PENNSYLVANIA DOMESTIC VIOLENCE: A SELECT BIBLIOGRAPHY OF PRIMARY & SECONDARY SOURCES: PART 1: FAMILY LAW; PART 2: CRIMINAL LAW

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Preface

Since 1989 the month of October has been recognized as Domestic Violence Awareness Month. The National Child Traumatic Stress Network states on its website:

> Although there has been substantial progress in reducing domestic violence, an average of 20 people are physically abused by intimate partners every minute. This equates to more than 10 million abuse victims annually. 1 in 3 women and 1 in 4 men have been physically abused by an intimate partner, and 1 in 5 women and 1 in 7 men have been severely physically abused by an intimate partner. In addition, every year millions of children are exposed to domestic violence. Domestic violence incidents affect every person within a home and can have long-lasting negative effects on children's emotional well-being, and social and academic functioning. (https://www.nctsn.org/resources/public-awareness/national-domestic-violence-awareness-month).

Findings by the Administrative Office of Pennsylvania Courts (AOPC) and the Pennsylvania Commission Against Domestic Violence (PCADV) support these national statistics. According to the AOPC, 41,980 Protection from Abuse (PFA) petitions were filed in 2024, representing the highest figure since at least 2016. As PCADV notes on its website (www.pcadv.org), 3,102 victims were served in one day in Pennsylvania in 2023. Last year alone, 119 victims died from domestic violence incidents in the Commonwealth. All told, PCADV estimates that the estimated lifetime economic burden of intimate partner violence in Pennsylvania is $156 billion.

Like domestic violence, sexual violence and human trafficking are persisting concerns that similarly require the focus and attention of our justice system. According to the Pennsylvania Coalition to Advance Respect (PCAR) (https://pcar.org/), nearly 63% of women and 24% of men have experienced some form of sexual violence. According to the AOPC, 431 human trafficking cases, representing 1,432 total offenses, were filed over the past five years in Pennsylvania.

The following select bibliography identifies the Pennsylvania family and criminal statutory law and rules that deal with domestic and sexual violence. It also provides various secondary sources—such as digests, encyclopedias, treatises, jury instructions, practice guides, law review and bar association periodicals, and various online resources—that address these topics. The bibliography has been divided into two parts: Part 1 for Family Law and Part 2 for Criminal Law.

I wish to thank Maraleen Shields, Executive Director for her encouragement and financial support to complete this project. I especially want to thank Brendan Bertig, Staff Attorney, for his close review of the book and for his editorial advice and suggestions for inclusion of various publications. All errors are of course me own.

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March 2026

PART 1
PENNSLVANIA FAMILY LAW

PRIMARY SOURCES

1A. PENNSYLVANIA CONSOLIDATED STATUTES
a. TITLE 23. DOMESTIC RELATIONS

PART VII
ABUSE OF FAMILY

Chapter
61. Protection from Abuse
63. Child Protective Services
65. Newborn Protection
67. Domestic and Sexual Violence Victim Address Confidentiality

Enactment. Part VII was added December 19, 1990, P.L.1240, No.206, effective in 90 days.

CHAPTER 61
PROTECTION FROM ABUSE

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6122. Construction.

Enactment. Chapter 61 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.
Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1910.49(6), as amended March 30, 1994, provided that Chapter 61 shall not be deemed suspended or affected by Rules 1910.1 through 1910.31 governing actions for support.
Pennsylvania Rule of Civil Procedure No. 1915.24(4), as amended March 30, 1994, provided that Chapter 61 shall not be deemed suspended or affected by Rules 1915.1 through 1915.18 relating to actions for custody, partial custody and visitation of minor children.
Special Provisions in Appendix. See the preamble to Act 66 of 2005 in the appendix to this title for special provisions relating to legislative findings and declarations.
Cross References. Chapter 61 is referred to in sections 3302, 6105 of this title; sections 2711, 2718, 6105, 9121 of Title 18 (Crimes and Offenses); sections 1126, 1725.1, 5750, 5924, 62A18, 6302, 67A01, 8340.14, 9711, 9774.1 of Title 42 (Judiciary and Judicial Procedure); section 6101 of Title 61 (Prisons and Parole).

§ 6101. Short title of chapter.
This chapter shall be known and may be cited as the Protection from Abuse Act.

Cross References. Section 6101 is referred to in section 8127 of Title 42 (Judiciary and Judicial Procedure).

§ 6102. Definitions.
(a) General rule.—The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Abuse." The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:
(1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon.
(2) Placing another in reasonable fear of imminent serious bodily injury.
(3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).
(4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).
(5) Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. The definition of this paragraph applies only to proceedings commenced under this title and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).
"Adult." An individual who is 18 years of age or older.
"Appropriate law enforcement agency." The duly constituted municipal law enforcement agency that regularly provides primary police services to a political subdivision or, in the absence of any such

municipal law enforcement agency, the Pennsylvania State Police installation that regularly provides primary police services to the political subdivision.

"Certified copy." A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court. A raised seal on the copy of the order of the issuing court shall not be required.

"Commercial armory." A for-profit entity which holds the appropriate Federal and State licenses to possess and secure firearms of third persons.

"Comparable court." A foreign court that:

(1) has subject matter jurisdiction and is authorized to issue ex parte, emergency, temporary or final protection orders in that jurisdiction; and

(2) possessed jurisdiction over the parties when the protection order was issued in that jurisdiction.

"Confidential communications." All information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports, statistical data, memoranda or working papers, records or the like, given or made in the course of the relationship. The term also includes communications made by or to a linguistic interpreter assisting the victim, counselor or advocate in the course of the relationship.

"Domestic violence counselor/advocate." An individual who is engaged in a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence, who has undergone 40 hours of training.

"Domestic violence program." A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and interface; transportation, information and referral; and victim assistance.

"Family or household members." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

"Firearm." Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon as defined by 18 Pa.C.S. § 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

"Foreign protection order." A protection order as defined by 18 U.S.C. § 2266 (relating to definitions) issued by a comparable court of another state, the District of Columbia, Indian tribe or territory, possession or commonwealth of the United States.

"Hearing officer." A magisterial district judge, judge of the Philadelphia Municipal Court, arraignment court magistrate appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters) and master for emergency relief.

"Master for emergency relief." A member of the bar of the Commonwealth appointed under section 6110(e) (relating to emergency relief by minor judiciary).

"Minor." An individual who is not an adult.

"Other weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term does not include a firearm.

"Safekeeping permit." A permit issued by a sheriff allowing a person to take possession of any firearm, other weapon or ammunition that a judge ordered a defendant to relinquish in a protection from abuse proceeding.

"Secure visitation facility." A court-approved visitation program offered in a facility with trained professional staff operated in a manner that safeguards children and parents from abuse and abduction.

"Sheriff."

(1) Except as provided in paragraph (2), the sheriff of the county.

(2) In a city of the first class, the chief or head of the police department.

"Victim." A person who is physically or sexually abused by a family or household member. For purposes of section 6116 (relating to confidentiality), a victim is a person against whom abuse is committed who consults a domestic violence counselor or advocate for the purpose of securing advice, counseling or assistance. The term shall also include persons who have a significant relationship with the victim and who seek advice, counseling or assistance from a domestic violence counselor or advocate regarding abuse of the victim.

"Weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a magazine, clip or other components to render it immediately operable and components which can readily be assembled into a weapon as defined by 18 Pa.C.S. § 907 (relating to possessing instruments of crime).

(b) Other terms.—Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa.C.S. (relating to crimes and offenses).

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 9, 2008, P.L.1352, No.98, eff. 60 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 added the defs. of "appropriate law enforcement agency" and "commercial armory" in subsec. (a). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

2008 Amendment. Act 98 amended the def. of "hearing officer" in subsec. (a). Section 10 of Act 98 provided that nothing in Act 98 shall be construed or deemed to provide arraignment court magistrates with retirement benefits or rights different from those availiable to bail commissioners immediately prior to the effective date of Act 98.

2005 Amendment. Act 66 amended the defs. of "confidential communications" and "hearing officer" and added the defs. of "firearm," "master for emergency relief," "other weapon," "safekeeping permit," "sheriff" and "weapon" in subsec. (a).

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

2001 Amendment. Act 39 added the defs. of "certified copy," "comparable court" and "foreign protection order" in subsec. (a).

1995 Amendment. Act 10, 1st Sp.Sess., amended the def. of "abuse" in subsec. (a).

Cross References. Section 6102 is referred to in sections 3701, 5322, 6702, 6711 of this title; sections 2711, 2718, 6102, 6105, 9158 of Title 18 (Crimes and Offenses); sections 1726.2, 5920, 8127, 9720.8, 9774.1 of Title 42 (Judiciary and Judicial Procedure); section 304 of Title 53 (Municipalities Generally).

§ 6103. Jurisdiction.

(a) General rule.—The court shall have jurisdiction over all proceedings under this chapter.

(b) Effect of departure and nonresidence.—The right of the plaintiff to relief under this chapter shall not be affected by either of the following:
(1) The plaintiff's leaving the residence or household to avoid further abuse.
(2) The defendant's absence from this Commonwealth or the defendant's nonresidence in this Commonwealth, provided that the court has personal jurisdiction over the defendant in accordance with 42 Pa.C.S. § 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth).
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

§ 6104. Full faith and credit and foreign protection orders.

(a) General rule.—A court shall recognize and enforce a valid foreign protection order issued by a comparable court. The validity of a foreign protection order shall only be determined by a court.
(b) Affirmative defense.—Failure by a comparable court to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign protection order. A comparable court shall have complied with that court's notice requirements and shall have given the defendant the opportunity to be heard before the foreign order was issued. In the case of ex parte orders, the comparable court shall have complied with that court's notice requirements and have given the defendant an opportunity to be heard within a reasonable period of time after the order was issued, consistent with due process.
(c) Invalid orders.—A foreign protection order issued by a comparable court against a party who has filed a petition, complaint or other written pleading for a protection order is not valid and not entitled to full faith and credit if:
(1) no cross or counter petition, complaint or other written pleading was filed seeking the protection order; or
(2) a cross or counter petition, complaint or other written pleading was filed and the court did not make a specific finding that each party was entitled to a protection order.
(d) Filing a foreign protection order.—A plaintiff may file a certified copy of a foreign protection order with the prothonotary in any county within this Commonwealth where the plaintiff believes enforcement may be necessary. The following provisions shall apply:
(1) No costs or fees associated with filing a foreign protection order shall be assigned to the plaintiff, including the cost of obtaining certified copies of the order. Costs and fees associated with filing a foreign protection order may be assessed against the defendant.
(2) Upon filing of a foreign protection order, a prothonotary shall transmit, in a manner prescribed by the Pennsylvania State Police, a copy of the order to the Pennsylvania State Police registry of protection orders.
(3) Filing of a foreign protection order shall not be a prerequisite for service and enforcement.
(e) Orders issued in another judicial district within this Commonwealth.—The filing of an order issued in another judicial district within this Commonwealth is not required for enforcement purposes.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 amended subsec. (d).
Cross References. Section 6104 is referred to in section 6105 of this title.

§ 6105. Responsibilities of law enforcement agencies.

(a) General rule.—The police department of each municipal corporation, the Pennsylvania State Police and the sheriff of each county shall insure that all their officers, deputies and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers and deputies. All law enforcement agencies within this Commonwealth shall adopt a written domestic violence policy.

(b) Notice of services and rights.—Each law enforcement agency shall provide the abused person with oral and written notice of the availability of safe shelter and of domestic violence services in the community, including the hotline number for domestic violence services. The written notice, which shall be in English and Spanish and any additional language required by local rule of court, shall include the following statement:

"If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the Protection From Abuse Act (23 Pa.C.S. Ch. 61), which could include the following:

(1) An order restraining the abuser from further acts of abuse.

(2) An order directing the abuser to leave your household.

(3) An order preventing the abuser from entering your residence, school, business or place of employment.

(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.

(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(c) Mandatory report.—Each law enforcement agency shall make an incident report, on a form prescribed by the Pennsylvania State Police, consistent with the report required by the Federal National Incident-Based Reporting System (NIBRS). The mandate for incident report completion shall not be operative until the Pennsylvania State Police have implemented NIBRS. The incident report may include the following:

(1) Names, addresses and telephone numbers of the victim, the accused, any witnesses and the caller.

(2) A second permanent address and telephone number for the victim, such as a close family member or a friend.

(3) A statement of the relationship between the victim and the accused.

(4) A narrative for the incident, including the date, time and whether the accused appeared intoxicated or under the influence of a controlled substance.

(5) What, if any, weapons were used or threatened to be used.

(6) A description of any injuries observed by the officer.

(7) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.

(8) Documentation of any evidence that would tend to establish that a crime was committed.

