **Cross References.** Section 9337 is referred to in sections 9333, 9336, 9338, 9342 of this title.

30 **§ 9338. District library center aid.**

31 (a) **Eligibility.**--Any library designated by the State Librarian to serve as a district
32 library center shall qualify for an additional amount of State aid under this section.

33 (b) **Allocation method.**--The following shall apply:

1 (1) The amount of aid to be paid to each district library center shall be
2 determined by multiplying the annual per capita rate set by the department by the
3 number of persons residing in the district.

4 (2) No district library center shall receive less than \$200,000.

5 (c) **Standards.**--A district library center shall meet the following standards to qualify
6 for aid under this section:

7 (1) A district library center shall implement a program of service to local libraries
8 through an agreement negotiated by representatives from the district library center,
9 local libraries, library systems and the State Library. The program shall be
10 implemented in accordance with district library center rules and regulations issued
11 by the State Librarian.

12 (2) As part of the negotiated agreement, the district library center shall provide
13 leadership, coordination and consultation to local libraries in the following areas:

14 (i) Continuing education for library staff.

15 (ii) Library services to youth.

16 (iii) Library services to special populations, including, but not limited to,
17 individuals with disabilities, homebound individuals, the elderly and individuals
18 who are deficient in basic literacy skills.

19 (iv) Information technology and library automation.

20 (v) Orientation and training for boards of directors of local libraries, library
21 systems and district library centers.

22 (d) **Countywide cooperative plan.**--If there is no county library or library system in
23 a county of the second through eighth class, the district library center shall coordinate
24 the countywide plan for services described in section 9337(e) (relating to county
25 coordination aid).

26 **Cross References.** Section 9338 is referred to in sections 9302, 9333 of this title.

27 **§ 9339. Statewide library resource center aid.**

28 (a) **Eligibility.**--Any library designated by the State Librarian to serve as a
29 Statewide library resource center shall qualify for additional State aid under this section.

30 (b) **Allocation method.**--The allocation shall be divided equally among the libraries
31 so designated.

1 (c) **Powers and duties.**--Statewide library resource centers shall disseminate
2 information to Pennsylvanians to augment the collections and services of local libraries
3 and district library centers through:

4 (1) Digitizing Pennsylvania resources from their extensive collections for
5 Statewide accessibility and use via the Internet.

6 (2) Implementing for use by all Pennsylvanians an online reference service
7 based on the specialized resources and staff expertise of the four Statewide library
8 resource centers.

9 (3) Enhancing access to specialized online reference databases.

10 (4) Building major research collections and making them available to all
11 residents of this Commonwealth on a Statewide basis via direct borrowing,
12 interlibrary loan or onsite use.

13 **Cross References.** Section 9339 is referred to in section 9333 of this title.

14 **§ 9340. Equalization aid.**

15 (a) **Eligibility.**--A local library or library system shall qualify for equalization aid if it:

16 (1) Achieves or exceeds applicable basic standards.

17 (2) Maintains or exceeds its financial effort of the preceding year.

18 (3) Is supported by a municipality that is economically distressed.

19 (b) **Economically distressed municipality.**--A municipality shall be deemed
20 economically distressed if it meets any one or more of the following criteria:

21 (1) It is a city, borough, town or township with a market value per capita below
22 the fifth percentile of all such cities, boroughs, towns and townships, as certified
23 annually by the State Tax Equalization Board.

24 (2) It is located in a county having a personal income per capita below the 15th
25 percentile of all counties, as certified annually by the Department of Revenue.

26 (3) It is located in a county having an annual average unemployment rate above
27 the 70th percentile of all counties, as determined annually by the Department of
28 Labor and Industry.

29 (c) **Per capita determination.**--Population data to be used for determining market
30 value per capita and personal income per capita, as provided for in this section, shall be

1 the latest available data from the Federal Census Bureau for the direct service area of
2 the local library or library system.

3 (d) Failure to meet certain eligibility requirements.--If a library or library system that
4 is supported by an economically distressed municipality fails to maintain or exceed its
5 financial effort of the preceding year, the library may still qualify for equalization aid if
6 the State Librarian accepts evidence that the library or municipality did not attempt to
7 substitute State funds for local effort.

8 (e) **Allocation method.**--The following shall apply:

9 (1) Twenty percent of the annual allocation for equalization aid shall first be
10 distributed in equal amounts to all local libraries and members of library systems
11 which qualify for equalization aid.

12 (2) The remainder of the annual allocation shall be distributed on a per capita
13 basis to each local library and library system which qualifies for equalization aid by
14 dividing the number of persons residing in the direct service area of each such local
15 library or library system by the total number of such persons residing in the direct
16 service areas of all qualifying local libraries or library systems, and multiplying the
17 result by the amount of the allocation to be distributed on a per capita basis.

18 (f) **Maximum allotment.**--As a result of the provisions of this section, no local library
19 or library system shall receive more than one-third of the total annual appropriation for
20 equalization aid in any year.

21 (g) **Minimum allotment.**--For each fiscal year that the Commonwealth's total
22 annual appropriation for the system of State aid to libraries exceeds \$17,500,000, no
23 local library or library system shall receive less equalization aid as a result of the
24 provisions of this section than that local library or library system received for
25 equalization aid during the 1984-1985 fiscal year.

26 **Cross References.** Section 9340 is referred to in sections 9302, 9333, 9334 of this title.

27 **§ 9341. Transfer of funds among allocations.**

28 (a) **General rule.**--If necessary, the department may transfer funds among the
29 allocations found in section 9333(e) (relating to State system of aid to libraries).

30 (b) **Exception.**--The aggregate amount transferred into or out of each allocation
31 during a fiscal year shall not exceed 5% of the amount specifically allocated for any
32 specific type of aid.

1 **§ 9342. Special rules for specific fiscal years.**

2 (a) **Fiscal year 1999-2000.**--State aid to libraries for fiscal year 1999-2000 shall be
3 calculated as follows:

4 (1) Quality libraries aid shall be allocated from the amount resulting from the
5 addition of the following:

6 (i) A hold-harmless amount equal to the amount allocated under section
7 303.1 of the former act of June 14, 1961 (P.L.324, No.188), known as The
8 Library Code, for the fiscal year 1998-1999 from the Commonwealth's annual
9 appropriation for grants to local libraries and library systems.

10 (ii) Forty-seven percent of any increase in the Commonwealth's annual
11 appropriation for grants to local libraries and library systems above the amount
12 appropriated for fiscal year 1998-1999.

13 (2) Incentive for excellence aid shall be allocated from the amount resulting from
14 the addition of the following:

15 (i) A hold-harmless amount equal to the amount allocated under section
16 303.4 of The Library Code for the fiscal year 1998-1999 from the
17 Commonwealth's annual appropriation for grants to local libraries and library
18 systems.

19 (ii) Fifty-three percent of any increase in the Commonwealth's annual
20 appropriation for grants to local libraries and library systems above the amount
21 appropriated for fiscal year 1998-1999.

22 (3) County coordination aid shall be allocated from a hold-harmless amount
23 equal to the amount allocated for aid to county libraries for fiscal year 1998-1999
24 from the Commonwealth's annual appropriation for grants to local libraries and
25 library systems.

26 (4) District library center aid shall be allocated from a hold-harmless amount to
27 equal that amount allocated for aid to district library centers for fiscal year 1998-1999
28 from the amount allocated from the Commonwealth's annual appropriation for grants
29 to local libraries and library systems.

30 (5) Statewide library resource center aid shall be allocated from a hold-harmless
31 amount to equal that amount allocated for aid to Statewide library resource centers
32 for fiscal year 1998-1999 from the amount allocated from the Commonwealth's
33 annual appropriation for grants to local libraries and library systems.

1 (6) Equalization aid shall be allocated from of a hold-harmless amount to equal
2 that amount allocated for equalization aid for fiscal year 1998-1999 from the amount
3 allocated from the Commonwealth's annual appropriation for grants to local libraries
4 and library systems.

5 (7) Equal distribution grants shall be allocated from a hold-harmless amount to
6 equal that amount allocated for equal distribution grants to local libraries and library
7 systems for fiscal year 1998-1999 from the amount allocated from the
8 Commonwealth's annual appropriation for grants to local libraries and library
9 systems.

10 (b) **Fiscal year 2000-2001.**--State aid to libraries for fiscal year 2000-2001 shall be
11 calculated as follows:

12 (1) County coordination aid to a county library or library system in counties of the
13 eighth class shall consist of an amount equal to the greater of:

14 (i) The percentage match in section 9337(a) (relating to county coordination
15 aid) multiplied by the level of county support paid.

16 (ii) Ten percent above the amount paid under section 303.7(c)(1) of The
17 Library Code in fiscal year 1999-2000.

18 (2) County coordination aid to a county library or library system in counties of the
19 second through seventh class shall not be less than ten percent above the amount
20 paid to it under section 303.7(c)(2) of The Library Code in fiscal year 1999-2000.

21 (c) **Fiscal year 2003-2004.**--State aid to libraries for fiscal year 2003-2004 shall be
22 calculated as follows by adding the amounts calculated under paragraphs (1) and (2):

23 (1) The amount of district library center aid that the library received in fiscal year
24 2002-2003 divided by \$13,018,810 and multiplied by \$6,509,405.

25 (2) The sum of the amount of quality libraries aid, incentive for excellence aid,
26 county coordination aid, Statewide library resource center aid, equalization aid and
27 equal distribution grants that the library received in fiscal year 2002-2003 divided by
28 \$62,270,190 and multiplied by \$41,279,595.

29 (d) **Fiscal year 2004-2005.**--State aid to libraries for fiscal year 2004-2005 shall be
30 calculated as follows:

31 (1) Any district library center established during fiscal year 2003-2004 shall
32 receive \$126,000.

1 (2) Any district library center from whose service area a new district library
2 center was established during fiscal year 2003-2004 shall receive \$317,662.

3 (3) Any district library center not qualifying for funding under paragraph (1) or (2)
4 shall receive the amount the library received in fiscal year 2003-2004 under
5 subsection (c)(1) multiplied by 120%.

6 (4) Any library that received funding in fiscal year 2003-2004 under subsection
7 (c)(2) shall receive that same amount in fiscal year 2004-2005.

8 (5) Any library that receives funding under paragraph (4) shall receive an
9 additional amount as calculated below:

10 (i) The amount calculated by adding paragraphs (1), (2), (3) and (4) shall be
11 subtracted from the amount of the total appropriation available for the
12 improvement of library services in fiscal year 2004-2005.

13 (ii) The amount of funding that the library received in fiscal year 2003-2004
14 under subsection (c)(2) shall be multiplied by the result obtained in subparagraph
15 (i).

16 (iii) The result obtained in subparagraph (ii) shall be divided by the sum of the
17 amount of funding provided to all libraries under subsection (c)(2) in fiscal year
18 2003-2004.

19 (6) The total amount of funding under this subsection shall be determined by
20 adding paragraphs (1), (2), (3), (4) and (5).

21 (e) **Fiscal year 2005-2006.**--State aid to libraries for fiscal year 2005-2006 shall be
22 the total of the results calculated under paragraphs (1), (2) and (3) as follows:

23 (1) An amount equal to the State aid allocation for fiscal year 2004-2005 under
24 subsection (d).

25 (2) An aid to local libraries supplement to be calculated as follows:

26 (i) the amount of funding that the library received in fiscal year 2004-2005
27 under subsection (d)(4) and (5) shall be multiplied by \$1,752,000; and

28 (ii) the result obtained under subparagraph (i) shall be divided by the sum of
29 the amount of funding provided to all libraries under subsection (d)(4) and (5) in
30 fiscal year 2004-2005.

31 (3) A district center restoration supplement to be calculated as follows:

1 (i) the total amount of funding that the library received in fiscal year 2004-
2 2005 under subsection (d)(1), (2) and (3) shall be multiplied by \$1,696,000; and

3 (ii) the result obtained under subparagraph (i) shall be divided by the sum of
4 the amount of funding provided to all libraries under subsection (d)(1), (2) and (3)
5 in fiscal year 2004-2005.

6 (f) **Fiscal year 2006-2007.**--State aid to libraries for fiscal year 2006-2007 shall be
7 calculated as follows:

8 (1) A library that received quality libraries aid, incentive for excellence aid,
9 county coordination aid, Statewide library resource center aid, equalization aid and
10 equal distribution grants in fiscal year 2002-2003 shall receive the same amount the
11 library received in fiscal year 2002-2003.

12 (2) A district library center that received district library center aid in fiscal year
13 2002-2003 shall receive the same amount the library received in fiscal year 2002-
14 2003, except as follows:

15 (i) A district library center receiving funding under subsection (d)(1) shall
16 receive \$210,000.

17 (ii) A district library center receiving funding under subsection (d)(2) shall
18 receive \$529,437.

19 (3) At the discretion of the State Librarian, the sum of \$126,141 shall be made
20 available as State aid to be paid to a library that has become eligible to receive State
21 aid but did not receive funding under paragraphs (1) or (2).

22 (4) The total amount of funding under this subsection shall be determined by
23 adding paragraphs (1), (2) and (3).

24 (5) After distribution of funds calculated under paragraph (4), any remaining
25 unallocated funds may be distributed at the discretion of the State Librarian.

26 (g) **Fiscal year 2007-2008.**--Each library that received a State aid allocation for
27 fiscal year 2006-2007 that complies with the standards under this chapter relating to
28 hours of operation, continuing professional development, collections expenditures and
29 any other standards related to library operations shall be eligible for State aid in fiscal
30 year 2007-2008, calculated by adding the following:

31 (1) An amount equal to the State aid allocation for fiscal year 2006-2007
32 pursuant to subsection (f).

1 (2) An equal distribution grant supplement to be provided to each local library,
2 qualifying branch library and bookmobile, determined by dividing \$250,000 by the
3 total number of all local libraries, branch libraries and bookmobiles.

4 (3) After distribution of State aid to libraries under this subsection, any remaining
5 unallocated funds may be distributed at the discretion of the State Librarian.

6 (h) **Fiscal year 2008-2009.**--Each library that received a State aid allocation for
7 fiscal year 2007-2008 under subsection (g) and which complies with the standards
8 contained under this chapter relating to hours of operation, continuing professional
9 development, collections expenditures and any other standards related to library
10 operations shall be eligible for State aid in fiscal year 2008-2009, calculated as follows:

11 (1) The total amount of funding that the library received in fiscal year 2007-2008
12 under subsection (g) shall be:

13 (i) divided by the total State aid subsidy for fiscal year 2007-2008; and

14 (ii) the result obtained in subparagraph (i) multiplied by the total State aid
15 subsidy for fiscal year 2008-2009.

16 (2) After distribution of State aid to libraries under paragraph (1), any remaining
17 unallocated funds may be distributed at the discretion of the State Librarian.

18 (i) **Fiscal year 2009-2010.**--State aid to libraries for fiscal year 2009-2010
19 shall be calculated as follows:

20 (1) The sum of the amount of funding that the library received in fiscal year
21 2007-2008 under subsection (g) shall be divided by the total State aid subsidy for
22 fiscal year 2007-2008.

23 (2) The result obtained under paragraph (1) shall be multiplied by the total State
24 aid subsidy for fiscal year 2009-2010.

25 (3) Following distribution of funds appropriated for State aid to libraries, any
26 remaining funds may be distributed at the discretion of the State Librarian.

27 (4) If funds appropriated for State aid to libraries in fiscal year 2009-2010 are
28 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
29 standards as prescribed in section 9332 (relating to waiver of standards).

30 (5) Each library system receiving State aid under this subsection may distribute
31 the local library share of that aid in a manner as determined by the board of directors
32 of the library system, except that this paragraph shall not apply to a library system
33 operating in a county of the second class.

1 **Cross References.** Section 9340 is referred to in sections 9302, 9333, 9334 of this title.

2 (i) **Fiscal year 2009-2010.**--State aid to libraries for fiscal year 2009-2010 shall be
3 calculated as follows:

4 (1) The sum of the amount of funding that the library received in fiscal year
5 2007-2008 under subsection (g) shall be divided by the total State aid subsidy for
6 fiscal year 2007-2008.

7 (2) The result obtained under paragraph (1) shall be multiplied by the total
8 State aid subsidy for fiscal year 2009-2010.

9 (3) Following distribution of funds appropriated for State aid to libraries, any
10 remaining funds may be distributed at the discretion of the State Librarian.

11 (4) If funds appropriated for State aid to libraries in fiscal year 2009-2010 are
12 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
13 standards as prescribed in section 9332 (relating to waiver of standards).

14 (5) Each library system receiving State aid under this subsection may distribute
15 the local library share of that aid in a manner as determined by the board of directors
16 of the library system, except that this paragraph shall not apply to a library system
17 operating in a county of the second class.

18 (j) **Fiscal year 2010-2011.**--State aid to libraries for fiscal year 2010-2011 shall be
19 calculated as follows:

20 (1) The sum of the amount of funding that the library received in fiscal year
21 2009-2010 under subsection (i) divided by the total State-aid subsidy for fiscal year
22 2009-2010.

23 (2) The result obtained under paragraph (1) multiplied by the total State-aid
24 subsidy for 2010-2011.

25 (3) Following distribution of funds appropriated for State aid to libraries, any
26 remaining funds may be distributed at the discretion of the State Librarian.

27 (4) If funds appropriated for State aid to libraries in fiscal year 2010-2011 are
28 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
29 standards as prescribed under section 9332.

30 (5) Each library system receiving State aid under this subsection may distribute
31 the local library share of that aid in a manner as determined by the board of directors
32 of the library system, except that this paragraph shall not apply to a library system
33 operating in a county of the second class.

34 (k) **Fiscal year 2013-2014.**-- .Each library subject to this part shall be eligible for
35 State aid for fiscal year 2013-2014 as follows:

1 (1) Funds appropriated for libraries shall be distributed to each library under the
2 following formula:

3 (i) Divide the amount of funding that the library received in fiscal year 2012-
4 2013 under section 2319 of the act of March 10, 1949 (P.L.30, No.14), known as
5 the Public School Code of 1949, by the total State-aid subsidy for fiscal year
6 2012-2013.

7 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
8 for 2013-2014.

9 (2) Following distribution of funds appropriated for State aid to libraries under
10 paragraph (1), any remaining funds may be distributed to libraries at the discretion of
11 the State Librarian.

12 (3) If funds appropriated for State aid to libraries in fiscal year 2013-2014 are
13 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
14 standards as prescribed under section 9332.

15 (4) (i) Each library system receiving State aid under this subsection may
16 distribute the local library share of that aid in a manner as determined by the board
17 of directors of the library system.

18 (ii) In the case of a library system that contains a library operating in a city of the
19 second class, changes to the distribution of State aid to the library shall be made by
20 mutual agreement between the library and the library system.

21 (5) In the event of a change in district library center population prior to the
22 effective date of this section as a result of:

23 (i) a city, borough, town, township, school district or county moving from one
24 library center to another; or

25 (ii) a transfer of district library center status to a county library system,
26 funding of district library center aid shall be paid based on the population of the
27 newly established or reconfigured district library center

28 **References in Text.** The act of June 14, 1961, P.L.324, No.188, known as The Library Code, referred to
29 in subsec. (b), was repealed by the act of November 1, 2012, P.L.1683, No.210.

30 **Cross References.** Section 9342 is referred to in sections 9333, 9337 of this title.

31 **§ 9343. Basic aid to local libraries.**

32 (a) **Allocation.**--For eligible fiscal years up to and through the 1998-1999 fiscal
33 year, 25% of the Commonwealth's total annual appropriation for the system of State aid

1 established under section 9333 (relating to State system of aid to libraries), or a
2 minimum of 25¢ per capita for each person residing in the municipalities of the libraries
3 which qualify for basic aid, shall be allocated as basic aid.

4 (b) **Minimum financial effort.--**

5 (1) Any local library which makes a minimum financial effort equal to one-half
6 mill, for the municipalities on behalf of which it applies for aid, or \$2 per capita for
7 each person residing in those municipalities, whichever is less, and achieves the
8 basic standards, shall qualify for basic State aid. The aid shall not be less than 25¢
9 for each person residing in the municipalities.

10 (2) If the allocation for basic aid exceeds the amount necessary to pay the
11 minimum rate, the entire allocation shall be distributed at a per capita rate which
12 shall be determined by dividing the allocation by the number of persons in this
13 Commonwealth on behalf of which local libraries and library systems apply and
14 qualify for basic aid. In the first year in which a library applies for State aid, it shall
15 qualify by making a minimum financial effort equal to one-quarter mill, or \$1 per
16 capita for each person residing in the municipalities, whichever is less.

17 (c) **Qualification.--**

18 (1) In each of the succeeding five years, the library shall qualify for maximum
19 State aid only when it increases its financial effort by the following scale of
20 percentages of the difference between the financial effort with which the library
21 initially qualified for State aid and a financial effort equal to one-half mill, or \$2 per
22 capita for each person residing in the municipalities for which it applies for aid,
23 whichever is less:

- 24 1st succeeding year - 20%;
- 25 2nd succeeding year - 40%;
- 26 3rd succeeding year - 60%;
- 27 4th succeeding year - 80%; and
- 28 5th succeeding year - 100%.

29 (2) If the increase in any year is less than the percentage specified under
30 paragraph (1), the amount of State aid shall be reduced by a percentage equal to
31 one-fifth of the percentage which the difference between the required increase and
32 the actual increase bears to the required increase multiplied by the number of years
33 of participation in State aid beyond the first year.

34 (d) **Ineligibility.--**After the fifth succeeding year, a local library shall not be eligible
35 for further State aid unless it makes a financial effort equal to one-half mill for the

1 municipalities on behalf of which it applies for aid, or \$2 per capita for each person
2 residing in those municipalities, whichever is less.

3 **§ 9344. Incentive aid to local libraries.**

4 (a) **Allocation.**--For eligible fiscal years up to and through the 1998-1999 fiscal
5 year, 25% of the Commonwealth's total annual appropriation for the system of State aid
6 established under section 9333 (relating to State system of aid to libraries), or a
7 minimum of 25¢ per capita for each person residing in the direct service areas of the
8 libraries which qualify for incentive aid, shall be allocated as incentive aid.

9 (b) **Incentive aid.**--

10 (1) Any local library or library system which makes a minimum financial effort
11 equal to one-half mill, or \$2 per capita for each person residing in its direct service
12 area, whichever is less, and fulfills the minimum standards for local libraries or the
13 minimum standards for library systems, whichever is applicable, shall qualify for
14 incentive aid, which shall be in addition to all other amounts of aid provided under
15 this section.

16 (2) Each qualifying library or library system shall receive incentive aid up to 50¢
17 for each \$1 of surplus financial effort, but, if 50¢ per \$1 of surplus financial effort is
18 more than 25¢ per capita, the minimum incentive aid shall be 25¢ per capita for each
19 person residing in the direct service area. If, after paying the minimum amount set
20 forth under this section, there is a balance in the allocation, the balance shall be
21 prorated among the libraries and library systems which qualify for a larger amount of
22 aid at the rate of 50¢ for each \$1 of surplus financial effort rather than at the rate of
23 25¢ per capita.

24 **Subchapter D: Municipal Support for Libraries**

25 Sec.

26 9351. Financial support for libraries authorized.

27 9352. Popular subscription.

28 9353. Gifts and donations.

29 **§ 9351. Financial support for libraries authorized.**

30 (a) **Municipalities empowered to support libraries.**--The municipal officers of a
31 municipality may establish a local library or aid in the maintenance of a local library
32 established by deed, gift or testamentary provision for the use of the residents of the
33 municipality through:

34 (1) Appropriations out of current revenue of the municipality.

1 (2) Money raised by the levy of a special library tax.

2 (b) **Special library tax.**--

3 (1) A special library tax may be:

4 (i) levied on the taxable property of the municipality; or

5 (ii) levied and collected with the general taxes.

6 (2) A special library tax may not be levied on residents of a municipality which
7 appropriates funds or levies a tax for the support of a local library that is located
8 within the municipality but is not a part of the direct service area of a county library.

9 (3) Imposition of a special library tax shall not prevent a municipality from also
10 making appropriations for library purposes.

11 (4) Income from a special library tax shall be used for the support and
12 maintenance of the local library.

13 **Cross References.** Section 9351 is referred to in section 9318 of this title.

14 **§ 9352. Popular subscription.**

15 (a) **Authorization.**--The residents of a municipality may raise a fund equal to or
16 exceeding the gross amount of a three-mill tax on taxable property in the municipality by
17 popular subscription.

18 (b) **Acceptance by municipality.**--If the fund raised by popular subscription is
19 offered to the municipality for the purpose of establishing a local library, the municipal
20 officers of the municipality shall accept the fund and use it for the sole purpose of
21 establishing a local library.

22 (c) **Limitation on subscribers.**--No more than 2% of the fund raised by popular
23 subscription may be subscribed by one individual or organization.

24 (d) **Payment of subscription.**--The subscription may be made payable in four
25 quarterly payments and shall be in a form that is collectible by legal process if
26 necessary.

27 (e) **Control of fund.**--Upon receipt of the fund authorized under subsection (a), the
28 municipal officers shall immediately place the fund under the control of a board of library
29 directors appointed under section 9318 (relating to local library governance).

1 (f) **Library tax.**--The municipal officers shall levy and collect a tax at the annual rate
2 of not less than one and one-half mills annually on taxable property in the municipality
3 for the purpose of maintaining a library established under the provisions of this section.

4 **Cross References.** Section 9352 is referred to in section 9318 of this title.

5 **§ 9353. Gifts and donations.**

6 (a) **Power to hold property.**--A municipality or corporation that owns or manages a
7 local library may take and hold real or personal property for library purposes.

8 (b) **Transfer of title.**--A person wishing to donate books, money or real or personal
9 property for the benefit of a local library may vest the title to that property in the
10 municipality or corporation having control of the affairs of the library, to be held and
11 controlled by the municipality or corporation according to the terms of the deed, gift,
12 devise or bequest.

13 (c) **Fiduciary capacity.**--The municipality or corporation shall perform its duties
14 under this section in a fiduciary manner.

15 (d) **Control of property.**--Unless the terms of the donation, deed, gift, devise or
16 bequest specify otherwise, the board of library directors or the corporation shall control
17 and administer the property received under this section.

18 **Subchapter E: Miscellaneous Provisions**

19 Sec.

20 9371. Free use of libraries.

21 9372. Tax exempt status.

22 9373. Commonwealth publications.

23 9374. Selection of materials.

24 9375. Privacy of circulation records.

25 9376. Damage to library materials.

26 **§ 9371. Free use of libraries.**

27 (a) **Residents and taxpayers.**--Each library established or maintained under this
28 chapter shall be free for the use of the residents and taxpayers of the municipality in
29 which it is located.

30 (b) **Nonresidents.**--The board of library directors may extend library privileges to
31 persons not residing in the municipality upon the terms and conditions that the board
32 prescribes.

33 (c) **Terms of usage.**--Usage of the library shall be subject to reasonable rules and
34 regulations adopted by the board of library directors.

1 (d) **Loss of privileges.**--The board of library directors may exclude from the use of
2 the library a person who willfully violates the rules and regulations adopted under
3 subsection (c).

4 **§ 9372. Tax exempt status.**

5 (a) **Exemption from local taxes.**--

6 (1) Subject to paragraph (2), the following shall be exempt from county, city,
7 borough, town, township, school, bounty, poor or head taxes:

8 (i) A building owned and occupied by a local library.

9 (ii) The land on which a local library stands.

10 (iii) Land that is immediately and necessarily appurtenant to a local library.

11 (2) Paragraph (1) applies even if some portion of the building or land yields
12 rental income to the corporation or association managing the library, if the net rental
13 receipts of the corporation or association are used solely to maintain the library.

14 (b) **Exemption from inheritance taxes.**--A gift, devise, grant or endowment made
15 to a local or national library shall be free from collateral inheritance tax.

16 (c) **Exemption for investment interest.**--A gift, endowment or fund of a local
17 library which is invested in an interest-bearing security shall be exempt from State tax
18 on money at interest, if that income is used solely for the purchase of books or the
19 maintenance of the library.

20 **§ 9373. Commonwealth publications.**

21 (a) **Documents depository libraries.**--The State Librarian shall designate State
22 document depository libraries to receive Commonwealth publications.

23 (b) **Collection and distribution.**--The Department of General Services shall direct
24 each department, board, commission or agency of the Commonwealth to supply it with
25 copies of each publication remaining after regular distribution according to existing
26 allocations, up to a maximum of 250 copies. The Department of General Services shall
27 forward, as soon as practicable, a copy of each publication to those libraries designated
28 by the State Librarian under subsection (a).

29 (c) **Eligible libraries.**--A public library, school library, junior college or community
30 college library, university library or historical society library in this Commonwealth shall
31 be eligible to receive free copies of the publications.

1 (d) **Recall of publications.**--The Commonwealth may recall a publication if its copy
2 is destroyed, damaged or lost.

3 (e) **Documents published under the Commonwealth Documents Law.**--This
4 section shall not apply to the distribution of documents published under the act of July
5 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. With
6 the approval of the advisory council, the State Librarian shall make recommendations
7 from time to time to the Joint Committee on Documents concerning criteria for the
8 distribution to libraries of documents published under the Commonwealth Documents
9 Law.

10 **§ 9374. Selection of materials.**

11 (a) **Counseling by State Librarian.**--The powers and duties of the State Librarian
12 relating to counseling local libraries in the selection of resources of books and other
13 materials contained in section 9311(b)(6)(ii) (relating to State Library and State
14 Librarian) shall not restrict or limit local libraries in their choice of resources that have
15 not been determined as a result of counseling.

16 (b) **Rules and regulations restricted.**--No rule or regulation promulgated under the
17 authority of this chapter shall directly or indirectly prohibit the inclusion in a library's
18 collections of a particular book, periodical, material, the works of a particular author or
19 the expression of a particular point of view.

20 **§ 9375. Privacy of circulation records.**

21 Records of the following institutions which relate to the circulation of library materials
22 and contain the names or other personally identifying information of users of the
23 materials shall be confidential and may not be made available to anyone except by a
24 court order in a criminal proceeding:

25 (1) The State Library.

26 (2) A local library established or maintained under the provisions of this chapter.

27 (3) The library of a university, college or educational institution chartered by the
28 Commonwealth.

29 (4) The library of a public school.

30 (5) A library established and maintained under a law of this Commonwealth.

31 (6) A branch reading room, deposit station or agency operated in connection
32 with a library described in this section.

1 **§ 9376. Damage to library materials.**

2 (a) **Offenses defined.**--A person who willfully cuts, mutilates, marks or otherwise
3 injures a book, pamphlet, magazine, newspaper, manuscript, map or other property of
4 or on deposit with any of the institutions under subsection (c) shall, upon conviction, be
5 subject to the same penalties as provided for in 18 Pa. C.S. § 6708 (relating to retention
6 of library property after notice to return).

7 (b) **Disposition of fines.**--Fines collected under a conviction under this section
8 shall be distributed for the use of the library against which the offense was committed.

9 (c) **Applicability.**--This section applies to materials from any of the following
10 institutions:

11 (1) The State Library.

12 (2) A local library established or maintained under this chapter.

13 (3) The library of a university, college or educational institution chartered by the
14 Commonwealth.

15 (4) The library of a public school.

16 (5) A library established and maintained under a law of this Commonwealth.

17 (6) A branch reading room, deposit station or agency operated in connection
18 with a library described in this section.

19 **Subpart B: (Reserved)**

20 **Enactment.** Subpart B (Reserved) was added November 1, 2012, P.L.1683, No.210, effective
21 immediately.

22 **Appendix to Title 24 Education**

23 **Supplementary Provisions of Amendatory Statutes**

24 **2012, November 1, P.L.1683, No.210**

25 **§ 2. Continuation of prior law.**

26 The addition of 24 Pa. C.S. Ch. 93 is a continuation of the act of June 14, 1961
27 (P.L.324, No.188), known as The Library Code. The following apply:

28 (1) Activities initiated under The Library Code shall continue and remain in full
29 force and effect and may be completed under 24 Pa. C.S. Ch. 93.

1 (2) A resolution, order, regulation, rule or decision made under The Library Code
2 and in effect on the effective date of this section shall remain in full force and effect
3 until revoked, vacated or modified under 24 Pa. C.S. Ch. 93.

4 (3) A contract, obligation or agreement entered into under The Library Code
5 shall not be affected or impaired by the repeal of The Library Code.

6 (4) Except where specifically commented upon in the report of the Joint State
7 Government Commission, entitled "The Pennsylvania Public Library Code: Findings
8 and Recommendations" (December 2010), any difference in language between 24
9 Pa. C.S. Ch. 93 and The Library Code is intended only to conform to the style of the
10 Pennsylvania Consolidated Statutes and is not intended to change or affect the
11 legislative intent, judicial construction or administration and implementation of The
12 Library Code.

13 (5) The provisions of 24 Pa. C.S. § 9312 that relate to the composition of the
14 advisory council and require a different composition from that required under The
15 Library Code are not intended to affect the existing membership of the advisory
16 council. As the terms of the existing advisory council members expire, the following
17 shall apply:

18 (i) The appointment of new members shall conform with the requirements of
19 24 Pa. C.S. § 9312.

20 (ii) Until the distribution of membership under 24 Pa. C.S. § 9312 has been
21 met, if a vacancy occurs in the membership of the advisory council after the
22 effective date of this section and the vacated position was held by a layperson,
23 the position shall be filled by a professional librarian until the distribution of
24 membership under 24 Pa. C.S. § 9312 has been met.

25 **Explanatory Note.** Act 210 added Part VI of Title 24.

1 **PUBLIC SCHOOL CODE OF 1949**
2 **Act of Mar. 10, 1949, P.L. 30, No. 14 Cl. 24**

3 **Article XXIII. Funding for Public Libraries**

4 (Art. hdg. amended July 20, 2007, P.L.278, No.45)

5 **§ 2318. State aid for fiscal year 2011-2012**

6 Notwithstanding any other provision of law to the contrary, each library subject to the act
7 of June 14, 1961 (P.L. 324, No. 188), known as The Library Code, shall be eligible for
8 State aid for fiscal year 2011-2012, which shall consist of the following:

9 (1) Funds appropriated for libraries shall be distributed to each library under the
10 following formula:

11 (i) Divide the amount of funding that the library received in fiscal year 2010-
12 2011 under section 1722-L(12) of the act of April 9, 1929 (P.L. 364, No.
13 176),² known as The Fiscal Code, by the total State-aid subsidy for fiscal year
14 2010-2011.

15 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
16 for 2011-2012.

17 (2) Following distribution of funds appropriated for State aid to libraries, any
18 remaining funds may be distributed at the discretion of the State Librarian.

