

23 Pa.C.S.A. § 6311



Purdon's Pennsylvania Statutes and Consolidated Statutes Annotated [Currentness](#)

Purdon's Pennsylvania Consolidated Statutes Annotated

Title 23. Domestic Relations ([Refs & Annos](#))

Part VII. Abuse of Family

[Chapter 63](#). Child Protective Services

[Subchapter B](#). Provisions and Responsibilities for Reporting Suspected Child Abuse ([Refs & Annos](#))

→§ **6311. Persons required to report suspected child abuse**

(a) General rule.--Persons who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made in accordance with [section 6313](#) (relating to reporting procedure) when they have reasonable cause to suspect, on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is an abused child. Except with respect to confidential communications made to an ordained member of the clergy which are protected under [42 Pa.C.S. § 5943](#) (relating to confidential communications to clergymen), the privileged communication between any professional person required to report and the patient or client of that person shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.

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

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

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

CREDIT(S)

[1990, Dec. 19, P.L. 1240, No. 206, § 2](#), effective in 90 days. Amended [1994, Dec. 16, P.L. 1292, No. 151, § 3](#), effective July 1, 1995.

23 Pa.C.S.A. § 6311

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

Act 1994-151 legislation

The 1994 amendment in subsec. (a) substituted "reasonable cause to suspect" for "reason to believe," and inserted "Except with respect to confidential communications made to an ordained member of the clergy which are protected under [42 Pa.C.S. § 5943](#) (relating to confidential communications to clergymen)", and in subsec. (b) deleted "a" preceding "Christian Science" and inserted "member of the clergy,".

Prior Laws:

1987, Nov. 6, P.L. 391, No. 80, § 1.

1982, June 10, P.L. 460, No. 136, § 1.

1975, Nov. 26, P.L. 438, No. 124, § 4 ([11 P.S. § 2204](#)).

LAW REVIEW AND JOURNAL COMMENTARIES

Questioning the behavioral assumption underlying Wigmorean absolutism in the law of evidentiary privileges. Edward J. Imwinkelried, [65 U. Pitt. L. Rev. 145 \(2004\)](#).

LIBRARY REFERENCES

2001 Main Volume

Infants  13.5(1).
Westlaw Topic No. 211.

RESEARCH REFERENCES

2005 Electronic Update

ALR Library

[73 ALR 4th 782](#), Validity, Construction, and Application of State Statute Requiring Doctor or Other Person to Report Child Abuse.

Encyclopedias

[6 Am. Jur. Proof of Facts 2d 345](#), Failure to Report Suspected Case of Child Abuse.

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to Report Child Abuse.

[47 Am. Jur. Trials 271](#), Clergy Malpractice for Negligent Counseling.

[Summary Pa. Jur. 2d Family Law § 13:67](#), Generally; Duty to Report.

[Summary Pa. Jur. 2d Family Law § 13:68](#), Effect on Privileged Communication.

[Summary Pa. Jur. 2d Family Law § 13:69](#), Generally.

[Summary Pa. Jur. 2d Family Law § 13:70](#), Staff Members.

23 Pa.C.S.A. § 6311

[Summary Pa. Jur. 2d Family Law § 13:75](#), Discharge or Discrimination in Employment for Good Faith Reporting; Right to Civil Action.

NOTES OF DECISIONS

Churches [4](#)
Hospitals [5](#)
Photo lab workers [6](#)
Privileges [3](#)
Reason to believe [2](#)

Sexual assault counselors [7](#)
Social service agencies [8](#)
Validity [1](#)

[1](#). Validity

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

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

[2](#). Reason to believe

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

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

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

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

[3](#). Privileges

23 Pa.C.S.A. § 6311

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

4. Churches

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

Alleged victim of sexual abuse by a priest in the 1980s failed to state a claim for negligence per se against diocese, despite amendments to Pennsylvania's Child Protective Services Law (CPSL) that culminated in 1995 with clergy being added to the list of individuals who had to report suspected child abuse; the victim did not show that clergy were reasonably expected to report suspected child abuse before 1995, and, more importantly, did not demonstrate that the defendant diocese had reason to suspect the priest of child abuse in the 1980s. [Hartz v. Diocese of Greensburg, C.A.3 \(Pa.\)2004, 94 Fed.Appx. 52, 2004 WL 637137](#), Unreported. Infants  12(10); Infants  13.5(2); Religious Societies  30

5. Hospitals

Hospital and its employees were not required to investigate true source of child's injury before reporting suspected child abuse where child was brought to hospital by parent with swelling on her head. [Heinrich v. Conemaugh Valley Memorial Hosp., 648 A.2d 53, 436 Pa.Super. 465](#), Super.1994. Infants  13

Hospital and its agents, who reported that they suspected mother's child was abused, were required to report the suspected abuse and were immune from any liability resulting from child abuse investigations. [Heinrich v. Conemaugh Valley Memorial Hosp., 648 A.2d 53, 436 Pa.Super. 465](#), Super.1994. Infants  13

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

6. Photo lab workers

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

7. Sexual assault counselors

23 Pa.C.S.A. § 6311

Sexual assault counselors have a duty under Child Protective Services Act to reveal allegations of child abuse to police. [Com. v. Askew, 666 A.2d 1062, 446 Pa.Super. 301](#), Super.1995, reargument denied, appeal denied [683 A.2d 876, 546 Pa. 635](#). Infants  13

8. Social service agencies

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

23 Pa.C.S.A. § 6311, PA ST 23 Pa.C.S.A. § 6311

Current through Act 2005-2

Copr. © 2005 Thomson/West

END OF DOCUMENT