(9) An indication of whether an arrest was made and the reason for electing not to arrest, whether there was a warrantless arrest, an arrest with a warrant or no arrest.

(10) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.

(11) The crimes with which the accused was charged.

(12) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.

(13) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.

(14) The names and ages of any children present in the household and their address and telephone number if children were relocated.
(15) Notation of previous incidents of which the officer is personally aware.
(16) Notation of previous incidents reported by the victim or witnesses.
(17) If an officer was injured in the incident, the nature and circumstances of the injury.
(d) Notice of arrest.—All law enforcement agencies shall make reasonable efforts to notify any adult or emancipated minor protected by an order issued under this chapter of the arrest of the defendant for violation of an order as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after preliminary arraignment.
(e) Statewide registry.—
(1) The Pennsylvania State Police shall establish a Statewide registry of protection orders and shall maintain a complete and systematic record and index of all valid temporary and final court orders of protection, court-approved consent agreements and a foreign protection order filed pursuant to section 6104(d) (relating to full faith and credit and foreign protection orders). The Statewide registry shall include, but need not be limited to, the following:
(i) The names of the plaintiff and any protected parties.
(ii) The name and address of the defendant.
(iii) The relationship between the plaintiff and defendant.
(iv) The date the order was entered.
(v) The date the order expires.
(vi) The relief granted under sections 6108(a)(1), (2), (4), (6) and (7) (relating to relief) and 6110(a) (relating to emergency relief by minor judiciary).
(vii) The judicial district in which the order was entered.
(viii) Where furnished, the Social Security number and date of birth of the defendant.
(ix) Whether or not any or all firearms, other weapons or ammunition were ordered relinquished.
(2) The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of the protection order or approved consent agreement to the Statewide registry of protection orders so that it is received within 24 hours of the entry of the order. Likewise, amendments to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry of protection orders within eight hours of receipt. Vacated or expired orders shall be purged from the registry.
(3) The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid protection order involving any defendant.
(4) When an order granting relief under section 6108(a)(7) has been entered by a court, such information shall be available to the Pennsylvania State Police for the purpose of conducting a criminal history records check in compliance with the applicable provisions of 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act).
(5) Information contained in the Statewide registry shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.
(f) Information concerning crimes of violence.—Each police department in a city, borough or township and the Pennsylvania State Police shall transmit to the Pennsylvania State Police, in a manner prescribed by the Pennsylvania State Police, the information specified in subsection (c) related to crimes of violence between family or household members.
(g) Annual report.—The Pennsylvania State Police shall annually compile and analyze the incident report data received and publish a Statewide report which includes aggregate, county and department-

based statistical profiles. The Pennsylvania State Police shall transmit a copy of the annual report to the Governor, the General Assembly and each domestic violence program in this Commonwealth.

(h) Enforcement of foreign protection orders.—

(1) All foreign protection orders shall have the presumption of validity in this Commonwealth, and police officers shall make arrests for violations thereof in the same manner as set for violations of protection orders issued within this Commonwealth. Until a foreign order is declared to be invalid by a court, it shall be enforced by all law enforcement personnel in this Commonwealth.

(2) A police officer shall rely upon any copy of a foreign protection order which has been presented to the officer by any source and may verify the existence of a protection order consistent with the provisions of section 6113(a) (relating to arrest for violation of order). The fact that a foreign protection order has not been filed with a prothonotary or entered into the Pennsylvania State Police registry shall not be grounds for law enforcement to refuse to enforce the order.

(i) Immunity.—The following entities shall be immune from civil liability for good faith conduct in any action arising in connection with a court's finding that the foreign order is invalid or unenforceable:

(1) Law enforcement agencies and their agents and employees.

(2) County correctional and detention facilities and their agents and employees.

(3) Prothonotaries and their agents and employees.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 amended subsec. (e).

2001 Amendment. Act 39 amended subsec. (e)(1) and added subsecs. (h) and (i).

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (e)(5), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 6105 is referred to in sections 6106, 6109, 6114 of this title; section 62A04 of Title 42 (Judiciary and Judicial Procedure).

§ 6106. Commencement of proceedings.

(a) General rule.—An adult or an emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of minor children, or a guardian of the person of an adult who has been declared incompetent under 20 Pa.C.S. Ch. 51 Subch. B (relating to appointment of guardian) may seek relief on behalf of the incompetent adult, by filing a petition with the court alleging abuse by the defendant.

(a.1) False reports.—A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this chapter commits an offense under 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).

(a.2) Notification of defendant's occupation.—The plaintiff shall notify the court if the plaintiff has reason to believe that the defendant is a licensed firearms dealer, is employed by a licensed firearms dealer or manufacturer, is employed as a writer, researcher or technician in the firearms or hunting industry or is required to carry a firearm as a condition of employment.

(a.3) Notification of need to protect plaintiff.—The plaintiff shall notify the court anytime during the period commencing upon filing the petition and granting of an order or approving a consent agreement at a hearing held under section 6107(a) (relating to hearings) if the plaintiff has reason to believe the plaintiff's safety is at risk. In such a case, the court shall direct the Pennsylvania State Police,

the municipal police or the sheriff to accompany the plaintiff to the plaintiff's residence to retrieve personal belongings or to accompany the plaintiff while the petition or order is served upon the defendant by the sheriff or competent adult, as set forth in the Pennsylvania Rules of Civil Procedure.

(a.4) Notification regarding child abuse investigation.—

(1) If the plaintiff has knowledge of a founded or indicated report of child abuse under Chapter 63 (relating to child protective services) involving the defendant, the petition shall include that information together with the name of the investigative agency.

(2) The notice of hearing and order shall include notice to the defendant that an order issued under this chapter may have an impact on the defendant under Chapter 63. The court shall develop procedures to implement the provisions of this paragraph.

(b) Plaintiff fees not permitted.—No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with the filing, issuance, registration or service of a petition, motion, complaint, order or any other filing. Prohibited fees or costs shall include, but are not limited to, those associated with modifying, withdrawing, dismissing or certifying copies of a petition, motion, complaint, order or any other filing, as well as any judicial surcharge or computer system fee. No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with filing a motion for reconsideration or an appeal from any order or action taken pursuant to this chapter. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation).

(c) Assessment of fees and costs against the defendant.—When an order is granted pursuant to this chapter, fees and costs shall be assessed against the defendant. The court shall waive fees and costs upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the costs. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1.

(d) Surcharge on order.—When a protection order is granted under section 6107(a), other than pursuant to an agreement of the parties, a surcharge of $100 shall be assessed against the defendant. All moneys received from surcharges shall be distributed in the following order of priority:

(1) $25 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).

(1.1) $25 shall be distributed to the sheriff, who shall:

(i) forward the amount to the entity that performed service of the petition and order under subsection (f); or

(ii) retain the amount if the sheriff performed service of the petition and order under subsection (f).

(2) $25 shall be retained by the county and shall be used by the court to carry out the provisions of this chapter.

(i) (Deleted by amendment).

(ii) (Deleted by amendment).

(3) $25 shall be forwarded to the Department of Human Services for use for victims of domestic violence in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(d.1) Limitation.—The surcharge allocated under subsection (d)(1) and (3) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.

(e) Court to adopt means of service.—(Deleted by amendment).

(f) Service.—The court shall adopt a means of prompt and effective service and order that the sheriff or appropriate law enforcement agency serve the petition and order.
(g) Service of petition and orders.—The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments and sheriff with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police and sheriff. Failure to serve shall not stay the effect of a valid order.
(g.1) Service of original process of a foreign protection order.—No plaintiff or petitioner shall be charged any costs or fees associated with the service of original process of a foreign protection order. Costs or fees associated with the service of original process of a foreign protection order may be assessed against the defendant.
(h) Assistance and advice to plaintiff.—The courts and hearing officers shall:
(1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for a protection order for an individual not represented by counsel.
(2) Provide the plaintiff with written and oral referrals, in English and Spanish, to the local domestic violence program, to the local legal services office and to the county bar association's lawyer referral service.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days; Oct. 24, 2018, P.L.649, No.92, eff. 180 days; June 30, 2025, P.L.76, No.23, eff. 60 days)

2025 Amendment. Act 23 amended subsecs. (d) and (f) and deleted subsec. (e).
2018 Amendments. Act 79 amended subsec. (d) and added subsec. (a.3) and Act 92 added subsec. (a.4). Section 11 of Act 79 provided that Act 79 shall apply to orders issued pursuant to section 6108 on or after the effective date of section 11. See section 2 of Act 92 in the appendix to this title for special provisions relating to applicability.
2005 Amendment. Act 66 amended subsecs. (b), (c), (d), (g) and (g.1) and added subsecs. (a.2) and (d.1).
Cross References. Section 6106 is referred to in sections 6107, 6108, 6110 of this title.

§ 6107. Hearings.
(a) General rule.—Within ten business days of the filing of a petition under this chapter, a hearing shall be held before the court, at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall, at the time the defendant is given notice of the hearing, advise the defendant of the right to be represented by counsel, of the right to present evidence, of the right to compel attendance of witnesses, of the method by which witnesses may be compelled, of the possibility that any firearm, other weapon or ammunition owned and any firearm license possessed may be ordered temporarily relinquished, of the options for relinquishment of a firearm pursuant to this chapter, of the possibility that Federal or State law may prohibit the possession of firearms, including an explanation of 18 U.S.C. § 922(g)(8) (relating to unlawful acts) and 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), and that any protection order granted by a court may be considered in any subsequent proceedings under this title. This notice shall be printed and delivered in a manner which easily attracts attention to its content and shall specify that child custody is one of the proceedings where prior protection orders may be considered.
(b) Temporary orders.—

(1) If a plaintiff petitions for temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex parte proceeding.
(2) The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse. The order shall remain in effect until modified or terminated by the court after notice and hearing.
(3) In addition to any other relief, the court may, pursuant to section 6108 (relating to relief), direct that the defendant temporarily relinquish to the sheriff any firearms, other weapons or ammunition for the duration of the temporary order if the petition demonstrates any of the following:
(i) Abuse which involves a firearm or other weapon.
(ii) An immediate and present danger of abuse. In determining whether an immediate and present danger of abuse exists, the court shall consider a number of factors, including, but not limited to:
(A) Whether the temporary order of protection from abuse is not likely to achieve its purpose in the absence of such a condition.
(B) Whether the defendant has previously violated a protection from abuse order.
(C) Whether past or present abuse to the plaintiff or any of the plaintiff's minor children resulted in injury.
(D) Whether the abuse occurred in public.
(E) Whether the abuse includes:
(I) threats of abuse or suicide;
(II) killing or threatening to kill pets;
(III) an escalation of violence;
(IV) stalking or obsessive behavior;
(V) sexual violence; or
(VI) drug or excessive alcohol use.
(4) If the court orders the defendant to temporarily relinquish any firearm, other weapon or ammunition pursuant to paragraph (3), the defendant shall decide in what manner the defendant is going to relinquish any firearm, other weapon or ammunition listed in the order. Relinquishment may be to the sheriff pursuant to section 6108(a)(7) or to a third party for safekeeping pursuant to section 6108.3 (relating to relinquishment to third party for safekeeping).
(c) Continued hearings.—
(1) If a hearing under subsection (a) is continued and no temporary order is issued, the court may make ex parte temporary orders under subsection (b) as it deems necessary.
(2) If a hearing is scheduled to take place within three business days after a defendant is served under section 6106 (relating to commencement of proceedings), the court shall grant a continuance until the three-business-day period has elapsed, if requested by the defendant.
(3) The court shall notify the defendant of the right to such continuance.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. Jan. 1, 1998; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsecs. (a) and (c). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.
2005 Amendment. Act 66 amended subsecs. (a) and (b).
Cross References. Section 6107 is referred to in sections 6106, 6108 of this title; section 6105 of Title 18 (Crimes and Offenses).

§ 6108. Relief.

(a) General rule.—Subject to subsection (a.1), the court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

(1) Directing the defendant to refrain from abusing the plaintiff or minor children.

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff if the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) If the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, with the consent of the plaintiff, ordering the defendant to provide suitable alternate housing.

(4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. In determining whether to award temporary custody or establish temporary visitation rights pursuant to this paragraph, the court shall consider any risk posed by the defendant to the children as well as risk to the plaintiff. The following shall apply:

(i) A defendant shall not be granted custody, partial custody or unsupervised visitation where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant:

(A) abused the minor children of the parties or poses a risk of abuse toward the minor children of the parties; or

(B) has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order or that the defendant poses a risk of violating 18 Pa.C.S. § 2904.

(ii) Where the court finds after a hearing under this chapter that the defendant has inflicted abuse upon the plaintiff or a child, the court may require supervised custodial access by a third party. The third party must agree to be accountable to the court for supervision and execute an affidavit of accountability.