19 (3) If funds appropriated for State aid to libraries in fiscal year 2011-2012 are less
20 than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
21 standards as prescribed in section 103 of The Library Code³ relating to hours of
22 operation, continuing professional development, collections, expenditures and other
23 aspects of library operation.

24 (4)(i) Each library system receiving State aid under this section may distribute the
25 local library share of that aid in a manner as determined by the board of directors of
26 the library system.

27 (ii) Subparagraph (i) shall not apply to a library system operating in a county of
28 the second class.

29 (§ 2318 added June 30, 2011, P.L.112, No.24)

1 **§ 2319. State aid for fiscal year 2012-2013**

2 Notwithstanding any other provision of law to the contrary, each library subject to the act
3 of June 14, 1961 (P.L. 324, No. 188), known as The Library Code, shall be eligible
4 for State aid for fiscal year 2012-2013, which shall consist of the following:

5 (1) Funds appropriated for libraries shall be distributed to each library under the
6 following formula:

7 (i) Divide the amount of funding that the library received in fiscal year 2011-
8 2012 under section 2318² by the total State-aid subsidy for fiscal year 2011-
9 2012.

10 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
11 for 2012-2013.

12 (2) Following distribution of funds appropriated for State aid to libraries under
13 paragraph (1), any remaining funds may be distributed at the discretion of the State
14 Librarian.

15 (3) If funds appropriated for State aid to libraries in fiscal year 2012-2013 are less
16 than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
17 standards as prescribed in section 103 of The Library Code.³

18 (4)(i) Each library system receiving State aid under this section may distribute the
19 local library share of that aid in a manner as determined by the board of directors of
20 the library system.

21 (ii) In the case of a library system that contains a library operating in a city of the
22 second class, changes to the distribution of State aid to the library shall be made by
23 mutual agreement between the library and the library system.

24 (5) In the event of a change in district library center population prior to the
25 effective date of this section as a result of:

26 (i) a city, borough, town, township, school district or county moving from one
27 library center to another; or

28 (ii) a transfer of district library center status to a county library system, funding
29 of district library center aid shall be paid based on the population of the newly
30 established or reconfigured district library center.

31 (§ 2319 added June 30, 2012, P.L.684, No.82)

1 **§ 2320. State aid for fiscal year 2016-2017.**

2 Notwithstanding any other provision of law to the contrary, each library subject to 24 Pa.
3 C.S. Ch. 93 (relating to public library code), shall be eligible for State aid for fiscal year
4 2016-2017, as follows:

5 (1) Funds appropriated for libraries shall be distributed to each library under the
6 following formula:

7 (i) Divide the amount of funding that the library received in fiscal year 2015-
8 2016 under section 1722-L(19) of the act of April 9, 1929 (P.L.343, No.176),
9 known as The Fiscal Code, by the total State-aid subsidy for fiscal year 2015-
10 2016.

11 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
12 for fiscal year 2016-2017.

13 (2) Following distribution of funds appropriated for State aid to libraries under
14 paragraph (1), any remaining funds may be distributed at the discretion of the State
15 Librarian.

16 (3) If funds appropriated for State aid to libraries in fiscal year 2016-2017 are
17 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
18 standards as prescribed in 24 Pa. C.S. Ch. 93.

19 (4) Each library system receiving State aid under this section may distribute the
20 local library share of that aid in a manner as determined by the board of directors of
21 the library system.

22 (5) In the case of a library system that contains a library operating in a city of the
23 second class, changes to the distribution of State aid to the library shall be made by
24 mutual agreement between the library and the library system.

25 (6) In the event of a change in district library center population prior to the
26 effective date of this section as a result of:

27 (i) a city, borough, town, township, school district or county moving from one
28 library center to another; or

29 (ii) a transfer of district library center status to a county library system;
30 funding of district library center aid shall be paid based on the population of the
31 newly established or reconfigured district library center.

1 (7) In the event of a change in direct service area from one library to another, the
2 State Librarian, upon agreement of the affected libraries, may redistribute the local
3 library share of aid to the library currently servicing the area.

4 (§ 2320 added July 13, 2016, P.L.716, No.86)

5 **§ 2321. State aid for fiscal year 2017-2018.**

6 Notwithstanding any other provision of law to the contrary, each library subject to 24 Pa.
7 C.S. Ch. 93 (relating to public library code), shall be eligible for State aid for fiscal year
8 2017-2018, as follows:

9 (1) Funds appropriated for libraries shall be distributed to each library under the
10 following formula:

11 (i) Divide the amount of funding that the library received in fiscal year 2016-
12 2017 under section 2320 by the total State-aid subsidy for fiscal year 2016-2017.

13 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
14 for fiscal year 2017-2018.

15 (2) Following distribution of funds appropriated for State aid to libraries under
16 paragraph (1), any remaining funds may be distributed at the discretion of the State
17 Librarian.

18 (3) If funds appropriated for State aid to libraries in fiscal year 2017-2018 are
19 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
20 standards as prescribed in 24 Pa. C.S. Ch. 93.

21 (4) Each library system receiving State aid under this section may distribute the
22 local library share of that aid in a manner as determined by the board of directors of
23 the library system.

24 (5) In the case of a library system that contains a library operating in a city of the
25 second class, changes to the distribution of State aid to the library shall be made by
26 mutual agreement between the library and the library system.

27 (6) In the event of a change in district library center population prior to the
28 effective date of this section as a result of:

29 (i) a city, borough, town, township, school district or county moving from one
30 library center to another; or

1 (ii) a transfer of district library center status to a county library system;
2 funding of district library center aid shall be paid based on the population of the
3 newly established or reconfigured district library center.

4 (7) In the event of a change in direct service area from one library to another, the
5 State Librarian, upon agreement of the affected libraries, may redistribute the local
6 library share of aid to the library currently servicing the area.

7 (§ 2321 added Nov. 6, 2017, P.L.1142, No.55)

8 **§ 2322. State Aid for fiscal year 2018-2019.**

9 Notwithstanding any other provision of law to the contrary, each library subject to 24 Pa.
10 C.S. Ch. 93 (relating to public library code), shall be eligible for State aid for fiscal year
11 2018-2019, as follows:

12 (1) Funds appropriated for libraries shall be distributed to each library under the
13 following formula:

14 (i) Divide the amount of funding that the library received in fiscal year 2017-
15 2018 under section 2321 by the total State-aid subsidy for fiscal year 2017-2018.

16 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
17 for fiscal year 2018-2019.

18 (2) Following distribution of funds appropriated for State aid to libraries under
19 paragraph (1), any remaining funds may be distributed at the discretion of the State
20 Librarian.

21 (3) If funds appropriated for State aid to libraries in fiscal year 2018-2019 are
22 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
23 standards as prescribed in 24 Pa. C.S. Ch. 93.

24 (4) Each library system receiving State aid under this section may distribute the
25 local library share of that aid in a manner as determined by the board of directors of
26 the library system.

27 (5) In the case of a library system that contains a library operating in a city of the
28 second class, changes to the distribution of State aid to the library shall be made by
29 mutual agreement between the library and the library system.

30 (6) In the event of a change in district library center population prior to the
31 effective date of this section as a result of:

1 (i) a city, borough, town, township, school district or county moving from one
2 library center to another; or

3 (ii) a transfer of district library center status to a county library system;
4 funding of district library center aid shall be paid based on the population of the
5 newly established or reconfigured district library center.

6 (7) In the event of a change in direct service area from one library to another, the
7 State Librarian, upon agreement of the affected libraries, may redistribute the local
8 library share of aid to the library currently servicing the area.

9 (§ 2322 added June 22, 2018, P.L.241, No.39)

10 **§ 2323. State Aid for fiscal year 2019-2020.**

11 Notwithstanding any other provision of law to the contrary, each library subject to 24 Pa.
12 C.S. Ch. 93 (relating to public library code), shall be eligible for State aid for fiscal year
13 2019-2020, as follows:

14 (1) Funds appropriated for libraries shall be distributed to each library under the
15 following formula:

16 (i) Divide the amount of funding that the library received in fiscal year 2018-
17 2019 under section 2322 by the total State-aid subsidy for fiscal year 2018-2019.

18 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
19 for fiscal year 2019-2020.

20 (2) Following distribution of funds appropriated for State aid to libraries under
21 paragraph (1), any remaining funds may be distributed at the discretion of the State
22 Librarian.

23 (3) If funds appropriated for State aid to libraries in fiscal year 2019-2020 are
24 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
25 standards as prescribed in 24 Pa. C.S. Ch. 93.

26 (4) Each library system receiving State aid under this section may distribute the
27 local library share of that aid in a manner as determined by the board of directors of
28 the library system.

29 (5) In the case of a library system that contains a library operating in a city of the
30 second class, changes to the distribution of State aid to the library shall be made by
31 mutual agreement between the library and the library system.

1 (6) In the event of a change in district library center population prior to the
2 effective date of this section as a result of:

3 (i) a city, borough, town, township, school district or county moving from one
4 library center to another; or

5 (ii) a transfer of district library center status to a county library system;
6 funding of district library center aid shall be paid based on the population of the
7 newly established or reconfigured district library center.

8 (7) In the event of a change in direct service area from one library to another, the
9 State Librarian, upon agreement of the affected libraries, may redistribute the local
10 library share of aid to the library currently servicing the area.

11 (§ 2323 added June 28, 2019, P.L.117, No.16)

12 **§ 2324. State Aid for fiscal year 2020-2021**

13 Notwithstanding any other provision of law to the contrary, each library subject to 24
14 Pa.C.S. Ch. 93 (relating to public library code), shall be eligible for State aid for fiscal
15 year 2020-2021, as follows:

16 (1) Funds appropriated for libraries shall be distributed to each library under the
17 following formula:

18 (i) Divide the amount of funding that the library received in fiscal year 2019-
19 2020 under section 2323 by the total State-aid subsidy for fiscal year 2019-2020.

20 (ii) Multiply the quotient under subparagraph (i) by the total State-aid subsidy
21 for fiscal year 2020-2021.

22 (2) Following distribution of funds appropriated for State aid to libraries under
23 paragraph (1), any remaining funds may be distributed at the discretion of the State
24 Librarian.

25 (3) If funds appropriated for State aid to libraries in fiscal year 2020-2021 are
26 less than funds appropriated in fiscal year 2002-2003, the State Librarian may waive
27 standards as prescribed in 24 Pa.C.S. Ch. 93.

28 (4) Each library system receiving State aid under this section may distribute the
29 local library share of that aid in a manner as determined by the board of directors of
30 the library system.

1 (5) In the case of a library system that contains a library operating in a city of the
2 second class, changes to the distribution of State aid to the library shall be made by
3 mutual agreement between the library and the library system.

4 (6) In the event of a change in district library center population prior to the
5 effective date of this section as a result of:

6 (i) a city, borough, town, township, school district or county moving from one
7 library center to another; or

8 (ii) a transfer of district library center status to a county library system;
9 funding of district library center aid shall be paid based on the population of the
10 newly established or reconfigured district library center.

11 (7) In the event of a change in direct service area from one library to another, the
12 State Librarian, upon agreement of the affected libraries, may redistribute the local
13 library share of aid to the library currently servicing the area.

1 **Fiscal Code**
2 **Act of Apr. 9, 1929, P.L. 343, No. 176 Cl. 72**

3 **ARTICLE XVII-L: 2015-2016 BUDGET IMPLEMENTATION**

4 **Subarticle B. Executive Departments**

5 (Art. repealed and added April 25, 2016, P.L.168, No.25)

6 **§ Section 1711-L. Department of Education.**

7 The following shall apply to appropriations for the Department of Education: [EXCERPT
8 APPLICABLE TO LIBRARIES]

9 (19) Notwithstanding any other provision of law to the contrary, each library
10 subject to 24 Pa. C.S. Ch. 93 (relating to public library code), shall be eligible for
11 State aid for fiscal year 2015-2016, as follows:

12 (i) Funds appropriated for libraries shall be distributed to each library under
13 the following formula:

14 (A) Divide the amount of funding that the library received in fiscal year
15 2014-2015 under section 1722-J(18) by the total State-aid subsidy for fiscal
16 year 2014-2015.

17 (B) Multiply the quotient under clause (A) by the total State-aid subsidy for
18 fiscal year 2015-2016.

19 (ii) Following distribution of funds appropriated for State aid to libraries under
20 subparagraph (i), any remaining funds may be distributed at the discretion of the
21 State Librarian.

22 (iii) If funds appropriated for State aid to libraries in fiscal year 2015-2016 are
23 less than funds appropriated in fiscal year 2002-2003, the State Librarian may
24 waive standards as prescribed in 24 Pa. C.S. Ch. 93.

25 (iv) Each library system receiving State aid under this paragraph may
26 distribute the local library share of that aid in a manner as determined by the
27 board of directors of the library system.

28 (v) In the case of a library system that contains a library operating in a city of
29 the second class, changes to the distribution of State aid to the library shall be
30 made by mutual agreement between the library and the library system.

31 (vi) In the event of a change in district library center population prior to the
32 effective date of this paragraph as a result of:

1 (A) a city, borough, town, township, school district or county moving from
2 one library center to another; or

3 (B) a transfer of district library center status to a county library system;
4 funding of district library center aid shall be paid based on the population of
5 the newly established or reconfigured district library center.

6 (vii) In the event of a change in direct service area from one library to
7 another, the State Librarian, upon agreement of the affected libraries, may
8 redistribute the local library share of aid to the library currently servicing the area.

1 **Fiscal Code - Omnibus Amendments - Line Item Veto**
2 **Act of Jul. 10, 2014, P.L. 1053, No. 126 Cl. 72**

3 **Article XVII-J. 2014-2015 Budget Implementation**

4 **Subarticle B. Executive Departments**

5 **Section 1722-J. Department of Education.**

6 The following shall apply to appropriations for the Department of Education in the
7 General Appropriation Act: [EXCERPT APPLICABLE TO LIBRARIES]

8 (18) Notwithstanding any other provision of law, the following apply to libraries:

9 (i) Funds appropriated for libraries for the 2014-2015 fiscal year shall be
10 distributed to each library under the following formula:

11 (A) Divide the amount of funding the library received in fiscal year 2013-
12 2014 under 24 Pa. C.S. § 9342(k) (relating to special rules for specific fiscal
13 years) by the total State aid subsidy for fiscal year 2013-2014.

14 (B) Multiply the quotient under clause (A) by the total State aid subsidy for
15 fiscal year 2014-2015.

16 (ii) Following the distribution of funds appropriated for State aid to libraries
17 under subparagraph (i), any remaining funds may be distributed to libraries at the
18 discretion of the State Librarian.

19 (iii) If funds appropriated for State aid to libraries in fiscal year 2014-2015 are
20 less than funds appropriated in fiscal year 2002-2003, the State Librarian may
21 waive standards as prescribed under 24 Pa. C.S. § 9332 (relating to waiver of
22 standards).

23 (iv) (A) Each library receiving State aid under this paragraph may distribute
24 the local library share of that aid in a manner as determined by the board of
25 directors of the library system.

26 (B) In the case of a library system that contains a library operating in a city of
27 the second class, changes to the distribution of State aid to the library shall be
28 made by mutual agreement between the library and the library system.

29 (v) In the event of a change in district library center population prior to the
30 effective date of this section as a result of a city, borough, town, township,
31 school district or county moving from one library center to another or a transfer
32 of district library status to a county library system, funding of district center aid

1 shall be paid based on the population of the newly established or reconfigured
2 district library center

1 **Child Internet Protection Act – Enactment**
2 **Act of Nov. 30, 2004, P.L. 1556, No. 197 Cl. 35**

3 Providing for protection of children from obscene material, child pornography and other
4 material that is harmful to on the Internet in public schools and public libraries; and
5 providing for the duties of the Secretary of Education.

6 The General Assembly of the Commonwealth of Pennsylvania hereby enacts as
7 follows:

8 **§ 1. Short title**

9 This act shall be known and may be cited as the Child Internet Protection Act.

10 **§ 2. Declaration of policy**

11 The General Assembly finds and declares as follows:

12 (1) The Commonwealth has a compelling interest and duty to protect children
13 from exposure to obscenity, child pornography and other material that is harmful to
14 minors.

15 (2) The Commonwealth has a compelling interest in preventing any user from
16 accessing obscene material and child pornography within a public school or public
17 library setting.

18 (3) There is a need to balance the goal of providing free access to educationally
19 suitable information sources on the Internet against the compelling need and duty to
20 protect children from contact with sexual predators and from access to obscene
21 material, child pornography and material harmful to children.

22 (4) It is not the intent of this act to create or impose liability on software program
23 or Internet service providers that make available information created by third parties
24 by treating the software or service provider as the publisher or speaker of such
25 information. Nor should this act be construed as imposing any liability on software
26 program or Internet service providers for creating and making available to users
27 monitoring and screening functions that serve to restrict access to offensive material.
28 Indeed, it is the intent of the General Assembly to minimize such liability on software
29 program and Internet service providers in order to encourage the development and
30 deployment of blocking and screening technologies and in order to promote the
31 widest possible dissemination of such technologies to libraries, schools and end
32 users

1 **§ 3. Definitions**

2 The following words and phrases when used in this act shall have the meanings given
3 to them in this section unless the context clearly indicates otherwise:

4 **"Acceptable-use policy."** A policy for Internet usage that meets the requirements
5 of this act which is acceptable to and adopted by a school board or a governing body of
6 a public library.

7 **"Child pornography."** As described in 18 Pa. C.S. § 6312 (relating to sexual abuse
8 of children).

9 **"Department."** The Department of Education of the Commonwealth.

10 **"Harmful to minors."** As defined in 18 Pa. C.S. § 5903 (relating to obscene and
11 other sexual materials and performances).

12 **"Internet."** The international network of computer systems.

13 **"Obscene."** As defined for purposes of "obscene materials" in 18 Pa. C.S. § 5903
14 (relating to obscene and other sexual materials and performances).

15 **"Public library."** A county or local library that receives State aid pursuant to Article
16 III of the act of June 14, 1961 (P.L.324, No.188), known as The Library Code.

17 **"School board."** The board of directors of a school entity.

18 **"School entity."** A public school district, charter school, cyber charter school,
19 intermediate unit or area vocational- technical school.

20 **"Secretary."** The Secretary of Education of the Commonwealth.

21 **§ 4. School entity Internet policies**

22 (a) **Acceptable-use policy.**--Within 180 days after the effective date of this act,
23 each school board shall adopt an acceptable-use policy for the Internet. At a minimum,
24 the policy shall contain provisions which are reasonably designed to:

25 (1) Prevent students and employees of the school entity from using any
26 computer equipment and communications services owned or leased by the school
27 entity for sending, receiving, viewing or downloading visual depictions of obscenity,
28 child pornography or material that is harmful to minors.

29 (2) Establish appropriate measures to be taken against students and school
30 employees who willfully violate the school entity's acceptable-use policy.

1 (3) Provide for expedited review and resolution of a claim that the policy is
2 denying a student or school employee access to material that is not within the
3 prohibition of the acceptable-use policy.

4 (b) **Implementation and enforcement.**--The school board shall take such steps as
5 it deems appropriate to implement and enforce the school entity's policy, which shall
6 include, but need not be limited to:

7 (1) use of software programs reasonably designed to block access to visual
8 depictions of obscenity, child pornography or material that is harmful to minors; or

9 (2) selection of online servers that block access to visual depictions of obscenity,
10 child pornography or material that is harmful to minors.

11 (c) **Copy of policy for parents or guardians.**--A school entity shall provide, upon
12 written request of a parent or guardian, a copy of the acceptable-use policy it has
13 adopted under this act.

14 § 5. Public library Internet policies

15 (a) **Acceptable-use policy.**--Within 180 days after the effective date of this act, the
16 governing body of each public library shall adopt an acceptable-use policy for the
17 Internet. At a minimum, the policy shall contain provisions which are reasonably
18 designed to:

19 (1) Prevent library patrons, including those patrons under 18 years of age and
20 library employees, from using the library's computer equipment and communications
21 services for sending, receiving, viewing or downloading visual depictions of
22 obscenity, child pornography or material that is harmful to minors.

23 (2) Establish appropriate measures to be taken against library patrons and
24 employees who willfully violate the policy.

25 (b) **Implementation and enforcement of policy.**--The governing body of the public
26 library shall take such steps as it deems appropriate to implement and enforce the
27 requirements of subsection (a). These steps shall include, but need not be limited to,
28 the following:

29 (1) the use of software programs designed to block access by library patrons
30 and employees to visual depictions of obscenity, child pornography or material that
31 is harmful to minors; or

1 (2) the selection of online servers that block access by library patrons and
2 employees to visual depictions of obscenity, child pornography or material that is
3 harmful to minors.

4 (c) **Immunity.**--A public library shall not be subject to civil liability for damages to
5 any person as a result of the failure of any approved software program or approved
6 online server to block access to visual depictions of obscenity, child pornography or
7 material that is harmful to minors. Nothing in this section shall be deemed to abrogate or
8 lessen any immunity or other protection against liability accorded to public libraries
9 under existing law or court decision.

10 **§ 6. Consultation on acceptable-use policies**

11 The Attorney General and the secretary shall consult with and assist any public library
12 or school entity that requests such assistance in the development and implementation
13 of an acceptable-use policy under this act.

14 **§ 7. Reports**

15 (a) **Copy of policy to be filed.**--Within 200 days after the effective date of this act,
16 each school entity and public library shall file with the secretary a copy of the
17 acceptable- use policy of the school entity and public library which has been adopted
18 under this act. Each revision to the acceptable-use policy shall be transmitted to the
19 secretary in accordance with section 8.

20 (b) **Identification of software program and online servers.**-- Each acceptable-
21 use policy filed with the department shall identify any software program or online server
22 that is being utilized to block access to material in accordance with sections 4(b) and
23 5(b).

24 **§ 8. Enforcement of acceptable-use policies**

25 (a) **Review of acceptable-use policies.**--The secretary shall review each
26 acceptable-use policy filed by a public library and school entity under this act and each
27 revision thereof. If the secretary determines after review that a policy or revision is not
28 designed to achieve the requirements of section 4 or 5, the secretary shall provide
29 written notice to the school entity or public library explaining the nature of such
30 noncompliance and shall afford the school entity or public library a 30-day period for
31 correcting any failure to comply with this act. The secretary may provide a reasonable
32 extension of time for submission of a revised acceptable-use policy on a showing of
33 good cause.

1 (b) **Revision of policies.**--No revision of an acceptable-use policy which has been
2 approved by the secretary under subsection (a) shall be implemented until such revision
3 is approved by the secretary. If the secretary fails to disapprove the revision within 60
4 days after submission to the secretary, the school entity or public library may proceed
5 with the implementation of the revision of its acceptable-use policy.

6 (c) **Withholding of funding from school entities and public libraries.**--The
7 secretary shall withhold a portion of State funding to a school entity or public library if
8 the school entity or public library:

9 (1) fails to submit an acceptable-use policy within the time prescribed in this act;

10 (2) submits an acceptable-use policy that is not reasonably designed to achieve
11 the requirements of section 4 or 5; or

12 (3) is not enforcing or is substantially disregarding its acceptable-use policy.

13 (d) **Appeal.**--If the secretary disapproves an acceptable-use policy or any revision
14 thereof under this section or notifies the school entity or public library that it is subject to
15 the withholding of funding pursuant to subsection (c), the aggrieved school entity or
16 public library may appeal the decision to the Commonwealth Court.

17 § 9. Duties of the secretary

18 (a) **Procedure.**--

19 (1) The secretary shall be responsible for conducting investigations and making
20 written determinations as to whether or not a public library or school entity has
21 violated the requirements of this act.

22 (2) If the secretary determines that a school entity or public library is in violation,
23 the secretary shall direct the school entity or public library to acknowledge and
24 correct the violation within a 30-day period and to develop a corrective plan for
25 preventing future recurrences.

26 (b) **Construction.**--Nothing in this section shall limit the authority of the secretary to
27 withhold funds pursuant to section 8(c) in an appropriate case.

28 § 10. Disabling blocking technology for use by certain persons

29 (a) **General rule.**--Notwithstanding any other section of this act to the contrary, an
30 administrator, supervisor or their designee may disable the software program or online
31 server for an adult or a minor who provides written consent from a parent or guardian to
32 enable access for bona fide research or other lawful purpose.

1 (b) **Construction.**--Nothing in this section shall be construed to permit any person
2 to have access to material the character of which is illegal under Federal or State law.

3 **§ 11. Severability**

4 The provisions of this act are severable. If any provision of this act or its application to
5 any person or circumstance is held invalid, the invalidity shall not affect other provisions
6 or applications of this act which can be given effect without the invalid provision or
7 application.

8 **§ 12. Applicability**

9 School entities and public libraries fulfilling the requirements of the Children's Internet
10 Protection Act (Public Law 106-554, 114 Stat. 2763A-335) are not required to fulfill the
11 requirements of this act.

12 **§ 13. Repeal**

13 All acts and parts of acts are repealed insofar as they are inconsistent with this act.

14 **§ 14. Effective date.**

15 This act shall take effect immediately.

1 **Title 18 PA. C.S. Crimes and Offenses**

2 **Part II. Definition of Specific Offenses**

3 **Article C. Offenses Against Property**

4 **Chapter 39 – Theft and Related Offenses**

5 **Subchapter B – Definition of Offenses**

6 Sec.

7 3929.1. Library theft.

8 3929.2. Unlawful possession of retail or library theft instruments.

9 **§ 3929.1 Library theft.**

10 (a) **Offense defined** – A person is guilty of library theft if he willfully conceals on his
11 person or among his belongings any library or museum material while still on the
12 premises of a library or willfully and without authority removes any library or museum
13 material from a library with the intention of converting such material to his own use.

14 (b) **Grading** –

15 (1) Library theft constitutes a:

16 (i) Summary offense when the offense is a first offense and the value of the
17 material is less than \$150.

18 (ii) Misdemeanor of the second degree when the offense is a second offense
19 and the value of the material is less than \$150.

20 (iii) Misdemeanor of the first degree when the offense is a first or second
21 offense and the value of the material is \$150 or more.

22 (iv) Felony of the third degree when the offense is a third or subsequent
23 offense, regardless of the value of the material.

24 (2) Amounts involved in library thefts committed pursuant to one scheme or
25 course of conduct, whether from the same library or several libraries, may be
26 aggregated in determining the grade of the offense.

27 (c) **Presumption** – A person who willfully conceals any library or museum material
28 on his person or among his belongings while still on the premises of the library or in the
29 immediate vicinity thereof shall be prima facie presume to have concealed the library or
30 museum material with the intention of converting such material to his own use.

1 (d) **Detention** – A peace officer, employee or agent of a library who has probably
2 cause to believe that a person has committed library theft may detain such person on
3 the premises of the library or in the immediate vicinity thereof for the following purposes:

4 (1) To conduct an investigation in a reasonable manner and within a reasonable
5 length of time to determine whether such person has unlawfully concealed or
6 removed any library or museum material.

7 (2) To inform a peace officer of the detention of the person or surrender that
8 person to the custody of a peace officer.

9 (e) **Exemption from Liability** – A peace officer, employee or agent of a library who
10 detains or causes the arrest of any person pursuant to this section shall not be held
11 civilly or criminally liable for false arrest, false imprisonment, unlawful detention, assault,
12 battery, slander, libel or malicious prosecution of the person detained or arrested
13 provided the peace officer, employee or agent of the library had at the time of the
14 detention or arrest probable cause to believe that the person committed library theft.

15 (f) **Public display of law** – A copy of this section shall be publicly displayed in the
16 reading rooms and other public rooms of all libraries in such number and manner as will
17 bring this section to the attention of patrons.

18 (g) **Prior offenses** – Prior to the commence or trial or entry of plea of a defendant 16
19 years of age or older accused of the summary offense of library theft, the issuing
20 authority shall notify the Pennsylvania State Police for determination as to whether or
21 not the defendant previously has been convicted of the offense of library theft. The
22 results of such determination shall be forwarded to the police department if the
23 department is the prosecutor, or to the issuing authority of the prosecutor is other than a
24 police officer. The issuing authority shall not proceed with the trial or plea in summary
25 cases until in receipt of the determination made by the State Police. The magisterial
26 district judge shall use the information obtained solely for the purpose of grading the
27 offense pursuant to subsection (b).

28 (h) **Fingerprinting** – Upon conviction the issuing authority shall order the defendant
29 to submit within five days of such order for fingerprinting by the municipal police of the
30 jurisdiction in which the offense allegedly was committed or the State Police.

31 (i) **Definitions** – As used in this section the following words and phrases shall have
32 the meanings given to them in this subsection:

33 “**Conceal.**” To conceal library or museum material so that, although there may
34 be some notice of its presence, it is not visible through ordinary observation.

1 **“Library.”** Any public library, any library, archives or manuscript repository of
2 educational, historical or elementary institution, organization or society, any museum
3 and any repository of public records.

4 **“Library or museum material.”** Any book, plate, picture, photograph, engraving,
5 painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript,
6 document, letter, public record, microfilm, sound recording, audiovisual materials in
7 any format, magnetic or other tapes, electronic data processing records, display
8 object, exhibit, work of art, artifact, or other documentary, written or printed materials
9 regardless of physical form or characteristics, belonging to, on loan to, or otherwise
10 in the custody of a library.

11 **“Premises of a library.”** Includes but is not limited to the library and all parking
12 areas set aside for the parking of vehicles for the convenience of the patrons of such
13 library.

14 **2004 Amendment.** Act 207 amended subsec. (g). See section 29 of Act 207 in the appendix to this title
15 for special provisions relating to construction of law.

16 **1982 Amendment.** Act 95 added section 3929.1.

17 **Cross References.** Section 3929.1 is referred to in section 3929.2 of this title; section 5552 of Title 42
18 (Judiciary and Judicial Procedure).

19 **§ 3929.2. Unlawful possession of retail or library theft instruments.**

20 (a) **Offense.**--A person commits a misdemeanor of the first degree if he knowingly
21 possesses, manufactures, sells, offers for sale or distributes in any way a theft detection
22 shielding device or a theft detection deactivation device.

23 (b) **Definitions.**--As used in this section, the following words and phrases shall have
24 the meanings given to them in this subsection:

25 **“Conceal.”** To conceal merchandise or library or museum material so that,
26 although there may be some notice of its presence, it is not visible through ordinary
27 observation.

28 **“Full retail value.”** The merchant's stated or advertised price of the
29 merchandise.

30 **“Library.”** Any public library, any library, archives or manuscript repository of an
31 educational, historical or eleemosynary institution, organization or society, any
32 museum and any repository of public records.

1 **"Library or museum material."** Any book, plate, picture, photograph,
2 engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside,
3 manuscript, document, letter, public record, microfilm, sound recording, audiovisual
4 materials in any format, magnetic or other tapes, electronic data processing records,
5 display object, exhibit, work of art, artifact or other documentary, written or printed
6 materials regardless of physical form or characteristics, belonging to, on loan to or
7 otherwise in the custody of a library.

8 **"Merchandise."** Any goods, chattels, foodstuffs or wares of any type and
9 description regardless of the value thereof.

10 **"Merchant."** An owner or operator of any retail mercantile establishment or any
11 agent, employee, lessee, consignee, officer, director, franchisee or independent
12 contractor of such owner or operator.

13 **"Store or other retail mercantile establishment."** A place where merchandise
14 is displayed, held, stored or sold or offered to the public for sale.

15 **"Theft detection deactivation device."** Any tool, device, equipment or object
16 designed to destroy, remove, render inoperative or deactivate any inventory control
17 tag, security strip or any other mechanism designed or employed to prevent an
18 offense under section 3929 (relating to retail theft) or 3929.1 (relating to library theft)
19 which is possessed, manufactured, sold or offered for sale with the intention that it
20 be used to:

21 (1) deprive merchants of the possession, use or benefit of merchandise
22 displayed, held, stored or offered for sale or lease without paying the full retail value
23 thereof; or

24 (2) convert library or museum material to one's own use.

25 **"Theft detection shielding device."** Any laminated, lined or coated bag, purse,
26 container, case, coat or similar device which is intended to be used to take
27 possession of, carry away, transfer, cause to be carried away or transferred or
28 conceal:

29 (1) any merchandise displayed, held, stored or offered for sale or lease by any
30 store or other retail mercantile establishment with the intent to deprive merchants of
31 the possession, use or benefit of such merchandise without paying the full retail
32 value thereof; or

33 (2) any library or museum material on his person or among his belongings with
34 the intent to convert such material to his own use.

1 **2002 Amendment.** Act 33 added section 3929.2.

2 **Cross References.** Section 3929.2 is referred to in section 5552 of Title 42 (Judiciary and Judicial
3 Procedure).

4 **Article F. Offenses against Public Order and Decency**

5 **Chapter 59. Public Indecency**

6 **§ 5903. Obscene and other sexual materials and performances**

7 (a) **Offenses defined.**--No person, knowing the obscene character of the materials
8 or performances involved, shall:

9 (1) display or cause or permit the display of any explicit sexual materials as
10 defined in subsection (c) in or on any window, showcase, newsstand, display rack,
11 billboard, display board, viewing screen, motion picture screen, marquee or similar
12 place in such manner that the display is visible from any public street, highway,
13 sidewalk, transportation facility or other public thoroughfare, or in any business or
14 commercial establishment where minors, as a part of the general public or
15 otherwise, are or will probably be exposed to view all or any part of such materials;

16 (2) sell, lend, distribute, transmit, exhibit, give away or show any obscene
17 materials to any person 18 years of age or older or offer to sell, lend, distribute,
18 transmit, exhibit or give away or show, or have in his possession with intent to sell,
19 lend, distribute, transmit, exhibit or give away or show any obscene materials to any
20 person 18 years of age or older, or knowingly advertise any obscene materials in
21 any manner;

22 (3)(i) design, copy, draw, photograph, print, utter, publish or in any manner
23 manufacture or prepare any obscene materials; or

24 (ii) design, copy, draw, photograph, print, utter, publish or in any manner
25 manufacture or prepare any obscene materials in which a minor is depicted;

26 (4)(i) write, print, publish, utter or cause to be written, printed, published or
27 uttered any advertisement or notice of any kind giving information, directly or
28 indirectly, stating or purporting to state where, how, from whom, or by what means
29 any obscene materials can be purchased, obtained or had; or

30 (ii) write, print, publish, utter or cause to be written, printed, published or uttered
31 any advertisement or notice of any kind giving information, directly or indirectly,
32 stating or purporting to state where, how, from whom or by what means any obscene
33 materials can be purchased, obtained or had in which a minor is included;

1 (5)(i) produce, present or direct any obscene performance or participate in a
2 portion thereof that is obscene or that contributes to its obscenity; or

3 (ii) produce, present or direct any obscene performance or participate in a portion
4 thereof that is obscene or that contributes to its obscenity if a minor is included;

5 (6) hire, employ, use or permit any minor child to do or assist in doing any act or
6 thing mentioned in this subsection;

7 (7) knowingly take or deliver in any manner any obscene material into a State
8 correctional institution, county prison, regional prison facility or any other type of
9 correctional facility;

10 (8) possess any obscene material while such person is an inmate of any State
11 correctional institution, county prison, regional prison facility or any other type of
12 correctional facility; or

13 (9) knowingly permit any obscene material to enter any State correctional
14 institution, county prison, regional prison facility or any other type of correctional
15 facility if such person is a prison guard or other employee of any correctional facility
16 described in this paragraph.

17 (a.1) **Dissemination of explicit sexual material via an electronic**
18 **communication.**--No person, knowing the content of the advertisement to be explicit
19 sexual materials as defined in subsection (c)(1) and (2), shall transmit or cause to be
20 transmitted an unsolicited advertisement in an electronic communication as defined in
21 section 5702 (relating to definitions) to one or more persons within this Commonwealth
22 that contains explicit sexual materials as defined in subsection (c)(1) and (2) without
23 including in the advertisement the term "ADV-ADULT" at the beginning of the subject
24 line of the advertisement.

25 (b) **Definitions.**--As used in this section, the following words and phrases shall have
26 the meanings given to them in this subsection:

27 "Community." For the purpose of applying the "contemporary community
28 standards" in this section, community means the State.

29 "Knowing." As used in subsections (a) and (a.1), knowing means having general
30 knowledge of, or reason to know or a belief or ground for belief which warrants
31 further inspection or inquiry of, the character and content of any material or
32 performance described therein which is reasonably susceptible of examination by
33 the defendant.

1 **“Material.”** Any literature, including any book, magazine, pamphlet, newspaper,
2 storypaper, bumper sticker, comic book or writing; any figure, visual representation,
3 or image, including any drawing, photograph, picture, videotape or motion picture.

4 **“Minor.”** An individual under 18 years of age.

5 **“Nude.”** Means showing the human male or female genitals, pubic area or
6 buttocks with less than a fully opaque covering, or showing the female breast with
7 less than a fully opaque covering of any portion thereof below the top of the nipple.

8 **“Obscene.”** Any material or performance, if:

9 (1) the average person applying contemporary community standards would find
10 that the subject matter taken as a whole appeals to the prurient interest;

11 (2) the subject matter depicts or describes in a patently offensive way, sexual
12 conduct of a type described in this section; and

13 (3) the subject matter, taken as a whole, lacks serious literary, artistic, political,
14 educational or scientific value.

15 **“Performance.”** Means any play, dance or other live exhibition performed before
16 an audience.

17 **“Sadomasochistic abuse.”** Means, in a sexual context, flagellation or torture by
18 or upon a person who is nude or clad in undergarments, a mask or in a bizarre
19 costume or the condition of being fettered, bound or otherwise physically restrained
20 on the part of one who is nude or so clothed.

21 **“Sexual conduct.”** Patently offensive representations or descriptions of ultimate
22 sexual acts, normal or perverted, actual or simulated, including sexual intercourse,
23 anal or oral sodomy and sexual bestiality; and patently offensive representations or
24 descriptions of masturbation, excretory functions, sadomasochistic abuse and lewd
25 exhibition of the genitals.

26 **“Subject line.”** The area of an electronic communication that contains a
27 summary description of the content of the message.

28 **“Transportation facility.”** Any conveyance, premises or place used for or in
29 connection with public passenger transportation, whether by air, rail, motor vehicle
30 or any other method, including aircraft, watercraft, railroad cars, buses, and air, boat,
31 railroad and bus terminals and stations.

1 (c) **Dissemination to minors.**--No person shall knowingly disseminate by sale, loan
2 or otherwise explicit sexual materials to a minor. "Explicit sexual materials," as used in
3 this subsection, means materials which are obscene or:

4 (1) any picture, photograph, drawing, sculpture, motion picture film, videotape or
5 similar visual representation or image of a person or portion of the human body
6 which depicts nudity, sexual conduct, or sadomasochistic abuse and which is
7 harmful to minors; or

8 (2) any book, pamphlet, magazine, printed matter however reproduced, or sound
9 recording which contains any matter enumerated in paragraph (1), or explicit and
10 detailed verbal descriptions or narrative accounts of sexual excitement, sexual
11 conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to
12 minors.

13 (d) **Admitting minor to show.**--It shall be unlawful for any person knowingly to
14 exhibit for monetary consideration to a minor or knowingly to sell to a minor an
15 admission ticket or pass or knowingly to admit a minor for a monetary consideration to
16 premises whereon there is exhibited, a motion picture show or other presentation or
17 performance which, in whole or in part, depicts nudity, sexual conduct, or
18 sadomasochistic abuse and which is harmful to minors, except that the foregoing shall
19 not apply to any minor accompanied by his parent.

20 (e) **Definitions.**--As used in subsections (c) and (d) of this section:

21 (1) "**Minor**" (Deleted by amendment).

22 (2) "**Nudity**" means the showing of the human male or female genitals, pubic
23 area, or buttocks with less than a fully opaque covering, or the showing of the female
24 breast with less than a fully opaque covering of any portion thereof below the top of
25 the nipple, or the depiction of covered male genitals in a discernibly turgid state.

26 (3) "**Sexual conduct**" means acts of masturbation, homosexuality, sexual
27 intercourse, sexual bestiality or physical contact with a person's clothed or unclothed
28 genitals, pubic area, buttocks or, if such person be a female, breast.

29 (4) "**Sexual excitement**" means the condition of human male or female genitals
30 when in a state of sexual stimulation or arousal.

31 (5) "**Sadomasochistic abuse**" means flagellation or torture by or upon a person
32 clad in undergarments, a mask or bizarre costume, or the condition of being fettered,
33 bound or otherwise physically restrained on the part of one so clothed.

1 (6) “**Harmful to minors**” means that quality of any description or representation,
2 in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic
3 abuse, when it:

4 (i) predominantly appeals to the prurient, shameful, or morbid interest of
5 minors; and

6 (ii) is patently offensive to prevailing standards in the adult community as a
7 whole with respect to what is suitable material for minors; and

8 (iii) taken as a whole, lacks serious literary, artistic, political, educational or
9 scientific value for minors.

10 (7) “**Knowingly**” means having general knowledge of, or reason to know, or a
11 belief or ground for belief which warrants further inspection or inquiry of both:

12 (i) the character and content of any material or performance described herein
13 which is reasonably susceptible of examination by the defendant; and

14 (ii) the age of the minor: Provided, however, that an honest mistake shall
15 constitute an excuse from liability hereunder if the defendant made a reasonable
16 bona fide attempt to ascertain the true age of such minor.

17 (f) **Requiring sale as condition of business dealings.**--No person shall knowingly
18 require any distributor or retail seller as a condition to sale or delivery for resale or
19 consignment of any literature, book, magazine, pamphlet, newspaper, storypaper,
20 paper, comic book, writing, drawing, photograph, videotape, figure or image, or any
21 written or printed matter, or any article or instrument to purchase or take by
22 consignment for purposes of sale, resale or distribution any obscene literature, book,
23 magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing,
24 photograph, videotape, figure or image, or any written or printed matter of an obscene
25 nature or any article or instrument of an obscene nature.

26 (g) **Injunction.**--The attorney for the Commonwealth may institute proceedings in
27 equity in the court of common pleas of the county in which any person violates or clearly
28 is about to violate this section for the purpose of enjoining such violation. The court shall
29 issue an injunction only after written notice and hearing and only against the defendant
30 to the action. The court shall hold a hearing within three days after demand by the
31 attorney for the Commonwealth, one of which days must be a business day for the
32 court, and a final decree shall be filed in the office of the prothonotary within 24 hours
33 after the close of the hearing. A written memorandum supporting the decree shall be
34 filed within five days of the filing of the decree. The attorney for the Commonwealth shall

1 prove the elements of the violation beyond a reasonable doubt. The defendant shall
2 have the right to trial by jury at the said hearing.

3 (h) **Criminal prosecution.**--

4 (1) Any person who violates subsection (a), (a.1) or (f) is guilty of a misdemeanor
5 of the first degree. Violation of subsection (a) is a felony of the third degree if the
6 offender has previously been convicted of a violation of subsection (a) or if the
7 material was sold, distributed, prepared or published for the purpose of resale.

8 (2) Any person who violates subsection (c) or (d) is guilty of a felony of the third
9 degree. Violation of subsection (c) or (d) is a felony of the second degree if the
10 offender has previously been convicted of a violation of subsection (c) or (d).

11 (3) Findings made in an equity action shall not be binding in the criminal
12 proceedings.

13 (i) **Right to jury trial.**--The right to trial by jury shall be preserved in all proceedings
14 under this section.

15 (j) **Exemptions.**--Nothing in this section shall apply to any recognized historical
16 society or museum accorded charitable status by the Federal Government, any county,
17 city, borough, township or town library, any public library, any library of any school,
18 college or university or any archive or library under the supervision and control of the
19 Commonwealth or a political subdivision.

20 (k) **Ordinances or resolutions.**--Nothing in this chapter shall be construed to
21 invalidate, supersede, repeal or preempt any ordinance or resolution of any political
22 subdivision insofar as it is consistent with this chapter, and political subdivisions further
23 retain the right to regulate any activities, displays, exhibitions or materials not
24 specifically regulated by this chapter.

25 (l) **Penalty for attempt to evade prosecution.**--Any person who violates subsection
26 (a.1) and attempts to avoid prosecution by knowingly including false or misleading
27 information in the return address portion of the electronic communications such that the
28 recipient would be unable to send a reply message to the original, authentic sender
29 shall, in addition to any other penalty imposed, upon conviction, be sentenced to pay a
30 fine of not less than \$100 nor more than \$500 per message or to imprisonment for not
31 more than 90 days, or both, for a first offense and a fine of not less than \$500 nor more
32 than \$1,000 or to imprisonment for not more than one year, or both, for a second or
33 subsequent offense.

34 (m) **Concurrent jurisdiction to prosecute.**--The Attorney General shall have the
35 concurrent prosecutorial jurisdiction with the district attorney for cases arising under

1 subsection (a.1) and may refer to the district attorney, with the district attorney's
2 consent, any violation or alleged violation of subsection (a.1) which may come to the
3 Attorney General's attention.

4 (Nov. 5, 1977, P.L.221, No.68, eff. 60 days; Oct. 16, 1980, P.L.978, No.167, eff. 60 days; Dec. 19, 1990,
5 P.L.1332, No.207, eff. imd.; June 18, 1998, P.L.534, No.76, eff. 60 days; June 13, 2000, P.L.130, No.25,
6 eff. 60 days; Dec. 20, 2000, P.L.721, No.98, eff. imd.; Dec. 20, 2011, P.L.446, No.111, eff. 60 days)

7 **2011 Amendment.** Act 111 amended subsecs. (a)(3), (4) and (5) and (b) and deleted the def. of "minor"
8 in subsec. (e)(1).

9 **2000 Amendments.** Act 25 amended subsecs. (a), (b) and (h)(1) and added subsecs. (a.1), (l) and (m)
10 and Act 98 amended subsec. (h)(2). See the preamble to Acts 25 and 98 in the appendix to this title for
11 special provisions relating to legislative findings and declarations. Section 3(1) of Act 98 provided that the
12 amendment of section 5903 shall apply to offenses committed on or after the effective date of Act 98.

13 **Cross References.** Section 5903 is referred to in sections 3131, 5708, 6318, 9122 of this title; section
14 3304 of Title 5 (Athletics and Sports); section 4102 of Title 12 (Commerce and Trade); sections 5329,
15 6344 of Title 23 (Domestic Relations); section 9331 of Title 24 (Education); sections 9718.1, 9799.14 of
16 Title 42 (Judiciary and Judicial Procedure); section 2303 of Title 44 (Law and Justice); section 7122 of
17 Title 61 (Prisons and Parole); section 2905 of Title 66 (Public Utilities).

18 **Article G. Miscellaneous Offenses**

19 **Chapter 67. Proprietary and Official Rights**

20 **§ 6708. Retention of library property after notice to return**

21 (a) **Offense defined.**--A person is guilty of a summary offense if he retains any
22 book, pamphlet, magazine, newspaper, manuscript, map or other property belonging in,
23 or to, or on deposit with, any library open to the public or any part thereof, for a period
24 exceeding 30 days after such library has given written notice to return the same.

25 (b) **Disposition of fine.**--Any fine imposed under this section shall be paid over by
26 the magistrate imposing such fine to the library instituting the prosecution, and costs of
27 prosecution.

28 (c) **Form of notice.**--Such notice may be given by personal service upon the
29 borrower, or by the mailing of a registered or certified letter to the address of the
30 borrower on file with said library. The notice shall recite this section, and shall contain a
31 demand that the property be returned.

32 **Cross References.** Section 6708 is referred to in section 9376 of Title 24 (Education).

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1 **Title 23 PA. C.S. Domestic Relations**

2 **Part VII. Abuse of Family**

3 **Enactment.** Part VII was added Dec. 19, 1990, P.L.1240, No.206, effective in 90 days.

4 **Chapter 63. Child Protective Services**

5 **Subchapter A - Preliminary Provisions**

6 Sec.

7 6301. Short title of chapter.

8 6302. Findings and purpose of chapter.

9 6303. Definitions.

10 6304. Exclusions from child abuse.

11 6305. Electronic reporting.

12 6306. Regulations.

13 **§ 6301. Short title of chapter.**

14 This chapter shall be known and may be cited as the Child Protective Services Law.

15 **§ 6302. Findings and purpose of chapter.**

16 (a) **Findings.**--Abused children are in urgent need of an effective child protective
17 service to prevent them from suffering further injury and impairment.

18 (b) **Purpose.**--It is the purpose of this chapter to encourage more complete
19 reporting of suspected child abuse; to the extent permitted by this chapter, to involve
20 law enforcement agencies in responding to child abuse; and to establish in each county
21 protective services for the purpose of investigating the reports swiftly and competently,
22 providing protection for children from further abuse and providing rehabilitative services
23 for children and parents involved so as to ensure the child's well-being and to preserve,
24 stabilize and protect the integrity of family life wherever appropriate or to provide
25 another alternative permanent family when the unity of the family cannot be maintained.
26 It is also the purpose of this chapter to ensure that each county children and youth
27 agency establish a program of protective services with procedures to assess risk of
28 harm to a child and with the capabilities to respond adequately to meet the needs of the
29 family and child who may be at risk and to prioritize the response and services to
30 children most at risk.

31 (c) **Effect on rights of parents.**--This chapter does not restrict the generally
32 recognized existing rights of parents to use reasonable supervision and control when
33 raising their children.

1 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999)

2 **1998 Amendment.** Act 127 amended subsec. (b).

3 **§ 6303. Definitions.**

4 (a) **General rule.**--The following words and phrases when used in this chapter shall
5 have the meanings given to them in this section unless the context clearly indicates
6 otherwise:

7 **"Accept for service."** Decide on the basis of the needs and problems of an
8 individual to admit or receive the individual as a client of the agency or as required by a
9 court order entered under 42 Pa. C.S. Ch. 63 (relating to juvenile matters).

10 **"Adult."** An individual 18 years of age or older.

11 **"Adult family member."** A person 18 years of age or older who has the
12 responsibility to provide care or services to an individual with an intellectual disability or
13 chronic psychiatric disability.

14 **"Bodily injury."** Impairment of physical condition or substantial pain.

15 **"Child."** An individual under 18 years of age.

16 **"Child-care services."** Includes any of the following:

17 (1) Child day-care centers.

18 (2) Group day-care homes.

19 (3) Family child-care homes.

20 (4) Foster homes.

21 (5) Adoptive parents.

22 (6) Boarding homes for children.

23 (7) Juvenile detention center services or programs for delinquent or dependent
24 children.

25 (8) Mental health services for children.

26 (9) Services for children with intellectual disabilities.

27 (10) Early intervention services for children.

28 (11) Drug and alcohol services for children.

1 (12) Day-care services or programs that are offered by a school.

2 (13) Other child-care services that are provided by or subject to approval,
3 licensure, registration or certification by the department or a county social services
4 agency or that are provided pursuant to a contract with the department or a county
5 social services agency.

6 The term does not apply to services provided by administrative or other support
7 personnel unless the administrative or other support personnel have direct contact with
8 children.

9 "**Child protective services.**" Those services and activities provided by the
10 department and each county agency for child abuse cases.

11 "**Children's advocacy center.**" A local public agency in this Commonwealth or a
12 not-for-profit entity incorporated in this Commonwealth which:

13 (1) is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986
14 (Public Law 99-514, 26 U.S.C. § 501(c)(3)); and

15 (2) operates within this Commonwealth for the primary purpose of providing a
16 child-focused, facility-based program dedicated to coordinating a formalized
17 multidisciplinary response to suspected child abuse that, at a minimum, either onsite
18 or through a partnership with another entity or entities, assists county agencies,
19 investigative teams and law enforcement by providing services, including forensic
20 interviews, medical evaluations, therapeutic interventions, victim support and
21 advocacy, team case reviews and a system for case tracking.

22 "**Cooperation with an investigation or assessment.**" Includes, but is not limited
23 to, a school or school district which permits authorized personnel from the department
24 or county agency to interview a student while the student is in attendance at school.

25 "**County agency.**" The county children and youth social service agency established
26 pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the
27 County Institution District Law, or its successor, and supervised by the department
28 under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public
29 Welfare Code.

30 "**Department.**" The Department of Human Services of the Commonwealth.

31 "**Direct contact with children.**" The care, supervision, guidance or control of
32 children or routine interaction with children.

33 "**Direct volunteer contact.**" The care, supervision, guidance or control of children
34 and routine interaction with children.

1 **"Education enterprise."** An educational activity in this Commonwealth:

2 (1) for which college credits or continuing education units are awarded,
3 continuing professional education is offered or tuition or fees are charged or
4 collected; and

5 (2) that is sponsored by a corporation, entity or institution that is incorporated or
6 authorized by other means in a state other than this Commonwealth and is approved
7 and authorized to operate in this Commonwealth under 15 Pa. C.S. Pt. II Subpt. B
8 (relating to business corporations) or C (relating to nonprofit corporations) and 24
9 Pa. C.S. Ch. 65 (relating to private colleges, universities and seminaries).

10 **"Electronic technologies."** The transfer of information in whole or in part by
11 technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-
12 electronic or photo-optical systems, or similar capabilities. The term includes, but is not
13 limited to, e-mail, Internet communication or other means of electronic transmission.

14 **"Expunge."** To strike out or obliterate entirely so that the expunged information may
15 not be stored, identified or later recovered by any mechanical or electronic means or
16 otherwise.

17 **"Family child-care home."** A residence where child day care is provided at any
18 time to no less than four children and no more than six children who are not relatives of
19 the caregiver.

20 **"Family members."** Spouses, parents and children or other persons related by
21 consanguinity or affinity.

22 **"Founded report."** A child abuse report involving a perpetrator that is made
23 pursuant to this chapter, if any of the following applies:

24 (1) There has been a judicial adjudication based on a finding that a child who is
25 a subject of the report has been abused and the adjudication involves the same
26 factual circumstances involved in the allegation of child abuse. The judicial
27 adjudication may include any of the following:

28 (i) The entry of a plea of guilty or nolo contendere.

29 (ii) A finding of guilt to a criminal charge.

30 (iii) A finding of dependency under 42 Pa. C.S. § 6341 (relating to
31 adjudication) if the court has entered a finding that a child who is the subject of
32 the report has been abused.

1 (iv) A finding of delinquency under 42 Pa. C.S. § 6341 if the court has
2 entered a finding that the child who is the subject of the report has been abused
3 by the child who was found to be delinquent.

4 (2) There has been an acceptance into an accelerated rehabilitative disposition
5 program and the reason for the acceptance involves the same factual circumstances
6 involved in the allegation of child abuse.

7 (3) There has been a consent decree entered in a juvenile proceeding under 42
8 Pa. C.S. Ch. 63 (relating to juvenile matters), the decree involves the same factual
9 circumstances involved in the allegation of child abuse and the terms and conditions
10 of the consent decree include an acknowledgment, admission or finding that a child
11 who is the subject of the report has been abused by the child who is alleged to be
12 delinquent.

13 (4) A final protection from abuse order has been granted under section 6108
14 (relating to relief), when the child who is a subject of the report is one of the
15 individuals protected under the protection from abuse order and:

16 (i) only one individual is charged with the abuse in the protection from abuse
17 action;

18 (ii) only that individual defends against the charge;

19 (iii) the adjudication involves the same factual circumstances involved in the
20 allegation of child abuse; and

21 (iv) the protection from abuse adjudication finds that the child abuse
22 occurred.

23 "**Founded report for school employee.**" (Deleted by amendment).

24 "**General protective services.**" Those services and activities provided by each
25 county agency for cases requiring protective services, as defined by the department in
26 regulations.

27 "**Health care facility.**" As defined in section 802.1 of the act of July 19, 1979
28 (P.L.130, No.48), known as the Health Care Facilities Act.

29 "**Health care provider.**" A licensed hospital or health care facility or person who is
30 licensed, certified or otherwise regulated to provide health care services under the laws
31 of this Commonwealth, including a physician, podiatrist, optometrist, psychologist,
32 physical therapist, certified nurse practitioner, registered nurse, nurse midwife,
33 physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or
34 certified to provide behavioral health services.

1 **"Immediate vicinity."** An area in which an individual is physically present with a
2 child and can see, hear, direct and assess the activities of the child.

3 **"Independent contractor."** An individual who provides a program, activity or
4 service to an agency, institution, organization or other entity, including a school or
5 regularly established religious organization, that is responsible for the care, supervision,
6 guidance or control of children. The term does not apply to administrative or other
7 support personnel unless the administrative or other support personnel have direct
8 contact with children.

9 **"Indicated report."**

10 (1) Subject to paragraphs (2) and (3), a report of child abuse made pursuant to
11 this chapter if an investigation by the department or county agency determines that
12 substantial evidence of the alleged abuse by a perpetrator exists based on any of
13 the following:

14 (i) Available medical evidence.

15 (ii) The child protective service investigation.

16 (iii) An admission of the acts of abuse by the perpetrator.

17 (2) A report may be indicated under paragraph (1)(i) or (ii) for any child who is
18 the victim of child abuse, regardless of the number of alleged perpetrators.

19 (3) A report may be indicated under paragraph (1)(i) or (ii) listing the perpetrator
20 as "unknown" if substantial evidence of abuse by a perpetrator exists, but the
21 department or county agency is unable to identify the specific perpetrator.

22 **"Indicated report for school employee."** (Deleted by amendment).

23 **"Individual residing in the same home as the child."** (Deleted by amendment).

24 **"Institution of higher education."** Any of the following:

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

29 (2) An independent institution of higher education which is an institution of higher
30 education located in and incorporated or chartered by the Commonwealth, entitled to
31 confer degrees as set forth in 24 Pa. C.S. § 6505 (relating to power to confer
32 degrees) and entitled to apply to itself the designation "college," "university" or

1 "seminary" as provided for by standards and qualifications prescribed by the State
2 Board of Education under 24 Pa. C.S. Ch. 65.

3 (3) A State-owned institution.

4 (4) A State-related institution.

5 (5) An education enterprise.

6 "**Intentionally.**" The term shall have the same meaning as provided in 18 Pa. C.S. §
7 302 (relating to general requirements of culpability).

8 "**Knowingly.**" The term shall have the same meaning as provided in 18 Pa. C.S. §
9 302 (relating to general requirements of culpability).

10 "**Law enforcement official.**" The term includes the following:

11 (1) The Attorney General.

12 (2) A Pennsylvania district attorney.

13 (3) A Pennsylvania State Police officer.

14 (4) A municipal police officer.

15 "**Mandated reporter.**" A person who is required by this chapter to make a report of
16 suspected child abuse.

17 "**Matriculated student.**" A student who is enrolled in an institution of higher
18 education and pursuing a program of study that results in a postsecondary credential,
19 such as a certificate, diploma or degree.

20 "**Near fatality.**" A child's serious or critical condition, as certified by a physician,
21 where that child is a subject of the report of child abuse.

22 "**Newborn.**" As defined in section 6502 (relating to definitions).

23 "**Nonaccidental.**" (Deleted by amendment).

24 "**Parent.**" A biological parent, adoptive parent or legal guardian.

25 "**Perpetrator.**" A person who has committed child abuse as defined in this section.
26 The following shall apply:

27 (1) The term includes only the following:

28 (i) A parent of the child.

1 (ii) A spouse or former spouse of the child's parent.

2 (iii) A paramour or former paramour of the child's parent.

3 (iv) A person 14 years of age or older and responsible for the child's welfare
4 or having direct contact with children as an employee of child-care services, a
5 school or through a program, activity or service.

6 (v) An individual 14 years of age or older who resides in the same home as
7 the child.

8 (vi) An individual 18 years of age or older who does not reside in the same
9 home as the child but is related within the third degree of consanguinity or affinity
10 by birth or adoption to the child.

11 (vii) An individual 18 years of age or older who engages a child in severe
12 forms of trafficking in persons or sex trafficking, as those terms are defined under
13 section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22
14 U.S.C. § 7102).

15 (2) Only the following may be considered a perpetrator for failing to act, as
16 provided in this section:

17 (i) A parent of the child.

18 (ii) A spouse or former spouse of the child's parent.

19 (iii) A paramour or former paramour of the child's parent.

20 (iv) A person 18 years of age or older and responsible for the child's welfare.

21 (v) A person 18 years of age or older who resides in the same home as the
22 child.

23 "**Person affiliated with.**" A person that directly or indirectly, through one or more
24 intermediaries, controls, is controlled by or is under common control with a specified
25 person.

26 "**Person responsible for the child's welfare.**" A person who provides permanent
27 or temporary care, supervision, mental health diagnosis or treatment, training or control
28 of a child in lieu of parental care, supervision and control.

29 "**Police department.**" A public agency of a political subdivision having general
30 police powers and charged with making arrests in connection with the enforcement of
31 criminal or traffic laws.

1 **"Police officer."** A full-time or part-time employee assigned to criminal or traffic law
2 enforcement duties of a police department of a county, city, borough, town or township.
3 The term also includes a member of the State Police Force.

4 **"Police station."** The station or headquarters of a police department or a
5 Pennsylvania State Police station or headquarters.

6 **"Private agency."** A children and youth social service agency subject to the
7 requirements of 55 Pa. Code Ch. 3680 (relating to administration and operation of a
8 children and youth social service agency).

9 **"Program, activity or service."** Any of the following in which children participate
10 and which is sponsored by a school or a public or private organization:

11 (1) A youth camp or program.

12 (2) A recreational camp or program.

13 (3) A sports or athletic program.

14 (4) A community or social outreach program.

15 (5) An enrichment or educational program.

16 (6) A troop, club or similar organization.

17 **"Protective services."** Those services and activities provided by the department
18 and each county agency for children who are abused or are alleged to be in need of
19 protection under this chapter.

20 **"Recent act."** Any act committed within two years of the date of the report to the
21 department or county agency.

22 **"Recent act or failure to act."** Any act or failure to act committed within two years
23 of the date of the report to the department or county agency.

24 **"Recklessly."** The term shall have the same meaning as provided in 18 Pa. C.S. §
25 302 (relating to general requirements of culpability).

26 **"Resource family."** A family which provides temporary foster or kinship care for
27 children who need out-of-home placement and may eventually provide permanency for
28 those children, including an adoptive family.

29 **"Risk assessment."** A Commonwealth-approved systematic process that assesses
30 a child's need for protection or services based on the risk of harm to the child.

1 **"Routine interaction."** Regular and repeated contact that is integral to a person's
2 employment or volunteer responsibilities.

3 **"Safety assessment."** A Commonwealth-approved systematic process that
4 assesses a child's need for protection or services, based on the threat to the safety of
5 the child.

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

8 (1) Any school of a school district.

9 (2) An area vocational-technical school.

10 (3) A joint school.

11 (4) An intermediate unit.

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

13 (6) A cyber charter school.

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

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

18 (9) A nonpublic school.

19 (10) An institution of higher education.

20 (11) (Deleted by amendment).

21 (12) (Deleted by amendment).

22 (13) (Deleted by amendment).

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

25 (15) The Hiram G. Andrews Center.

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

1 **"School employee."** An individual who is employed by a school or who provides a
2 program, activity or service sponsored by a school. The term does not apply to
3 administrative or other support personnel unless the administrative or other support
4 personnel have direct contact with children.

5 **"Secretary."** The Secretary of Human Services of the Commonwealth.

6 **"Serious bodily injury."** Bodily injury which creates a substantial risk of death or
7 which causes serious permanent disfigurement or protracted loss or impairment of
8 function of any bodily member or organ.

9 **"Serious mental injury."** A psychological condition, as diagnosed by a physician or
10 licensed psychologist, including the refusal of appropriate treatment, that:

11 (1) renders a child chronically and severely anxious, agitated, depressed,
12 socially withdrawn, psychotic or in reasonable fear that the child's life or safety is
13 threatened; or

14 (2) seriously interferes with a child's ability to accomplish age-appropriate
15 developmental and social tasks.

16 **"Serious physical injury."** (Deleted by amendment).

17 **"Serious physical neglect."** Any of the following when committed by a perpetrator
18 that endangers a child's life or health, threatens a child's well-being, causes bodily injury
19 or impairs a child's health, development or functioning:

20 (1) A repeated, prolonged or egregious failure to supervise a child in a manner
21 that is appropriate considering the child's developmental age and abilities.

22 (2) The failure to provide a child with adequate essentials of life, including food,
23 shelter or medical care.

24 **"Sexual abuse or exploitation."** Any of the following:

25 (1) The employment, use, persuasion, inducement, enticement or coercion of a
26 child to engage in or assist another individual to engage in sexually explicit conduct,
27 which includes, but is not limited to, the following:

28 (i) Looking at the sexual or other intimate parts of a child or another individual
29 for the purpose of arousing or gratifying sexual desire in any individual.

30 (ii) Participating in sexually explicit conversation either in person, by
31 telephone, by computer or by a computer-aided device for the purpose of sexual
32 stimulation or gratification of any individual.

1 (iii) Actual or simulated sexual activity or nudity for the purpose of sexual
2 stimulation or gratification of any individual.

3 (iv) Actual or simulated sexual activity for the purpose of producing visual
4 depiction, including photographing, videotaping, computer depicting or filming.

5 This paragraph does not include consensual activities between a child who is 14
6 years of age or older and another person who is 14 years of age or older and whose
7 age is within four years of the child's age.

8 (2) Any of the following offenses committed against a child:

9 (i) Rape as defined in 18 Pa. C.S. § 3121 (relating to rape).

10 (ii) Statutory sexual assault as defined in 18 Pa. C.S. § 3122.1 (relating to
11 statutory sexual assault).

12 (iii) Involuntary deviate sexual intercourse as defined in 18 Pa. C.S. § 3123
13 (relating to involuntary deviate sexual intercourse).

14 (iv) Sexual assault as defined in 18 Pa. C.S. § 3124.1 (relating to sexual
15 assault).

16 (v) Institutional sexual assault as defined in 18 Pa. C.S. § 3124.2 (relating to
17 institutional sexual assault).

18 (vi) Aggravated indecent assault as defined in 18 Pa. C.S. § 3125 (relating to
19 aggravated indecent assault).

20 (vii) Indecent assault as defined in 18 Pa. C.S. § 3126 (relating to indecent
21 assault).

22 (viii) Indecent exposure as defined in 18 Pa. C.S. § 3127 (relating to indecent
23 exposure).

24 (ix) Incest as defined in 18 Pa. C.S. § 4302 (relating to incest).

25 (x) Prostitution as defined in 18 Pa. C.S. § 5902 (relating to prostitution and
26 related offenses).

27 (xi) Sexual abuse as defined in 18 Pa. C.S. § 6312 (relating to sexual abuse
28 of children).

29 (xii) Unlawful contact with a minor as defined in 18 Pa. C.S. § 6318 (relating
30 to unlawful contact with minor).

1 (xiii) Sexual exploitation as defined in 18 Pa. C.S. § 6320 (relating to sexual
2 exploitation of children).

3 "**Student.**" An individual enrolled in a public or private school, intermediate unit or
4 area vocational-technical school who is under 18 years of age.

5 "**Subject of the report.**" Any child, parent, guardian or other person responsible for
6 the welfare of a child or any alleged or actual perpetrator in a report made to the
7 department or a county agency under this chapter.

8 "**Substantial evidence.**" Evidence which outweighs inconsistent evidence and
9 which a reasonable person would accept as adequate to support a conclusion.

10 "**Substantiated child abuse.**" Child abuse as to which there is an indicated report
11 or founded report.

12 "**Under investigation.**" A child abuse report pursuant to this chapter which is being
13 investigated to determine whether it is "founded," "indicated" or "unfounded."

14 "**Unfounded report.**" Any report made pursuant to this chapter unless the report is
15 a "founded report" or an "indicated report."

16 (b) **Child abuse.**--(Deleted by amendment).

17 (b.1) **Child abuse.**--The term "child abuse" shall mean intentionally, knowingly or
18 recklessly doing any of the following:

19 (1) Causing bodily injury to a child through any recent act or failure to act.

20 (2) Fabricating, feigning or intentionally exaggerating or inducing a medical
21 symptom or disease which results in a potentially harmful medical evaluation or
22 treatment to the child through any recent act.

23 (3) Causing or substantially contributing to serious mental injury to a child
24 through any act or failure to act or a series of such acts or failures to act.

25 (4) Causing sexual abuse or exploitation of a child through any act or failure to
26 act.

27 (5) Creating a reasonable likelihood of bodily injury to a child through any recent
28 act or failure to act.

29 (6) Creating a likelihood of sexual abuse or exploitation of a child through any
30 recent act or failure to act.

31 (7) Causing serious physical neglect of a child.

1 (8) Engaging in any of the following recent acts:

2 (i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner
3 that endangers the child.

4 (ii) Unreasonably restraining or confining a child, based on consideration of
5 the method, location or the duration of the restraint or confinement.

6 (iii) Forcefully shaking a child under one year of age.

7 (iv) Forcefully slapping or otherwise striking a child under one year of age.

8 (v) Interfering with the breathing of a child.