(iii) Where the court finds after a hearing under this chapter that the defendant has inflicted serious abuse upon the plaintiff or a child or poses a risk of abuse toward the plaintiff or a child, the court may:

(A) award supervised visitation in a secure visitation facility; or

(B) deny the defendant custodial access to a child.

(iv) If a plaintiff petitions for a temporary order under section 6107(b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107(a). Where the defendant has forcibly or fraudulently removed any minor child from the care and custody of a plaintiff, the court shall order the return of the child to the plaintiff unless the child would be endangered by restoration to the plaintiff.

(v) Nothing in this paragraph shall bar either party from filing a petition for custody under Chapter 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure.

(vi) In order to prevent further abuse during periods of access to the plaintiff and child during the exercise of custodial rights, the court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.
(5) After a hearing in accordance with section 6107(a), directing the defendant to pay financial support to those persons the defendant has a duty to support, requiring the defendant, under sections 4324 (relating to inclusion of medical support) and 4326 (relating to mandatory inclusion of child medical support), to provide health coverage for the minor child and spouse, directing the defendant to pay all of the unreimbursed medical expenses of a spouse or minor child of the defendant to the provider or to the plaintiff when he or she has paid for the medical treatment, and directing the defendant to make or continue to make rent or mortgage payments on the residence of the plaintiff to the extent that the defendant has a duty to support the plaintiff or other dependent household members. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters 43 (relating to support matters generally) and 45 (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.
(6) Prohibiting the defendant from having any contact with the plaintiff or minor children, including, but not limited to, restraining the defendant from entering the place of employment or business or school of the plaintiff or minor children and from harassing the plaintiff or plaintiff's relatives or minor children.
(7) Prohibiting the defendant from acquiring or possessing any firearm for the duration of the order, ordering the defendant to temporarily relinquish to the sheriff or the appropriate law enforcement agency any firearms under the defendant's possession or control, and requiring the defendant to relinquish to the sheriff or the appropriate law enforcement agency any firearm license issued under section 6108.3 (relating to relinquishment to third party for safekeeping) or 18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license) or 6109 (relating to licenses) the defendant may possess. The court may also order the defendant to relinquish the defendant's other weapons or ammunition that have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children. A copy of the court's order shall be transmitted to the chief or head of the appropriate law enforcement agency and to the sheriff of the county of which the defendant is a resident. When relinquishment is ordered, the following shall apply:
(i) (A) The court's order shall require the defendant to relinquish such firearms, other weapons, ammunition and any firearm license pursuant to the provisions of this chapter within 24 hours of service of a temporary order or the entry of a final order or the close of the next business day as necessary by closure of the sheriffs' offices, except for cause shown at the hearing, in which case the court shall specify the time for relinquishment of any or all of the defendant's firearms.
(B) A defendant subject to a temporary order requiring the relinquishment of firearms, other weapons or ammunition shall, in lieu of relinquishing specific firearms, other weapons or ammunition which cannot reasonably be retrieved within the time for relinquishment in clause (A) due to their current location, provide the sheriff or the appropriate law enforcement agency with an affidavit listing the firearms, other weapons or ammunition and their current location. If the defendant, within the time for relinquishment in clause (A), fails to provide the affidavit or fails to relinquish, pursuant to this chapter, any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, the sheriff or the appropriate law enforcement agency shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement authorities. The

defendant shall not possess any firearms, other weapons or ammunition specifically listed in the affidavit provided to the sheriff or the appropriate law enforcement agency pursuant to this clause for the duration of the temporary order.
(C) As used in this subparagraph, the term "cause" shall be limited to facts relating to the inability of the defendant to retrieve a specific firearm within 24 hours due to the current location of the firearm.
(ii) The court's order shall contain a list of any firearm, other weapon or ammunition ordered relinquished. Upon the entry of a final order, the defendant shall inform the court in what manner the defendant is going to relinquish any firearm, other weapon or ammunition ordered relinquished. Relinquishment may occur pursuant to section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or 6108.3 or to the sheriff or the appropriate law enforcement agency pursuant to this paragraph. Where the sheriff or the appropriate law enforcement agency is designated, the sheriff or the appropriate law enforcement agency shall secure custody of the defendant's firearms, other weapons or ammunition and any firearm license listed in the court's order for the duration of the order or until otherwise directed by court order. In securing custody of the defendant's relinquished firearms, the sheriff or the appropriate law enforcement agency shall comply with 18 Pa.C.S. § 6105(f)(4) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms). In securing custody of the defendant's other weapons and ammunition, the sheriff or the appropriate law enforcement agency shall provide the defendant with a signed and dated written receipt which shall include a detailed description of the other weapon or ammunition and its condition. The court shall inform the defendant that firearms, other weapons or ammunition shall be deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.
(iii) The sheriff or the appropriate law enforcement agency shall provide the plaintiff with the name of the person to which any firearm, other weapon or ammunition was relinquished.
(iv) Unless the defendant has complied with subparagraph (i)(B) or section 6108.2 or 6108.3, if the defendant fails to relinquish any firearm, other weapon, ammunition or firearm license within 24 hours or upon the close of the next business day due to closure of sheriffs' or appropriate law enforcement agencies' offices or within the time ordered by the court upon cause being shown at the hearing, the sheriff or the appropriate law enforcement agency shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies, as appropriate.
(v) Any portion of any order or any petition or other paper which includes a list of any firearm, other weapon or ammunition ordered relinquished shall be kept in the files of the court as a permanent record thereof and withheld from public inspection except:
(A) upon an order of the court granted upon cause shown;
(B) as necessary, by law enforcement and court personnel; or
(C) after redaction of information listing any firearm, other weapon or ammunition.
(vi) As used in this paragraph, the term "defendant's firearms" shall, if the defendant is a licensed firearms dealer, only include firearms in the defendant's personal firearms collection pursuant to 27 CFR § 478.125a (relating to personal firearms collection).
(7.1) If the defendant is a licensed firearms dealer, ordering the defendant to follow such restrictions as the court may require concerning the conduct of his business, which may include ordering the defendant to relinquish any Federal or State license for the sale, manufacture or importation of firearms as well as firearms in the defendant's business inventory. In restricting the defendant pursuant to this paragraph, the court shall make a reasonable effort to preserve the financial assets of the defendant's business while fulfilling the goals of this chapter.

(8) Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; costs of repair or replacement of real or personal property damaged, destroyed or taken by the defendant or at the direction of the defendant; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorney fees. An award under this chapter shall not constitute a bar to litigation for civil damages for injuries sustained from the acts of abuse giving rise to the award or a finding of contempt under this chapter.
(9) Directing the defendant to refrain from stalking or harassing the plaintiff and other designated persons as defined in 18 Pa.C.S. §§ 2709 (relating to harassment) and 2709.1 (relating to stalking).
(9.1) Granting temporary ownership rights over a companion animal and directing the defendant to refrain from possessing, contacting, attempting to contact, transferring or relocating the companion animal or contacting or entering the property of any person sheltering the companion animal.
(10) Granting any other appropriate relief sought by the plaintiff.

(a.1) Final order or agreement.—The following apply:

(1) Any final order must direct the defendant to refrain from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the plaintiff or minor children and must order that the defendant is subject to the firearms, other weapons or ammunition and firearms license prohibition relinquishment provisions under subsection (a)(7).
(2) A final agreement may direct the defendant to refrain from abusing, harassing, stalking, threatening or attempting or threatening to use physical force against the plaintiff, minor children or companion animal and may order that the defendant is subject to the firearms, other weapons or ammunition and firearms license prohibition and relinquishment provisions under subsection (a)(7).

(b) Identifying information.—Any order issued under this section shall, where furnished by either party, specify the Social Security number and date of birth of the defendant.

(c) Mutual orders of protection.—Mutual orders of protection shall not be awarded unless both parties have filed timely written petitions, complied with service requirements under section 6106 (relating to commencement of proceedings) and are eligible for protection under this chapter. The court shall make separate findings and, where issuing orders on behalf of both petitioners, enter separate orders.

(d) Duration and amendment of order or agreement.—A protection order or approved consent agreement shall be for a fixed period of time not to exceed three years. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(e) Extension of protection orders.—

(1) An extension of a protection order may be granted:
(i) Where the court finds, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 6106 and 6107, that the defendant committed one or more acts of abuse subsequent to the entry of the final order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff, minor child or companion animal.
(ii) When a contempt petition or charge has been filed with the court or with a hearing officer in Philadelphia County, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition and may be extended for another term beyond the disposition of the contempt petition.
(iii) If the plaintiff files a petition for an extension of the order and the defendant is or was incarcerated and will be released from custody in the next 90 days or has been released from custody within the past 90 days. The plaintiff does not need to show that the defendant committed one or more acts of

abuse subsequent to the entry of the order or that the defendant engaged in a pattern or practice that indicates continued risk of harm to the plaintiff or minor children as set forth in subparagraph (i).
(2) Service of an extended order shall be made in accordance with section 6109 (relating to service of orders).
(3) There shall be no limitation on the number of extensions that may be granted.
(f) Support procedure.—The domestic relations section shall enforce any support award in a protection order where the plaintiff files a complaint for support under subsection (a)(5).
(g) Notice.—Notice shall be given to the defendant, in orders issued under this section, stating that violations of an order will subject the defendant to arrest under section 6113 (relating to arrest for violation of order) or contempt of court under section 6114 (relating to contempt for violation of order or agreement). Resumption of coresidency on the part of the plaintiff and defendant shall not nullify the provisions of the court order.
(h) Title to real property unaffected.—No order or agreement under this chapter shall in any manner affect title to any real property.
(i) Third parties and affidavits.—A court requiring relinquishment of firearms under this section shall provide for the hearing of petitions by third parties who request the return of a firearm relinquished by the defendant under subsection (a)(7). The following apply:
(1) A third party claiming to be the lawful owner of a firearm relinquished by the defendant under subsection (a)(7) may request the return of the firearm by providing proof of ownership and a sworn affidavit.
(2) The affidavit under paragraph (1) must affirm all of the following:
(i) The third party who is the lawful owner will not intentionally or knowingly return to the defendant the firearm or allow access to the firearm by the defendant.
(ii) The third party who is the lawful owner understands that violating subparagraph (i) constitutes a misdemeanor of the second degree under 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).
(iii) If the third party who is the lawful owner is a family or household member of the defendant, any firearm returned under this section must be stored in a gun safe to which the defendant does not have access and will not be permitted to access, or stored in a location outside the third party's home to which the defendant does not have access.
(3) If the court orders the return of a firearm under this section, prior to the return of the firearm, the sheriff shall independently confirm that the person seeking relief under this section is legally eligible to possess firearms under Federal and State law. The sheriff shall conduct the background check as soon as practicable after the court enters an order under this section.
(j) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Companion animal." An animal not used in commercial agriculture or production which is owned, kept, leased, possessed or held by the petitioner or respondent or a minor child of either.
(June 23, 1993, P.L.124, No.28, eff. imd.; Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Dec. 16, 1997, P.L.549, No.58, eff. 60 days; May 10, 2000, P.L.35, No.10, eff. imd.; Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days; Nov. 18, 2024, P.L.1184, No.146, eff. 60 days)

2024 Amendment. Act 146 amended subsecs. (a.1)(2) and (e)(1)(i) and added subsecs. (a)(9.1) and (j).

2018 Amendment. Act 79 amended subsec. (a) intro. par. and (7) and added subsecs. (a.1), (e)(1)(iii) and (i). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

References in Text. Chapter 45, referred to in subsec. (a)(5), was repealed by the act of April 4, 1996, P.L.58, No.20. The subject matter is now contained in Parts VIII and VIII-A of this title.

Former Chapter 53 (Custody), referred to in this section, is repealed. The subject matter is now contained in Chapter 53 (Child Custody).

Cross References. Section 6108 is referred to in sections 6105, 6107, 6108.2, 6108.3, 6108.5, 6108.7, 6110, 6113, 6117, 6120, 6303, 6711 of this title; sections 2709, 2709.1, 6105, 6106, 6128 of Title 18 (Crimes and Offenses).

§ 6108.1. Return of relinquished firearms, other weapons and ammunition and additional relief.

(a) General rule.—Any court order requiring the relinquishment of firearms, other weapons or ammunition shall provide for the return of the relinquished firearms, other weapons or ammunition to the defendant upon expiration of the order or dismissal of a petition for a protection from abuse order. The defendant may take custody of the firearms, other weapons and ammunition provided that the defendant is otherwise eligible to lawfully possess the relinquished items. The defendant shall not be required to pay any fees, costs or charges associated with the returns, whether those fees, costs or charges are imposed by the Pennsylvania State Police, any local law enforcement agency or any other entity, including a licensed importer, licensed manufacturer or licensed dealer in order to secure return of the relinquished firearms, other weapons or ammunition. The sheriff's or the appropriate law enforcement agency's office shall maintain a weapons return form that the defendant may fill out and return to the office once a temporary or final protection from abuse order has been dismissed or expires.