9 (vi) Causing a child to be present at a location while a violation of 18 Pa. C.S.
10 § 7508.2 (relating to operation of methamphetamine laboratory) is occurring,
11 provided that the violation is being investigated by law enforcement.

12 (vii) Leaving a child unsupervised with an individual, other than the child's
13 parent, who the actor knows or reasonably should have known:

14 (A) Is required to register as a Tier II or Tier III sexual offender under 42
15 Pa. C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where
16 the victim of the sexual offense was under 18 years of age when the crime
17 was committed.

18 (B) Has been determined to be a sexually violent predator under 42 Pa.
19 C.S. § 9799.24 (relating to assessments) or any of its predecessors.

20 (C) Has been determined to be a sexually violent delinquent child as
21 defined in 42 Pa. C.S. § 9799.12 (relating to definitions).

22 (9) Causing the death of the child through any act or failure to act.

23 (10) Engaging a child in a severe form of trafficking in persons or sex trafficking,
24 as those terms are defined under section 103 of the Trafficking Victims Protection
25 Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

26 (c) **Restatement of culpability.**--Conduct that causes injury or harm to a child or
27 creates a risk of injury or harm to a child shall not be considered child abuse if there is
28 no evidence that the person acted intentionally, knowingly or recklessly when causing
29 the injury or harm to the child or creating a risk of injury or harm to the child.

30 (d) **Child abuse exclusions.**--The term "child abuse" does not include any conduct
31 for which an exclusion is provided in section 6304 (relating to exclusions from child
32 abuse).

1 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60
2 days; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Nov. 29, 2004, P.L.1291, No.160, eff. 60 days; Nov.
3 9, 2006, P.L.1358, No.146, eff. 180 days; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; July 3, 2008,
4 P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013,
5 P.L.1195, No.117, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1201, No.119, eff. Dec. 31, 2014; Jan. 22, 2014,
6 P.L.6, No.4, eff. 90 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.417, No.33,
7 eff. Dec. 31, 2014; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff.
8 Dec. 31, 2014; July 2, 2014, P.L.843, No.91, eff. 60 days; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31,
9 2014; July 1, 2015, P.L.94, No.15, eff. imd.; Oct. 28, 2016, P.L.966, No.115, eff. imd.; Feb. 21, 2018,
10 4P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

11 **2018 Amendments.** Act 10 amended subsec. (b.1)(8)(vii) and Act 29 reenacted subsec. (b.1)(8)(vii).

12 **2016 Amendment.** Act 115 added par. (1)(vii) of the def. of "perpetrator" in subsec. (a) and added
13 subsec. (b.1)(10).

14 **2015 Amendment.** Act 15 amended the defs. of "child-care services," "independent contractor,"
15 "perpetrator," "person responsible for the child's welfare," "program, activity or service," "school" and
16 "school employee" and added the defs. of "adult family member," "direct volunteer contact," "education
17 enterprise," "family child-care home," "immediate vicinity," "institution of higher education," "matriculated
18 student" and "routine interaction" in subsec. (a).

19 **2014 Amendments.** Act 4 added the defs. of "health care provider" and "safety assessment" in subsec.
20 (a), Act 29 amended the defs. of "child-care services" and added the defs. of "electronic technologies,"
21 "law enforcement official" and "mandated reporter" in subsec. (a), Act 33 amended the def. of "school
22 employee" and added the defs. of "adult," "direct contact with children," "health care facility,"
23 "independent contractor," "mandated reporter," "person affiliated with," "program, activity or service" and
24 "school" in subsec. (a), Act 44 amended the defs. of "bodily injury," "founded report," "general protective
25 services," "near fatality" and "school employee," added the def. of "school" and deleted the defs. of
26 "indicated report for school employee" and "individual residing in the same home as the child" in subsec.
27 (a), Act 45 amended the defs. of "serious physical neglect" and "subject of the report" and deleted the def.
28 of "founded report for school employee" in subsec. (a), Act 91 added the defs. of "police department,"
29 "police officer" and "police station" in subsec. (a) and Act 153 amended par. (13) of the def. of "child-care
30 services" and the defs. of "child protective services," "cooperation with an investigation or assessment,"
31 "county agency," "department," "indicated report," "protective services," "recent act," "recent act or failure
32 to act," "secretary" and "subject of the report" in subsec. (a). The amendments by Acts 29 and 33, adding
33 the def. of "mandated reporter," are identical and have both been given effect in setting forth the text of
34 "mandated reporter." The amendments by Acts 33 and 44, amending the def. of "school employee," are
35 identical and have both been given effect in setting forth the text of "school employee."

36 **2013 Amendments.** Act 108 amended the defs. of "child," "founded report," "indicated report," "recent
37 acts or omissions" and "sexual abuse or exploitation," added the defs. of "bodily injury," "intentionally,"
38 "knowingly," "parent," "recent act," "recklessly" and "serious physical neglect" and deleted the defs. of
39 "nonaccidental" and "serious physical injury" in subsec. (a), added subsecs. (b.1), (c) and (d) and deleted
40 subsec. (b), Act 117 amended the defs. of "perpetrator" and "person responsible for the child's welfare" in
41 subsec. (a) and Act 119 added the def. of "child-care services" in subsec. (a).

42 **2008 Amendment.** Act 33 added the defs. of "children's advocacy center" and "substantiated child
43 abuse."

1 **2006 Amendments.** Act 146 added the defs. of "near fatality" and "nonaccidental" in subsec. (a) and Act
2 179 amended the def. of "sexual abuse or exploitation" in subsec. (a).

3 **2004 Amendment.** Act 160 added the defs. of "private agency" and "resource family" in subsec. (a).

4 **2002 Amendment.** Act 201 added the defs. of "child" and "newborn" in subsec. (a).

5 **References in Text.** The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public
6 Welfare Code, referred to in subsection (a), was amended by the act of December 28, 2015, P.L.500,
7 No.92. The amended short title is now the Human Services Code.

8 Section 27 of Act 16 of 2019 provided that a reference in statute or regulation to "area vocational-
9 technical school" shall be deemed a reference to "area career and technical school," and a reference in
10 statute or regulation to "vocational curriculums" shall be deemed a reference to "career and technical
11 curriculums."

12 **Cross References.** Section 6303 is referred to in sections 2511, 5625, 5701, 6340, 6368, 6502 of this
13 title; sections 4306, 4958 of Title 18 (Crimes and Offenses); sections 62A05, 6302, 6336.1, 8316.2 of Title
14 42 (Judiciary and Judicial Procedure); section 4109 of Title 51 (Military Affairs); section 1905 of Title 75
15 (Vehicles).

16 **§ 6304. Exclusions from child abuse.**

17 (a) **Environmental factors.**--No child shall be deemed to be physically or mentally
18 abused based on injuries that result solely from environmental factors, such as
19 inadequate housing, furnishings, income, clothing and medical care, that are beyond the
20 control of the parent or person responsible for the child's welfare with whom the child
21 resides. This subsection shall not apply to any child-care service as defined in this
22 chapter, excluding an adoptive parent.

23 (b) **Practice of religious beliefs.**--If, upon investigation, the county agency
24 determines that a child has not been provided needed medical or surgical care because
25 of sincerely held religious beliefs of the child's parents or relative within the third degree
26 of consanguinity and with whom the child resides, which beliefs are consistent with
27 those of a bona fide religion, the child shall not be deemed to be physically or mentally
28 abused. In such cases the following shall apply:

29 (1) The county agency shall closely monitor the child and the child's family and
30 shall seek court-ordered medical intervention when the lack of medical or surgical
31 care threatens the child's life or long-term health.

32 (2) All correspondence with a subject of the report and the records of the
33 department and the county agency shall not reference child abuse and shall
34 acknowledge the religious basis for the child's condition.

35 (3) The family shall be referred for general protective services, if appropriate.

1 (4) This subsection shall not apply if the failure to provide needed medical or
2 surgical care causes the death of the child.

3 (5) This subsection shall not apply to any child-care service as defined in this
4 chapter, excluding an adoptive parent.

5 (c) **Use of force for supervision, control and safety purposes.**--Subject to
6 subsection (d), the use of reasonable force on or against a child by the child's own
7 parent or person responsible for the child's welfare shall not be considered child abuse
8 if any of the following conditions apply:

9 (1) The use of reasonable force constitutes incidental, minor or reasonable
10 physical contact with the child or other actions that are designed to maintain order
11 and control.

12 (2) The use of reasonable force is necessary:

13 (i) to quell a disturbance or remove the child from the scene of a disturbance
14 that threatens physical injury to persons or damage to property;

15 (ii) to prevent the child from self-inflicted physical harm;

16 (iii) for self-defense or the defense of another individual; or

17 (iv) to obtain possession of weapons or other dangerous objects or controlled
18 substances or paraphernalia that are on the child or within the control of the
19 child.

20 (d) **Rights of parents.**--Nothing in this chapter shall be construed to restrict the
21 generally recognized existing rights of parents to use reasonable force on or against
22 their children for the purposes of supervision, control and discipline of their children.
23 Such reasonable force shall not constitute child abuse.

24 (e) **Participation in events that involve physical contact with child.**--An
25 individual participating in a practice or competition in an interscholastic sport, physical
26 education, a recreational activity or an extracurricular activity that involves physical
27 contact with a child does not, in itself, constitute contact that is subject to the reporting
28 requirements of this chapter.

29 (f) **Child-on-child contact.**--

30 (1) Harm or injury to a child that results from the act of another child shall not
31 constitute child abuse unless the child who caused the harm or injury is a
32 perpetrator.

1 (2) Notwithstanding paragraph (1), the following shall apply:

2 (i) Acts constituting any of the following crimes against a child shall be
3 subject to the reporting requirements of this chapter:

4 (A) rape as defined in 18 Pa. C.S. § 3121 (relating to rape);

5 (B) involuntary deviate sexual intercourse as defined in 18 Pa. C.S. §
6 3123 (relating to involuntary deviate sexual intercourse);

7 (C) sexual assault as defined in 18 Pa. C.S. § 3124.1 (relating to sexual
8 assault);

9 (D) aggravated indecent assault as defined in 18 Pa. C.S. § 3125
10 (relating to aggravated indecent assault);

11 (E) indecent assault as defined in 18 Pa. C.S. § 3126 (relating to indecent
12 assault); and

13 (F) indecent exposure as defined in 18 Pa. C.S. § 3127 (relating to
14 indecent exposure).

15 (ii) No child shall be deemed to be a perpetrator of child abuse based solely
16 on physical or mental injuries caused to another child in the course of a dispute,
17 fight or scuffle entered into by mutual consent.

18 (iii) A law enforcement official who receives a report of suspected child abuse
19 is not required to make a report to the department under section 6334(a) (relating
20 to disposition of complaints received), if the person allegedly responsible for the
21 child abuse is a nonperpetrator child.

22 (g) **Defensive force.**--Reasonable force for self-defense or the defense of another
23 individual, consistent with the provisions of 18 Pa. C.S. §§ 505 (relating to use of force
24 in self-protection) and 506 (relating to use of force for the protection of other persons),
25 shall not be considered child abuse.

26 (Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014)

27 **2013 Amendment.** Act 108 added section 6304.

28 **Cross References.** Section 6304 is referred to in section 6303 of this title.

29 **§ 6305. Electronic reporting.**

30 (a) **Departmental procedures.**--The department shall establish procedures for the
31 secure and confidential use of electronic technologies to transmit information under this
32 chapter, including:

1 (1) the filing of reports and other required records, including those of the county
2 agency; and

3 (2) the verification of records and signatures on forms.

4 (b) **Confirmation of reports.**--A confirmation by the department of the receipt of a
5 report of suspected child abuse submitted electronically shall relieve the person making
6 the report of making an additional oral or written report of suspected child abuse,
7 subject to section 6313 (relating to reporting procedure).

8 (c) **Effect on other law.**--Nothing in this chapter shall be construed to supersede
9 the act of December 16, 1999 (P.L.971, No.69), known as the Electronic Transactions
10 Act. Any procedures developed by the department under this section shall comply with
11 all applicable Federal and State laws regarding confidentiality of personally identifiable
12 information.

13 (Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

14 **2014 Amendment. Act 29 added section 6305.**

15 **Cross References.** Section 6305 is referred to in section 6313 of this title.

16 **§ 6306. Regulations.**

17 The department shall promulgate regulations necessary to implement this chapter.

18 (Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

19 **2014 Amendment.** Act 29 added section 6306.

20 **Subchapter B - Provisions and Responsibilities for Reporting Suspected Child** 21 **Abuse**

22 Sec.

23 6311. Persons required to report suspected child abuse.

24 6311.1. Privileged communications.

25 6312. Persons encouraged to report suspected child abuse.

26 6313. Reporting procedure.

27 6314. Photographs, medical tests and X-rays of child subject to report.

28 6315. Taking child into protective custody.

29 6316. Admission to private and public hospitals.

30 6317. Mandatory reporting and postmortem investigation of deaths.

31 6318. Immunity from liability.

32 6319. Penalties.

33 6320. Protection from employment discrimination.

1 **Subchapter Heading.** The heading of Subchapter B was amended December 16, 1994, P.L.1292,
2 No.151, effective July 1, 1995.

3 **§ 6311. Persons required to report suspected child abuse.**

4 (a) **Mandated reporters.**--The following adults shall make a report of suspected
5 child abuse, subject to subsection (b), if the person has reasonable cause to suspect
6 that a child is a victim of child abuse:

7 (1) A person licensed or certified to practice in any health-related field under the
8 jurisdiction of the Department of State.

9 (2) A medical examiner, coroner or funeral director.

10 (3) An employee of a health care facility or provider licensed by the Department
11 of Health, who is engaged in the admission, examination, care or treatment of
12 individuals.

13 (4) A school employee.

14 (5) An employee of a child-care service who has direct contact with children in
15 the course of employment.

16 (6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious
17 healer or spiritual leader of any regularly established church or other religious
18 organization.

19 (7) An individual paid or unpaid, who, on the basis of the individual's role as an
20 integral part of a regularly scheduled program, activity or service, is a person
21 responsible for the child's welfare or has direct contact with children.

22 (8) An employee of a social services agency who has direct contact with children
23 in the course of employment.

24 (9) A peace officer or law enforcement official.

25 (10) An emergency medical services provider certified by the Department of
26 Health.

27 (11) An employee of a public library who has direct contact with children in the
28 course of employment.

29 (12) An individual supervised or managed by a person listed under paragraphs
30 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), who has direct contact with
31 children in the course of employment.

1 (13) An independent contractor.

2 (14) An attorney affiliated with an agency, institution, organization or other entity,
3 including a school or regularly established religious organization that is responsible
4 for the care, supervision, guidance or control of children.

5 (15) A foster parent.

6 (16) An adult family member who is a person responsible for the child's welfare
7 and provides services to a child in a family living home, community home for
8 individuals with an intellectual disability or host home for children which are subject
9 to supervision or licensure by the department under Articles IX and X of the act of
10 June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

11 (b) **Basis to report.--**

12 (1) A mandated reporter enumerated in subsection (a) shall make a report of
13 suspected child abuse in accordance with section 6313 (relating to reporting
14 procedure), if the mandated reporter has reasonable cause to suspect that a child is
15 a victim of child abuse under any of the following circumstances:

16 (i) The mandated reporter comes into contact with the child in the course of
17 employment, occupation and practice of a profession or through a regularly
18 scheduled program, activity or service.

19 (ii) The mandated reporter is directly responsible for the care, supervision,
20 guidance or training of the child, or is affiliated with an agency, institution,
21 organization, school, regularly established church or religious organization or
22 other entity that is directly responsible for the care, supervision, guidance or
23 training of the child.

24 (iii) A person makes a specific disclosure to the mandated reporter that an
25 identifiable child is the victim of child abuse.

26 (iv) An individual 14 years of age or older makes a specific disclosure to the
27 mandated reporter that the individual has committed child abuse.

28 (2) Nothing in this section shall require a child to come before the mandated
29 reporter in order for the mandated reporter to make a report of suspected child
30 abuse.

31 (3) Nothing in this section shall require the mandated reporter to identify the
32 person responsible for the child abuse to make a report of suspected child abuse.

1 (c) **Staff members of institutions, etc.**--Whenever a person is required to report
2 under subsection (b) in the capacity as a member of the staff of a medical or other
3 public or private institution, school, facility or agency, that person shall report
4 immediately in accordance with section 6313 and shall immediately thereafter notify the
5 person in charge of the institution, school, facility or agency or the designated agent of
6 the person in charge. Upon notification, the person in charge or the designated agent, if
7 any, shall facilitate the cooperation of the institution, school, facility or agency with the
8 investigation of the report. Any intimidation, retaliation or obstruction in the investigation
9 of the report is subject to the provisions of 18 Pa. C.S. § 4958 (relating to intimidation,
10 retaliation or obstruction in child abuse cases). This chapter does not require more than
11 one report from any such institution, school, facility or agency.

12 (d) **Civil action for discrimination against person filing report.**--(Deleted by
13 amendment).

14 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr.
15 15, 2014, P.L.414, No.32, eff. 60 days; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Apr. 15, 2014,
16 P.L.425, No.34, eff. Dec. 31, 2014; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014; Oct. 22, 2014,
17 P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

18 **2015 Amendment.** Act 15 amended subsec. (a)(7) and (12) and added subsec. (a)(16).

19 **2014 Amendments.** Act 32 amended subsec. (a) and deleted subsec. (b), Act 33 amended subsecs. (a)
20 and (c) and added subsec. (b), Act 34 deleted subsec. (d), Act 44 amended subsec. (c) and Act 153
21 amended subsec. (b)(1) intro. par. and added subsec. (a)(15). Act 33 overlooked the amendment by Act
22 32, but the amendments do not conflict in substance and have both been given effect in setting forth the
23 text of subsec. (b). Act 44 overlooked the amendment by Act 33, but the amendments do not conflict in
24 substance (except for the deletion of "assume the responsibility and," as to which Act 44 has been given
25 effect) and have both been given effect in setting forth the text of subsec. (c).

26 **Effective Date.** Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014,
27 the amendment of subsecs. (a) and (b) shall take effect December 31, 2014.

28 **References in Text.** The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public
29 Welfare Code, referred to in subsection (a), was amended by the act of December 28, 2015, P.L.500,
30 No.92. The amended short title is now the Human Services Code.

31 **Cross References.** Section 6311 is referred to in sections 6313, 6318, 6320, 6340, 6340.1 of this title.

32 **§ 6311.1. Privileged communications.**

33 (a) **General rule.**--Subject to subsection (b), the privileged communications
34 between a mandated reporter and a patient or client of the mandated reporter shall not:

35 (1) Apply to a situation involving child abuse.

1 (2) Relieve the mandated reporter of the duty to make a report of suspected
2 child abuse.

3 (b) **Confidential communications.**--The following protections shall apply:

4 (1) Confidential communications made to a member of the clergy are protected
5 under 42 Pa. C.S. § 5943 (relating to confidential communications to clergymen).

6 (2) Confidential communications made to an attorney are protected so long as
7 they are within the scope of 42 Pa. C.S. §§ 5916 (relating to confidential
8 communications to attorney) and 5928 (relating to confidential communications to
9 attorney), the attorney work product doctrine or the rules of professional conduct for
10 attorneys.

11 (Apr. 15, 2014, P.L.414, No.32, eff. 60 days)

12 **2014 Amendment.** Act 32 added section 6311.1.

13 **Effective Date.** Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014,
14 section 6311.1 shall take effect December 31, 2014.

15 **§ 6312. Persons encouraged to report suspected child abuse.**

16 Any person may make an oral or written report of suspected child abuse, which may be
17 submitted electronically, or cause a report of suspected child abuse to be made to the
18 department, county agency or law enforcement, if that person has reasonable cause to
19 suspect that a child is a victim of child abuse.

20 (Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

21 **Cross References.** Section 6312 is referred to in section 6320 of this title.

22 **§ 6313. Reporting procedure.**

23 (a) **Report by mandated reporter.**--

24 (1) A mandated reporter shall immediately make an oral report of suspected
25 child abuse to the department via the Statewide toll-free telephone number under
26 section 6332 (relating to establishment of Statewide toll-free telephone number) or a
27 written report using electronic technologies under section 6305 (relating to electronic
28 reporting).

29 (2) A mandated reporter making an oral report under paragraph (1) of suspected
30 child abuse shall also make a written report, which may be submitted electronically,
31 within 48 hours to the department or county agency assigned to the case in a
32 manner and format prescribed by the department.

1 (3) The failure of the mandated reporter to file the report under paragraph (2)
2 shall not relieve the county agency from any duty under this chapter, and the county
3 agency shall proceed as though the mandated reporter complied with paragraph (2).

4 (b) **Contents of report.**--A written report of suspected child abuse, which may be
5 submitted electronically, shall include the following information, if known:

6 (1) The names and addresses of the child, the child's parents and any other
7 person responsible for the child's welfare.

8 (2) Where the suspected abuse occurred.

9 (3) The age and sex of each subject of the report.

10 (4) The nature and extent of the suspected child abuse, including any evidence
11 of prior abuse to the child or any sibling of the child.

12 (5) The name and relationship of each individual responsible for causing the
13 suspected abuse and any evidence of prior abuse by each individual.

14 (6) Family composition.

15 (7) The source of the report.

16 (8) The name, telephone number and e-mail address of the person making the
17 report.

18 (9) The actions taken by the person making the report, including those actions
19 taken under section 6314 (relating to photographs, medical tests and X-rays of child
20 subject to report), 6315 (relating to taking child into protective custody), 6316
21 (relating to admission to private and public hospitals) or 6317 (relating to mandatory
22 reporting and postmortem investigation of deaths).

23 (10) Any other information required by Federal law or regulation.

24 (11) Any other information that the department requires by regulation.

25 (c) **Written reports.**--(Deleted by amendment).

26 (d) **Failure to confirm oral report.**--(Deleted by amendment).

27 (e) **Applicability of Mental Health Procedures Act.**--Notwithstanding any other
28 provision of law, a mandated reporter enumerated under section 6311 (relating to
29 persons required to report suspected child abuse) who makes a report of suspected
30 child abuse pursuant to this section or who makes a report of a crime against a child to
31 law enforcement officials shall not be in violation of the act of July 9, 1976 (P.L.817,

1 No.143), known as the Mental Health Procedures Act, by releasing information
2 necessary to complete the report.

3 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014;
4 Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

5 **2014 Amendment.** Act 153 added subsec. (e).

6 **Cross References.** Section 6313 is referred to in sections 6305, 6311, 6334, 6336, 6339, 6340, 6349,
7 6367, 6368 of this title.

8 **§ 6314. Photographs, medical tests and X-rays of child subject to report.**

9 A person or official required to report cases of suspected child abuse may take or cause
10 to be taken photographs of the child who is subject to a report and, if clinically indicated,
11 cause to be performed a radiological examination and other medical tests on the child.
12 Medical summaries or reports of the photographs, X-rays and relevant medical tests
13 taken shall be sent to the county agency at the time the written report is sent or within
14 48 hours after a report is made by electronic technologies or as soon thereafter as
15 possible. The county agency shall have access to actual photographs or duplicates and
16 X-rays and may obtain them or duplicates of them upon request. Medical summaries or
17 reports of the photographs, X-rays and relevant medical tests shall be made available to
18 law enforcement officials in the course of investigating cases pursuant to section
19 6340(a)(9) or (10) (relating to release of information in confidential reports).

20 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

21 **Cross References.** Section 6314 is referred to in sections 6313, 6318 of this title.

22 **§ 6315. Taking child into protective custody.**

23 (a) **General rule.**--A child may be taken into protective custody:

24 (1) As provided by 42 Pa. C.S. § 6324 (relating to taking into custody).

25 (2) By a physician examining or treating the child or by the director, or a person
26 specifically designated in writing by the director, of any hospital or other medical
27 institution where the child is being treated if protective custody is immediately
28 necessary to protect the child under this chapter.

29 (3) By a physician or the director, or a person specifically designated by the
30 director, of a hospital pursuant to Chapter 65 (relating to newborn protection) if the
31 child is a newborn.

32 (4) Subject to this section and after receipt of a court order, the county agency
33 shall take a child into protective custody for protection from abuse. No county

1 agency worker may take custody of the child without judicial authorization based on
2 the merits of the situation.

3 (5) By a police officer at a police station under Chapter 65.

4 (b) **Duration of custody.**--No child may be held in protective custody for more than
5 24 hours unless the appropriate county agency is immediately notified that the child has
6 been taken into custody and the county agency obtains an order from a court of
7 competent jurisdiction permitting the child to be held in custody for a longer period.
8 Each court shall insure that a judge is available 24 hours a day, 365 days a year to
9 accept and decide the actions brought by a county agency under this subsection within
10 the 24-hour period.

11 (c) **Notice of custody.**--

12 (1) Except as provided in paragraph (2), an individual taking a child into
13 protective custody under this chapter shall immediately, and within 24 hours in
14 writing, notify the parent, guardian or other custodian of the child of the whereabouts
15 of the child, unless prohibited by court order, and the reasons for the need to take
16 the child into protective custody and shall immediately notify the appropriate county
17 agency in order that proceedings under 42 Pa. C.S. Ch. 63 (relating to juvenile
18 matters) may be initiated, if appropriate.

19 (2) In the case of a newborn taken into protective custody pursuant to
20 subsection (a)(3), the county agency shall within 24 hours make diligent efforts to
21 notify a parent, guardian, custodian or other family member of the whereabouts of
22 the newborn, unless prohibited by court order, and the reasons for the need to take
23 the newborn into protective custody.

24 (d) **Informal hearing.**--In no case shall protective custody under this chapter be
25 maintained longer than 72 hours without an informal hearing under 42 Pa. C.S. § 6332
26 (relating to informal hearing). If, at the hearing, it is determined that protective custody
27 shall be continued and the child is alleged to be without proper parental care or control
28 or is alleged to be a dependent child under 42 Pa. C.S. § 6302 (relating to definitions),
29 the county agency shall within 48 hours file a petition with the court under 42 Pa. C.S.
30 Ch. 63 alleging that the child is a dependent child.

31 (e) **Place of detention.**--No child taken into protective custody under this chapter
32 may be detained during the protective custody except in an appropriate medical facility,
33 foster home or other appropriate facility approved by the department for this purpose.

34 (f) **Conference with parent or other custodian.**--A conference between the
35 parent, guardian or other custodian of the child taken into temporary protective custody

1 pursuant to this section and the employee designated by the county agency to be
2 responsible for the child shall be held within 48 hours of the time that the child is taken
3 into custody for the purpose of:

4 (1) Explaining to the parent, guardian or other custodian the reasons for the
5 temporary detention of the child and the whereabouts of the child, unless prohibited
6 by court order.

7 (2) Expediting, wherever possible, the return of the child to the custody of the
8 parent, guardian or other custodian where custody is no longer necessary.

9 (3) Explaining to the parent, guardian or other custodian the rights provided for
10 under 42 Pa. C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other
11 basic rights).

12 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Apr.
13 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017,
14 P.L.1219, No.68, eff. 60 days)

15 **2017 Amendment.** Act 68 added subsec. (a)(6).

16 **2014 Amendments.** Act 33 added subsec. (a)(4) and Act 91 added subsec. (a)(5).

17 **2002 Amendment.** Act 201 amended subsecs. (a) and (c).

18 **Cross References.** Section 6315 is referred to in sections 6313, 6316, 6318, 6375, 6504, 6504.1,
19 6504.2, 6508, 6509 of this title.

20 **§ 6316. Admission to private and public hospitals.**

21 (a) **General rule.**--Children appearing to suffer any physical or mental condition
22 which may constitute child abuse shall be admitted to, treated and maintained in
23 facilities of private and public hospitals on the basis of medical need and shall not be
24 refused or deprived in any way of proper medical treatment and care.

25 (a.1) **Newborns.**--A newborn taken into protective custody pursuant to section
26 6315(a)(3) or (5) (relating to taking child into protective custody) shall be admitted to,
27 treated and maintained in facilities of public and private hospitals on the basis of
28 medical need and shall not be refused or deprived in any way of proper medical
29 treatment and care. Once a newborn is taken into protective custody pursuant to section
30 6315(a)(3) or (5), the newborn shall be considered immediately eligible for Medicaid for
31 payment of medical services provided. Until otherwise provided by court order, the
32 county agency shall assume the responsibility for making decisions regarding the
33 newborn's medical care.

1 (b) **Failure of hospital to admit child or newborn.**--The failure of a hospital to
2 admit and properly treat and care for a child pursuant to subsection (a) or (a.1) shall be
3 cause for the department to order immediate admittance, treatment and care by the
4 hospital which shall be enforceable, if necessary, by the prompt institution of a civil
5 action by the department. The child, through an attorney, shall also have the additional
6 and independent right to seek immediate injunctive relief and institute an appropriate
7 civil action for damages against the hospital.

8 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; July 2,
9 2014, P.L.843, No.91, eff. 60 days)

10 **2014 Amendment.** Act 91 amended subsec. (a.1).

11 **2002 Amendment.** Act 201 amended subsec. (b) and added subsec. (a.1).

12 **Cross References.** Section 6316 is referred to in sections 6313, 6318 of this title.

13 **§ 6317. Mandatory reporting and postmortem investigation of deaths.**

14 A person or official required to report cases of suspected child abuse, including
15 employees of a county agency, who has reasonable cause to suspect that a child died
16 as a result of child abuse shall report that suspicion to the appropriate coroner or
17 medical examiner. The coroner or medical examiner shall accept the report for
18 investigation and shall report his finding to the police, the district attorney, the
19 appropriate county agency and, if the report is made by a hospital, the hospital.

20 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

21 **Cross References.** Section 6317 is referred to in sections 6313, 6318, 6367 of this title.

22 **§ 6318. Immunity from liability.**

23 (a) **General rule.**--A person, hospital, institution, school, facility, agency or agency
24 employee acting in good faith shall have immunity from civil and criminal liability that
25 might otherwise result from any of the following:

26 (1) Making a report of suspected child abuse or making a referral for general
27 protective services, regardless of whether the report is required to be made under
28 this chapter.

29 (2) Cooperating or consulting with an investigation under this chapter, including
30 providing information to a child fatality or near-fatality review team.

31 (3) Testifying in a proceeding arising out of an instance of suspected child abuse
32 or general protective services.

1 (4) Engaging in any action authorized under section 6314 (relating to
2 photographs, medical tests and X-rays of child subject to report), 6315 (relating to
3 taking child into protective custody), 6316 (relating to admission to private and public
4 hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of
5 deaths).

6 (b) **Departmental and county agency immunity.**--An official or employee of the
7 department or county agency who refers a report of suspected child abuse for general
8 protective services to law enforcement authorities or provides services as authorized by
9 this chapter shall have immunity from civil and criminal liability that might otherwise
10 result from the action.

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

16 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; July
17 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014)

18 **§ 6319. Penalties.**

19 (a) **Failure to report or refer.**--

20 (1) A person or official required by this chapter to report a case of suspected
21 child abuse or to make a referral to the appropriate authorities commits an offense if
22 the person or official willfully fails to do so.

23 (2) An offense under this section is a felony of the third degree if:

24 (i) the person or official willfully fails to report;

25 (ii) the child abuse constitutes a felony of the first degree or higher; and

26 (iii) the person or official has direct knowledge of the nature of the abuse.

27 (3) An offense not otherwise specified in paragraph (2) is a misdemeanor of the
28 second degree.

29 (4) A report of suspected child abuse to law enforcement or the appropriate
30 county agency by a mandated reporter, made in lieu of a report to the department,
31 shall not constitute an offense under this subsection, provided that the report was
32 made in a good faith effort to comply with the requirements of this chapter.

1 (b) **Continuing course of action.**--If a person's willful failure under subsection (a)
2 continues while the person knows or has reasonable cause to believe the child is
3 actively being subjected to child abuse, the person commits a misdemeanor of the first
4 degree, except that if the child abuse constitutes a felony of the first degree or higher,
5 the person commits a felony of the third degree.

6 (c) **Multiple offenses.**--A person who commits a second or subsequent offense
7 under subsection (a) commits a felony of the third degree, except that if the child abuse
8 constitutes a felony of the first degree or higher, the penalty for the second or
9 subsequent offenses is a felony of the second degree.

10 (d) **Statute of limitations.**--The statute of limitations for an offense under
11 subsection (a) shall be either the statute of limitations for the crime committed against
12 the minor child or five years, whichever is greater.

13 (Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 15, 2014, P.L.414, No.32, eff. 60 days; Nov. 26,
14 2019, P.L.648, No.88, eff. 60 days)

15 **2019 Amendment.** Act 88 amended subsecs. (b), (c) and (d).

16 **Effective Date.** Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014,
17 the amendment of section 6319 shall take effect December 31, 2014.

18 **Cross References.** Section 6319 is referred to in sections 6320, 6335 of this title.

19 **§ 6320. Protection from employment discrimination.**

20 (a) **Basis for relief.**--A person may commence an action for appropriate relief if all of
21 the following apply:

22 (1) The person is required to report under section 6311 (relating to persons
23 required to report suspected child abuse) or encouraged to report under section
24 6312 (relating to persons encouraged to report suspected child abuse).

25 (2) The person acted in good faith in making or causing the report of suspected
26 child abuse to be made.

27 (3) As a result of making the report of suspected child abuse, the person is
28 discharged from employment or is discriminated against with respect to
29 compensation, hire, tenure, terms, conditions or privileges of employment.

30 (b) **Applicability.**--This section does not apply to an individual making a report of
31 suspected child abuse who is found to be a perpetrator because of the report or to any
32 individual who fails to make a report of suspected child abuse as required under section
33 6311 and is subject to conviction under section 6319 (relating to penalties) for failure to
34 report or to refer.

1 (c) Location.--An action under this section must be filed in the court of common
2 pleas of the county in which the alleged unlawful discharge or discrimination occurred.

3 (d) Relief.--Upon a finding in favor of the plaintiff, the court may grant appropriate
4 relief, which may include reinstatement of the plaintiff with back pay.

5 (e) Departmental intervention.--The department may intervene in an action
6 commenced under this section.

7 **2014 Amendment.** Act 34 added section 6320.

8 **Subchapter C - Powers and Duties of Department**

9 Sec.

10 6331. Establishment of Statewide database.

11 6332. Establishment of Statewide toll-free telephone number.

12 6333. Continuous availability of department.

13 6334. Disposition of complaints received.

14 6334.1. Responsibility for investigation.

15 6335. Access to information in Statewide database.

16 6336. Information in Statewide database.

17 6337. Disposition and expunction of unfounded reports and general protective services
18 reports.

19 6338. Disposition of founded and indicated reports.

20 6338.1. Expunction of information of perpetrator who was under 18 years of age when
21 child abuse was committed.