(a.1) Conditions for return.—The following conditions must be satisfied prior to the firearms, other weapons or ammunition being returned to the defendant:

(1) The firearms, other weapons or ammunition relinquished must not be evidence of a crime.

(2) The defendant or owner must not be otherwise prohibited by applicable Federal or State law, or another condition, including, but not limited to, bail, from taking possession of the firearms, other weapons or ammunition seized.

(3) The defendant or owner must have been given a clearance by the Pennsylvania State Police Instant Check System Unit or through the National Instant Criminal Background Check System (NICS), requested by the sheriff's office.

(a.2) Notice to plaintiff.—The plaintiff of the protection from abuse order shall be notified of the defendant's request to return the firearms, other weapons or ammunition.

(a.3) Petition for return.—If there is a determination under subsection (a.1) that the defendant is ineligible to regain possession of the firearms, other weapons or ammunition, the defendant or owner may file a petition appealing that determination and seeking their return. A copy of the petition must be served upon the plaintiff, sheriff and the district attorney.

(a.4) Abandonment.—Any firearms, other weapons or ammunition shall be deemed abandoned when the conditions under 18 Pa.C.S. § 6128(a) (relating to abandonment of firearms, weapons or ammunition) are satisfied and may then be disposed of in accordance with 18 Pa.C.S. § 6128.

(b) Modification of court's order providing for return of relinquished firearm, other weapon or ammunition.—Any other person may petition the court to allow for the return of that other person's firearms, other weapons and ammunition prior to the expiration of the court's order. The

petition shall be served upon the plaintiff, and the plaintiff shall be given notice and an opportunity to be heard regarding that petition.
(1) (Deleted by amendment).
(2) (Deleted by amendment).
(c) Modification of court's order to provide for alternative means of relinquishing firearms, other weapons or ammunition.—The defendant may petition the court for modification of the order to provide for an alternative means of relinquishment in accordance with this chapter. The petition shall be served upon the plaintiff, and the plaintiff shall have an opportunity to be heard at the hearing as provided in subsection (d). Where the court orders a modification pursuant to this subsection providing for alternative means of relinquishment, the sheriff shall proceed as directed by the court.
(d) Hearing.—Within ten business days of the filing of any petition under this section, a hearing shall be held before the court.
(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Other person." Any person, except the defendant, who is the lawful owner of a firearm, other weapon or ammunition relinquished pursuant to this chapter.
"Safekeeping." The secure custody of a firearm, other weapon or ammunition ordered relinquished by an active protection from abuse order.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsecs. (a) and (b) and added subsecs. (a.1), (a.2), (a.3) and (a.4). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.
2005 Amendment. Act 66 added section 6108.1.
Cross References. Section 6108.1 is referred to in section 6108.3 of this title; section 6105 of Title 18 (Crimes and Offenses).

§ 6108.2. Relinquishment for consignment sale, lawful transfer or safekeeping.
(a) General rule.—Notwithstanding any other provision of law, a defendant who is the subject of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff or the appropriate law enforcement agency, relinquish to a dealer licensed pursuant to 18 Pa.C.S. § 6113 (relating to licensing of dealers) any firearms, other weapons or ammunition for consignment sale, lawful transfer or safekeeping. The dealer may charge the defendant a reasonable fee for accepting relinquishment and for storage of any firearms, other weapons or ammunition.
(b) Affidavit.—A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall obtain an affidavit from the dealer on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:
(1) The caption of the case in which the protection from abuse order was issued.
(2) The name, address, date of birth and Social Security number of the defendant.
(3) A list of the firearms, other weapons or ammunition, including, if applicable, the manufacturer, model and serial number.
(4) The name and license number of the dealer licensed pursuant to 18 Pa.C.S. § 6113 and the address of the licensed premises.

(5) An acknowledgment that the firearms, other weapons or ammunition will not be returned to the defendant or sold or transferred to a person the dealer knows is a member of the defendant's household, while the defendant is the subject of an active protection from abuse order pursuant to section 6108, which order provides for the relinquishment of the firearm, other weapon or ammunition being returned, sold or transferred.
(6) An acknowledgment that the firearms, other weapons or ammunition, if sold or transferred, will be sold or lawfully transferred in compliance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).
(c) Failure to provide affidavit.—A defendant relinquishing firearms, other weapons or ammunition to a dealer pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons or ammunition, provide to the sheriff the affidavit obtained pursuant to subsection (b) and relinquish to the sheriff any firearms, other weapons or ammunition ordered to be relinquished which are not specified in the affidavit, in an affidavit provided in accordance with section 6108(a)(7)(i)(B) (relating to relief) or in an acknowledgment of receipt from a third party provided to the sheriff pursuant to section 6108.3 (relating to relinquishment to third party for safekeeping). If the defendant fails to comply with this subsection, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.
(d) Form.—The Pennsylvania State Police shall develop and make available a form to be used by dealers to accept possession of firearms, other weapons and ammunition for consignment sale, lawful transfer or safekeeping pursuant to this section.
(e) Transfer upon entry of final order.—Upon entry of a final protection from abuse order issued pursuant to section 6108, a defendant who had relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order may request that the firearms, other weapons or ammunition be relinquished to a dealer for consignment sale, lawful transfer or safekeeping pursuant to this section. If the defendant can identify a licensed dealer willing to accept the firearms, other weapons or ammunition in compliance with this section, the court shall order the sheriff to transport the firearms, other weapons or ammunition to the licensed dealer at no cost to the defendant or the licensed dealer.
(f) Nondisclosure.—The affidavit obtained under subsection (c) shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.
(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Safekeeping." The secure custody of firearms, other weapons or ammunition ordered relinquished by an active protection from abuse order.
"Sale or lawful transfer." Any sale or transfer to a person other than the defendant or a member of the defendant's household which is conducted in accordance with 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles).
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsecs. (a) and (e). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.
2005 Amendment. Act 66 added section 6108.2.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (f), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
Cross References. Section 6108.2 is referred to in sections 6108, 6108.3 of this title; sections 6105, 6106 of Title 18 (Crimes and Offenses).

§ 6108.3. Relinquishment to third party for safekeeping.
(a) General rule.—A defendant who is the subject of a protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect, may, within the time frame specified in the order and in lieu of relinquishment to the sheriff, relinquish any firearms, other weapons or ammunition for safekeeping to a third party who meets the requirements of a third party under subsection (b)(3).
(b) Transfer to third party.—
(1) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party pursuant to subsection (a) shall, within the time frame specified in the order for relinquishing firearms, other weapons and ammunition, report to the sheriff's office in the county where the order was entered along with the third party.
(2) Upon determination by the sheriff that the third party is not prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law and after the defendant and third party have executed the affidavits required under paragraph (3), the sheriff shall issue a safekeeping permit to the third party, which shall include, at a minimum, a list of the firearms, other weapons and ammunition which will be relinquished to the third party. The permit shall be issued at no cost to the third party or defendant. The permit shall require the third party to possess the defendant's firearms, other weapons and ammunition until the time that:
(i) the sheriff revokes the safekeeping permit pursuant to subsection (c)(1); or
(ii) the sheriff accepts return of the safekeeping permit pursuant to subsection (d).
(3) (i) A defendant wishing to relinquish firearms, other weapons or ammunition to a third party pursuant to subsection (a) shall, in the presence of the sheriff or the sheriff's designee, execute an affidavit on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:
(A) The caption of the case in which the protection from abuse order was issued.
(B) The name, address, date of birth and the Social Security number of the defendant.
(C) The name, address and date of birth of the third party.
(D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.
(E) An acknowledgment that the defendant will not take possession of any firearm, other weapon or ammunition relinquished to the third party until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).
(F) A plain-language summary of 18 Pa.C.S. § 6105(a.1)(2) and (c)(6) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).
(G) A plain-language summary of 18 U.S.C. § 922(g)(8) (relating to unlawful acts).
(ii) A third party who will be accepting possession of firearms, other weapons and ammunition pursuant to subsection (a) shall, in the presence of the sheriff or the sheriff's designee, execute an affidavit on a form prescribed by the Pennsylvania State Police which shall include, at a minimum, the following:
(A) The caption of the case in which the protection from abuse order was issued.

(B) The name, address and date of birth of the defendant.
(C) The name, address, date of birth and the Social Security number of the third party.
(D) A list of the firearms, other weapons and ammunition which will be relinquished to the third party, including, if applicable, the manufacturer, model and serial number.
(E) An acknowledgment that no firearm, other weapon or ammunition relinquished to the third party will be returned to the defendant until the sheriff accepts return of the safekeeping permit pursuant to subsection (d).
(F) A plain-language summary of 18 Pa.C.S. §§ 6105(a.1)(5) and (c)(6), 6111(c) (relating to sale or transfer of firearms) and 6115 (relating to loans on, or lending or giving firearms prohibited).
(G) A plain-language summary of this section.
(H) An acknowledgment that the third party is not prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law.
(I) An acknowledgment that the third party is not subject to an active protection from abuse order.
(J) An acknowledgment that the defendant has never been the subject of a protection from abuse order issued on behalf of the third party.
(K) An acknowledgment that any firearms, other weapons and ammunition relinquished to the third party will be stored using a locking device as defined in paragraph (1) of the definition of "locking device" in 18 Pa.C.S. § 6142(f) (relating to locking device for firearms) or in a secure location to which the defendant does not have access.
(L) A detailed description of the third party liability pursuant to this section relating to civil liability.
(M) An acknowledgment that the third party shall inform the sheriff of any change of address for the third party within seven days of the change of address.
(N) An acknowledgment that the third party and the defendant are not family or household members.
(O) An acknowledgment that the third party is one of the following:
(I) An attorney at law, and further acknowledgment that the attorney at law and the defendant are in an attorney-client relationship. The attorney at law and the defendant shall sign a written agreement stating in substantially the following form: "Firearm(s) can be relinquished to the attorney at law upon the express, written condition that firearm(s) will be returned to the defendant, or otherwise transferred, only if in strict conformance with applicable law."
(II) A commercial armory, and further acknowledgment that the owner or operator of the commercial armory is not a family or household member of the defendant; the commercial armory is a secure storage facility designed to store firearms; the commercial armory possesses all Federal and State licenses to store firearms; and a form stating substantially the following: "Firearms can be relinquished to the commercial armory upon the express, written condition that firearm(s) will be returned, or transferred, to the defendant only in strict conformance with applicable law."
(4) The defendant shall, within the time frame specified in the order and in lieu of relinquishment to the sheriff, relinquish the firearms, other weapons and ammunition specified in the affidavits provided to the sheriff pursuant to paragraph (3) to the third party who has been issued a safekeeping permit pursuant to paragraph (2). Upon relinquishment of the firearms to the third party, the third party shall sign an acknowledgment of receipt on a form prescribed by the Pennsylvania State Police, which shall include, at a minimum, an acknowledgment that the firearms were relinquished to the third party within the time frame specified in the order.
(5) Within 24 hours of the issuance of the safekeeping permit issued to the third party pursuant to paragraph (2) or by close of the next business day as necessary due to the closure of the sheriff's office, the defendant shall return the signed acknowledgment of receipt required under paragraph (4) to the sheriff in the county where the order was entered.

(6) If the defendant fails to provide the acknowledgment of receipt to the sheriff as required under paragraph (5), an affidavit prepared in accordance with section 6108(a)(7)(i)(B) (relating to relief), an affidavit under section 6108.2 (relating to relinquishment for consignment sale, lawful transfer or safekeeping) or fails to relinquish any firearms, other weapons or ammunition, the sheriff shall, at a minimum, provide immediate notice to the court, the plaintiff and appropriate law enforcement agencies.

(c) Revocation of safekeeping permit.—

(1) The sheriff shall revoke a third party's safekeeping permit and require the third party to relinquish to the sheriff any firearms, other weapons or ammunition which were relinquished to the third party by a defendant pursuant to subsection (a) upon determining or being notified that any of the following apply:

(i) A protection from abuse order has been entered against the third party.

(ii) The third party is prohibited from possessing firearms, other weapons or ammunition pursuant to any Federal or State law.

(iii) The defendant has been convicted of a violation of 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles) or any other offense involving the use of a firearm.

(iv) The defendant has been held in indirect criminal contempt for violating a provision of the protection from abuse order consistent with section 6108(a)(1), (2), (6), (7) or (9) (relating to relief).