22 6339. Confidentiality of reports.

23 6340. Release of information in confidential reports.

24 6340.1. Exchange of information.

25 6341. Amendment or expunction of information.

26 6342. Studies of data in records.

27 6343. Investigating performance of county agency.

28 6343.1. Citizen review panels.

29 6344. Employees having contact with children; adoptive and foster parents.

30 6344.1. Information relating to certified or licensed child-care home residents.

31 6344.2. Volunteers having contact with children.

32 6344.3. Continued employment or participation in program, activity or service.

33 6344.4. Recertification.

34 6345. Audits by Attorney General.

35 6346. Cooperation of other agencies.

36 6347. Reports to Governor and General Assembly.

37 6348. Regulations.

1 6349. Penalties.

2 **§ 6331. Establishment of Statewide database.**

3 There shall be established in the department a Statewide database of protective
4 services, which shall include the following, as provided by section 6336 (relating to
5 information in Statewide database):

6 (1) Reports of suspected child abuse pending investigation.

7 (2) Reports with a status of pending juvenile court or pending criminal court
8 action.

9 (3) Indicated and founded reports of child abuse.

10 (4) Unfounded reports of child abuse awaiting expunction.

11 (5) Unfounded reports accepted for services.

12 (6) Reports alleging the need for general protective services.

13 (7) General protective services reports that have been determined to be valid.

14 (8) Reports alleging the need for general protective services that have been
15 determined invalid and are awaiting expunction.

16 (9) A family case record for all reports accepted for investigation, assessment or
17 services.

18 (10) Information on reports made to the agency, but not accepted for
19 investigation or assessment.

20 (11) False reports of child abuse pursuant to a conviction under 18 Pa. C.S. §
21 4906.1 (relating to false reports of child abuse) for the purpose of identifying and
22 tracking patterns of intentionally false reports.

23 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014;
24 Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

25 **2014 Amendments.** Act 29 amended the entire section and Act 45 amended par. (11).

26 **Cross References.** Section 6331 is referred to in section 6334 of this title.

27 **§ 6332. Establishment of Statewide toll-free telephone number.**

28 (a) **General rule.**--The department shall establish a single Statewide toll-free
29 telephone number that all persons, whether mandated by law or not, may use to report
30 cases of suspected child abuse or children allegedly in need of general protective
31 services. A county agency or law enforcement official shall use the Statewide toll-free

1 telephone number or electronic technologies for determining the existence of reports of
2 child abuse or general protective services reports in the Statewide database or reports
3 under investigation.

4 (b) **Limitation on use.**--A county agency may only request and receive information
5 pursuant to this subsection either on its own behalf because it has received a report of
6 suspected child abuse or on behalf of a physician examining or treating a child or on
7 behalf of the director or a person specifically designated in writing by the director of any
8 hospital or other medical institution where a child is being treated, where the physician
9 or the director or a person specifically designated in writing by the director suspects the
10 child of being an abused child.

11 (c) **Posting Statewide toll-free telephone number in schools.**--All public and
12 nonpublic schools that enroll students in grades kindergarten through 12 shall publicly
13 display at each school campus a poster uniformly designed by the department that
14 contains the Statewide toll-free telephone number for reporting suspected child abuse
15 or neglect and any Statewide toll-free telephone number relating to school safety. The
16 following apply:

17 (1) The poster shall be posted in a high-traffic, public area of the school that is
18 readily accessible to and widely used by students.

19 (2) The department shall, in consultation with the Department of Education,
20 design the poster, which shall:

21 (i) be 11 inches by 17 inches or larger;

22 (ii) display in bold print the Statewide toll-free telephone number for reporting
23 suspected child abuse or neglect and any Statewide toll-free telephone number
24 relating to school safety; and

25 (iii) include the department's publicly accessible Internet website that
26 provides information and resources related to child protection.

27 (3) The department and the Department of Education shall make the poster
28 available on their publicly accessible Internet websites to all public and nonpublic
29 schools.

30 (d) **Posting Statewide toll-free telephone numbers in hospitals.**--All hospitals
31 shall publicly display a poster that contains the Statewide toll-free telephone number for
32 reporting suspected child abuse or neglect and any Statewide toll-free telephone
33 number relating to school safety. The poster shall be 11 inches by 17 inches or larger
34 and of a uniform design approved by the department in consultation with the
35 Department of Health. The poster shall be posted in a high-traffic, public area of the

1 emergency department of the hospital. The Statewide toll-free telephone numbers shall
2 be printed in bold print. The poster shall also include the department's publicly
3 accessible Internet website that provides information and resources related to child
4 protection.

5 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014;
6 June 28, 2018, P.L.375, No.54, eff. 60 days)

7 **2018 Amendment.** Act 54 added subsecs. (c) and (d).

8 **2014 Amendment.** Act 29 amended subsec. (a).

9 **Cross References.** Section 6332 is referred to in sections 6313, 6368 of this title.

10 **§ 6333. Continuous availability of department.**

11 The department shall be capable of receiving oral reports of child abuse, reports of
12 children in need of general protective services, reports made by electronic technologies
13 pursuant to this chapter and report summaries from county agencies. The department
14 shall be capable of immediately identifying prior reports in the Statewide database and
15 reports under investigation with a pending status and of monitoring the provision of child
16 protective services 24 hours a day, seven days a week.

17 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

18 **§ 6334. Disposition of complaints received.**

19 (a) **Receipt of reports by county agencies and law enforcement.**--After ensuring
20 the immediate safety of the child and any other child in the child's home, a county
21 agency or law enforcement official that receives a report of suspected child abuse shall
22 immediately notify the department of the report. If the report is an oral report by
23 telephone, the county agency or law enforcement official shall attempt to collect as
24 much of the information listed in section 6313(c) (relating to reporting procedure) as
25 possible and shall submit the information to the department within 48 hours through a
26 report in writing or by electronic technologies.

27 (b) **Receipt of reports by department and referral to county agency.**--The
28 department shall immediately transmit an oral notice or a notice by electronic
29 technologies to the county agency of the county where the suspected child abuse is
30 alleged to have occurred. The notice shall contain the following information:

31 (1) That a report of suspected child abuse by a perpetrator has been received.

32 (2) The substance of the report.

33 (3) The existence in the Statewide database of a prior report or a current
34 investigation or assessment concerning a subject of the report.

1 (c) **Receipt of reports by department and referral to law enforcement.**--If the
2 department receives a report of suspected child abuse that also alleges that a criminal
3 offense has been committed against the child, the department shall immediately
4 transmit an oral notice or notice by electronic technologies to the appropriate law
5 enforcement official in the county where the suspected child abuse is alleged to have
6 occurred. The notice shall contain the following information, consistent with section
7 6340(a)(9) and (10) (relating to release of information in confidential reports):

8 (1) That a report of suspected child abuse has been received.

9 (2) The substance of the report.

10 (3) The existence in the Statewide database under section 6331 (relating to
11 establishment of Statewide database) of a prior report or a current investigation or
12 assessment concerning a subject of the report.

13 (d) **Notice of joint referrals.**--When a report is referred to the county agency under
14 subsection (b) and is also referred to a law enforcement official under subsection (c),
15 the notice shall include information as to the name and contact information of any
16 persons receiving the referral, if known.

17 (e) **Jurisdictional overlap.**--If the residency of any subject of a report is a factor
18 that requires the cooperation of more than one county agency, the department shall
19 develop procedures to ensure the cooperation of those agencies in carrying out the
20 requirements of this chapter.

21 (f) **Referral for services or investigation.**--If the report received does not suggest
22 a need for protective services but does suggest a need for social services or other
23 services or investigation, the department shall transmit the information to the county
24 agency or other public agency for appropriate action. The information shall not be
25 considered a child abuse report unless the agency to which the information was referred
26 has reasonable cause to suspect after investigation that abuse occurred. If the agency
27 has reasonable cause to suspect that abuse occurred, the agency shall notify the
28 department, and the initial report shall be considered to have been a child abuse report.

29 (g) **Recording of pending reports.**--Upon receipt of a report of suspected child
30 abuse, the department shall maintain a record of the complaint of suspected child abuse
31 in the Statewide database. Upon receipt of a report under section 6353.2 (relating to
32 responsibilities of county agency), the department shall maintain a record of the report
33 in the Statewide database under section 6331.

34 (h) **Child abuse in another state where the victim child and the alleged**
35 **perpetrator are residents of the Commonwealth.**--A report of suspected child abuse

1 by a resident perpetrator occurring in another state shall be referred by the department
2 to the county agency where the child resides in this Commonwealth and shall be
3 investigated by the county agency as any other report of suspected child abuse by a
4 perpetrator if the other state's child protective services agency cannot or will not
5 investigate the report.

6 (i) **Child abuse in another state where only the alleged perpetrator is a**
7 **resident of this Commonwealth.**--If suspected child abuse occurs in a jurisdiction
8 other than this Commonwealth and only the alleged perpetrator is a resident of this
9 Commonwealth, the report of suspected child abuse shall be referred to the county
10 agency where the alleged perpetrator resides. The county agency shall do all of the
11 following:

12 (1) Notify the children and youth social service agency of the jurisdiction in which
13 the suspected child abuse occurred.

14 (2) If requested by the other agency, assist in investigating the suspected child
15 abuse.

16 (j) **Child abuse in another state where only the victim child is a resident of this**
17 **Commonwealth.**--A report of suspected child abuse occurring in another state where
18 only the victim child resides in this Commonwealth and where the other state's child
19 protective services agency cannot or will not investigate the report shall be assigned as
20 a general protective services report to the county agency where the child resides.

21 (k) **Copies of report.**--A copy of a report of suspected child abuse under
22 subsections (h), (i) and (j) shall be provided to the other state's child protective services
23 agency and, if appropriate, to law enforcement officials where the incident occurred.

24 (l) **Communication.**--Reports and information under subsections (h), (i) and (j) shall
25 be provided within seven calendar days of completion of the investigation.

26 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; July 7, 2005, P.L.196, No.43, eff. imd.; Apr. 7, 2014,
27 P.L.388, No.29, eff. Dec. 31, 2014)

28 **References in Text.** Section 6353.2, referred to in this section, was repealed by the act of May 14, 2014
29 (P.L.645, No.44) and by the act of May 14, 2014 (P.L.653, No.45).

30 **Cross References.** Section 6334 is referred to in sections 6304, 6335, 6368 of this title.

31 **§ 6334.1. Responsibility for investigation.**

32 The department shall establish procedures regarding the following different responses
33 to address suspected child abuse and protective services depending on the person's
34 allegedly committing the suspected child abuse or causing a child to be in need of
35 protective services:

1 (1) If the suspected child abuse is alleged to have been committed by a
2 perpetrator, the appropriate county agency shall investigate the allegation as
3 provided in this chapter.

4 (2) If the suspected child abuse is alleged to have been committed by a
5 perpetrator and the behavior constituting the suspected child abuse may include a
6 violation of a criminal offense, the appropriate county agency and law enforcement
7 officials shall jointly investigate the allegation through the investigative team
8 established in section 6365(c) (relating to services for prevention, investigation and
9 treatment of child abuse) and as provided in this chapter.

10 (3) If the suspected child abuse is alleged to have been committed by a person
11 who is not a perpetrator and the behavior constituting the suspected child abuse
12 may include a violation of a criminal offense, law enforcement officials where the
13 suspected child abuse is alleged to have occurred shall be solely responsible for
14 investigating the allegation.

15 (4) If a child is alleged to be in need of other protective services, the appropriate
16 county agency shall assess the needs of the child as provided in this chapter.

17 (Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

18 **2014 Amendment.** Act 29 added section 6334.1.

19 **Cross References.** Section 6334.1 is referred to in section 6340 of this title.

20 **§ 6335. Access to information in Statewide database.**

21 (a) **Request for information.**--A county agency or law enforcement official shall
22 use the Statewide toll-free telephone number, or any manner prescribed by the
23 department, to determine the existence of any prior reports involving a subject of the
24 report. If the Statewide database contains information related to a report or a pending
25 investigation or assessment concerning a subject of the report, the department shall
26 immediately convey this information to the county agency or law enforcement official.

27 (b) **Verification of need.**--Information may be released under this section if a
28 request for information is made orally or in writing and the department has done all of
29 the following:

30 (1) Identified the requester, including electronic verification of the requester's
31 identity.

32 (2) Determined whether the requester is authorized to obtain the information
33 under this section.

1 (3) Provided notice to the requester that access and dissemination of the
2 information is restricted as provided by this chapter.

3 (4) Obtained an affirmation by the requester that the request is within the scope
4 of that person's official duties and the provisions of this chapter.

5 (c) **Use by county agency or law enforcement official.**--A county agency or law
6 enforcement official may only request the information under subsection (a) for the
7 purposes of investigating reports of child abuse, assessing allegations that a child is in
8 need of general protective services, providing protective services to a child or
9 investigating a crime against a child criminal offense. The following shall apply where
10 information is requested pursuant to this section:

11 (1) A law enforcement official may use information contained in the Statewide
12 database for the purpose of investigating a criminal offense as follows:

13 (i) Information regarding indicated and founded reports may be used for any
14 purpose authorized by this chapter.

15 (ii) Information on all other reports may be used for the purposes of
16 investigating a crime involving harm or threatened harm to a child, an alleged
17 violation of section 6319 (relating to penalties for failure to report or to refer) or
18 6349 (relating to penalties) or an alleged violation of 18 Pa. C.S. § 4906.1
19 (relating to false reports of child abuse) or 4958 (relating to intimidation,
20 retaliation or obstruction in child abuse cases).

21 (2) A county agency may use information contained in the Statewide database
22 as follows:

23 (i) Information regarding indicated or founded reports may be used for any
24 purpose authorized by this chapter.

25 (ii) Information on all other reports may be used for any purpose authorized
26 by this chapter, except that information in reports that are not founded or
27 indicated may not be used as evidence by the county agency when determining
28 that a new report of suspected abuse is an indicated report.

29 (3) The department may use information contained in the Statewide database as
30 follows:

31 (i) Information regarding indicated or founded reports may be used for any
32 purpose authorized by this chapter.

33 (ii) Information on all other reports may be used for any purpose authorized
34 by this chapter, except that information in reports that are not founded or

1 indicated may not be used as evidence by the department when determining that
2 a new report of suspected abuse is an indicated report.

3 (4) Information in the Statewide database may not be used for any purpose not
4 authorized by this chapter.

5 (d) **Authorized releases for governmental functions.**--No person, other than an
6 employee of the department in the course of official duties in connection with the
7 responsibilities of the department under this chapter, shall have access to any
8 information in the Statewide database except as provided under this section and the
9 following:

10 (1) Section 6334 (relating to disposition of complaints received).

11 (2) Section 6340 (relating to release of information in confidential reports).

12 (3) Section 6342 (relating to studies of data in records).

13 (4) Section 6343 (relating to investigating performance of county agency).

14 (5) Section 6343.1 (relating to citizen review panels).

15 (6) Section 6347 (relating to reports to Governor and General Assembly).

16 (e) **Certifications.**--Information provided in response to inquiries under section
17 6344 (relating to employees having contact with children; adoptive and foster parents),
18 6344.1 (relating to information relating to certified or licensed child-care home residents)
19 or 6344.2 (relating to volunteers having contact with children) shall not include
20 unfounded reports of child abuse or reports related to general protective services and
21 shall be limited to the following:

22 (1) Whether the person was named as a perpetrator of child abuse in a founded
23 or indicated report.

24 (2) Whether there is an investigation pending in which the individual is an
25 alleged perpetrator.

26 (3) The number, date of the incidents upon which the report is based and the
27 type of abuse or neglect involved in any reports identified under paragraph (1).

28 (f) **Electronic technologies.**--Requests under this section may be made using
29 electronic technologies if appropriate verification is made in accordance with subsection
30 (b).

1 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999;
2 Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014;
3 July 1, 2015, P.L.94, No.15, eff. imd.)

4 **2015 Amendment.** Act 15 amended subsec. (e).

5 **§ 6336. Information in Statewide database.**

6 (a) **Information authorized.**--The Statewide database shall include and shall be
7 limited to the following information:

8 (1) The names, Social Security numbers, age, race, ethnicity and sex of the
9 subjects of the reports.

10 (2) The date or dates and the nature and extent of the alleged instances that
11 created the need for protective services.

12 (3) The home addresses of the subjects of the report.

13 (4) The county in which the alleged incidents that created the need for protective
14 services occurred.

15 (5) Family composition.

16 (6) The name and relationship to the child in question and of other persons
17 named in the report.

18 (7) Factors contributing to the need for protective services.

19 (8) The source of the report.

20 (9) Services planned or provided.

21 (10) If the report alleges child abuse, whether the report was determined to be
22 founded, indicated or unfounded.

23 (11) If the report alleged the child was in need of general protective services,
24 whether the report was valid or invalid.

25 (12) If the report was accepted for services and the reasons for the acceptance.

26 (13) If the report was not accepted for services, the reason the report was not
27 accepted and whether the family was referred to other community services.

28 (14) Information obtained by the department in relation to a perpetrator's or
29 school employee's request to release, amend or expunge information retained by the
30 department or the county agency.

1 (15) The progress of any legal proceedings brought on the basis of the report of
2 suspected child abuse.

3 (16) Whether a criminal investigation has been undertaken and the result of the
4 investigation and of any criminal prosecution.

5 (17) In the case of an unfounded or invalid report, if it is later determined that the
6 initial report was a false report, a notation to that effect regarding the status of the
7 report.

8 (18) Unfounded reports of child abuse, limited to the information authorized
9 under section 6337 (relating to disposition and expunction of unfounded reports and
10 general protective services reports).

11 (19) Any additional information provided in section 6313(c) (relating to reporting
12 procedure).

13 (20) Any additional demographic information that the department requires to
14 comply with section 6342 (relating to studies of data in records).

15 (21) A family case record for each family accepted for investigation, assessment
16 or services which shall be maintained consistent with regulatory requirements.

17 (22) With respect to cases that are not accepted for child abuse investigation or
18 general protective services assessment or are referred to community services:

19 (i) The reason the report was not accepted.

20 (ii) Any information provided to the referral source or the family related to
21 other services or option available to address the report.

22 (23) Any other information that is necessary to maintain the names of persons
23 convicted of a violation under 18 Pa. C.S. § 4906.1 (relating to false reports of child
24 abuse) or the names of persons who made a false report of the need for general
25 protective services.

26 No information other than that permitted in this subsection shall be retained in the
27 Statewide database.

28 (b) **Type of information released.**--(Deleted by amendment).

29 (c) **Limitation on release of information.**--(Deleted by amendment).

30 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

31 **Cross References.** Section 6336 is referred to in section 6331 of this title.

1 **§ 6337. Disposition and expunction of unfounded reports and general protective**
2 **services reports.**

3 (a) **General rule.**--When a report of suspected child abuse is determined by the
4 appropriate county agency to be an unfounded report, the information concerning that
5 report of suspected child abuse shall be maintained for a period of one year. Following
6 the expiration of one year after the date the report was received by the department, the
7 report shall be expunged from the Statewide database, as soon as possible, but no later
8 than 120 days after the one-year period following the date the report was received by
9 the department, and no information other than that authorized by subsection (b), which
10 shall not include any identifying information on any subject of the report, shall be
11 retained by the department. The expunction shall be mandated and guaranteed by the
12 department.

13 (b) **Absence of other determination.**--If an investigation of a report of suspected
14 child abuse conducted by the appropriate county agency pursuant to this chapter does
15 not determine within 60 days of the date of the initial report of the instance of suspected
16 child abuse that the report is a founded report, an indicated report or an unfounded
17 report, or unless within that same 60-day period court action has been initiated and is
18 responsible for the delay, the report shall be considered to be an unfounded report, and
19 all information identifying the subjects of the report shall be expunged no later than 120
20 days following the expiration of one year after the date the report was received by the
21 department. The agency shall advise the department that court action or an arrest has
22 been initiated so that the Statewide database is kept current regarding the status of all
23 legal proceedings and expunction is delayed.

24 (c) **Unfounded reports accepted for services.**--Information on an unfounded
25 report shall be retained in the Statewide database if the county agency has accepted
26 the family for services and the report of suspected child abuse is clearly identified as an
27 unfounded report. The county agency shall notify the department immediately upon
28 closure of the case, and the report shall be expunged as soon as possible, but no later
29 than 120 days after the one-year period following the date the family case was closed. If
30 the subject child of the unfounded report becomes 23 years of age prior to the closure
31 of the family case, the unfounded report shall be expunged when the subject child
32 reaches 23 years of age.

33 (d) **Expunction of valid general protective services reports.**--Information
34 concerning valid general protective services reports shall be maintained in the
35 Statewide database as follows:

36 (1) Reports that are assessed by the county agency and are determined to be
37 valid, but are not accepted for services, shall be reported to the department and
38 entered into the Statewide database. The reports shall be maintained for a period of

1 five years. Following the expiration of five years after the date the report was
2 received by the department, the report shall be expunged from the Statewide
3 database as soon as possible, but no later than 120 days after the five-year period
4 following the date the report was received by the department.

5 (2) Reports that are assessed by the county agency and accepted for services
6 shall be reported to the department and entered into the Statewide database. The
7 reports shall be maintained for a period of five years after the closure of services by
8 the county agency. Following the expiration of five years after the closure of services
9 by the county agency, the report shall be expunged from the Statewide database as
10 soon as possible, but no later than 120 days after the five-year period following the
11 closure of services by the county agency.

12 (3) The expunction of information on general protective services under this
13 subsection shall be mandated and guaranteed by the department.

14 (e) **Expunction of invalid general protective services reports.**--When a report
15 alleging the need for general protective services is determined by the appropriate
16 county agency to be an invalid report, the information concerning that report shall be
17 maintained for a period of one year. Following the expiration of one year after the date
18 the report was received by the department, the report shall be expunged as soon as
19 possible, but no later than 120 days after the one-year period following the date the
20 report was received by the department. The expunction shall be mandated and
21 guaranteed by the department.

22 (f) **County agency records.**--County agency records of protective services shall be
23 used and maintained in a manner that is consistent with the use and maintenance of
24 information in the Statewide database, as provided under this chapter. If required under
25 this chapter to amend or expunge information in the Statewide database, the
26 department shall notify the appropriate county agency of the amendment or
27 expungement within ten days. The county agency shall amend or expunge its records in
28 a commensurate manner within ten days of receiving notification from the department.

29 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999;
30 Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; June 28, 2018, P.L.375, No.54, eff. 365 days)

31 **2018 Amendment.** Act 54 amended subsecs. (d) and (f). See section 3 of Act 54 in the appendix to this
32 title for special provisions relating to expunction.

33 **Cross References.** Section 6337 is referred to in sections 6336, 6349 of this title.

34 **§ 6338. Disposition of founded and indicated reports.**

35 (a) **General rule.**--When a report of suspected child abuse is determined by the
36 appropriate county agency to be a founded report or an indicated report, the status of

1 the report shall be changed from pending to founded or indicated in the Statewide
2 database. Notice of the determination that a report is a founded, indicated or unfounded
3 report shall be made as provided in section 6368(f) (relating to investigation of reports).

4 (b) **Expunction of information when child attains 23 years of age.**--Except as
5 provided in subsection (c), all information which identifies the subjects of founded and
6 indicated child abuse reports shall be expunged when the subject child reaches the age
7 of 23. The expunction shall be mandated and guaranteed by the department.

8 (c) **Retention of information.**--The Statewide database shall indefinitely retain the
9 names of perpetrators of child abuse and school employees who are subjects of
10 founded or indicated reports only if the individual's Social Security number or date of
11 birth is known to the department. The entry in the Statewide database shall not include
12 identifying information regarding other subjects of the report.

13 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014;
14 Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

15 **2014 Amendments.** Act 29 amended subsecs. (a) and (c) and Act 45 amended subsec. (a).

16 **Cross References.** Section 6338 is referred to in section 6349 of this title.

17 **§ 6338.1. Expunction of information of perpetrator who was under 18 years of**
18 **age when child abuse was committed.**

19 (a) **General rule.**--The name of a perpetrator who is the subject of an indicated
20 report of child abuse and who was under 18 years of age when the individual committed
21 child abuse shall be expunged from the Statewide database when the individual
22 reaches 21 years of age or when five years have elapsed since the perpetrator's name
23 was added to the database, whichever is later, if the individual meets all of the following:

24 (1) The individual has not been named as a perpetrator in any subsequent
25 indicated report of child abuse and is not named as an alleged perpetrator in a child
26 abuse report pending investigation.

27 (2) The individual has never been convicted or adjudicated delinquent following
28 a determination by the court that the individual committed an offense under section
29 6344(c) (relating to employees having contact with children; adoptive and foster
30 parents), and no proceeding is pending seeking such conviction or adjudication.

31 (3) The child abuse which resulted in the inclusion of the perpetrator's name in
32 the database did not involve the use of a deadly weapon, as defined under 18 Pa.
33 C.S. § 2301 (relating to definitions).

1 (b) **Mandated expunction.**--If the perpetrator meets all of the requirements under
2 subsection (a), the expunction shall be mandated and guaranteed by the department.

3 (c) **Nonapplicability.**--The provisions of this section shall not apply to any of the
4 following cases:

5 (1) A perpetrator who is the subject of a founded report of child abuse.

6 (2) A sexually violent delinquent child, as defined in 42 Pa. C.S. § 9799.12
7 (relating to definitions), who meets all of the following:

8 (i) Is required to register under 42 Pa. C.S. Ch. 97 Subch. H (relating to
9 registration of sexual offenders).

10 (ii) Was found delinquent as a result of the same acts which resulted in the
11 sexually violent delinquent child being named a perpetrator of child abuse.

12 (3) A juvenile offender, as defined in 42 Pa. C.S. § 9799.12, who meets all of the
13 following:

14 (i) Is required to register under 42 Pa. C.S. Ch. 97 Subch. H as a result of an
15 adjudication of delinquency for the same acts which resulted in the juvenile
16 offender being named a perpetrator of child abuse.

17 (ii) Has not been removed from the Statewide Registry of Sexual Offenders
18 pursuant to 42 Pa. C.S. § 9799.17 (relating to termination of period of registration
19 for juvenile offenders).

20 (4) A sexual offender, as defined in 42 Pa. C.S. § 9799.12, who meets all of the
21 following:

22 (i) Is required to register under 42 Pa. C.S. Ch. 97 Subch. H as a result of a
23 criminal conviction for the same acts which resulted in the sexual offender being
24 named a perpetrator of child abuse.

25 (ii) Has not completed the period of registration required under 42 Pa. C.S. §
26 9799.15 (relating to period of registration).

27 (Dec. 18, 2013, P.L.1195, No.117, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014;
28 Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12,
29 2018, P.L.140, No.29, eff. imd.)

30 **2018 Amendments.** Act 10 amended subsec. (c)(4) and Act 29 reenacted subsec. (c)(4).

31 **2014 Amendments.** Act 45 amended subsec. (a)(1) and Act 153 amended subsec. (a)(2).

32 **2013 Amendment.** Act 117 added section 6338.1.

1 **Cross References.** Section 6338.1 is referred to in section 6341 of this title.

2 **§ 6339. Confidentiality of reports.**

3 Except as otherwise provided in this subchapter or by the Pennsylvania Rules of
4 Juvenile Court Procedure, reports made pursuant to this chapter, including, but not
5 limited to, report summaries of child abuse and reports made pursuant to section 6313
6 (relating to reporting procedure) as well as any other information obtained, reports
7 written or photographs or X-rays taken concerning alleged instances of child abuse in
8 the possession of the department or a county agency shall be confidential.

9 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Oct.
10 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

11 **Suspension by Court Rule.** Section 6339 was suspended by Pennsylvania Rule of Juvenile Court
12 Procedure No. 1800(9), adopted August 21, 2006, insofar as it is inconsistent with Rule 1340(B)(1)(e),
13 which provides for the disclosure of reports if the reports are going to be used as evidence in a hearing to
14 prove dependency of a child.

15 **Cross References.** Section 6339 is referred to in sections 6340, 6341, 6365 of this title.

16 **§ 6340. Release of information in confidential reports.**

17 (a) **General rule.**--Reports specified in section 6339 (relating to confidentiality of
18 reports) shall only be made available to:

19 (1) An authorized official of a county agency, of a Federal agency that has a
20 need for such information to carry out its responsibilities under law to protect
21 children from abuse and neglect or of an agency of another state that performs
22 protective services analogous to those services performed by county agencies or the
23 department in the course of the official's duties, multidisciplinary team members
24 assigned to the case and duly authorized persons providing services pursuant to
25 section 6370(a) (relating to voluntary or court-ordered services; findings of child
26 abuse).

27 (2) A physician examining or treating a child or the director or a person
28 specifically designated in writing by the director of any hospital or other medical
29 institution where a child is being treated when the physician or the director or the
30 designee of the director suspects the child of being an abused child or a child
31 alleged to be in need of protection under this chapter.

32 (3) A guardian ad litem or court designated advocate for the child.

33 (4) An authorized official or agent of the department in accordance with
34 department regulations or in accordance with the conduct of a performance audit as
35 authorized by section 6343 (relating to investigating performance of county agency).

1 (5) A court of competent jurisdiction, including a magisterial district judge, a
2 judge of the Philadelphia Municipal Court and a judge of the Pittsburgh Magistrates
3 Court, pursuant to court order or subpoena in a criminal matter involving a charge of
4 child abuse under section 6303(b) (relating to definitions). Disclosure through
5 testimony shall be subject to the restrictions of subsection (c).

6 (5.1) A court of common pleas in connection with any matter involving custody of
7 a child as set forth in sections 5328 (relating to factors to consider when awarding
8 custody) and 5329.1 (relating to consideration of child abuse and involvement with
9 protective services).

10 (6) A standing committee of the General Assembly, as specified in section 6384
11 (relating to legislative oversight).

12 (7) The Attorney General.

13 (8) Federal auditors if required for Federal financial participation in funding of
14 agencies except that Federal auditors may not remove identifiable reports or copies
15 thereof from the department or county agencies.

16 (9) Law enforcement officials of any jurisdiction, as long as the information is
17 relevant in the course of investigating cases of:

18 (i) Homicide or other criminal offense set forth in section 6344(c) (relating to
19 employees having contact with children; adoptive and foster parents), sexual
20 abuse or exploitation, bodily injury or serious bodily injury caused by a
21 perpetrator or nonperpetrator.

22 (ii) Child abuse other than that identified under subparagraph (i) by a
23 nonperpetrator.

24 (iii) Repeated physical injury to a child under circumstances which indicate
25 that the child's health, safety or welfare is harmed or threatened.

26 (iv) A missing child report.

27 (v) Severe forms of trafficking in persons or sex trafficking, as those terms
28 are defined under section 103 of the Trafficking Victims Protection Act of 2000
29 (114 Stat. 1466, 22 U.S.C. § 7102).

30 (10) The district attorney's office or other law enforcement official, as set forth in
31 county protocols for multidisciplinary investigative teams required in section 6365(c)
32 (relating to services for prevention, investigation and treatment of child abuse), shall
33 receive, immediately after the county agency has ensured the safety of the child,
34 reports of abuse according to regulations, from the department or county agency in

1 which the initial report of suspected child abuse or initial inquiry into the report gives
2 evidence that the abuse is:

3 (i) a criminal offense set forth under section 6344.3 (relating to grounds for
4 denying employment or participation in program, activity or service), not including
5 an offense under 18 Pa. C.S. § 4304 (relating to endangering welfare of children)
6 or an equivalent crime under Federal law or law of another state; or

7 (ii) child abuse under section 6334.1 (relating to responsibility for
8 investigation).

9 (11) Designated county officials, in reviewing the competence of the county
10 agency or its employees pursuant to this chapter. Officials under this paragraph are
11 limited to the following:

12 (i) The board of commissioners in counties other than counties of the first
13 class.

14 (ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L.665,
15 No.155), known as the First Class City Home Rule Act.

16 (iii) An individual serving as a county chief executive as designated by a
17 county home rule charter or optional plan form of government pursuant to the act
18 of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and
19 Optional Plans Law.

20 (12) A mandated reporter of suspected child abuse under section 6311 (relating
21 to persons required to report suspected child abuse) who made a report of abuse
22 involving the subject child shall be limited to the following:

23 (i) Whether the child abuse report is indicated, founded or unfounded.

24 (ii) Any services provided, arranged for or to be provided by the county
25 agency to protect the child.

26 (13) School administrators and child-care service employers, as provided under
27 this paragraph. The following shall apply:

28 (i) If the alleged perpetrator is a school employee or child-care service
29 employee, school administrators and child-care service employers shall receive
30 notice of a pending allegation and the final status of the report following the
31 investigation as to whether the report is indicated, founded or unfounded.

1 (ii) Information disclosed pursuant to this paragraph shall be provided to the
2 school administrator or child-care service employer within ten days of the
3 completion of the investigation.

4 (iii) If the perpetrator is a school employee, the notice of the final status of the
5 report shall be sent to the Department of Education within ten days of the
6 completion of the investigation.

7 (14) A prospective adoptive parent, approved by an adoption agency, when
8 considering adopting an abused child in the custody of a county agency. The county
9 agency having custody of the child and the adoption agency shall determine the
10 scope and detail of information which must be provided so that the prospective
11 parent may make an informed decision to adopt.

12 (15) Appropriate officials of another county or state regarding an investigation
13 related to child abuse or protective services when a family has moved to that county
14 or state. Reports under this paragraph shall include general protective service
15 reports and related information. Reports and information under this paragraph shall
16 be provided within seven calendar days. The department shall promulgate
17 regulations as necessary to carry out the purposes of this paragraph.

18 (16) Members of citizen review panels convened pursuant to section 6343.1
19 (relating to citizen review panels), provided that such members shall not disclose to
20 any person or government official any identifying information about any specific child
21 protective services case with respect to which the panel is provided information.

22 (17) A member of a child fatality or near fatality review team under section
23 6365(d).

24 (18) The Department of the Auditor General in conjunction with the
25 performances of the duties designated to the Office of Auditor General, except that
26 the Auditor General may not remove identifiable reports or copies thereof from the
27 department or county agency.

28 (b) **Release of information to subject.**--Upon a written request, a subject of a
29 report may receive a copy of all information, except that prohibited from being disclosed
30 by subsection (c), contained in the Statewide database or in any report filed pursuant to
31 section 6313 (relating to reporting procedure).

32 (c) **Protecting identity.**--Except for reports under subsection (a)(9) and (10) and in
33 response to a law enforcement official investigating allegations of false reports under 18
34 Pa. C.S. § 4906.1 (relating to false reports of child abuse), the release of data by the
35 department, county, institution, school, facility or agency or designated agent of the

1 person in charge that would identify the person who made a report of suspected child
2 abuse or who cooperated in a subsequent investigation is prohibited. Law enforcement
3 officials shall treat all reporting sources as confidential informants.

4 (d) **Exclusion of information.**--Except as provided under section 6341(c.2)(4)
5 (relating to amendment or expunction of information), information maintained in the
6 Statewide database obtained from an investigating agency in relation to an appeal
7 request shall not be released to any person except a department official. Information in
8 the Statewide database or a confidential report provided under section 6341(c.2)(4)
9 shall be subject to subsection (c).

10 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127; Nov. 30, 2004,
11 P.L.1618, No.207, eff. 60 days; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; July 3, 2008, P.L.276,
12 No.33, eff. 180 days; Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014; Apr. 7, 2014, P.L.388, No.29,
13 eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff.
14 imd.; Oct. 28, 2016, P.L.966, No.115, eff. imd.; Oct. 23, 2018, P.L.583, No.88, eff. 60 days)

15 **2018 Amendment.** Act 88 amended subsec. (a)(5.1).

16 **2016 Amendment.** Act 115 added subsec. (a)(9)(v).

17 **2015 Amendment.** Act 15 added subsec. (a)(18).

18 **2014 Amendments.** Act 29 amended subsecs. (a)(9), (10), (12) and (13), (b), (c) and (d) and Act 153
19 amended subsecs. (a)(9)(i) and (c).

20 **2013 Amendment.** See section 6 of Act 107 in the appendix to this title for special provisions relating to
21 applicability.

22 **2008 Amendment.** Act 33 added subsec. (a)(17).

23 **2006 Amendment.** Act 146 amended subsec. (a)(1) and added subsec. (a)(16).

24 **2004 Amendment.** Act 207 amended subsec. (a)(5). See section 29 of Act 207 in the appendix to this
25 title for special provisions relating to construction of law.

26 **1998 Amendment.** Act 127 amended subsec. (a)(5), (9) and (10) and added subsec. (a)(15), effective
27 immediately as to subsec. (a)(5) and (15) and March 1, 1999, as to the remainder of the section.

28 **References in Text.** The act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and
29 Optional Plans Law, referred to in subsec. (a), was repealed by the act of December 19, 1996 (P.L.1158,
30 No.177). The subject matter is now contained in Subpart E of Part III of Title 53 (Municipalities Generally).

31 **Cross References.** Section 6340 is referred to in sections 5329.1, 6314, 6334, 6335, 6341, 6343, 6346,
32 6365, 6375 of this title.

33 **§ 6340.1. Exchange of information.**

34 (a) **Certified medical practitioners.**--In circumstances which negatively affect the
35 medical health of a child, a certified medical practitioner shall, in a timely manner,

1 provide the county agency with the following information when an assessment for
2 general protective services or a child abuse investigation is being conducted or when
3 the family has been accepted for services by a county agency:

4 (1) Relevant medical information known to the certified medical practitioner
5 regarding the child's prior and current health.

6 (2) Information from a subsequent examination.

7 (3) Information regarding treatment of the child.

8 (4) Relevant medical information known regarding any other child in the child's
9 household where such information may contribute to the assessment, investigation
10 or provision of services by the county agency to the child or other children in the
11 household.

12 (b) **Parental consent.**--Parental consent is not required for the certified medical
13 practitioner to provide the information under subsection (a).

14 (c) **Request by certified medical practitioner.**--If requested by the child's primary
15 care physician or a certified medical practitioner who is providing medical care to the
16 child, the county agency, in order to ensure the proper medical care of the child, shall
17 provide the following information as it pertains to circumstances which negatively affect
18 the medical health of the child:

19 (1) The final status of any assessment of general protective services or an
20 investigation of child abuse, if the report of child abuse is indicated or founded.

21 (2) Information on an unfounded report of child abuse if the certified medical
22 practitioner made the report as a mandated reporter under section 6311 (relating to
23 persons required to report suspected child abuse).

24 (3) If accepted for services, any service provided, arranged for or to be provided
25 by the county agency.

26 (4) The identity of other certified medical practitioners providing medical care to
27 the child to obtain the child's medical records to allow for coordination of care
28 between medical practitioners.

29 (d) **Notification by county agency.**--In circumstances which negatively affect the
30 medical health of a child, the county agency shall notify the certified medical practitioner
31 who is the child's primary care provider, if known, of the following information:

32 (1) The final status of any assessment of general protective services or an
33 investigation of child abuse, if the report of child abuse is indicated or founded.

1 (2) Information on an unfounded report of child abuse if the certified medical
2 practitioner made the report as a mandated reporter under section 6311.

3 (3) If accepted for services, any service provided, arranged for or to be provided
4 by the county agency.

5 (Oct. 22, 2014, P.L.2876, No.176, eff. Dec. 31, 2014)

6 **2014 Amendment.** Act 176 added section 6340.1.

7 **§ 6341. Amendment or expunction of information.**

8 (a) **General rule.**--Notwithstanding section 6338.1 (relating to expunction of
9 information of perpetrator who was under 18 years of age when child abuse was
10 committed):

11 (1) At any time, the secretary may amend or expunge any record in the
12 Statewide database under this chapter upon good cause shown and notice to the
13 appropriate subjects of the report. The request shall be in writing in a manner
14 prescribed by the department. For purposes of this paragraph, good cause shall
15 include, but is not limited to, the following:

16 (i) Newly discovered evidence that an indicated report of child abuse is
17 inaccurate or is being maintained in a manner inconsistent with this chapter.

18 (ii) A determination that the perpetrator in an indicated report of abuse no
19 longer represents a risk of child abuse and that no significant public purpose
20 would be served by the continued listing of the person as a perpetrator in the
21 Statewide database.

22 (2) Any person named as a perpetrator, and any school employee named, in an
23 indicated report of child abuse may, within 90 days of being notified of the status of
24 the report, request an administrative review by, or appeal and request a hearing
25 before, the secretary to amend or expunge an indicated report on the grounds that it
26 is inaccurate or it is being maintained in a manner inconsistent with this chapter. The
27 request shall be in writing in a manner prescribed by the department.

28 (3) Within 60 days of a request under paragraph (1) or a request for
29 administrative review under paragraph (2), the department shall send notice of the
30 secretary's decision.

31 (b) **Review of grant of request.**--If the secretary grants the request under
32 subsection (a)(2), the Statewide database, appropriate county agency, appropriate law
33 enforcement officials and all subjects shall be so advised of the decision. The county
34 agency and any subject have 90 days in which to file an administrative appeal with the

1 secretary. If an administrative appeal is received, the secretary or his designated agent
2 shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31,
3 No.21), known as the Public Welfare Code, attending departmental regulations. If no
4 administrative appeal is received within the designated time period, the Statewide
5 database shall comply with the decision of the secretary and advise the county agency
6 to amend or expunge the information in their records so that the records are consistent
7 at both the State and local levels.

8 (c) **Review of refusal of request.**--Subject to subsection (c.1), if the secretary
9 refuses a request under subsection (a)(1) or a request for administrative review under
10 subsection (a)(2), or does not act within the prescribed time, the perpetrator or school
11 employee shall have the right to appeal and request a hearing before the secretary to
12 amend or expunge an indicated report on the grounds that it is inaccurate or it is being
13 maintained in a manner inconsistent with this chapter. The request for hearing must be
14 made within 90 days of notice of the decision. The appropriate county agency and
15 appropriate law enforcement officials shall be given notice of the hearing. The burden of
16 proof in the hearing shall be on the appropriate county agency. The department shall
17 assist the county agency as necessary.

18 (c.1) **Founded reports.**--A person named as a perpetrator in a founded report of
19 child abuse must provide to the department a court order indicating that the underlying
20 adjudication that formed the basis of the founded report has been reversed or vacated.

21 (c.2) **Hearing.**--A person making an appeal under subsection (a)(2) or (c) shall have
22 the right to a timely hearing to determine the merits of the appeal. A hearing shall be
23 scheduled according to the following procedures:

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

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

28 (3) After reasonable efforts required by paragraph (2) have been made, the
29 department shall enter a scheduling order, and proceedings before the Bureau of
30 Hearings and Appeals shall commence within 90 days of the date the scheduling
31 order is entered, unless all parties have agreed to a continuance. Proceedings and
32 hearings shall be scheduled to be heard on consecutive days whenever possible,
33 but if not on consecutive days, then the proceeding or hearing shall be concluded
34 not later than 30 days from commencement.

35 (4) The department or county agency shall provide a person making an appeal
36 with evidence gathered during the child abuse investigation within its possession

1 that is relevant to the child abuse determination, subject to sections 6339 (relating to
2 confidentiality of reports) and 6340 (relating to release of information in confidential
3 reports).

4 (5) The department or county agency shall bear the burden of proving by
5 substantial evidence that the report should remain categorized as an indicated
6 report.

7 (c.3) Prompt decision.--The administrative law judge's or hearing officer's decision
8 in a hearing under subsection (c.2) shall be entered, filed and served upon the parties
9 within 45 days of the date upon which the proceeding or hearing is concluded unless,
10 within that time, the tribunal extends the date for the decision by order entered of record
11 showing good cause for the extension. In no event shall an extension delay the entry of
12 the decision more than 60 days after the conclusion of the proceeding or hearing.

13 (c.4) **Notice of decision.**--Notice of the decision shall be made to the Statewide
14 database, the appropriate county agency, any appropriate law enforcement officials and
15 all subjects of the report, except for the abused child.

16 (d) **Stay of proceedings.**--Any administrative appeal proceeding pursuant to
17 subsection (b) shall be automatically stayed upon notice to the department by either of
18 the parties when there is a pending criminal proceeding or a dependency or
19 delinquency proceeding pursuant to 42 Pa. C.S. Ch. 63 (relating to juvenile matters),
20 including any appeal thereof, involving the same factual circumstances as the
21 administrative appeal.

22 (e) **Order.**--The secretary or designated agent may make any appropriate order
23 respecting the amendment or expunction of such records to make them accurate or
24 consistent with the requirements of this chapter.

25 (f) **Notice of expunction.**--Written notice of an expunction of any child abuse
26 record made pursuant to the provisions of this chapter shall be served upon the subject
27 of the record who was responsible for the abuse or injury and the appropriate county
28 agency. Except as provided in this subsection, the county agency, upon receipt of the
29 notice, shall take appropriate, similar action in regard to the local child abuse records
30 and inform, for the same purpose, the appropriate coroner if that officer has received
31 reports pursuant to section 6367 (relating to reports to department and coroner).
32 Whenever the county agency investigation reveals, within 60 days of receipt of the
33 report of suspected child abuse, that the report is unfounded but that the subjects need
34 services provided or arranged by the county agency, the county agency shall retain
35 those records and shall specifically identify that the report was an unfounded report of
36 suspected child abuse. An unfounded report regarding subjects who receive services

1 shall be expunged no later than 120 days following the expiration of one year after the
2 termination or completion of services provided or arranged by the county agency.

3 (g) **Reconsideration and appeal.**--Parties to a proceeding or hearing held under
4 subsection (c.2) have 15 calendar days from the mailing date of the final order of the
5 Bureau of Hearings and Appeals to request the secretary to reconsider the decision.
6 Parties to a proceeding or hearing held under this section have 30 calendar days from
7 the mailing date of the final order of the Bureau of Hearings and Appeals to perfect an
8 appeal to Commonwealth Court. The filing for reconsideration shall not toll the 30 days
9 provided.

10 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999;
11 Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014;
12 May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

13 **2014 Amendment.** Act 45 reenacted and amended the entire section. Section 16 of Act 45 provided that,
14 notwithstanding section 7(2) of Act 119 of 2013, subsecs. (c.1), (c.2), (c.3), (c.4) and (g) shall apply on
15 and after December 31, 2014.

16 **2013 Amendment.** Section 6 of Act 119 provided that the amendment of section 6341 shall apply to
17 appeals filed on or after the effective date of section 6.

18 **References in Text.** The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public
19 Welfare Code, referred to in subsection (b), was amended by the act of December 28, 2015, P.L.500,
20 No.92. The amended short title is now the Human Services Code.

21 **Cross References.** Section 6341 is referred to in sections 6340, 6368, 6381 of this title.

22 **§ 6342. Studies of data in records.**

23 (a) **Studies.**--The department may conduct or authorize the conducting of studies of
24 the data contained in the Statewide database and by county agencies and distribute the
25 results of the studies. No study may contain the name or other information by which a
26 subject of a report could be identified. The department may allow Federal auditors
27 access to nonidentifiable duplicates of reports in the Statewide database if required for
28 Federal financial participation in funding of agencies.

29 (b) **Data form.**--The department shall develop a data form to facilitate the collection
30 of statistical and demographic information from a child fatality or near fatality review
31 team and a county agency, which can be incorporated into a study conducted by the
32 department.

33 (July 3, 2008, P.L.276, No.33, eff. 180 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

34 **2014 Amendment.** Act 29 amended subsec. (a).

35 **Cross References.** Section 6342 is referred to in sections 6335, 6336 of this title.

1 **§ 6343. Investigating performance of county agency.**

2 (a) **General rule.**--If, within 30 days from the date of an initial report of suspected
3 child abuse, the appropriate county agency has not investigated the report and informed
4 the department that the report is an indicated report or an unfounded report or unless
5 within that same 30-day period the report is determined to be a founded report, the
6 department shall have the authority to begin an inquiry into the performance of the
7 county agency which inquiry may include a performance audit of the county agency as
8 provided in subsection (b). On the basis of that inquiry, the department shall take
9 appropriate action to require that the provisions of this chapter be strictly followed,
10 which action may include, without limitation, the institution of appropriate legal action
11 and the withholding of reimbursement for all or part of the activities of the county
12 agency. The department shall determine in its review whether the county agency has
13 sufficiently documented reasons why the investigation has not been completed in the
14 30-day period.

15 (b) **Performance audit.**--Notwithstanding any other provision of this chapter, the
16 secretary or a designee of the secretary may direct, at their discretion, and after
17 reasonable notice to the county agency, a performance audit of any activity engaged in
18 pursuant to this chapter.

19 (c) **Department reviews and reports of child fatalities and near fatalities.**--

20 (1) The department shall conduct a child fatality and near fatality review and
21 provide a written report on any child fatality or near fatality, if child abuse is
22 suspected. The department shall summarize:

23 (i) the circumstances of the child's fatality or near fatality;

24 (ii) the nature and extent of its review;

25 (iii) statutory and regulatory compliance by the county agency in the county
26 where:

27 (A) the fatality or near fatality occurred; and

28 (B) the child resided within the 16 months preceding the fatality or near
29 fatality;

30 (iv) its findings; and

31 (v) recommendations for reducing the likelihood of future child fatalities and
32 near fatalities resulting from child abuse.

1 (2) The department's child fatality or near fatality review shall be commenced
2 immediately upon receipt of a report to the department that a child died or nearly
3 died as a result of suspected child abuse. The department shall provide assistance
4 and relevant information to the child fatality or near fatality review team and attempt
5 to coordinate its fact-finding efforts and interviews with the team to avoid duplication.
6 The department's child fatality or near fatality review and report shall be completed
7 as soon as possible but no later than six months from receipt of the initial report of
8 the child fatality or near fatality.

9 (3) Prior to completing its report, the department may release the following
10 information to the public concerning a child who died or nearly died as a result of
11 suspected or substantiated child abuse:

12 (i) The identity of the child, only in the case of a child's fatality.

13 (ii) If the child was in the custody of a public or private agency, the identity of
14 the agency.

15 (iii) The identity of the public or private agency under contract with a county
16 agency to provide services to the child and the child's family in the child's home
17 prior to the child's death or near fatality.

18 (iv) A description of services provided under subparagraph (iii).

19 (v) The identity of the county agency that convened a child fatality or near
20 fatality review team with respect to the child.

21 (4) Upon completion of the review and report, the department's child fatality or
22 near fatality report shall be made available to the county agency, the child fatality or
23 near fatality review team and designated county officials under section 6340(a)(11)
24 (relating to release of information in confidential reports). The report shall be made
25 available, upon request, to other individuals to whom confidential reports may be
26 released, as specified by section 6340. The department's report shall be made
27 available to the public, but identifying information shall be removed from the contents
28 of the report except for disclosure of: the identity of a deceased child; if the child was
29 in the custody of a public or private agency, the identity of the agency; the identity of
30 the public or private agency under contract with a county agency to provide services
31 to the child and the child's family in the child's home prior to the child's death or near
32 fatality; and the identity of any county agency that convened a child fatality or near
33 fatality review team in respect to the child. The report shall not be released to the
34 public if the district attorney certifies that release of the report may compromise a
35 pending criminal investigation or proceeding. Certification by the district attorney

1 shall stay the release of the report for a period of 60 days, at which time the report
2 shall be released unless a new certification is made by the district attorney.

3 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; July 3, 2008, P.L.276, No.33, eff. 180 days; May 14,
4 2014, P.L.645, No.44, eff. Dec. 31, 2014)

5 **2014 Amendment.** Act 44 amended subsec. (c)(3).

6 **2008 Amendment.** Act 33 added subsec. (c).

7 **Cross References.** Section 6343 is referred to in sections 6335, 6340, 6368 of this title.

8 **§ 6343.1. Citizen review panels.**

9 (a) **Establishment.**--The department shall establish a minimum of three citizen
10 review panels. The department may designate a child fatality or near fatality review
11 team under section 6365(d) (relating to services for prevention, investigation and
12 treatment of child abuse) as a citizen review panel as long as the team has the capacity
13 to perform as a citizen review panel.

14 (b) **Function.**--The panels shall examine all of the following:

15 (1) Policies, procedures and practices of State and local agencies and, where
16 appropriate, specific cases to evaluate the extent to which State and local child
17 protective services system agencies are effectively discharging their child protection
18 responsibilities under section 106(b) of the Child Abuse Prevention and Treatment
19 Act (Public Law 93-247, 42 U.S.C. § 5106a(b)).

20 (2) Other criteria the panel considers important to ensure the protection of
21 children, including:

22 (i) a review of the extent to which the State and local child protective services
23 system is coordinated with the foster care and adoption programs established
24 under Part E of Title IV of the Social Security Act (49 Stat. 620, 42 U.S.C. § 670
25 et seq.); and

26 (ii) a review of child fatalities and near fatalities, including, but not limited to, a
27 review of any child fatality or near fatality involving a child in the custody of a
28 public or private agency where there is no report of suspected child abuse and
29 the cause of death is neither the result of child abuse nor natural causes.

30 (c) **Membership.**--The panels shall be composed of volunteer members who
31 represent the community, including members who have expertise in the prevention and
32 treatment of child abuse and neglect.

1 (d) **Meetings.**--Each citizen review panel shall meet not less than once every three
2 months.

3 (e) **Reports.**--The department shall issue an annual report summarizing the
4 activities and recommendations of the panels and summarizing the department
5 response to the recommendations.

6 (Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; July 3, 2008, P.L.276, No.33, eff. 180 days)

7 **2008 Amendment.** Act 33 amended subsecs. (a) and (b)(2)(ii).

8 **2006 Amendment.** Act 146 added section 6343.1.

9 **Cross References.** Section 6343.1 is referred to in sections 6335, 6340 of this title.

10 **§ 6344. Employees having contact with children; adoptive and foster parents.**

11 (a) **Applicability.**--Beginning December 31, 2014, this section applies to the
12 following individuals:

13 (1) An employee of child-care services.

14 (2) A foster parent.

15 (3) A prospective adoptive parent.

16 (4) A self-employed provider of child-care services in a family child-care home.

17 (5) (i) Except as provided under subparagraph (ii), an individual 14 years of age
18 or older who is applying for or holding a paid position as an employee with a
19 program, activity or service, as a person responsible for the child's welfare or having
20 direct contact with children.

21 (ii) If the program, activity or service is an internship, externship, work study,
22 co-op or similar program, an adult applying for or holding a paid position with an
23 employer that participates in the internship, externship, work study, co-op or
24 similar program with a school and whom the employer and the school identify as
25 the child's supervisor and the person responsible for the child's welfare while the
26 child participates in the program with the employer. The adult identified under this
27 subparagraph as the person responsible for the child's welfare is required to be
28 in the immediate vicinity at regular intervals with the child during the program.

29 (6) Any individual seeking to provide child-care services under contract with a
30 child-care facility or program.

1 (7) An individual 18 years of age or older who resides in the home of a foster
2 parent for at least 30 days in a calendar year or who resides in the home of a
3 prospective adoptive parent for at least 30 days in a calendar year.

4 (8) An individual 18 years of age or older who resides for at least 30 days in a
5 calendar year in the following homes which are subject to supervision or licensure by
6 the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21),
7 known as the Public Welfare Code:

8 (i) A family living home.

9 (ii) A community home for individuals with an intellectual disability.

10 (iii) A host home for children.

11 This paragraph does not include an individual with an intellectual disability or chronic
12 psychiatric disability receiving services in a home.

13 (a.1) **School employees.**--This section shall apply to school employees as follows:

14 (1) School employees governed by the provisions of the act of March 10, 1949
15 (P.L.30, No.14), known as the Public School Code of 1949, shall be subject to the
16 provisions of section 111 of the Public School Code of 1949, except that this section
17 shall apply with regard to the certification required under subsection (b)(2).

18 (2) (i) School employees not governed by the provisions of the Public School
19 Code of 1949 shall be governed by this section.

20 (ii) This paragraph shall not apply to an employee of an institution of higher
21 education whose direct contact with children, in the course of employment, is
22 limited to either:

23 (A) prospective students visiting a campus operated by the institution of
24 higher education; or

25 (B) matriculated students who are enrolled with the institution.

26 (iii) The exemption under subparagraph (ii)(B) shall not apply to students who
27 are enrolled in a secondary school.

28 (a.2) **Minors.**-- Unless applying for or holding a position in a child day-care center,
29 group day-care home or family child-care home, an individual between 14 and 17
30 years of age who applies for or holds a paid position as an employee who is a person
31 responsible for the child's welfare or a person with direct contact with children through a
32 program, activity or service prior to the commencement of employment or under section

1 6344.4 (relating to recertification) shall be required to submit only the information under
2 subsection (b)(1) and (2) to an employer, administrator, supervisor or other person
3 responsible for employment decisions, if the following apply:

4 (1) The individual has been a resident of this Commonwealth during the entirety
5 of the previous 10-year period or, if not a resident of this Commonwealth during the
6 entirety of the previous 10-year period, has received certification under subsection
7 (b)(3) at any time since establishing residency in this Commonwealth and provides a
8 copy of the certification to the employer.

9 (2) The individual and the individual's parent or legal guardian swear or affirm in
10 writing that the individual is not disqualified from service under subsection (c) or has
11 not been convicted of an offense similar in nature to those crimes listed in
12 subsection (c) under the laws or former laws of the United States or one of its
13 territories or possessions, another state, the District of Columbia, the
14 Commonwealth of Puerto Rico or a foreign nation, or under a former law of this
15 Commonwealth.

16 (a.3) **Exchange visitor.**-- Unless applying for or holding a position in a child day-
17 care center, group day-care home or family child-care home, an individual in
18 possession of a nonimmigrant visa issued pursuant to 8 U.S.C. § 1101(a)(15)(J)
19 (relating to definitions) to an exchange visitor, commonly referred to as a "J-1" Visa,
20 shall not be required to submit information under subsection (b) if all of the following
21 apply:

22 (1) The individual is applying for or holds a paid position with a program, activity
23 or service for a period not to exceed a total of 90 days in a calendar year.

24 (2) The individual has not been employed previously in this Commonwealth or
25 another state, the District of Columbia or the Commonwealth of Puerto Rico.

26 (3) The individual swears or affirms in writing that the individual is not
27 disqualified from service under subsection (c) or has not been convicted of an
28 offense similar in nature to the crimes listed under subsection (c) under the laws or
29 former laws of the United States or one of its territories or possessions, another
30 state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation,
31 or under a former law of this Commonwealth.

32 (b) **Information to be submitted.**--An individual identified in subsection (a)(7) or (8)
33 at the time the individual meets the description set forth in subsection (a)(7) or (8) and
34 an individual identified in subsection (a)(1), (2), (3), (4), (5) or (6), (a.1), (a.2) or (a.3)
35 prior to the commencement of employment or service or in accordance with section
36 6344.4 shall be required to submit the following information to an employer,

1 administrator, supervisor or other person responsible for employment decisions or
2 involved in the selection of volunteers:

3 (1) Pursuant to 18 Pa. C.S. Ch. 91 (relating to criminal history record
4 information), a report of criminal history record information from the Pennsylvania
5 State Police or a statement from the Pennsylvania State Police that the State Police
6 central repository contains no such information relating to that person. The criminal
7 history record information shall be limited to that which is disseminated pursuant to
8 18 Pa. C.S. § 9121(b)(2) (relating to general regulations).

9 (2) A certification from the department as to whether the applicant is named in
10 the Statewide database as the alleged perpetrator in a pending child abuse
11 investigation or as the perpetrator of a founded report or an indicated report.

12 (3) A report of Federal criminal history record information. The applicant shall
13 submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a
14 record check, and the Pennsylvania State Police or its authorized agent shall submit
15 the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the
16 identity of the applicant and obtaining a current record of any criminal arrests and
17 convictions.

18 (b.1) **Required documentation to be maintained and produced.**--The employer,
19 administrator, supervisor or other person responsible for employment decisions or
20 acceptance of the individual to serve in any capacity identified in subsection (a)(1), (2),
21 (3), (4), (5) or (6), (a.1) or (a.2) shall maintain a copy of the required information and
22 require the individual to submit the required documents prior to employment or
23 acceptance to serve in any such capacity or as required in section 6344.4, except as
24 allowed under subsection (m).

25 (b.2) **Investigation.**--An employer, administrator, supervisor or other person
26 responsible for employment decisions shall require an applicant to submit the required
27 documentation set forth in this chapter or as required in section 6344.4. An employer,
28 administrator, supervisor or other person responsible for employment decisions that
29 intentionally fails to require an applicant to submit the required documentation before
30 the applicant's hiring or upon recertification commits a misdemeanor of the third degree.

31 (b.3) **Volunteer certification prohibition.**--An employer, administrator, supervisor
32 or other person responsible for employment decisions is prohibited from accepting a
33 certification that was obtained for volunteering purposes under section 6344.2 (relating
34 to volunteers having contact with children).

35 (c) **Grounds for denying employment or participation in program, activity or**
36 **service.-**

1 (1) In no case shall an employer, administrator, supervisor or other person
2 responsible for employment decisions or involved in the selection of volunteers hire
3 or approve an applicant where the department has verified that the applicant is
4 named in the Statewide database as the perpetrator of a founded report committed
5 within the five-year period immediately preceding verification pursuant to this
6 section.

7 (2) In no case shall an employer, administrator, supervisor or other person
8 responsible for employment decisions or involved in the selection of volunteers hire
9 or approve an applicant if the applicant's criminal history record information indicates
10 the applicant has been convicted of one or more of the following offenses under Title
11 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the
12 law of another state:

13 Chapter 25 (relating to criminal homicide).

14 Section 2702 (relating to aggravated assault).

15 Section 2709.1 (relating to stalking).

16 Section 2901 (relating to kidnapping).

17 Section 2902 (relating to unlawful restraint).

18 Section 3121 (relating to rape).

19 Section 3122.1 (relating to statutory sexual assault).

20 Section 3123 (relating to involuntary deviate sexual intercourse).

21 Section 3124.1 (relating to sexual assault).

22 Section 3125 (relating to aggravated indecent assault).

23 Section 3126 (relating to indecent assault).

24 Section 3127 (relating to indecent exposure).

25 Section 4302 (relating to incest).

26 Section 4303 (relating to concealing death of child).

27 Section 4304 (relating to endangering welfare of children).

28 Section 4305 (relating to dealing in infant children).

1 A felony offense under section 5902(b) (relating to prostitution and related
2 offenses).

3 Section 5903(c) or (d) (relating to obscene and other sexual materials and
4 performances).

5 Section 6301 (relating to corruption of minors).

6 Section 6312 (relating to sexual abuse of children).

7 The attempt, solicitation or conspiracy to commit any of the offenses set forth in
8 this paragraph.

9 (3) In no case shall an employer, administrator, supervisor or other person
10 responsible for employment decisions hire or approve an applicant if the applicant's
11 criminal history record information indicates the applicant has been convicted of a
12 felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The
13 Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-
14 year period immediately preceding verification under this section.

15 (4) In addition to paragraphs (1), (2) and (3), in no case shall an employer,
16 administrator, supervisor or other person responsible for employment decisions or
17 involved in the selection of volunteers at a child day-care center, group day-care
18 home or family child-care home hire or approve an applicant under any of the
19 following circumstances:

20 (i) The applicant's criminal history record information indicates the applicant
21 has been convicted of any of the following:

22 (A) One or more of the following offenses under Title 18 or an equivalent
23 crime under Federal law or the law of another state:

24 A felony offense under section 2718 (relating to strangulation).

25 A felony offense under section 3301 (relating to arson and related
26 offenses).

27 (B) An offense under 18 U.S.C. § 2261 (relating to interstate domestic
28 violence) or 2262 (relating to interstate violation of protection order).

29 (ii) The applicant's name appears on the National Crime Information Center
30 National Sex Offender Registry or on a state's sex offender registry.

31 (iii) The applicant's name appears on a Statewide database or its equivalent
32 as a perpetrator of child abuse.

1 (c.1) **Dismissal.**--If the information obtained pursuant to subsection (b) reveals that
2 the applicant is disqualified from employment or approval pursuant to subsection (c), the
3 applicant shall be immediately dismissed from employment or approval

4 (d) **Prospective adoptive or foster parents.**--With regard to prospective adoptive
5 or prospective foster parents, the following shall apply:

6 (1) In the course of causing an investigation to be made pursuant to section
7 2535(a) (relating to investigation), an agency or person designated by the court to
8 conduct the investigation shall require prospective adoptive parents and any
9 individual over the age of 18 years residing in the home to submit the information set
10 forth in subsection (b) for review in accordance with this section. If a prospective
11 adoptive parent, or any individual over 18 years of age residing in the home, has
12 resided outside this Commonwealth at any time within the previous five-year period,
13 the agency or person designated by the court shall require that person to submit a
14 certification obtained within the previous one-year period from the Statewide central
15 registry, or its equivalent in each state in which the person has resided within the
16 previous five-year period, as to whether the person is named as a perpetrator of
17 child abuse. If the certification shows that the person is named as a perpetrator of
18 child abuse within the previous five-year period, the agency or person designated by
19 the court shall forward the certification to the department for review. The agency or
20 person designated by the court shall not approve the prospective adoptive parent if
21 the department determines that the person is named as the equivalent of a
22 perpetrator of a founded report of child abuse within the previous five-year period.

23 (2) In the course of approving a prospective foster parent, a foster family care
24 agency shall require prospective foster parents and any individual over the age of 18
25 years residing in the home to submit the information set forth in subsection (b) for
26 review by the foster family care agency in accordance with this section. If a
27 prospective foster parent, or any individual over 18 years of age residing in the
28 home, has resided outside this Commonwealth at any time within the previous five-
29 year period, the foster family care agency shall require that person to submit a
30 certification obtained within the previous one-year period from the Statewide central
31 registry, or its equivalent in each state in which the person has resided within the
32 previous five-year period, as to whether the person is named as a perpetrator of
33 child abuse. If the certification shows that the person is named as a perpetrator of
34 child abuse within the previous five-year period, the foster family care agency shall
35 forward the certification to the department for review. The foster family care agency
36 shall not approve the prospective foster parent if the department determines that the
37 person is named as the equivalent of a perpetrator of a founded report of child
38 abuse within the previous five-year period. In addition, the foster family care agency

1 shall consider the following when assessing the ability of applicants for approval as
2 foster parents:

3 (i) The ability to provide care, nurturing and supervision to children.

4 (ii) Mental and emotional well-being. If there is a question regarding the
5 mental or emotional stability of a family member which might have a negative
6 effect on a foster child, the foster family care agency shall require a psychological
7 evaluation of that person before approving the foster family home.

8 (iii) Supportive community ties with family, friends and neighbors.

9 (iv) Existing family relationships, attitudes and expectations regarding the
10 applicant's own children and parent/child relationships, especially as they might
11 affect a foster child.

12 (v) Ability of the applicant to accept a foster child's relationship with his own
13 parents.

14 (vi) The applicant's ability to care for children with special needs.

15 (vii) Number and characteristics of foster children best suited to the foster
16 family.

17 (viii) Ability of the applicant to work in partnership with a foster family care
18 agency. This subparagraph shall not be construed to preclude an applicant from
19 advocating on the part of a child.

20 (3) (Deleted by amendment).

21 (4) (Deleted by amendment).

22 (4.1) If a foster parent, prospective adoptive parent or an individual over 18
23 years of age residing in the home is arrested for or convicted of an offense that
24 would constitute grounds for denying approval under this chapter or is named as a
25 perpetrator in a founded or indicated report, the foster parent or prospective adoptive
26 parent shall provide the foster family care agency or the agency listed to provide
27 adoption services with written notice not later than 72 hours after the arrest,
28 conviction or notification that the individual was named as a perpetrator in the
29 Statewide database.

30 (5) Foster parents and prospective adoptive parents shall be required to report
31 any other change in the family household composition within 30 days of the change
32 for review by the foster family care agency or the agency listed to provide adoption
33 services. If any individual over 18 years of age, who has resided outside this

1 Commonwealth at any time within the previous five-year period, begins residing in
2 the home of an approved foster family or a prospective adoptive family, that
3 individual shall, within 30 days of beginning residence, submit to the foster family
4 care agency or the agency listed to provide adoption services a certification obtained
5 from the Statewide database, or its equivalent in each state in which the person has
6 resided within the previous five-year period, as to whether the person is named as a
7 perpetrator. If the certification shows that the person is named as a perpetrator
8 within the previous five-year period, the foster family care agency or the agency
9 listed to provide adoption services shall forward the certification to the department
10 for review. If the department determines that the person is named as the equivalent
11 of a perpetrator of a founded report within the previous five-year period and the
12 person does not cease residing in the home immediately, the county agency shall
13 immediately seek court authorization to remove the foster child or children from the
14 home. In emergency situations when a judge cannot be reached, the county agency
15 shall proceed in accordance with the Pennsylvania Rules of Juvenile Court
16 Procedure.

17 (6) In cases where foster parents knowingly fail to submit the material
18 information required in paragraphs (4.1) and (5) and section 6344.4 such that it
19 would disqualify them as foster parents, the county agency shall immediately seek
20 court authorization to remove the foster child or children from the home. In
21 emergency situations when a judge cannot be reached, the county agency shall
22 proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.