(2) Upon revocation of a safekeeping permit, the sheriff shall seize the safekeeping permit and all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party. If revocation of the safekeeping permit was:

(i) Required pursuant to paragraph (1)(i) or (ii), the sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may report to the sheriff's office in order to relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.

(ii) Required pursuant to paragraph (1)(iii) or (iv), the sheriff shall maintain possession of the firearms, other weapons and ammunition until the defendant is no longer prohibited from possessing firearms, other weapons and ammunition pursuant to any Federal or State law unless:

(A) the defendant has the firearms, other weapons and ammunition relinquished to a licensed dealer pursuant to section 6108.2; or

(B) the sheriff is directed to relinquish the firearms, other weapons and ammunition pursuant to a court order.

(d) Return of safekeeping permit.—

(1) Following expiration of a protection from abuse order, which order provided for the relinquishment of firearms, other weapons or ammunition, the defendant and the third party shall report to the sheriff's office to return the safekeeping permit. Upon a determination by the sheriff that the defendant is:

(i) Not prohibited from possessing firearms, other weapons and ammunition, the sheriff shall accept the return of the safekeeping permit, and the third party shall relinquish to the defendant all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party pursuant to this section.

(ii) Prohibited from possessing a firearm, other weapon or ammunition pursuant to any Federal or State law, the sheriff shall accept return of the permit and seize from the third party all of the defendant's firearms, other weapons and ammunition which were relinquished to the third party

pursuant to this section. The sheriff shall return to the defendant any firearm, other weapon or ammunition which the defendant is lawfully entitled to possess.
(2) Upon issuance of a court order pursuant to 18 Pa.C.S. §§ 6105(f)(2) or 6108.1(b) (relating to return of relinquished firearms, other weapons and ammunition and additional relief) which modifies a valid protection from abuse order by allowing the defendant to take possession of a firearm, other weapon or ammunition that had previously been ordered relinquished, the defendant and the third party shall report to the sheriff's office to return the safekeeping permit. The sheriff shall proceed as directed by the court order.
(3) If a third party wishes to relinquish the defendant's firearms, other weapons and ammunition prior to return of the safekeeping permit pursuant to paragraph (1), the sheriff shall accept return of the safekeeping permit and shall seize all of the defendant's firearms, other weapons and ammunition from the third party. The sheriff shall notify the defendant that the firearms, other weapons and ammunition which were relinquished to the third party are in the sheriff's possession and that the defendant may relinquish the firearms, other weapons and ammunition to a subsequent third party pursuant to this section or to a licensed dealer pursuant to section 6108.2.
(e) Civil liability.—A third party who intentionally or knowingly violates any of the provisions of this section shall, in addition to any other penalty prescribed in this chapter or 18 Pa.C.S. Ch. 61, be civilly liable to any person for any damages caused thereby and, in addition, shall be liable to any person for punitive damages in an amount not to exceed $5,000, and the court shall award a prevailing plaintiff a reasonable attorney fee as part of the costs.
(f) Forms.—The Pennsylvania State Police shall develop and make available:
(1) Forms to be used by sheriffs to issue safekeeping permits pursuant to subsection (b)(2).
(2) Affidavit forms and receipt forms to be used by defendants and third parties as required under subsection (b)(3) and (4).
(g) Transfer upon final entry.—A defendant who has previously relinquished firearms, other weapons or ammunition to the sheriff pursuant to a temporary order shall be permitted to have the firearms, other weapons and ammunition relinquished to a third party pursuant to this section following entry of a final protection from abuse order, which order provides for the relinquishment of firearms, other weapons or ammunition during the period of time the order is in effect.
(h) Nondisclosure.—All copies of the safekeeping permit issued under subsection (b)(2) retained by the sheriff and the affidavits and forms obtained under subsection (b)(3) and (4) shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.
(i) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Safekeeping." The secure custody of firearms, other weapons or ammunition which were ordered relinquished by an active protection from abuse order.
"Third party." A person, other than the defendant, who:
(1) Is not a member of the defendant's household.
(2) Is not prohibited from possessing firearms pursuant to any Federal or State law.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 amended subsec. (a) and added subsec. (b)(3)(ii)(N) and (O). Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.
2005 Amendment. Act 66 added section 6108.3.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (h), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
Cross References. Section 6108.3 is referred to in sections 6107, 6108, 6108.2 of this title; sections 6105, 6105.2, 6106, 6115 of Title 18 (Crimes and Offenses).

§ 6108.4. Registry or database of firearm ownership.
(a) Confidentiality.—Information retained to ensure compliance with this chapter and to document the return of firearms shall not be subject to access under the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.
(b) Construction.—Nothing in this chapter shall be construed to allow a government agency or law enforcement agency, or an agent or employee of either, or any other person or entity to create, maintain or operate a database or registry of firearm ownership within this Commonwealth. However, information may be retained to ensure compliance with this chapter and to document the return of firearms.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6108.4.
References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (a), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 6108.5. Penalties for release of information.
Any person who violates section 6108(a)(7)(v) (relating to relief) by releasing information with the intent and purpose of committing such violation commits a misdemeanor of the third degree.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6108.5.

§ 6108.6. Penalty for failure to secure firearms.
In addition to any other penalty provided by 18 Pa.C.S. Ch. 61 Subch. A (relating to Uniform Firearms Act), a commercial armory which violates the provisions of this chapter regarding safekeeping shall forfeit all Federal and State licenses related to firearms.
(Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 added section 6108.6. Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

§ 6108.7. Order to seal record from public view.
(a) General rule.—Notwithstanding any other provision of this chapter, an individual who has entered into a consent agreement approved by the court under section 6108(a) (relating to relief) may petition the court for an order to seal the record of the individual from public view. The court may grant the order if the petitioner proves all of the following by clear and convincing evidence:
(1) The consent agreement for which the individual seeks relief under this section is the only such consent agreement to which the individual has ever been subject and that, during the period in which

the consent agreement was in effect, the individual did not violate an order or consent agreement under section 6108.
(2) A period of at least ten years has elapsed since the expiration of the consent agreement.
(3) The individual has not been subject to another final protection from abuse order under section 6108.
(4) The individual has not been convicted of one of the following offenses where the victim is a family or household member:
(i) An offense set forth in 18 Pa.C.S. § 2711 (relating to probable cause arrests in domestic violence cases).
(ii) An offense equivalent to subparagraph (i) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.
(b) Notice to district attorney and plaintiff.—
(1) The petitioner shall serve a copy of the petition under subsection (a) to the district attorney and to the plaintiff within ten days of the filing of the petition.
(2) The district attorney and the plaintiff shall have an opportunity to be heard at the hearing.
(3) Within 30 days of receipt of notice, the district attorney or plaintiff may file objections to the petition.
(4) If no objection under paragraph (3) is timely filed, the court may grant the petition without further hearing if the requirements of this section have been met.
(5) As used in this subsection, the term "plaintiff" means the person who entered into the consent agreement with the defendant.
(c) Notice to prothonotary.—Notice of an order to seal the individual's record from public view shall promptly be submitted to the prothonotary of the county holding the record. The prothonotary may not permit a member of the public from accessing the individual's record regarding the consent agreement. Nothing in this section shall be construed to limit access of the record of the individual by a criminal justice agency as defined in 18 Pa.C.S. § 9102 (relating to definitions).
(Oct. 12, 2018, P.L.519, No.79, eff. 180 days)

2018 Amendment. Act 79 added section 6108.7. Act 79 shall apply to orders issued pursuant to 23 Pa.C.S. § 6108 on or after the effective date of section 11 of Act 79.

§ 6109. Service of orders.
(a) Issuance.—A copy of an order under this chapter shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement in accordance with the provisions of this chapter or as ordered by the court or hearing officer.
(b) Placement in registry.—Upon receipt of an order, the police department shall immediately place the order in a county registry of protection orders. The police department shall assure that the registry is current at all times and that orders are removed upon expiration thereof. County registries shall not be required when the Pennsylvania State Police registry provided for in section 6105(e) (relating to responsibilities of law enforcement agencies) is established and is fully operational.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

1994 Amendment. Act 85 amended subsec. (b).
Cross References. Section 6109 is referred to in section 6108 of this title.

§ 6110. Emergency relief by minor judiciary.

(a) General rule.—When:

(1) in counties with less than four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning;

(ii) from the end of the business week to the beginning of the business week; and

(iii) during the business day by reason of duties outside the county, illness or vacation;

(2) in counties with at least four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning; and

(ii) from the end of the business week to the beginning of the business week;

a petition may be filed before a hearing officer who may grant relief in accordance with section 6108(a)(1), (2) and (6), (1) and (6) or (1) and (9.1) (relating to relief) if the hearing officer deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an ex parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for the purposes of this subsection.

(b) Expiration of order.—An order issued under subsection (a) shall expire at the end of the next business day the court deems itself available. The court shall schedule hearings on protection orders entered by hearing officers under subsection (a) and shall review and continue in effect protection orders that are necessary to protect the plaintiff or minor children from abuse until the hearing, at which time the plaintiff may seek a temporary order from the court.

(c) Certification of order to court.—An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 6106 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the abuse of defendant at least five days prior to the hearing. Service of the verified statement shall be made subject to section 6106.

(d) Instructions regarding the commencement of proceedings.—Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court of common pleas at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of programs for victims of domestic violence in the county or in nearby counties and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them.

(e) Master for emergency relief.—The president judge of a court of common pleas of a judicial district may, with the approval of the Administrative Office of Pennsylvania Courts, provide for the selection and appointment of a master for emergency relief on a full-time or part-time basis. The number of masters for emergency relief shall be fixed by the president judge with the approval of the Administrative Office of Pennsylvania Courts. The compensation of a master for emergency relief shall be fixed and paid by the county.

(July 9, 1992, P.L.400, No.87, eff. 60 days; Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Nov. 18, 2024, P.L.1184, No.146, eff. 60 days)

2024 Amendment. Act 146 amended subsec. (a).

2005 Amendment. Act 66 added subsec. (e).

1994 Amendment. Act 85 amended subsecs. (a) and (b).

Cross References. Section 6110 is referred to in sections 6102, 6105 of this title; section 4137 of Title 42 (Judiciary and Judicial Procedure).

§ 6111. Domestic violence counselor/advocate.
A domestic violence counselor/advocate may accompany a party to any legal proceeding or hearing under this chapter.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

§ 6112. Disclosure of addresses.
During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or plaintiff's family is endangered by disclosure of the permanent or temporary address of the plaintiff or minor children. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a domestic violence program. Where the court concludes that the defendant poses a threat of continued danger to the plaintiff and where the plaintiff requests that his or her address, telephone number and information about whereabouts not be disclosed, the court shall enter an order directing that law enforcement agencies, human service agencies and school districts (both in which a plaintiff's child in custody of the plaintiff is or has been enrolled) shall not disclose the presence of the plaintiff or the child in the jurisdiction or district or furnish any address, telephone number or any other demographic information about the plaintiff and child except by further order of the court.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

§ 6113. Arrest for violation of order.
(a) General rule.—An arrest for violation of an order issued pursuant to this chapter or a foreign protection order may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer or sheriff in circumstances where the defendant has violated a provision of an order consistent with section 6108(a)(1), (2), (3), (4), (6), (7), (9) or (9.1) (relating to relief). The police officer or sheriff may verify the existence of a protection order by telephone, radio or other electronic communication with the appropriate police department, Pennsylvania State Police registry, protection order file or issuing authority. A police officer or sheriff shall arrest a defendant for violating an order issued under this chapter by a court within the judicial district, issued by a court in another judicial district within this Commonwealth or a foreign protection order issued by a comparable court.
(b) Seizure of firearms, other weapons and ammunition.—Subsequent to an arrest, the police officer or sheriff shall seize all firearms, other weapons and ammunition used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in the defendant's possession. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated firearms, other weapons and ammunition to the office of the sheriff. The sheriff shall maintain possession of the firearms, other weapons and ammunition until the court issues an order specifying the firearms, other weapons and ammunition to be relinquished and the persons to whom the firearms, other weapons and ammunition shall be relinquished.
(c) Procedure following arrest.—Subsequent to an arrest, the defendant shall be taken by the police officer or sheriff without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer or sheriff shall convey the defendant to a magisterial district judge designated as appropriate by local rules of court or, in the city of Pittsburgh, to a magistrate of the Pittsburgh Magistrates Court or, in counties of the first class,

to the appropriate hearing officer. For purposes of procedure relating to arraignments for arrest for violation of an order issued under this chapter, the judges of Pittsburgh Magistrates Court shall be deemed to be magisterial district judges.

(d) Preliminary arraignment.—The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(e) Other emergency powers unaffected.—This section shall not be construed to in any way limit any of the other powers for emergency relief provided in this chapter.

(f) Hearing.—A hearing shall be scheduled within ten days of the filing of the charge or complaint of indirect criminal contempt. The hearing and any adjudication shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing or adjudication on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days; Nov. 18, 2024, P.L.1184, No.146, eff. 60 days)

2024 Amendment. Act 146 amended subsec. (a).

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

Cross References. Section 6113 is referred to in sections 6105, 6108, 6121 of this title.

§ 6113.1. Private criminal complaints for violation of order or agreement.

(a) General rule.—A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a noneconomic violation of any provision of an order or court-approved consent agreement issued under this chapter or a foreign protection order, with the court, the office of the district attorney or the magisterial district judge in the jurisdiction or county where the violation occurred, except that, in a city of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of the district attorney.

(b) Procedure service.—Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule. No fees or costs associated with the prosecution of the private criminal complaint shall be assigned to the plaintiff at any stage of the proceeding, including, but not limited to, filing, service, failure to prosecute, withdrawal or dismissal. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation).

(c) Fees and costs.—After a finding of indirect criminal contempt, fees and costs may be assessed against the defendant. The court shall waive fees and costs imposed pursuant to this chapter upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the costs associated with the indirect criminal contempt action. Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No. 1023.1.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 6114. Contempt for violation of order or agreement.

(a) General rule.—Where the police, sheriff or the plaintiff have filed charges of indirect criminal contempt against a defendant for violation of a protection order issued under this chapter, a foreign protection order or a court-approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(a.1) Jurisdiction.—A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order issued pursuant to this chapter in the county where the violation occurred and in the county where the protection order was granted. A court shall have jurisdiction over indirect criminal contempt charges for violation of a foreign protection order in the county where the violation occurred.

(a.2) Minor defendant.—Any defendant who is a minor and who is charged with indirect criminal contempt for allegedly violating a protection from abuse order shall be considered to have committed an alleged delinquent act as that term is defined in 42 Pa.C.S. § 6302 (relating to definitions) and shall be treated as provided in 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(b) Trial and punishment.—

(1) A sentence for contempt under this chapter may include:

(i) (A) a fine of not less than $300 nor more than $1,000 and imprisonment up to six months; or

(B) a fine of not less than $300 nor more than $1,000 and supervised probation not to exceed six months; and

(ii) an order for other relief set forth in this chapter.

(2) All money received under this section shall be distributed in the following order of priority:

(i) $100 shall be forwarded to the Commonwealth and shall be appropriated to the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105 (relating to responsibilities of law enforcement agencies).

(ii) $100 shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(A) $50 shall be used by the sheriff.

(B) $50 shall be used by the court.

(iii) $100 shall be forwarded to the Department of Public Welfare for use for victims of domestic violence in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(iv) Any additional money shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 6105.

(3) The defendant shall not have a right to a jury trial on a charge of indirect criminal contempt. However, the defendant shall be entitled to counsel.

(4) Upon conviction for indirect criminal contempt and at the request of the plaintiff, the court shall also grant an extension of the protection order for an additional term.

(5) Upon conviction for indirect criminal contempt, the court shall notify the sheriff of the jurisdiction which issued the protection order of the conviction.

(6) The minimum fine required by subsection (b)(1) allocated pursuant to subsection (b)(2)(i) and (iii) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.

(c) Notification upon release.—The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection (b). Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture.

Notification shall include the terms and conditions imposed on any temporary release from custody. The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(d) Multiple remedies.—Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Mar. 24, 1998, P.L.204, No.36, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 6114 is referred to in sections 5329, 6108 of this title; sections 4136, 4137 of Title 42 (Judiciary and Judicial Procedure).

§ 6114.1. Civil contempt or modification for violation of an order or agreement.

(a) General rule.—A plaintiff may file a petition for civil contempt with the issuing court alleging that the defendant has violated any provision of an order or court-approved agreement issued under this chapter or a foreign protection order.

(b) Civil contempt order.—Upon finding of a violation of a protection order or court-approved consent agreement issued under this chapter or a foreign protection order, the court, either pursuant to petition for civil contempt or on its own accord, may hold the defendant in civil contempt and constrain him in accordance with law.

(c) Sentencing.—A sentence for civil contempt under this chapter may include imprisonment until the defendant complies with provisions in the order or consent agreement or demonstrates the intent to do so, but in no case shall a term of imprisonment under this section exceed a period of six months.

(d) Jury trial and counsel.—The defendant shall not have a right to a jury trial; however, the defendant shall be entitled to counsel.

(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; June 22, 2001, P.L.576, No.39, eff. 60 days)

2001 Amendment. Act 39 amended subsecs. (a) and (b).

1994 Amendment. Act 85 added section 6114.1.

§ 6115. Reporting abuse and immunity.

(a) Reporting.—A person having reasonable cause to believe that a person is being abused may report the information to the local police department.

(b) Contents of report.—The report should contain the name and address of the abused person, information regarding the nature and extent of the abuse and information which the reporter believes may be helpful to prevent further abuse.

(c) Immunity.—A person who makes a report shall be immune from a civil or criminal liability on account of the report unless the person acted in bad faith or with malicious purpose.

§ 6116. Confidentiality.

Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate or a coparticipant who is present during domestic violence

counseling/advocacy shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter 63 (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days)

Cross References. Section 6116 is referred to in section 6102 of this title.

§ 6117. Procedure and other remedies.
(a) General rule.—Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies. The plaintiff and the defendant may seek modification of an order issued under section 6108 (relating to relief) at any time during the pendency of an order. Except as otherwise indicated in this chapter, modification may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.
(b) Remedies for bad faith.—Notwithstanding any other provision of law, upon finding that an individual commenced a proceeding under this chapter in bad faith, a court shall direct the individual to pay to the defendant actual damages and reasonable attorney fees. Failure to prove an allegation of abuse by a preponderance of the evidence shall not, by itself, result in a finding of bad faith.
(Oct. 6, 1994, P.L.574, No.85, eff. 60 days; Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

§ 6118. Full faith and credit (Repealed).

2001 Repeal. Section 6118 was repealed June 22, 2001, P.L.576, No.39, effective in 60 days.

§ 6119. Immunity.
(a) General rule.—Law enforcement agencies and their employees, including police officers and sheriffs, shall, except as provided in subsection (b), be immune from civil liability for actions taken in good faith to carry out their duties relating to the seizure and relinquishment of firearms, other weapons and ammunition as provided for in this chapter, except for gross negligence, intentional misconduct or reckless, willful or wanton misconduct.
(b) Exception.—Law enforcement agencies and their employees, including police officers and sheriffs, shall be liable to the lawful owner of confiscated, seized or relinquished firearms in accordance with 18 Pa.C.S. § 6105(f) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms) and shall be liable to the lawful owner of confiscated, seized or relinquished other weapons or ammunition for any loss, damage or substantial decrease in the value of the other weapons or ammunition that is a direct result of a lack of reasonable care by the law enforcement agency or its employees.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6119.

§ 6120. Inability to pay.

(a) Order for installment payments.—Upon plea and proof that a person is without the financial means to pay a fine, a fee, economic relief ordered under section 6108(a)(8) (relating to relief) or a cost, a court may order payment of money owed in installments appropriate to the circumstances of the person and shall fix the amounts, times and manner of payment.
(b) Use of credit cards.—The treasurer of each county may allow the use of credit cards and bank cards in the payment of money owed under this chapter.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6120.

§ 6121. Warrantless searches.
Except as provided in section 6113 (relating to arrest for violation of order), nothing in this chapter shall authorize a warrantless search for firearms, other weapons or ammunition.
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6121.

§ 6122. Construction.
Nothing in this chapter shall be construed to preclude an action for wrongful use of civil process pursuant to 42 Pa.C.S. Ch. 83 Subch. E (relating to wrongful use of civil proceedings) or criminal prosecution for a violation of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).
(Nov. 10, 2005, P.L.335, No.66, eff. 180 days)

2005 Amendment. Act 66 added section 6122.

CHAPTER 63
CHILD PROTECTIVE SERVICES

Subchapter
A. Preliminary Provisions
B. Provisions and Responsibilities for Reporting Suspected Child Abuse
C. Powers and Duties of Department
C.1. Students in Public and Private Schools (Repealed)
C.2. Background Checks for Employment in Schools (Repealed)
D. Organization and Responsibilities of Child Protective Service
E. Miscellaneous Provisions

Enactment. Chapter 63 was added December 19, 1990, P.L.1240, No.206, effective in 90 days.
Saved from Suspension. Pennsylvania Rule of Civil Procedure No. 1915.24, as amended March 30, 1994, provided that Chapter 63 shall not be deemed suspended or affected by Rules 1915.1 through 1915.18 relating to actions for custody, partial custody and visitation of minor children.
Cross References. Chapter 63 is referred to in sections 5323, 5329.1, 5701, 6102, 6106, 6116, 6344, 6504.3, 6508, 6509 of this title; sections 4304, 4906.1, 4958, 9106, 9121 of Title 18 (Crimes and Offenses); sections 3118, 5945, 62A16, 6311, 6342 of Title 42 (Judiciary and Judicial Procedure); section 2164 of Title 53 (Municipalities Generally).

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.
6301. Short title of chapter.
6302. Findings and purpose of chapter.
6303. Definitions.
6304. Exclusions from child abuse.
6305. Electronic reporting.
6306. Regulations.

§ 6301. Short title of chapter.
This chapter shall be known and may be cited as the Child Protective Services Law.

§ 6302. Findings and purpose of chapter.
(a) Findings.—Abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment.
(b) Purpose.—It is the purpose of this chapter to encourage more complete reporting of suspected child abuse; to the extent permitted by this chapter, to involve law enforcement agencies in responding to child abuse; and to establish in each county protective services for the purpose of investigating the reports swiftly and competently, providing protection for children from further abuse and providing rehabilitative services for children and parents involved so as to ensure the child's well-being and to preserve, stabilize and protect the integrity of family life wherever appropriate or to provide another alternative permanent family when the unity of the family cannot be maintained. It is also the purpose of this chapter to ensure that each county children and youth agency establish a program of protective services with procedures to assess risk of harm to a child and with the capabilities to respond adequately to meet the needs of the family and child who may be at risk and to prioritize the response and services to children most at risk.
(c) Effect on rights of parents.—This chapter does not restrict the generally recognized existing rights of parents to use reasonable supervision and control when raising their children.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999)

1998 Amendment. Act 127 amended subsec. (b).

§ 6303. Definitions.
(a) General rule.—The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Accept for service." Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).
"Adult." An individual 18 years of age or older.
"Adult family member." A person 18 years of age or older who has the responsibility to provide care or services to an individual with an intellectual disability or chronic psychiatric disability.
"Bodily injury." Impairment of physical condition or substantial pain.
"Child." An individual under 18 years of age.

"Child-care services." Includes any of the following:
(1) Child day-care centers.
(2) Group day-care homes.
(3) Family child-care homes.
(4) Foster homes.
(5) Adoptive parents.
(6) Boarding homes for children.
(7) Juvenile detention center services or programs for delinquent or dependent children.
(8) Mental health services for children.
(9) Services for children with intellectual disabilities.
(10) Early intervention services for children.
(11) Drug and alcohol services for children.
(12) Day-care services or programs that are offered by a school.
(13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the department or a county social services agency or that are provided pursuant to a contract with the department or a county social services agency.
The term does not apply to services provided by administrative or other support personnel unless the administrative or other support personnel have direct contact with children.
"Child protective services." Those services and activities provided by the department and each county agency for child abuse cases.
"Children's advocacy center." A local public agency in this Commonwealth or a not-for-profit entity incorporated in this Commonwealth which:
(1) is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)); and
(2) operates within this Commonwealth for the primary purpose of providing a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse that, at a minimum, either onsite or through a partnership with another entity or entities, assists county agencies, investigative teams and law enforcement by providing services, including forensic interviews, medical evaluations, therapeutic interventions, victim support and advocacy, team case reviews and a system for case tracking.
"Cooperation with an investigation or assessment." Includes, but is not limited to, a school or school district which permits authorized personnel from the department or county agency to interview a student while the student is in attendance at school.
"County agency." The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the department under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.
"Department." The Department of Human Services of the Commonwealth.
"Direct contact with children." The care, supervision, guidance or control of children or routine interaction with children.
"Direct volunteer contact." The care, supervision, guidance or control of children and routine interaction with children.
"Education enterprise." An educational activity in this Commonwealth:
(1) for which college credits or continuing education units are awarded, continuing professional education is offered or tuition or fees are charged or collected; and

(2) that is sponsored by a corporation, entity or institution that is incorporated or authorized by other means in a state other than this Commonwealth and is approved and authorized to operate in this Commonwealth under 15 Pa.C.S. Pt. II Subpt. B (relating to business corporations) or C (relating to nonprofit corporations) and 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

"Electronic technologies." The transfer of information in whole or in part by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic or photo-optical systems, or similar capabilities. The term includes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.