23 (7) An approved foster parent shall not be considered an employee for any
24 purpose, including, but not limited to, liability, unemployment compensation, workers'
25 compensation or other employee benefits provided by the county agency.

26 (8) The department shall require information based upon certain criteria for
27 foster and adoptive parent applications. The criteria shall include, but not be limited
28 to, information provided by the applicant or other sources in the following areas:

29 (i) Previous addresses within the last 10 years.

30 (ii) Criminal history background certification generated by the process
31 outlined in this section.

32 (iii) Child abuse certification generated by the process outlined in this section.

33 (iv) Composition of the resident family unit.

34 (v) Protection from abuse orders filed by or against either parent, provided
35 that such orders are accessible to the county or private agency.

1 (vi) Details of any proceedings brought in family court, provided that such
2 records in such proceedings are accessible to the county or private agency.

3 (vii) Drug-related or alcohol-related arrests, if criminal charges or judicial
4 proceedings are pending, and any convictions or hospitalizations within the last
5 five years. If the applicant provides information regarding convictions or
6 hospitalizations in that five-year period, then information on the prior five years
7 shall be requested related to any additional convictions or hospitalizations.

8 (viii) Evidence of financial stability, including income verification, employment
9 history, current liens and bankruptcy findings within the last 10 years.

10 (ix) Number of and ages of foster children and other dependents currently
11 placed in the home.

12 (x) Detailed information regarding children with special needs currently living
13 in the home.

14 (xi) Previous history as a foster parent, including number and types of
15 children served.

16 (xii) Related education, training or personal experience working with foster
17 children or the child welfare system.

18 **(d.1) Establishment of a resource family registry.--**

19 (1) The department shall establish a registry of resource family applicants.

20 (2) The foster family care agency or adoption agency shall register all resource
21 family applicants on the resource family registry in accordance with subsection (d.2).

22 (3) The foster family care agency or adoption agency shall register all resource
23 families that are approved on the effective date of this subsection within six months
24 of the effective date of this subsection.

25 (4) Any resource family that is voluntarily registered on the foster parent registry
26 shall be maintained on the resource family registry mandated under this section.

27 **(d.2) Information in the resource family registry.--**

28 (1) The resource family registry shall include, but not be limited to, the following:

29 (i) The name, Social Security number, date of birth, sex, marital status, race
30 and ethnicity of the applicants.

31 (ii) The date or dates of the resource family application.

- 1 (iii) The current and previous home addresses of the applicants.
- 2 (iv) The county of residence of the applicants.
- 3 (v) The name, date of birth, Social Security number and relationship of all
4 household members.
- 5 (vi) The name, address and telephone number of all current and previous
6 foster family care agency or adoption agency affiliations.
- 7 (vii) The foster family care agency or adoption agency disposition related to
8 the approval or disapproval of the applicants and the date and basis for the
9 disposition.
- 10 (viii) The type of care the resource family will provide.
- 11 (ix) The number of children that may be placed in the resource family home.
- 12 (x) The age, race, gender and level of special needs of children that may be
13 placed in the resource family home.
- 14 (xi) The ability of the resource family to provide care for sibling groups.
- 15 (xii) The date and reason for any closure of the resource family home.
- 16 (xiii) The appeal activity initiated by a resource family applicant or an
17 approved resource family and the basis for the appeal. This subparagraph shall
18 not be construed to limit legitimate appeals.
- 19 (xiv) The status and disposition of all appeal-related activities. This
20 subparagraph shall not be construed to limit legitimate appeals.
- 21 (2) The information maintained in the resource family registry may be released
22 to the following individuals when the department has positively identified the
23 individual requesting the information and the department, except in the case of
24 subparagraphs (iii) and (iv), has inquired into whether and if it is satisfied that the
25 individual has a legitimate need within the scope of the individual's official duties to
26 obtain the information:
- 27 (i) An authorized official of a county or private agency, a Federal agency or
28 an agency of another state who performs resource family approvals or the
29 department in the course of the official's duties.
- 30 (ii) A guardian ad litem or court-designated advocate for a child. The
31 information is limited to the information related to the resource family with whom
32 the child resides.

1 (iii) A court of competent jurisdiction, including a district justice, a judge of the
2 Municipal Court of Philadelphia or a judge of the Pittsburgh Magistrates Court,
3 pursuant to court order or subpoena in a criminal matter involving a charge of
4 child abuse under Chapter 63 (relating to child protective services).

5 (iv) A court of competent jurisdiction in connection with any matter involving
6 custody of a child. The department shall provide to the court any files that the
7 court considers relevant.

8 (v) The Attorney General.

9 (vi) Federal auditors, if required for Federal financial participation in funding
10 of agencies, except that Federal auditors may not remove identifiable information
11 or copies thereof from the department or county or private agencies.

12 (vii) Law enforcement agents of any jurisdiction, as long as the information is
13 relevant in the course of investigating crimes involving the resource family.

14 (viii) Appropriate officials of a private agency or another county or state
15 regarding a resource family that has applied to become a resource family for that
16 agency, county or state.

17 (3) At any time and upon written request, a resource family may receive a copy
18 of all information pertaining to that resource family contained in the resource family
19 registry.

20 **(d.3) Family living homes, community homes for individuals with an**
21 **intellectual disability and host homes.--**

22 (1) The following shall apply to an individual over 18 years of age residing in a
23 family living home, a community home for individuals with an intellectual disability or
24 a host home for children, which are subject to supervision or licensure by the
25 department under Articles IX and X of the Public Welfare Code:

26 (i) If an individual is arrested for or convicted of an offense that would
27 constitute grounds for denying approval under this chapter, or is named as a
28 perpetrator in a founded or indicated report, the individual shall provide the
29 agency with written notice not later than 72 hours after the arrest, conviction or
30 notification that the individual was named as a perpetrator in the Statewide
31 database.

32 (ii) The adult family member who is providing services to a child in the home
33 shall be required to report any other change in the household composition within
34 30 days of the change for review by the agency. If any individual over 18 years of

1 age, who has resided outside this Commonwealth at any time within the previous
2 five-year period, begins residing in the home, that individual shall, within 30 days
3 of beginning residence, submit to the agency a certification obtained from the
4 Statewide database, or its equivalent in each state in which the individual has
5 resided within the previous five-year period, as to whether the person is named
6 as a perpetrator. If the certification shows that the person is named as a
7 perpetrator within the previous five-year period, the agency shall forward the
8 certification to the department for review.

9 (2) This subsection shall not apply to an individual with an intellectual disability
10 or chronic psychiatric disability receiving services in a home.

11 (3) As used in this subsection, the term "agency" means a family living home
12 agency, community home agency for individuals with an intellectual disability or a
13 host home agency.

14 (e) **Self-employed family child-care providers.**--Self-employed family child-care
15 providers who apply for a license with the department shall submit with their licensure
16 application the information set forth under subsection (b) for review in accordance with
17 this section.

18 (f) **Submissions by operators of child-care services.**--The department shall
19 require persons seeking to operate child-care services to submit the information set
20 forth in subsection (b) for review in accordance with this section.

21 (f.1) Additional information for child day-care centers, group day-care homes and
22 family child-care homes.--

23 (1) In addition to the required information under subsection (b), employees and
24 volunteers of a child day-care center, group day-care home or family child-care
25 home shall submit the following in accordance with paragraph (2):

26 (i) The following certifications from an out-of-state database or its equivalent
27 in each state in which the individual resided within the previous five-year period
28 as to whether the individual:

29 (A) Is named in the database as a perpetrator of child abuse.

30 (B) Is named on the out-of-state criminal history repository with a
31 conviction of an offense listed in subsection (c)(2) or (4).

32 (C) Is named on the State's sex offender registry.

1 (ii) Notification from the department stating whether the individual's name
2 appears on the National Crime Information Center National Sex Offender
3 Registry.

4 (2) An applicant for employment or a prospective volunteer at a child day-care
5 center, group day-care home or family child-care home shall submit the information
6 required under paragraph (1) prior to the commencement of employment or service.
7 An employee or a volunteer at a child day-care center, group day-care home or
8 family child-care home as of the date of enactment of this subsection shall submit
9 the information required under paragraph (1) no later than the effective date of this
10 subsection.

11 (g) **Regulations.**--The department shall promulgate the regulations necessary to
12 carry out this section. These regulations shall:

13 (1) Set forth criteria for unsuitability for employment in a child-care service in
14 relation to criminal history record information which may include criminal history
15 record information in addition to that set forth above. The criteria shall be reasonably
16 related to the prevention of child abuse.

17 (2) Set forth sanctions for administrators who willfully hire applicants in violation
18 of this section or in violation of the regulations promulgated under this section.

19 (h) **Fees.**--(Repealed).

20 (h.1) **Form of payment.**--Payment of the fee authorized under subsection (h) may
21 be made by an individual or organization by check, money order, credit card or debit
22 card.

23 (i) **Time limit for certification.**--The department shall comply with certification
24 requests no later than 14 days from the receipt of the request.

25 (j) **Voluntary certification of child caretakers.**--The department shall develop a
26 procedure for the voluntary certification of child caretakers to allow persons to apply to
27 the department for a certificate indicating the person has met the requirements of
28 subsection (b). The department shall also provide for the biennial recertification of child
29 caretakers.

30 (k) **Existing or transferred employees.**--(Deleted by amendment).

31 (l) **Temporary employees under special programs.**--(Deleted by amendment).

32 (m) **Provisional employees for limited periods.**--Employers, administrators,
33 supervisors or other persons responsible for employment decisions may not employ
34 applicants on a provisional basis, except that the department is authorized to grant a

1 waiver of this provision upon request from a child day-care center, group day-care home
2 or family child-care home. If a child day-care center, group day-care home or family
3 child-care home is granted a waiver, an applicant may be employed on a provisional
4 basis for a single period not to exceed 45 days, if all of the following conditions are met:

5 (1) The applicant has applied for the information required under subsection (b)
6 and the applicant provides a copy of the appropriate completed request forms to the
7 employer, administrator, supervisor or other person responsible for employment
8 decisions.

9 (2) The employer, administrator, supervisor or other person responsible for
10 employment decisions has no knowledge of information pertaining to the applicant
11 which would disqualify him from employment pursuant to subsection (c).

12 (3) The applicant swears or affirms in writing that he is not disqualified from
13 employment pursuant to subsection (c) or has not been convicted of an offense
14 similar in nature to those crimes listed in subsection (c) under the laws or former
15 laws of the United States or one of its territories or possessions, another state, the
16 District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under
17 a former law of this Commonwealth.

18 (3.1) A child day-care center, group day-care home or family child-care home
19 received the result of the report of the criminal history record information under
20 subsection (b)(1) or (3).

21 (4) If the information obtained pursuant to subsection (b) reveals that the
22 applicant is disqualified from employment pursuant to subsection (c), the applicant
23 shall be immediately dismissed by the employer, administrator, supervisor or other
24 person responsible for employment decisions.

25 (5) The employer, administrator, supervisor or other person responsible for
26 employment decisions requires that the applicant not be permitted to work alone with
27 children and that the applicant work in the immediate vicinity of a permanent
28 employee.

29 (n) **Confidentiality.**--The information provided and compiled under this section,
30 including, but not limited to, the names, addresses and telephone numbers of applicants
31 and foster and adoptive parents, shall be confidential and shall not be subject to the act
32 of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This information
33 shall not be released except as permitted by the department through regulation.

34 (o) **Use of information.**--A foster family care agency may not approve a
35 prospective foster parent if the prospective foster parent or an individual 18 years of age

1 or older who resides for at least 30 days in a calendar year with the prospective foster
2 parent meets either of the following:

3 (1) Is named in the Statewide database as the perpetrator of a founded report
4 committed within the five-year period immediately preceding verification pursuant to
5 this section.

6 (2) Has been found guilty of an offense listed in subsection (c).

7 (p) **Use of information.**--A prospective adoptive parent may not be approved if the
8 prospective adoptive parent or an individual 18 years of age or older who resides for at
9 least 30 days in a calendar year with the prospective adoptive parent meets either of the
10 following:

11 (1) Is named in the Statewide database as the perpetrator of a founded report
12 committed within the five-year period immediately preceding verification pursuant to
13 this section.

14 (2) Has been found guilty of an offense listed in subsection (c).

15 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60
16 days; Dec. 15, 1998, P.L.963, No.127, eff. Jan. 1, 1999; Dec. 17, 2001, P.L.942, No.112, eff. imd.; Dec.
17 9, 2002, P.L.1759, No.218, eff. 60 days; Nov. 29, 2004, P.L.1291, No.160, eff. 60 days; Nov. 29, 2006,
18 P.L.1581, No.179, eff. 180 days; Dec. 18, 2007, P.L.469, No.73; Apr. 7, 2014, P.L.388, No.29, eff. Dec.
19 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec.
20 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.; Oct. 30, 2017, P.L.379, No.40, eff. imd.; June 28, 2018,
21 P.L.375, No.54, eff. imd.; July 2, 2019, P.L.336, No.47)

22 **2019 Amendment.** Act 47 amended subsecs. (a.2) intro. par., (a.3) intro. par., (c)(1) and (2) and (m)
23 intro. par. and added subsecs. (c)(4), (f.1) and (m)(3.1). Section 4 of Act 47 provided that the amendment
24 or addition of subsec. (m) intro. par. and (3.1) shall take effect December 31, 2019, and September 30,
25 2019, as to the remainder of the section.

26 **2018 Amendment.** Act 54 amended subsecs. (b) intro. par. and (b.1).

27 **2017 Amendment.** Act 40 repealed subsec. (h).

28 **2015 Amendment.** Act 15 amended subsecs. (a), (a.1), (b), (b.1), (b.2), (d)(4.1), (5), (6) and (8) and (e)
29 and added subsecs. (a.2), (a.3), (b.3) and (d.3).

30 **2014 Amendments.** Act 29 amended subsecs. (b)(2), (o)(1) and (p)(1) and added subsec. (h.1), Act 45
31 amended subsecs. (b), (c) hdg. and (1), (o) and (p) and Act 153 amended the section heading and
32 subsecs. (a), (b), (c)(3), (d)(5) and (6), (m), (n) and (p), added subsecs. (a.1), (b.1), (b.2), (c.1) and
33 (d)(4.1) and deleted subsecs. (d)(3) and (4), (k) and (l).

34 **2007 Amendment.** Act 73 amended subsecs. (b), (d)(1), (2), (3), (4) and (5), (e), (f) and (k) and added
35 subsec. (b.1), effective immediately as to subsec. (b.1), January 1, 2008, as to subsecs. (b) and (d)(1),
36 (2), (3), (4) and (5) and July 1, 2008, as to subsecs. (e), (f) and (k).

1 **2006 Amendment.** Act 179 amended subsecs. (a) and (c)(1) and added subsecs. (o) and (p).
2 **2004 Amendment.** Act 160 amended subsecs. (d) and (g) and added subsecs. (d.1),(d.2) and (n).
3 **2002 Amendment.** Act 218 amended subsec. (c)(2).
4 **2001 Amendment.** Act 112 amended subsec. (h).
5 **1998 Amendment.** Act 127 amended subsecs. (b), (c) and (h).
6 **Special Provisions in Appendix.** See section 28 of Act 207 of 2004 in the appendix to this title for
7 special provisions relating to applicability.
8 See section 6 of Act 33 of 2008 in the appendix to this title for special provisions relating to Department of
9 Public Welfare reports.
10 See section 15 of Act 153 of 2014 in the appendix to this title for special provisions relating to study by
11 Department of Human Services.
12 **References in Text.** Subsec. (a)(1), (2), (3), (4), (5) and (6), referred to in subsec. (b), do not exist.
13 The Statewide central registry, referred to in subsec. (d)(1) and (2), shall be deemed a reference to the
14 Statewide database.
15 The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to
16 in subsections (a) and (d.3), was amended by the act of December 28, 2015, P.L.500, No.92. The
17 amended short title is now the Human Services Code.
18 Subsec. (h), referred to in subsec. (h.1), was repealed by the act of October 30, 2017, P.L.379, No.40.
19 **Cross References.** Section 6344 is referred to in sections 2530, 6335, 6338.1, 6340, 6344.1, 6344.2,
20 6344.3, 6344.4, 6349, 6383 of this title; section 6351.1 of Title 42 (Judiciary and Judicial Procedure);
21 section 3102 of Title 67 (Public Welfare).

22 **§ 6344.1. Information relating to certified or licensed child-care home residents.**

23 (a) **General rule.**--In addition to the requirements of section 6344 (relating to
24 employees having contact with children; adoptive and foster parents), an individual who
25 applies to the department for a certificate of compliance or a license to provide child day
26 care in a residence shall include criminal history record and child abuse record
27 information required under section 6344(b) for every individual 18 years of age or older
28 who resides in the home for at least 30 days in a calendar year.

29 (b) **Required information.**--Child abuse record information required under
30 subsection (a) shall include certification by the department as to whether the applicant is
31 named in the Statewide database as the perpetrator of a founded report or an indicated
32 report.

33 (c) **Effect on certification or licensure.**--The department shall refuse to issue or
34 renew a certificate of compliance or license or shall revoke a certificate of compliance or

1 license if the day-care home provider or individual 18 years of age or older who has
2 resided in the home for at least 30 days in a calendar year:

3 (1) is named in the Statewide database as the perpetrator of a founded report
4 committed within the immediately preceding five-year period; or

5 (2) has been convicted of an offense enumerated in section 6344(c).

6 (d) **Regulations.**--The department shall promulgate regulations to administer this
7 section.

8 (Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May
9 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1,
10 2015, P.L.94, No.15, eff. imd.)

11 **2015 Amendment.** Act 15 amended the section heading and subsecs. (a) and (c).

12 **2014 Amendments.** Act 29 amended subsecs. (b) and (c)(1), Act 45 amended subsec. (b) and Act 153
13 amended the section heading and subsecs. (a), (b) and (c).

14 **2006 Amendment.** Act 179 added section 6344.1.

15 **Cross References.** Section 6344.1 is referred to in section 6335 of this title.

16 **§ 6344.2. Volunteers having contact with children.**

17 (a) **Applicability.**--This section applies to an adult applying for or holding an unpaid
18 position as a volunteer with a child-care service, a school or a program, activity or
19 service, as a person responsible for the child's welfare or having direct volunteer contact
20 with children.

21 (b) **Investigation.**--Employers, administrators, supervisors or other persons
22 responsible for selection of volunteers shall require an applicant to submit to all
23 requirements set forth in section 6344(b) (relating to employees having contact with
24 children; adoptive and foster parents) except as provided in subsection (b.1). An
25 employer, administrator, supervisor or other person responsible for selection of
26 volunteers regarding an applicable prospective volunteer under this section that
27 intentionally fails to require the submissions before approving that individual commits a
28 misdemeanor of the third degree.

29 (b.1) **Exception.**--

30 (1) A person responsible for the selection of volunteers under this chapter shall
31 require an applicable prospective volunteer prior to the commencement of service to
32 submit only the information under section 6344(b)(1) and (2), if the following apply:

33 (i) The position the prospective volunteer is applying for is unpaid.

1 (ii) The prospective volunteer has been a resident of this Commonwealth
2 during the entirety of the previous 10-year period or, if not a resident of this
3 Commonwealth during the entirety of the previous 10-year period, has received
4 certification under section 6344(b)(3) at any time since establishing residency in
5 this Commonwealth and provides a copy of the certification to the person
6 responsible for the selection of volunteers.

7 (iii) The prospective volunteer swears or affirms in writing that the
8 prospective volunteer is not disqualified from service pursuant to section 6344(c)
9 or has not been convicted of an offense similar in nature to those crimes listed
10 in section 6344(c) under the laws or former laws of the United States or one of its
11 territories or possessions, another state, the District of Columbia, the
12 Commonwealth of Puerto Rico or a foreign nation, or under a former law of this
13 Commonwealth.

14 (2) If the information obtained pursuant to section 6344(b) reveals that the
15 prospective volunteer applicant is disqualified from service pursuant to section
16 6344(c), the applicant shall not be approved for service.

17 (3) If all of the following apply, an individual shall not be required to obtain the
18 certifications required under subsection (b):

19 (i) The individual is currently enrolled in a school.

20 (ii) The individual is not a person responsible for the child's welfare.

21 (iii) The individual is volunteering for an event that occurs on school grounds.

22 (iv) The event is sponsored by the school in which the individual is enrolled
23 as a student.

24 (v) The event is not for children who are in the care of a child-care service.

25 (4) The exceptions under this subsection do not apply to volunteers in a child
26 day-care center, group day-care home or family child-care home.

27 (c) **Grounds for denial.**--Each prospective volunteer shall be subject to the
28 requirements of section 6344(c).

29 (d) **Departmental treatment of information.**--Information provided and compiled
30 under this section by the department shall be confidential and shall not be subject to the
31 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This
32 information shall not be released except as permitted by the department through
33 regulation. The department may charge a fee to conduct a certification as required by

1 section 6344(b)(2) in accordance with the provisions of section 6344(h). The
2 department shall promulgate regulations necessary to carry out this subsection.

3 (e) **Construction.**--(Deleted by amendment).

4 (f) **Nonresident volunteer certification.**--Employers, administrators, supervisors or
5 other persons responsible for selection of volunteers may allow a volunteer to serve on
6 a provisional basis not to exceed a total of 30 days in a calendar year if the volunteer is
7 in compliance with the clearance standards under the law of the jurisdiction where the
8 volunteer is domiciled. The nonresident volunteer must provide the employer,
9 administrator, supervisor or other person responsible for selection of volunteers with
10 documentation of certifications.

11 (g) **Waiver of fees for certain background certifications.**--The fees for
12 certifications required under section 6344(b)(1) and (2) which a volunteer is required to
13 submit under this section shall be waived, and the certifications shall be provided free of
14 charge to the volunteer under the following conditions:

15 (1) The background certifications are necessary to comply with the requirements
16 of subsection (b).

17 (2) The background certifications may not be used and shall not be valid to
18 satisfy the requirements for employment under section 6344(b) or any other law for
19 which a similar background check may be required.

20 (3) Background certifications shall only be provided free of charge to a volunteer
21 once every 57 months.

22 (4) The volunteer swears or affirms, in writing, under penalty of 18 Pa. C.S. §
23 4904 (relating to unsworn falsification to authorities), the following:

24 (i) The background certifications are necessary to satisfy the requirements
25 under subsection (b).

26 (ii) The volunteer has not received background certifications free of charge
27 within the previous 57 months.

28 (iii) The volunteer understands that the certifications shall not be valid or
29 used for any other purpose.

30 (h) **Presumption of good faith.**--For the purposes of criminal liability under this
31 section, an employer, administrator, supervisor or other persons responsible for the
32 selection of volunteers are presumed to have acted in good faith when identifying
33 individuals required to submit certifications and maintain records as required by this
34 section.

1 (Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct.
2 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.; June 28, 2018,
3 P.L.375, No.54, eff. imd.; July 2, 2019, P.L.336, No.47, eff. Sept. 30, 2019)

4 **2019 Amendment.** Act 47 added subsec. (b.1)(4).

5 **2018 Amendment.** Act 54 amended subsecs. (a), (b) and (b.1)(1)(i).

6 **2015 Amendment.** Act 15 amended subsecs. (a), (b), (b.1) and (f), added subsecs. (g) and (h) and
7 deleted subsec. (e).

8 **2014 Amendments.** Act 45 amended subsec. (b) and added subsec. (a.1) and Act 153 amended the
9 entire section.

10 **Cross References.** Section 6344.2 is referred to in sections 6335, 6344, 6344.3, 6344.4 of this title.

11 **§ 6344.3. Continued employment or participation in program, activity or service.**

12 (a) (Reserved).

13 (b) (Reserved).

14 (c) (Reserved).

15 (d) (Reserved).

16 (e) **Noninterference with decisions.**--Nothing in this chapter shall be construed to
17 otherwise interfere with the ability of an employer or person responsible for a program,
18 activity or service to make employment, discipline or termination decisions or from
19 establishing additional standards as part of the hiring or selection process for
20 employees or volunteers.

21 (f) **Portability of certification.**--

22 (1) Subject to the restrictions under section 6344(b.3) (relating to employees
23 having contact with children; adoptive and foster parents), if an individual's
24 certifications are current under section 6344.4 (relating to recertification) and the
25 individual completes an affirmation under paragraph (2), the individual may use the
26 certifications as follows:

27 (i) to apply for employment as identified in section 6344 (relating to
28 employees having contact with children; adoptive and foster parents);

29 (ii) to serve as an employee as identified in section 6344;

30 (iii) to apply as a volunteer under section 6344.2 (relating to volunteers
31 having contact with children); and

32 (iv) to serve as a volunteer under section 6344.2.

1 (2) Prior to commencing employment or service, an individual must swear or
2 affirm in writing that the individual has not been disqualified from employment or
3 service under section 6344(c) or has not been convicted of an offense similar in
4 nature to a crime listed in section 6344(c) under the laws or former laws of the
5 United States or one of its territories or possessions, another state, the District of
6 Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former
7 law of this Commonwealth.

8 (3) An employer, administrator, supervisor, other person responsible for
9 employment decisions or other person responsible for the selection of volunteers
10 shall make a determination of employment or volunteer matters based on a review of
11 the information required under section 6344(b) prior to employment or acceptance to
12 service in any such capacity and must maintain a copy of the required information.

13 (g) Written notice of new arrest, conviction or substantiated child abuse.--

14 (1) If an employee or volunteer subject to section 6344 (relating to employees
15 having contact with children; adoptive and foster parents) or 6344.2 (relating to
16 volunteers having contact with children) is arrested for or convicted of an offense
17 that would constitute grounds for denying employment or participation in a program,
18 activity or service under this chapter, or is named as a perpetrator in a founded or
19 indicated report, the employee or volunteer shall provide the administrator or
20 designee with written notice not later than 72 hours after the arrest, conviction or
21 notification that the person has been listed as a perpetrator in the Statewide
22 database.

23 (2) If the person responsible for employment decisions or the administrator of a
24 program, activity or service has a reasonable belief that an employee or volunteer
25 was arrested or convicted for an offense that would constitute grounds for denying
26 employment or participation in a program, activity or service under this chapter, or
27 was named as a perpetrator in a founded or indicated report, or the employee or
28 volunteer has provided notice as required under this section, the person responsible
29 for employment decisions or administrator of a program, activity or service shall
30 immediately require the employee or volunteer to submit current information as
31 required under subsection 6344(b). The cost of the information set forth in
32 subsection 6344(b) shall be borne by the employing entity or program, activity or
33 service.

34 (h) **Effect of noncompliance.**--An employee or volunteer who willfully fails to
35 disclose information required by subsection (g)(1) commits a misdemeanor of the third
36 degree and shall be subject to discipline up to and including termination or denial of
37 employment or volunteer position.

1 (Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

2 **2015 Amendment.** Act 15 amended subsecs. (e) and (f).

3 **2014 Amendment.** Act 153 added section 6344.3.

4 **Special Provisions in Appendix.** See section 15 of Act 153 of 2014 in the appendix to this title for
5 special provisions relating to study by Department of Human Services.

6 **Cross References.** Section 6344.3 is referred to in section 6340 of this title.

7 **§ 6344.4. Recertification.**

8 New certifications shall be obtained in accordance with the following:

9 (1) Effective December 31, 2014:

10 (i) Except as provided in subparagraph (v), a person identified in section
11 6344 (relating to employees having contact with children; adoptive and foster
12 parents) shall be required to obtain the certifications required by this chapter
13 every 60 months.

14 (ii) School employees identified in section 6344(a.1)(1) shall be required to
15 obtain reports under section 111 of the act of March 10, 1949 (P.L.30, No.14),
16 known as the Public School Code of 1949, and under section 6344(b)(2) every
17 60 months.

18 (iii) Any person identified in section 6344 with a current certification issued
19 prior to the effective date of this section shall be required to obtain the
20 certifications required by this chapter within 60 months from the date of the
21 person's oldest certification or, if the current certification is older than 60 months,
22 within one year of the effective date of this section.

23 (iv) A person identified in section 6344 without a certification or who was
24 previously not required to have a certification shall be required to obtain the
25 certifications required by this chapter no later than December 31, 2015.

26 (2) (i) Effective August 25, 2015, a person identified in section 6344.2 (relating
27 to volunteers having contact with children) shall be required to obtain the
28 certifications required by this chapter every 60 months from the date of the person's
29 most recent certification or, if the current certification is older than 60 months, within
30 one year of the effective date of this section.

31 (ii) A person identified under section 6344.2 without a certification or who
32 was previously not required to have a certification shall be required to obtain the
33 certifications required by this chapter no later than July 1, 2016.

1 (3) For renewals of certification required under this chapter, the date for required
2 renewal under this section shall be from the date of the oldest certification under
3 section 6344(b).

4 (Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

5 **Special Provisions in Appendix.** See section 15 of Act 153 of 2014 in the appendix to this title for
6 special provisions relating to study by Department of Human Services.

7 **References in Text.** Subparagraph (v), referred to in paragraph (1)(i), does not exist.

8 **Cross References.** Section 6344.4 is referred to in sections 6344, 6344.3 of this title.

9 **§ 6345. Audits by Attorney General.**

10 The Attorney General shall conduct a mandated audit done randomly but at least once
11 during each year on an unannounced basis to ensure that the expunction requirements
12 of this chapter are being fully and properly conducted.

13 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

14 **§ 6346. Cooperation of other agencies.**

15 (a) **General rule.**--The secretary may request and shall receive from
16 Commonwealth agencies, political subdivisions, an authorized agency or any other
17 agency providing services under the local protective services plan any assistance and
18 data that will enable the department and the county agency to fulfill their responsibilities
19 properly, including law enforcement officials when assistance is needed in conducting
20 an investigation or an assessment of safety or risk to the child. School districts shall
21 cooperate with the department and the agency by providing them upon request with the
22 information as is consistent with law.

23 (b) **Willful failure to cooperate.**--Any agency, school or facility or any person
24 acting on behalf of an agency, school or facility that violates this section by willfully
25 failing to cooperate with the department or a county agency when investigating a report
26 of suspected child abuse or when assessing safety or risk to a child commits a
27 misdemeanor of the third degree for a first violation and a misdemeanor of the second
28 degree for subsequent violations.

29 (c) **Cooperation of county agency and law enforcement officials.**--Consistent
30 with the provisions of this chapter, the county agency and law enforcement officials shall
31 cooperate and coordinate, to the fullest extent possible, their efforts to respond to and
32 investigate reports of suspected child abuse.

33 (d) **Advice to county agency.**--Whenever a report of suspected child abuse is
34 referred from a county agency to a law enforcement official pursuant to section

1 6340(a)(9) and (10) (relating to release of information in confidential reports), as soon
2 as possible, and without jeopardizing the criminal investigation or prosecution, the law
3 enforcement official shall advise the county agency as to whether a criminal
4 investigation has been undertaken and the results of the investigation and of any
5 criminal prosecution. The county agency shall ensure that the information is referred to
6 the Statewide database.

7 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999;
8 Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

9 **2014 Amendments.** Act 29 amended the entire section and Act 45 amended subsecs. (b) and (c).

10 **§ 6347. Reports to Governor and General Assembly.**

11 (a) **General rule.**--No later than May 1 of every year, the secretary shall prepare
12 and transmit to the Governor and the General Assembly a report on the operations of
13 the Statewide database and protective services provided by county agencies. The
14 report shall include a full statistical analysis of the reports of suspected child abuse
15 made to the department and the reports of general protective services made to the
16 department or county agencies, together with a report on the implementation of this
17 chapter and its total cost to the Commonwealth, the evaluation of the secretary of
18 services offered under this chapter and recommendations for repeal or for additional
19 legislation to fulfill the purposes of this chapter. All such recommendations should
20 contain an estimate of increased or decreased costs resulting therefrom. The report
21 shall also include an explanation of services provided to children who were the subjects
22 of founded or indicated reports while receiving child-care services. The department shall
23 also describe its actions in respect to the perpetrators of the abuse.

24 (b) **Reports from county agencies.**--To assist the department in preparing its
25 annual report and the quarterly reports required under subsection (c), each county
26 agency shall submit a quarterly report to the department, including, at a minimum, the
27 following information, on an aggregate basis, regarding general protective services and
28 child protective services:

29 (1) The number of referrals received and referrals accepted.

30 (2) The number of children over whom the agency maintains continuing
31 supervision.

32 (3) The number of cases which have been closed by the agency.

33 (4) The services provided to children and their families.

34 (5) A summary of the findings with nonidentifying information about each case of
35 child abuse or neglect which has resulted in a child fatality or near fatality.

1 (c) **Quarterly reports.**--The department shall prepare and transmit to the Governor
2 and the General Assembly a quarterly report that includes a summary of the findings
3 with nonidentifying information about each case of child abuse or neglect that has
4 resulted in a child fatality or near fatality. One of the quarterly reports may be included
5 within the annual report required under subsection (a).

6 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Apr.
7 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

8 **2014 Amendments.** Act 29 amended subsec. (a) and Act 45 amended subsecs. (a) and (b).

9 **2006 Amendment.** Act 146 amended the section heading and subsec. (b) intro. par., added subsecs.
10 (b)(5) and (c) and carried without amendment subsec. (a).

11 **Cross References.** Section 6347 is referred to in section 6335 of this title.

12 **§ 6348. Regulations.**

13 The department shall adopt regulations necessary to implement this chapter.

14 **Special Provisions in Appendix.** See section 10(2) of Act 151 of 1994 in the appendix to this title for
15 special provisions relating to promulgation of regulations pertaining to general protective services.

16 **§ 6349. Penalties.**

17 (a) **Failure to amend or expunge information.--**

18 (1) A person or official authorized to keep the records mentioned in section 6337
19 (relating to disposition and expunction of unfounded reports and general protective
20 services reports) or 6338 (relating to disposition of founded and indicated reports)
21 who willfully fails to amend or expunge the information when required commits a
22 misdemeanor of the third degree for the first violation and a misdemeanor of the
23 second degree for a second or subsequent violation.

24 (2) A person who willfully fails to obey a final order of the secretary or
25 designated agent of the secretary to amend or expunge the summary of the report in
26 the Statewide database or the contents of any report filed pursuant to section 6313
27 (relating to reporting procedure) commits a misdemeanor of the third degree.

28 (b) **Unauthorized release of information.**--A person who willfully releases or
29 permits the release of any information contained in the Statewide database or the
30 county agency records required by this chapter to persons or agencies not permitted by
31 this chapter to receive that information commits a misdemeanor of the second degree.
32 Law enforcement officials shall insure the confidentiality and security of information
33 under this chapter. A person, including a law enforcement official, who violates the
34 provisions of this subsection shall, in addition to other civil or criminal penalties provided
35 by law, be denied access to the information provided under this chapter.

1 (b.1) **Unauthorized access or use of information.**--A person who willfully
2 accesses, attempts to access or uses information in the Statewide database for a
3 purpose not authorized under this chapter commits a misdemeanor of the second
4 degree. A person who uses information in the Statewide database for a purpose not
5 authorized under this chapter with intent to harass, embarrass or harm another person
6 commits a misdemeanor of the first degree.

7 (c) **Noncompliance with child-care personnel regulations.**--An administrator, or
8 other person responsible for employment decisions in a child-care facility or program,
9 who willfully fails to comply with the provisions of section 6344 (relating to employees
10 having contact with children; adoptive and foster parents) commits a violation of this
11 chapter and shall be subject to a civil penalty as provided in this subsection. The
12 department shall have jurisdiction to determine violations of section 6344 and may,
13 following a hearing, assess a civil penalty not to exceed \$2,500. The civil penalty shall
14 be payable to the Commonwealth.

15 (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Oct.
16 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

17 **2014 Amendments.** Act 29 amended subsecs. (a) and (b), added subsec. (b.1) and carried without
18 amendment subsec. (c) and Act 153 amended subsec. (c).

19 **Cross References.** Section 6349 is referred to in section 6335 of this title.

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1 **Keystone Recreation, Park and Conservation Fund Act**

2 **Act of Jul. 2, 1993, P.L. 359, No. 50 Cl. 32**

3 Providing for the establishment, operation and administration of the Keystone
4 Recreation, Park and Conservation Fund; designating a portion of the State Realty
5 transfer tax revenues as a funding source for the fund; authorizing the incurring of
6 indebtedness, with the approval of the electorate, to provide funding for the acquisition
7 of, improvements to and the rehabilitation of parks, recreational facilities, educational
8 facilities, historic sites, zoos and public libraries; imposing additional powers and duties
9 on the Department of Environmental Resources, the Department of Community Affairs,
10 the Department of Education, the Pennsylvania Historical and Museum Commission,
11 the State System of Higher Education, the Pennsylvania Game Commission and the
12 Pennsylvania Fish and Boat Commission; requiring a transfer from the Realty Transfer
13 Tax Account in the General Fund; and making an appropriation.

14 **Compiler's Note:** The Department of Community Affairs was abolished by Act 58 of 1996 and its
15 functions were transferred to the Department of Community and Economic Development.

16 **Compiler's Note:** Section 306(c) of Act 18 of 1995, which created the Department of Conservation and
17 Natural Resources and renamed the Department of Environmental Resources as the Department of
18 Environmental Protection, provided that the Department of Conservation and Natural Resources shall
19 exercise the powers and duties previously vested in the Secretary of Community Affairs and the
20 Department of Community Affairs by Act 50 of 1993.

21 Section 304(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources
22 and renamed the Department of Environmental Resources as the Department of Environmental
23 Protection, provided that the Department of Conservation and Natural Resources shall exercise the
24 powers and duties conferred upon the Department of Environmental Resources by Act 50 of 1993.

25 The General Assembly of the Commonwealth of Pennsylvania hereby enacts as
26 follows:

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6 **§ 1. Short title**

7 This act shall be known and may be cited as the Keystone Recreation, Park and
8 Conservation Fund Act.

9 **§ 2. Declaration of policy**

10 The General Assembly finds and declares as follows:

11 (1) Fundamental to the health and welfare of the people of Pennsylvania are the
12 land and water resources of this Commonwealth as described in section 27 of Article
13 I of the Constitution of Pennsylvania.

14 (2) Commonwealth parks, game lands, fishing areas, historical sites, educational
15 facilities, community parks, recreation areas, natural areas, zoos and libraries are
16 significant assets and are important contributors to tourism, economic development
17 and recreation.

18 (3) The Commonwealth's park and forest systems, its historic sites, many local
19 park areas, zoos and recreational facilities, particularly in our urban centers, and
20 public libraries are at the heart of numerous studies which demonstrate a well-
21 documented need for the immediate provision of funding for rehabilitation of these
22 park and recreation facilities of critical importance to visitor safety and environmental
23 protection and for the acquisition of recreation and open space lands which face
24 imminent loss or damage.

25 (4) In order to facilitate the improvement of the Commonwealth's park and forest
26 systems, our local park and recreation facilities, our natural areas, our zoos, our
27 historic sites, educational facilities and our public libraries, it is necessary to make
28 substantial expenditures for capital improvements.

29 (5) Growth in financial support for recreation in this Commonwealth has not kept
30 up with the growing needs of recreation consumers.

31 (6) A predictable and stable source of funding has been well documented as the
32 most appropriate way to achieve a solution to the funding problems facing parks,
33 natural areas, recreation, historic preservation facilities, educational facilities, zoos
34 and public libraries in this Commonwealth.

1 (7) The continued need for recreation and community services requires the
2 development of new, and rehabilitation of existing, indoor and outdoor recreation,
3 park, historic, zoo and library facilities.

4 (8) The Commonwealth must act to develop and rehabilitate and to assist
5 municipalities to develop and to rehabilitate newly and previously acquired lands and
6 facilities for recreation, historical uses, conservation and environmental education so
7 that the public may have access and enjoyment of these areas and facilities.

8 (9) The Commonwealth must act to acquire and to assist municipalities to
9 acquire lands for recreation, historical uses, conservation and environmental
10 education so that the public may have access and enjoyment of these areas and
11 facilities.

12 § 3. Definitions

13 The following words and phrases when used in this act shall have the meanings given
14 to them in this section unless the context clearly indicates otherwise:

15 **“Acquisition.”** The purchase or lease with an option to purchase of land or
16 buildings for public park, conservation, historical, recreation, zoo or library uses.

17 **“Administrative expenses.”** Any expenditures of funds, including, but not
18 limited to, expenditures of Commonwealth agencies for personnel and other
19 operating costs necessary to accomplish the purposes of this act.

20 **“Agency.”** The Department of Environmental Resources, the Department of
21 Community Affairs, the Department of Education, the Pennsylvania Historical and
22 Museum Commission, the State System of Higher Education, the Pennsylvania Fish
23 and Boat Commission and the Pennsylvania Game Commission of the
24 Commonwealth.

25 **“Development.”** Any new construction, improvement, alteration or renovation
26 required for and compatible with the physical development, improvement of land or
27 buildings for public park, conservation, historical, recreation or library purposes.

28 **“Educational facility.”** A facility owned by the State System of Higher
29 Education.

30 **“Fund.”** The Keystone Recreation, Park and Conservation Fund established in
31 this act.

32 **“Historic preservation organization.”** A nonprofit organization dedicated to the
33 research, restoration, rehabilitation and other activities furthering the protection,
34 enhancement, preservation or enjoyment of historic resources which is tax exempt

1 under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514,
2 26 U.S.C. § 501(c)(3), registered with the Bureau of Charitable Organizations and
3 has been in existence for at least five consecutive years.

4 **“Historic site.”** Any public land or building, structure, object, district, area or site
5 significant in the history, architecture, maritime heritage, archaeology or culture of
6 the United States, the Commonwealth or any of its municipalities.

7 **“Land.”** Any real property, including improvements thereon, right-of-ways, water,
8 riparian and other rights, easements, privileges and any other physical property or
9 rights of interest of any kind or description relating to or connected with real property.

10 **“Land trust.”** A nonprofit conservation or preservation organization,
11 conservancy or land trust whose primary purpose is the conservation and
12 preservation of open space, park lands or natural areas for public benefit. Any
13 qualified organization shall be tax exempt under section 501(c)(3) of the Internal
14 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. 501(c)(3) § 1 et seq.),
15 registered with the Pennsylvania Commission on Charitable Organizations and have
16 an existence for at least five consecutive years.

17 **“Library.”** Any free, public, nonsectarian library, whether established and
18 maintained by a municipality or by a private association, corporation or group, which
19 serves the informational, educational and recreational needs of all the residents of
20 the area for which its governing body is responsible by providing free access,
21 including free lending and reference services, to an organized and currently useful
22 collection of printed items and other materials and to the services of a staff trained to
23 recognize and provide for these needs.

24 **“Municipality.”** Any county, city, borough, incorporated town, township, home
25 rule municipality or any official agency created by the foregoing units of government
26 under the laws of this Commonwealth. Any of the actions of an authority or other
27 official agency taken under this act shall be first approved by the participating local
28 governing bodies in that authority or other official agency.

29 **“Natural areas.”** Any area of land, water or both land and water which is
30 important in preserving flora, fauna, native ecological systems, geological, natural
31 historical, open space, scenic or similar features of scientific or educational value
32 benefiting the citizens of this Commonwealth.

33 **“Planning.”** Comprehensive park and recreation plans, master site development
34 plans, feasibility studies, natural area studies, inventories, greenways and open
35 space plans, maintenance management plans and other plans and documents
36 useful to municipalities, State agencies and land trusts in the planning, development,

1 operation, protection and management of their public recreation, park, historic
2 natural areas, facilities and programs. Planning may be performed by State agency
3 staff or by outside consultants.

4 **“Recreational areas.”** Public buildings, structures, facilities, lands and waters
5 for any related public recreation purpose such as, but not limited to, playgrounds,
6 swimming facilities, athletic fields, courts, maintenance buildings, trails, recreational
7 and environmental centers used for such active and passive purposes, including, but
8 not limited to, public parks, fishing, hunting, boating, educational purposes or
9 preservation of scenic sights or areas of historical significance.

10 **“Rehabilitation.”** The improvement or restoration, excluding routine
11 maintenance, of existing public indoor or outdoor natural areas, historic, recreational,
12 park and library facilities.

13 **“Technical assistance.”** The provision of grant and professional service to
14 municipalities, organizations and citizens, including, but not limited to, publications,
15 video tapes, workshops, meetings, phone consultation and written and electronic
16 communication.

17 **“Zoo.”** Any accredited and licensed zoological park or other area, whether
18 established and maintained by a municipality or by a private nonprofit association,
19 corporation or group, which houses a collection of varied living animals and which
20 actively participates in wildlife conservation, education and recreation programs and
21 which serves to increase the understanding of and appreciation for living animals.

22 **Compiler's Note:** The Department of Environmental Resources, referred to in the def. of "agency," was
23 abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and
24 Natural Resources and the Department of Environmental Protection.

25 **§ 4. Keystone Recreation, Park and Conservation Fund**

26 (a) **Establishment.**--There is hereby established in the State Treasury a restricted
27 receipt account to be known as the Keystone Recreation, Park and Conservation Fund
28 to provide moneys necessary to implement the provisions of this act.

29 (b) **Source of funds.**--All proceeds from the sale of bonds or notes as approved
30 under section 5 and the monthly transfer of a portion of the State Realty Transfer Tax
31 shall provide the necessary moneys for the fund.

32 (c) **Appropriations.**--All moneys in the fund are hereby appropriated on a continuing
33 nonlapsing basis to the designated agencies in the amounts set forth in section 12.² No
34 funds shall be expended by any agency without authorization by the Governor.

1 (d) **Interest.**--All interest earned by the fund and all refunds or repayments shall be
2 credited to the fund and are hereby appropriated to the appropriate agencies in the
3 same percentage as specified in section 12.

4 **§ 5. Referendum**

5 (a) **Question.**--The question of incurring indebtedness of \$50,000,000 for the
6 purposes of planning, acquisition, development, rehabilitation and improvement of parks
7 and recreational facilities, natural areas, historic sites, zoos and libraries shall be
8 submitted to the electors at the next primary, municipal or general election following
9 enactment of this act.

10 (b) **Certification.**--The Secretary of the Commonwealth shall certify the form of the
11 question under subsection (c) to the county boards of elections.

12 (c) **Form of question.**--The question shall be in substantially the following form:

13 Do you favor the incurring of indebtedness by the Commonwealth of
14 \$50,000,000 to provide for the funding of nature preserves and wildlife
15 habitats and for improvements to and expansion of State parks, community
16 parks and recreation facilities, historic sites, zoos and public libraries.

17 (d) **Election.**--The election shall be conducted at the next occurring general or
18 municipal election following the effective date of this act, in accordance with the act of
19 June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code, except
20 that the time limits for advertisement of notice of the election may be waived as to the
21 question.

22 (e) **Proceeds.**--Proceeds of borrowing shall be deposited in the Keystone
23 Recreation, Park and Conservation Fund and shall be used to implement the provisions
24 of this act.

25 **§ 6. Commonwealth indebtedness**

26 (a) **Borrowing authorized.**--

27 (1) Subject to the approval of the electorate of the referendum set forth in section
28 5 and under the provisions of section 7(a)(3) of Article VIII of the Constitution of
29 Pennsylvania, the issuing officials are authorized and directed to borrow over a
30 three-year period, on the credit of the Commonwealth, money not exceeding in the
31 aggregate the sum of \$50,000,000, not including money borrowed to refund
32 outstanding bonds, notes or replacement notes, as may be found necessary to carry
33 out the purposes of this act.

1 (2) As evidence of the indebtedness authorized in this act, general obligation
2 bonds of the Commonwealth shall be issued, from time to time, to provide moneys
3 necessary to carry out the purposes of this act for such total amounts, in such form,
4 in such denominations and subject to such terms and conditions of issue,
5 redemption and maturity, rate of interest and time of payment of interest as the
6 issuing officials direct, except that the latest stated maturity date shall not exceed 20
7 years from the date of the first obligation issued to evidence the debt.

8 (3) All bonds and notes issued under the authority of this act shall bear facsimile
9 signatures of the issuing official and a facsimile of the great seal of the
10 Commonwealth and shall be countersigned by a duly authorized officer of a duly
11 authorized loan and transfer agent of the Commonwealth.

12 (4) All bonds and notes issued in accordance with the provisions of this section
13 shall be direct obligations of the Commonwealth, and the full faith and credit of the
14 Commonwealth are hereby pledged for the payment of the interest thereon, as it
15 becomes due, and the payment of the principal at maturity. The principal of and
16 interest on the bonds and notes shall be payable in lawful money of the United
17 States.

18 (5) All bonds and notes issued under the provisions of this section shall be
19 exempt from taxation for State and local purposes except as may be provided under
20 Article XVI of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform
21 Code of 1971.²

22 (6) The bonds may be issued as coupon bonds or registered as to both principal
23 and interest as the issuing officials may determine. If interest coupons are attached,
24 they shall contain the facsimile signature of the State Treasurer.

25 (7) The issuing officials shall provide for the amortization of the bonds in
26 substantial and regular amounts over the term of the debt so that the bonds of each
27 issue allocated to the programs to be funded from the bond issue shall mature within
28 a period not to exceed the appropriate amortization period for each program as
29 specified by the issuing officials but in no case in excess of 30 years. The first
30 retirement of principal shall be stated to mature prior to the expiration of a period of
31 time equal to one-tenth of the time from the date of the first obligation issued to
32 evidence the debt to the date of the expiration of the term of the debt. Retirements of
33 principal shall be regular and substantial if made in annual or semiannual amounts
34 whether by stated serial maturities or by mandatory sinking fund retirements.

35 (8) The issuing officials are authorized to provide by resolution for the issuance of
36 refunding bonds for the purpose of refunding any debt issued under the provisions of
37 this act and then outstanding, either by voluntary exchange with the holders of the

1 outstanding debt or to provide funds to redeem and retire the outstanding debt with
2 accrued interest, any premium payable thereon and the costs of issuance and
3 retirement of the debt, at maturity or at any call date. The issuance of the refunding
4 bonds, the maturities and other details thereof, the rights of the holders thereof and
5 the duties of the issuing officials in respect thereto shall be governed by the
6 provisions of this section insofar as they may be applicable. Refunding bonds, which
7 are not subject to the aggregate limitation of \$50,000,000 of debt to be issued
8 pursuant to this act, may be issued by the issuing officials to refund debt originally
9 issued or to refund bonds previously issued for refunding purposes.

10 (9) Whenever any action is to be taken or decision made by the Governor, the
11 Auditor General and the State Treasurer acting as issuing officials and the three
12 officers are not able unanimously to agree, the action or decision of the Governor
13 and either the Auditor General or the State Treasurer shall be binding and final.

14 (10) Issuing officials shall mean the Governor, the Auditor General and the State
15 Treasurer.

16 **(b) Sale of bonds.--**

17 (1) Whenever bonds are issued, they shall be offered for sale at not less than
18 98% of the principal amount and accrued interest and shall be sold by the issuing
19 officials to the highest and best bidder or bidders after due public advertisement on
20 the terms and conditions and upon such open competitive bidding as the issuing
21 officials shall direct. The manner and character of the advertisement and the time of
22 advertising shall be prescribed by the issuing officials. No commission shall be
23 allowed or paid for the sale of any bonds issued under the authority of this act.

24 (2) Any portion of any bond issue so offered and not sold or subscribed for at
25 public sale may be disposed of by private sale by the issuing officials in such
26 manner and at such prices, not less than 98% of the principal amount and accrued
27 interest, as the Governor shall direct. No commission shall be allowed or paid for the
28 sale of any bonds issued under the authority of this act.

29 (3) When bonds are issued from time to time, the bonds of each issue shall
30 constitute a separate series to be designated by the issuing officials or may be
31 combined for sale as one series with other general obligation bonds of the
32 Commonwealth.

33 (4) Until permanent bonds can be prepared, the issuing officials may in their
34 discretion issue, in lieu of permanent bonds, temporary bonds in such form and with
35 such privileges as to registration and exchange for permanent bonds as may be
36 determined by the issuing officials.

1 (5) The proceeds realized from the sale of bonds and notes, except refunding
2 bonds and replacement notes, under the provisions of this act shall be paid into the
3 Keystone Recreation, Park and Conservation Fund in the State Treasury and are
4 specifically dedicated to the purposes of this act. The proceeds shall be paid by the
5 State Treasurer periodically to those agencies authorized to expend them at such
6 times and in such amounts as may be necessary to satisfy the funding needs of the
7 agency. The proceeds of the sale of refunding bonds and replacement notes shall
8 be paid to the State Treasurer and applied to the payment of principal, the accrued
9 interest and premium, if any, and cost of redemption of the bonds and notes for
10 which the obligations shall have been issued.

11 (6) Pending their application for the purposes authorized, moneys held or
12 deposited by the State Treasurer may be invested or reinvested as are other funds
13 in the custody of the State Treasurer in the manner provided by law. All earnings
14 received from the investment or deposit of the funds shall be paid into the State
15 Treasury to the credit of the fund.

16 (7) The Auditor General shall prepare the necessary registry book to be kept in
17 the office of the duly authorized loan and transfer agent of the Commonwealth for
18 the registration of any bonds, at the request of owners thereof, according to the
19 terms and conditions of issue directed by the issuing officials.

20 (8) There is hereby appropriated to the State Treasurer from the fund as much
21 money as may be necessary for all costs and expenses in connection with the issue
22 of and sale and registration of the bonds and notes in connection with this act and
23 the payment of interest arbitrage rebates or proceeds of such bonds and notes.

24 **(c) Temporary financing authorization.--**

25 (1) Pending the issuance of bonds of the Commonwealth as authorized, the
26 issuing officials are hereby authorized, in accordance with the provisions of this act
27 and on the credit of the Commonwealth, to make temporary borrowings not to
28 exceed one year in anticipation to the issue of bonds in order to provide funds in
29 such amounts as may, from time to time, be deemed advisable prior to the issue of
30 bonds. In order to provide for and in connection with such temporary borrowings, the
31 issuing officials are hereby authorized in the name and on behalf of the
32 Commonwealth to enter into any purchase, loan or credit agreement or agreements
33 or other agreement or agreements with any banks or trust companies or other
34 lending institutions, investment banking firms or persons in the United States having
35 power to enter into the same, which agreements may contain provisions not
36 inconsistent with the provisions of this act as may be authorized by the issuing
37 officials.

1 (2) All temporary borrowings made under the authorization of this section shall be
2 evidenced by notes of the Commonwealth, which shall be issued, from time to time,
3 for such amounts not exceeding in the aggregate the applicable statutory and
4 constitutional debt limitation, in such form and in such denominations and subject to
5 terms and condition of sale and issue, prepayment or redemption and maturity, rate
6 or rates of interest and time of payment of interest as the issuing officials shall
7 authorize and direct and in accordance with this act. Such authorization and
8 direction may provide for the subsequent issuance of replacement notes to refund
9 outstanding notes or replacement notes, which replacement notes shall, upon
10 issuance thereof, evidence such borrowing, and may specify such other terms and
11 conditions with respect to the notes and replacement notes thereby authorized for
12 issuance as the issuing officials may determine and direct.

13 (3) When the authorization and direction of the issuing officials provide for the
14 issuance of replacement notes, the issuing officials are hereby authorized in the
15 name and on behalf of the Commonwealth to issue, enter into or authorize and
16 direct the State Treasurer to enter into agreements with any banks, trust companies,
17 investment banking firms or other institutions or persons in the United States having
18 the power to enter the same:

19 (i) To purchase or underwrite an issue or series of issues of notes.

20 (ii) To credit, to enter into any purchase, loan or credit agreements, to draw
21 moneys pursuant to any such agreements on the terms and conditions set forth
22 therein and to issue notes as evidence of borrowings made under any such
23 agreements.

24 (iii) To appoint as issuing and paying agent or agents with respect to notes.

25 (iv) To do all acts as may be necessary or appropriate to provide for the
26 payment, when due, of the interest on and the principal of such notes.

27 Such agreements may provide for the compensation of any purchasers or
28 underwriters of notes or replacement notes by discounting the purchase price of
29 the notes or by payment of a fixed fee or commission at the time of issuance
30 thereof, and all other costs and expenses, including fees for agreements related
31 to the notes, issuing and paying agent costs and costs and expenses of
32 issuance, may be paid from the proceeds of the notes.

33 (4) When the authorization and direction of the issuing officials provide for the
34 issuance of replacement notes, the State Treasurer shall, at or prior to the time of
35 delivery of these notes or replacement notes, determine the principal amounts, dates
36 of issue, interest rate or rates (or procedures for establishing such rates from time to

1 time), rates of discount, denominations and all other terms and conditions relating to
2 the issuance and shall perform all acts and things necessary to pay or cause to be
3 paid, when due, all principal of and interest on the notes being refunded by
4 replacement notes and to assure that the same may draw upon any moneys
5 available for that purpose pursuant to any purchase, loan or credit agreements
6 established with respect thereto, all subject to the authorization and direction of the
7 issuing officials.

8 (5) Outstanding notes evidencing the borrowings may be funded and retired by
9 the issuance and sale of the bonds of the Commonwealth as hereinafter authorized.
10 The refunding bonds must be issued and sold not later than a date one year after
11 the date of issuance of the first notes evidencing such borrowings to the extent that
12 payment of such notes has not otherwise been made or provided for by sources
13 other than proceeds of replacement notes.

14 (6) The proceeds of all temporary borrowing shall be paid to the State Treasurer
15 to be held and disposed of in accordance with the provisions of this act.

16 **(d) Debt retirement.--**

17 (1) All bonds issued under the authority of this act shall be redeemed at maturity,
18 together with all interest due, from time to time, on the bonds, and these principal
19 and interest payments shall be paid from the Keystone Recreation, Park and
20 Conservation Sinking Fund, which is hereby created. For the specific purpose of
21 redeeming the bonds at maturity and paying all interest thereon in accordance with
22 the information received from the Governor, the General Assembly shall appropriate
23 moneys to the Keystone Recreation, Park and Conservation Sinking Fund for the
24 payment of interest on the bonds and notes and the principal thereof at maturity. All
25 moneys paid into the Keystone Recreation, Park and Conservation Sinking Fund
26 and all of the moneys not necessary to pay accruing interest shall be invested by the
27 State Treasurer in such securities as are provided by law for the investment of the
28 sinking funds of the Commonwealth.

29 (2) The State Treasurer shall determine and report to the Secretary of the Budget
30 by November 1 of each year, the amount of money necessary for the payment of
31 interest on outstanding obligations and the principal of the obligations, if any, for the
32 following fiscal year and the times and amounts of the payments. It shall be the duty
33 of the Governor to include in every budget submitted to the General Assembly full
34 information relating to the issuance of bonds and notes under the provisions of this
35 act and the status of the Keystone Recreation, Park and Conservation Sinking Fund
36 of the Commonwealth for the payment of interest on the bonds and notes and the
37 principal thereof at maturity.

1 (3) The General Assembly shall appropriate an amount equal to the sums that
2 may be necessary to meet repayment obligations for principal and interest for
3 deposit into the Keystone Recreation, Park and Conservation Sinking Fund.

4 (e) **Annual limitation on debt obligations issued.**--Bonds and notes, not including
5 refunding bonds or replacement notes, as authorized herein, shall not be issued in the
6 aggregate principal amount of more than \$35,000,000 during any one State fiscal year.

7 (f) **Expiration.**--Authorization to issue bonds and notes, not including refunding
8 bonds and replacement notes, for the purposes of this act shall expire five years from
9 the effective date of this section.

10 **§ 7. Allocation of State Realty Transfer Tax revenues**

11 (7 repealed June 29, 2002, P.L.559, No.89)

12 **§ 8. Duties, responsibilities and limitations on agencies**

13 (a) **General rule.**--Each agency shall promulgate rules and regulations that are
14 necessary to carry out the purposes of this act consistent with the criteria set forth in
15 this act.

16 (b) **Department of Environmental Resources.**--

17 (1) The Department of Environmental Resources shall utilize bond revenues for
18 the following purposes:

19 (i) Rehabilitating, repairing and developing State park and forest facilities
20 deemed by the department to be critical for visitor safety, environmental
21 protection or essential for facility operation. Not less than 70% of the bond
22 revenues will be used for these purposes.

23 (ii) Acquiring recreation areas and natural areas which in the opinion of the
24 department face imminent loss or damage. Up to 30% of the bond revenues may
25 be used for this purpose.

26 (2) The department shall expend Realty Transfer Tax revenues appropriated
27 from the Keystone Fund for the following purposes:

28 (i) Rehabilitating and upgrading State park and forest facilities.

29 (ii) Implementing the act of December 18, 1990 (P.L. 748, No. 188), known as
30 the Rails to Trails Act. Up to 10% of the moneys can be provided as 50/50
31 matching grants to municipalities and appropriate organizations for planning,
32 acquisition and development of rails to trails.

1 (iii) Making 50/50 matching grants to municipalities and appropriate
2 organizations for the purpose of rivers protection and conservation. Up to 10% of
3 the moneys can be used for this purpose.

4 (iv) Acquiring lands important to maintaining the integrity of existing State
5 parks and forests.

6 **(c) Department of Community Affairs.--**

7 (1) The Department of Community Affairs shall provide grants of bond revenues
8 and realty transfer tax revenues to municipalities for the following purposes:

9 (i) To fund up to 50% of the eligible project costs for rehabilitation and
10 development of outdoor and indoor recreation and park facilities and areas.

11 (ii) To pay up to 50% of the eligible project costs for acquisition of recreation
12 and park lands, greenways and natural areas.

13 (iii) To pay up to 100% of the eligible project costs for planning projects and
14 special technical assistance initiatives deemed appropriate by the department.

15 (iv) To provide municipalities with a population of 5,000 or less with up to
16 100% funding for eligible material costs and professional fees. Grants are limited
17 to a maximum of \$20,000 for rehabilitation and development of basic outdoor
18 recreation and park facilities and renovation of minor indoor recreation facilities.

19 (2) The Department of Community Affairs shall provide grants of bond revenues
20 and realty transfer tax revenues to land trusts to pay up to 50% of eligible project
21 costs for natural areas and open space planning and acquisition. Any land acquired
22 under this paragraph shall be open to those public uses that are consistent with the
23 purposes for which the land was acquired. Temporary limitation of public access for
24 the purpose of protecting or restoring the natural resources of an area shall not be
25 considered a violation of this paragraph. The Department of Community Affairs, in
26 consultation with the Department of Environmental Resources, shall adopt project
27 selection criteria that give priority to acquisitions of critical habitat for rare,
28 threatened or endangered plant or animal species or communities which are at risk
29 of destruction or substantial degradation.

30 (3) The Department of Community Affairs shall provide grants of bond revenues
31 and realty transfer tax revenues to municipalities and appropriate organizations to
32 pay up to 50% of the eligible project costs for rehabilitation and development of
33 zoos.

1 (d) **Department of Education.**--The Department of Education shall provide grants
2 from bond revenues and realty transfer tax revenues to municipalities to pay up to 50%
3 of eligible project costs for planning, acquisition, development and rehabilitation of
4 public libraries.

5 (e) **Pennsylvania Historical and Museum Commission.**--The Pennsylvania
6 Historical and Museum Commission shall utilize bond revenues and realty transfer tax
7 revenues for planning, acquisition, development and rehabilitation of Commonwealth-
8 owned historic sites and museums and to provide grants to nonprofit organizations and
9 public agencies for the planning, acquisition and rehabilitation of publicly accessible
10 historic sites listed in or eligible for the National Register of Historic Places.

11 (f) **State System of Higher Education.**--The State System of Higher Education
12 shall utilize realty transfer tax revenues for deferred maintenance.

13 (g) **Pennsylvania Fish and Boat Commission.**--The Pennsylvania Fish and Boat
14 Commission shall utilize bond revenues for planning, acquisition, development and
15 rehabilitation of fishing and boating access areas, recreation areas and natural areas
16 and for technical assistance.

17 (h) **Pennsylvania Game Commission.**--The Pennsylvania Game Commission shall
18 utilize bond revenues for planning, acquisition, development and rehabilitation of game
19 lands, recreation areas and natural areas and for technical assistance.

20 (i) **Administrative expense limitation.**--Administrative expenses for agencies
21 administering these programs shall be limited to 5% of the funding received by the
22 agency for these programs.

23 (j) **Land trust restrictions.**--Any moneys received by land trusts under the
24 provisions of this act shall be expended only for the planning of and acquisition of
25 natural areas.

26 **Compiler's Note:** The Department of Community Affairs, referred to in subsec. (c), was abolished by Act
27 58 of 1996 and its functions were transferred to the Department of Community and Economic
28 Development.

29 **Compiler's Note:** The Department of Environmental Resources, referred to subsec. (b), was abolished
30 by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural
31 Resources and the Department of Environmental Protection.

32 **§ 9. Annual reports**

33 No later than July 1, 2012, and each July 1 thereafter, the Department of Conservation
34 and Natural Resources, the Department of Education, the Pennsylvania Historical and
35 Museum Commission and the State System of Higher Education shall each submit to

1 the Governor and the General Assembly an annual report of projects and services
2 provided by moneys from the fund. For grants awarded from the fund, the annual report
3 shall, at a minimum, include the following: the name of the applicant, location and
4 description of the project, total project costs, the amount requested, any matching funds
5 provided by the applicant, grant contract expiration date and the amount granted. Each
6 agency shall publish and maintain the annual report on the agency's publicly accessible
7 Internet website. At the discretion of the agency, the annual report required under this
8 section may be submitted to the Governor and the General Assembly by electronic mail.

9 (9 amended July 7, 2011, P.L.279, No.61)

10 **Compiler's Note:** The Department of Community Affairs, referred to in this section, was abolished by Act
11 58 of 1996 and its functions were transferred to the Department of Community and Economic
12 Development.

13 **Compiler's Note:** The Department of Environmental Resources, referred to in this section, was
14 abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and
15 Natural Resources and the Department of Environmental Protection.

16 **§ 10. Property restrictions**

17 Recipients of grants or funds under this act shall not dispose of nor at any time convert
18 property acquired pursuant to this act to other than the purposes approved in the project
19 applications without the prior written approval of the head of the agency, as appropriate.
20 Should disposition or conversion occur, the agency may:

21 (1) Require the recipient to refund all grant funds for the particular project,
22 including 10% annual interest compounded four times annually from the date the
23 original grant-in-aid was received until it is repaid.

24 (2) Require acquisition by the recipient of equivalent replacement land, as
25 determined by the agency.

26 **§ 11. Federal programs**

27 The agencies may utilize any available Federal programs and funds to augment the
28 funds made available to the agencies under the provisions of this act.

29 **§ 12. Allocation from fund**

30 (a) **Allocation of bond revenues.**-- In the event that bonds are sold under the
31 provisions of this act, the bond proceeds are to be allocated as follows:

32 (1) Department of Environmental Resources. \$17,000,000

33 (2) Department of Community Affairs:

1	(i) For grant programs	13,000,000
2	(ii) For land trusts	3,000,000
3	(iii) For zoos	3,500,000
4	(3) Department of Education	2,500,000
5	(4) Pennsylvania Historical and Museum Commission	8,000,000
6	(5) Pennsylvania Fish and Boat Commission	1,500,000
7	(6) Pennsylvania Game Commission	1,500,000

8 (b) **Allocation of realty transfer tax revenues.**--Realty transfer tax revenues
9 transferred to the fund shall be allocated as follows:

10	(1) Department of Environmental Resources	30%
11	(2) Department of Community Affairs:	
12	(i) For general purposes	25%
13	(ii) For land trusts	10%
14	(3) Department of Education	4%
15	(4) Pennsylvania Historical and Museum Commission	13%
16	(5) State System of Higher Education	18%

17 **Compiler's Note:** The Department of Community Affairs, referred to in this section, was abolished by Act
18 58 of 1996 and its functions were transferred to the Department of Community and Economic
19 Development.

20 **Compiler's Note:** The Department of Environmental Resources, referred to in this section, was
21 abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and
22 Natural Resources and the Department of Environmental Protection.

23 § 13. Waivers

24 (a) **One-year exemption from review.**--In order to facilitate the speedy
25 implementation of this program, the agencies shall have the power and authority to
26 promulgate, adopt and use guidelines which shall be published in the Pennsylvania
27 Bulletin. The guidelines shall not be subject to review pursuant to section 205 of the act
28 of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents
29 Law, sections 204(b) and 301(10) of the act of October 15, 1980 (P.L. 950, No. 164),
30 known as the Commonwealth Attorneys Act,² or the act of June 25, 1982 (P.L. 633, No.

1 181), known as the Regulatory Review Act,³ and shall be effective for a period not to
2 exceed one year from the effective date of this act.

3 (b) **Expiration of exemption.**--After the expiration of the one-year period, all
4 guidelines shall expire and shall be replaced by regulations which shall have been
5 promulgated, adopted and published as provided by law.

6 **§ 14. Repeals**

7 All acts and parts of acts are repealed insofar as they are inconsistent with this act.

8 **§ 15. Effective Date**

9 This act shall take effect immediately.

10

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