"Expunge." To strike out or obliterate entirely so that the expunged information may not be stored, identified or later recovered by any mechanical or electronic means or otherwise.

"Family child-care home." A residence where child day care is provided at any time to no less than four children and no more than six children who are not relatives of the caregiver.

"Family members." Spouses, parents and children or other persons related by consanguinity or affinity.

"Founded report." A child abuse report involving a perpetrator that is made pursuant to this chapter, if any of the following applies:

(1) There has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following:

(i) The entry of a plea of guilty or nolo contendere.

(ii) A finding of guilt to a criminal charge.

(iii) A finding of dependency under 42 Pa.C.S. § 6341 (relating to adjudication) if the court has entered a finding that a child who is the subject of the report has been abused.

(iv) A finding of delinquency under 42 Pa.C.S. § 6341 if the court has entered a finding that the child who is the subject of the report has been abused by the child who was found to be delinquent.

(2) There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.

(3) There has been a consent decree entered in a juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the decree involves the same factual circumstances involved in the allegation of child abuse and the terms and conditions of the consent decree include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent.

(4) A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and:

(i) only one individual is charged with the abuse in the protection from abuse action;

(ii) only that individual defends against the charge;

(iii) the adjudication involves the same factual circumstances involved in the allegation of child abuse; and

(iv) the protection from abuse adjudication finds that the child abuse occurred.

"Founded report for school employee." (Deleted by amendment).

"General protective services." Those services and activities provided by each county agency for cases requiring protective services, as defined by the department in regulations.

"Health care facility." As defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Health care provider." A licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.

"Immediate vicinity." An area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.

"Independent contractor." An individual who provides a program, activity or service to an agency, institution, organization or other entity, including a school or regularly established religious organization, that is responsible for the care, supervision, guidance or control of children. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Indicated report."

(1) Subject to paragraphs (2) and (3), a report of child abuse made pursuant to this chapter if an investigation by the department or county agency determines that substantial evidence of the alleged abuse by a perpetrator exists based on any of the following:

(i) Available medical evidence.

(ii) The child protective service investigation.

(iii) An admission of the acts of abuse by the perpetrator.

(2) A report may be indicated under paragraph (1)(i) or (ii) for any child who is the victim of child abuse, regardless of the number of alleged perpetrators.

(3) A report may be indicated under paragraph (1)(i) or (ii) listing the perpetrator as "unknown" if substantial evidence of abuse by a perpetrator exists, but the department or county agency is unable to identify the specific perpetrator.

"Indicated report for school employee." (Deleted by amendment).

"Individual residing in the same home as the child." (Deleted by amendment).

"Institution of higher education." Any of the following:

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

(2) An independent institution of higher education which is an institution of higher education located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college," "university" or "seminary" as provided for by standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65.

(3) A State-owned institution.

(4) A State-related institution.

(5) An education enterprise.

"Intentionally." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Knowingly." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Law enforcement official." The term includes the following:

(1) The Attorney General.

(2) A Pennsylvania district attorney.

(3) A Pennsylvania State Police officer.

(4) A municipal police officer.

"Mandated reporter." A person who is required by this chapter to make a report of suspected child abuse.

"Matriculated student." A student who is enrolled in an institution of higher education and pursuing a program of study that results in a postsecondary credential, such as a certificate, diploma or degree.

"Near fatality." A child's serious or critical condition, as certified by a physician, where that child is a subject of the report of child abuse.

"Newborn." As defined in section 6502 (relating to definitions).

"Nonaccidental." (Deleted by amendment).

"Parent." A biological parent, adoptive parent or legal guardian.

"Perpetrator." A person who has committed child abuse as defined in this section. The following shall apply:

(1) The term includes only the following:

(i) A parent of the child.

(ii) A spouse or former spouse of the child's parent.

(iii) A paramour or former paramour of the child's parent.

(iv) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(v) An individual 14 years of age or older who resides in the same home as the child.

(vi) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

(vii) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).

(2) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(i) A parent of the child.

(ii) A spouse or former spouse of the child's parent.

(iii) A paramour or former paramour of the child's parent.

(iv) A person 18 years of age or older and responsible for the child's welfare.

(v) A person 18 years of age or older who resides in the same home as the child.

"Person affiliated with." A person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a specified person.

"Person responsible for the child's welfare." A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

"Police department." A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.

"Police officer." A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.

"Police station." The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.

"Private agency." A children and youth social service agency subject to the requirements of 55 Pa. Code Ch. 3680 (relating to administration and operation of a children and youth social service agency).

"Program, activity or service." Any of the following in which children participate and which is sponsored by a school or a public or private organization:
(1) A youth camp or program.
(2) A recreational camp or program.
(3) A sports or athletic program.
(4) A community or social outreach program.
(5) An enrichment or educational program.
(6) A troop, club or similar organization.
"Protective services." Those services and activities provided by the department and each county agency for children who are abused or are alleged to be in need of protection under this chapter.
"Recent act." Any act committed within two years of the date of the report to the department or county agency.
"Recent act or failure to act." Any act or failure to act committed within two years of the date of the report to the department or county agency.
"Recklessly." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).
"Resource family." A family which provides temporary foster or kinship care for children who need out-of-home placement and may eventually provide permanency for those children, including an adoptive family.
"Risk assessment." A Commonwealth-approved systematic process that assesses a child's need for protection or services based on the risk of harm to the child.
"Routine interaction." Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.
"Safety assessment." A Commonwealth-approved systematic process that assesses a child's need for protection or services, based on the threat to the safety of the child.
"School." A facility providing elementary, secondary or postsecondary educational services. The term includes the following:
(1) Any school of a school district.
(2) An area vocational-technical school.
(3) A joint school.
(4) An intermediate unit.
(5) A charter school or regional charter school.
(6) A cyber charter school.
(7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.
(8) A private school accredited by an accrediting association approved by the State Board of Education.
(9) A nonpublic school.
(10) An institution of higher education.
(11) (Deleted by amendment).
(12) (Deleted by amendment).
(13) (Deleted by amendment).
(14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.
(15) The Hiram G. Andrews Center.

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

"School employee." An individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Secretary." The Secretary of Human Services of the Commonwealth.

"Serious bodily injury." Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

"Serious mental injury." A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

(1) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or

(2) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

"Serious physical injury." (Deleted by amendment).

"Serious physical neglect." Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(1) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

"Sexual abuse or exploitation." Any of the following:

(1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

(i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

This paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.

(2) Any of the following offenses committed against a child:

(i) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(ii) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(iii) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(iv) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(v) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(vi) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
(vii) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
(viii) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
(ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
(x) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).
(xi) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
(xii) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
(xiii) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
"Student." An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.
"Subject of the report." Any child, parent, guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator in a report made to the department or a county agency under this chapter.
"Substantial evidence." Evidence which outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.
"Substantiated child abuse." Child abuse as to which there is an indicated report or founded report.
"Under investigation." A child abuse report pursuant to this chapter which is being investigated to determine whether it is "founded," "indicated" or "unfounded."
"Unfounded report." Any report made pursuant to this chapter unless the report is a "founded report" or an "indicated report."
"Urgent care center." As defined in section 2 of the act of November 2, 2016 (P.L.976, No.122), known as the Safe Emergency Prescribing Act.
(b) Child abuse.—(Deleted by amendment).
(b.1) Child abuse.—The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:
(1) Causing bodily injury to a child through any recent act or failure to act.
(2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.
(3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.
(4) Causing sexual abuse or exploitation of a child through any act or failure to act.
(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
(7) Causing serious physical neglect of a child.
(8) Engaging in any of the following recent acts:
(i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.
(ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.
(iii) Forcefully shaking a child under one year of age.
(iv) Forcefully slapping or otherwise striking a child under one year of age.
(v) Interfering with the breathing of a child.

(vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.
(vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:
(A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.
(B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.
(C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).
(D) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).
(9) Causing the death of the child through any act or failure to act.
(10) Engaging a child in a severe form of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).
(c) Restatement of culpability.—Conduct that causes injury or harm to a child or creates a risk of injury or harm to a child shall not be considered child abuse if there is no evidence that the person acted intentionally, knowingly or recklessly when causing the injury or harm to the child or creating a risk of injury or harm to the child.
(d) Child abuse exclusions.—The term "child abuse" does not include any conduct for which an exclusion is provided in section 6304 (relating to exclusions from child abuse).
(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 days; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Nov. 29, 2004, P.L.1291, No.160, eff. 60 days; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1195, No.117, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1201, No.119, eff. Dec. 31, 2014; Jan. 22, 2014, 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, 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. 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, 2014; July 1, 2015, P.L.94, No.15, eff. imd.; Oct. 28, 2016, P.L.966, No.115, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

2024 Amendment. Act 134 added the def. of "urgent care center" in subsec. (a).
2018 Amendments. Act 10 amended subsec. (b.1)(8)(vii) and Act 29 reenacted subsec. (b.1)(8)(vii).
2016 Amendment. Act 115 added par. (1)(vii) of the def. of "perpetrator" in subsec. (a) and added subsec. (b.1)(10).
2015 Amendment. Act 15 amended the defs. of "child-care services," "independent contractor," "perpetrator," "person responsible for the child's welfare," "program, activity or service," "school" and "school employee" and added the defs. of "adult family member," "direct volunteer contact," "education enterprise," "family child-care home," "immediate vicinity," "institution of higher education," "matriculated student" and "routine interaction" in subsec. (a).

2014 Amendments. Act 4 added the defs. of "health care provider" and "safety assessment" in subsec. (a), Act 29 amended the def. of "child-care services" and added the defs. of "electronic technologies," "law enforcement official" and "mandated reporter" in subsec. (a), Act 33 amended the def. of "school employee" and added the defs. of "adult," "direct contact with children," "health care facility," "independent contractor," "mandated reporter," "person affiliated with," "program, activity or service" and "school" in subsec. (a), Act 44 amended the defs. of "bodily injury," "founded report," "general protective services," "near fatality" and "school employee," added the def. of "school" and deleted the defs. of "indicated report for school employee" and "individual residing in the same home as the child" in subsec. (a), Act 45 amended the defs. of "serious physical neglect" and "subject of the report" and deleted the def. of "founded report for school employee" in subsec. (a), Act 91 added the defs. of "police department," "police officer" and "police station" in subsec. (a) and Act 153 amended par. (13) of the def. of "child-care services" and the defs. of "child protective services," "cooperation with an investigation or assessment," "county agency," "department," "indicated report," "protective services," "recent act," "recent act or failure to act," "secretary" and "subject of the report" in subsec. (a). The amendments by Acts 29 and 33, adding the def. of "mandated reporter," are identical and have both been given effect in setting forth the text of "mandated reporter." The amendments by Acts 33 and 44, amending the def. of "school employee," are identical and have both been given effect in setting forth the text of "school employee."

2013 Amendments. Act 108 amended the defs. of "child," "founded report," "indicated report," "recent acts or omissions" and "sexual abuse or exploitation," added the defs. of "bodily injury," "intentionally," "knowingly," "parent," "recent act," "recklessly" and "serious physical neglect" and deleted the defs. of "nonaccidental" and "serious physical injury" in subsec. (a), added subsecs. (b.1), (c) and (d) and deleted subsec. (b), Act 117 amended the defs. of "perpetrator" and "person responsible for the child's welfare" in subsec. (a) and Act 119 added the def. of "child-care services" in subsec. (a).

2008 Amendment. Act 33 added the defs. of "children's advocacy center" and "substantiated child abuse."

2006 Amendments. Act 146 added the defs. of "near fatality" and "nonaccidental" in subsec. (a) and Act 179 amended the def. of "sexual abuse or exploitation" in subsec. (a).

2004 Amendment. Act 160 added the defs. of "private agency" and "resource family" in subsec. (a).

2002 Amendment. Act 201 added the defs. of "child" and "newborn" in subsec. (a).

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (a), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Section 27 of Act 16 of 2019 provided that a reference in statute or regulation to "area vocational-technical school" shall be deemed a reference to "area career and technical school," and a reference in statute or regulation to "vocational curriculums" shall be deemed a reference to "career and technical curriculums."

Cross References. Section 6303 is referred to in sections 2511, 5625, 5701, 6340, 6368, 6502 of this title; section 591 of Title 2 (Administrative Law and Procedure); sections 4306, 4958, 6318, 9106, 9158 of Title 18 (Crimes and Offenses); sections 62A05, 6302, 6336.1, 8316.2 of Title 42 (Judiciary and Judicial Procedure); section 4109 of Title 51 (Military Affairs); section 2164 of Title 53 (Municipalities Generally); section 7101 of Title 67 (Public Welfare); section 1905 of Title 75 (Vehicles).

§ 6304. Exclusions from child abuse.

(a) Environmental factors.—No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors, such as inadequate housing, furnishings,

income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides. This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

(b) Practice of religious beliefs.—If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. In such cases the following shall apply:

(1) The county agency shall closely monitor the child and the child's family and shall seek court-ordered medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.

(2) All correspondence with a subject of the report and the records of the department and the county agency shall not reference child abuse and shall acknowledge the religious basis for the child's condition.

(3) The family shall be referred for general protective services, if appropriate.

(4) This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.

(5) This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.

(c) Use of force for supervision, control and safety purposes.—Subject to subsection (d), the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:

(1) The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.

(2) The use of reasonable force is necessary:

(i) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;

(ii) to prevent the child from self-inflicted physical harm;

(iii) for self-defense or the defense of another individual; or

(iv) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.

(d) Rights of parents.—Nothing in this chapter shall be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.

(e) Participation in events that involve physical contact with child.—An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this chapter.

(f) Child-on-child contact.—

(1) Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator.

(2) Notwithstanding paragraph (1), the following shall apply:

(i) Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this chapter:

(A) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);

(B) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
(C) sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);
(D) aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);
(E) indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault); and
(F) indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
(ii) No child shall be deemed to be a perpetrator of child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.
(iii) A law enforcement official who receives a report of suspected child abuse is not required to make a report to the department under section 6334(a) (relating to disposition of complaints received), if the person allegedly responsible for the child abuse is a nonperpetrator child.
(g) Defensive force.—Reasonable force for self-defense or the defense of another individual, consistent with the provisions of 18 Pa.C.S. §§ 505 (relating to use of force in self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.
(Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014)

2013 Amendment. Act 108 added section 6304.
Cross References. Section 6304 is referred to in section 6303 of this title.

§ 6305. Electronic reporting.
(a) Departmental procedures.—The department shall establish procedures for the secure and confidential use of electronic technologies to transmit information under this chapter, including:
(1) the filing of reports and other required records, including those of the county agency; and
(2) the verification of records and signatures on forms.
(b) Confirmation of reports.—A confirmation by the department of the receipt of a report of suspected child abuse submitted electronically shall relieve the person making the report of making an additional oral or written report of suspected child abuse, subject to section 6313 (relating to reporting procedure).
(c) Effect on other law.—Nothing in this chapter shall be construed to supersede the act of December 16, 1999 (P.L.971, No.69), known as the Electronic Transactions Act. Any procedures developed by the department under this section shall comply with all applicable Federal and State laws regarding confidentiality of personally identifiable information.
(Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 added section 6305.
Cross References. Section 6305 is referred to in section 6313 of this title.

§ 6306. Regulations.
The department shall promulgate regulations necessary to implement this chapter.
(Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 added section 6306.

SUBCHAPTER B

PROVISIONS AND RESPONSIBILITIES FOR REPORTING SUSPECTED CHILD ABUSE

Sec.

6311. Persons required to report suspected child abuse.
6311.1. Privileged communications.
6312. Persons encouraged to report suspected child abuse.
6313. Reporting procedure.
6314. Photographs, medical tests and X-rays of child subject to report.
6315. Taking child into protective custody.
6316. Admission to private and public hospitals.
6317. Mandatory reporting and postmortem investigation of deaths.
6318. Immunity from liability.
6319. Penalties.
6320. Protection from employment discrimination.

Subchapter Heading. The heading of Subchapter B was amended December 16, 1994, P.L.1292, No.151, effective July 1, 1995.

§ 6311. Persons required to report suspected child abuse.

(a) Mandated reporters.—The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:

(1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.

(2) A medical examiner, coroner or funeral director.

(3) An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.

(4) A school employee.

(5) An employee of a child-care service who has direct contact with children in the course of employment.

(6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.

(7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, is a person responsible for the child's welfare or has direct contact with children.

(8) An employee of a social services agency who has direct contact with children in the course of employment.

(9) A peace officer or law enforcement official.

(10) An emergency medical services provider certified by the Department of Health.

(11) An employee of a public library who has direct contact with children in the course of employment.

(12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), who has direct contact with children in the course of employment.

(13) An independent contractor.

(14) An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.

(15) A foster parent.
(16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) Basis to report.—

(1) A mandated reporter enumerated in subsection (a) shall make a report of suspected child abuse in accordance with section 6313 (relating to reporting procedure), if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service.

(ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(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 report immediately in accordance with section 6313 and shall immediately thereafter 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 facilitate the cooperation of the institution, school, facility or agency with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is subject to the provisions of 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases). 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.—(Deleted by amendment).

(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, 2014, P.L.414, No.32, eff. 60 days; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.425, No.34, eff. Dec. 31, 2014; May 14, 2014, P.L.645, No.44, 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. imd.)

2015 Amendment. Act 15 amended subsec. (a)(7) and (12) and added subsec. (a)(16).

2014 Amendments. Act 32 amended subsec. (a) and deleted subsec. (b), Act 33 amended subsecs. (a) and (c) and added subsec. (b), Act 34 deleted subsec. (d), Act 44 amended subsec. (c) and Act 153 amended subsec. (b)(1) intro. par. and added subsec. (a)(15). Act 33 overlooked the amendment by Act 32, but the amendments do not conflict in substance and have both been given effect in setting forth the text of subsec. (b). Act 44 overlooked the amendment by Act 33, but the amendments do

not conflict in substance (except for the deletion of "assume the responsibility and," as to which Act 44 has been given effect) and have both been given effect in setting forth the text of subsec. (c).
Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of subsecs. (a) and (b) shall take effect December 31, 2014.
References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (a), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.
Cross References. Section 6311 is referred to in sections 6313, 6318, 6320, 6340, 6340.1 of this title; section 6301 of Title 18 (Crimes and Offenses).

§ 6311.1. Privileged communications.
(a) General rule.—Subject to subsection (b), the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not:
(1) Apply to a situation involving child abuse.
(2) Relieve the mandated reporter of the duty to make a report of suspected child abuse.
(b) Confidential communications.—The following protections shall apply:
(1) Confidential communications made to a member of the clergy are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen).
(2) Confidential communications made to an attorney are protected so long as they are within the scope of 42 Pa.C.S. §§ 5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), the attorney work product doctrine or the rules of professional conduct for attorneys.
(Apr. 15, 2014, P.L.414, No.32, eff. 60 days)

2014 Amendment. Act 32 added section 6311.1.
Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, section 6311.1 shall take effect December 31, 2014.

§ 6312. Persons encouraged to report suspected child abuse.
Any person may make an oral or written report of suspected child abuse, which may be submitted electronically, or cause a report of suspected child abuse to be made to the department, county agency or law enforcement, if that person has reasonable cause to suspect that a child is a victim of child abuse.
(Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

Cross References. Section 6312 is referred to in section 6320 of this title.

§ 6313. Reporting procedure.
(a) Report by mandated reporter.—
(1) A mandated reporter shall immediately make an oral report of suspected child abuse to the department via the Statewide toll-free telephone number under section 6332 (relating to establishment of Statewide toll-free telephone number) or a written report using electronic technologies under section 6305 (relating to electronic reporting).
(2) A mandated reporter making an oral report under paragraph (1) of suspected child abuse shall also make a written report, which may be submitted electronically, within 48 hours to the department or county agency assigned to the case in a manner and format prescribed by the department.

(3) The failure of the mandated reporter to file the report under paragraph (2) shall not relieve the county agency from any duty under this chapter, and the county agency shall proceed as though the mandated reporter complied with paragraph (2).

(b) Contents of report.—A written report of suspected child abuse, which may be submitted electronically, shall include the following information, if known:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(2) Where the suspected abuse occurred.

(3) The age and sex of each subject of the report.

(4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.

(5) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.

(6) Family composition.

(7) The source of the report.

(8) The name, telephone number and e-mail address of the person making the report.

(9) The actions taken by the person making the report, including those actions taken under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).

(10) Any other information required by Federal law or regulation.

(11) Any other information that the department requires by regulation.

(c) Written reports.—(Deleted by amendment).

(d) Failure to confirm oral report.—(Deleted by amendment).

(e) Applicability of Mental Health Procedures Act.—Notwithstanding any other provision of law, a mandated reporter enumerated under section 6311 (relating to persons required to report suspected child abuse) who makes a report of suspected child abuse pursuant to this section or who makes a report of a crime against a child to law enforcement officials shall not be in violation of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, by releasing information necessary to complete the report.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

2014 Amendment. Act 153 added subsec. (e).

Cross References. Section 6313 is referred to in sections 6305, 6311, 6334, 6336, 6339, 6340, 6349, 6367, 6368 of this title.

§ 6314. Photographs, medical tests and X-rays of child subject to report.

A person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county agency at the time the written report is sent or within 48 hours after a report is made by electronic technologies or as soon thereafter as possible. The county agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement

officials in the course of investigating cases pursuant to section 6340(a)(9) or (10) (relating to release of information in confidential reports).
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

Cross References. Section 6314 is referred to in sections 6313, 6318 of this title.

§ 6315. Taking child into protective custody.
(a) General rule.—A child may be taken into protective custody:
(1) As provided by 42 Pa.C.S. § 6324 (relating to taking into custody).
(2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by the director, of any hospital or other medical institution where the child is being treated if protective custody is immediately necessary to protect the child under this chapter.
(3) By a physician or the director, or a person specifically designated by the director, of a hospital pursuant to Chapter 65 (relating to newborn protection) if the child is a newborn.
(4) Subject to this section and after receipt of a court order, the county agency shall take a child into protective custody for protection from abuse. No county agency worker may take custody of the child without judicial authorization based on the merits of the situation.
(5) By a police officer at a police station under Chapter 65.
(6) By an emergency services provider on the grounds of an entity that employs or otherwise provides access to the emergency services provider under Chapter 65.
(7) By a health care provider as defined in section 6502 (relating to definitions) at an urgent care center under Chapter 65.
(b) Duration of custody.—No child may be held in protective custody for more than 24 hours unless the appropriate county agency is immediately notified that the child has been taken into custody and the county agency obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. Each court shall insure that a judge is available 24 hours a day, 365 days a year to accept and decide the actions brought by a county agency under this subsection within the 24-hour period.
(c) Notice of custody.—
(1) Except as provided in paragraph (2), an individual taking a child into protective custody under this chapter shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child, unless prohibited by court order, and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate county agency in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.
(2) In the case of a newborn taken into protective custody pursuant to subsection (a)(3), the county agency shall within 24 hours make diligent efforts to notify a parent, guardian, custodian or other family member of the whereabouts of the newborn, unless prohibited by court order, and the reasons for the need to take the newborn into protective custody.
(d) Informal hearing.—In no case shall protective custody under this chapter be maintained longer than 72 hours without an informal hearing under 42 Pa.C.S. § 6332 (relating to informal hearing). If, at the hearing, it is determined that protective custody shall be continued and the child is alleged to be without proper parental care or control or is alleged to be a dependent child under 42 Pa.C.S. § 6302 (relating to definitions), the county agency shall within 48 hours file a petition with the court under 42 Pa.C.S. Ch. 63 alleging that the child is a dependent child.

(e) Place of detention.—No child taken into protective custody under this chapter may be detained during the protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.
(f) Conference with parent or other custodian.—A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the employee designated by the county agency to be responsible for the child shall be held within 48 hours of the time that the child is taken into custody for the purpose of:
(1) Explaining to the parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, unless prohibited by court order.
(2) Expediting, wherever possible, the return of the child to the custody of the parent, guardian or other custodian where custody is no longer necessary.
(3) Explaining to the parent, guardian or other custodian the rights provided for under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights).
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Apr. 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, P.L.1219, No.68, eff. 60 days; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

2024 Amendment. Act 134 added subsec. (a)(7).
2017 Amendment. Act 68 added subsec. (a)(6).
2014 Amendments. Act 33 added subsec. (a)(4) and Act 91 added subsec. (a)(5).
2002 Amendment. Act 201 amended subsecs. (a) and (c).
Cross References. Section 6315 is referred to in sections 6313, 6316, 6318, 6375, 6504, 6504.1, 6504.2, 6504.4, 6508, 6509 of this title.

§ 6316. Admission to private and public hospitals.
(a) General rule.—Children appearing to suffer any physical or mental condition which may constitute child abuse shall be admitted to, treated and maintained in facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.
(a.1) Newborns.—A newborn taken into protective custody pursuant to section 6315(a)(3) or (5) (relating to taking child into protective custody) shall be admitted to, treated and maintained in facilities of public and private hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care. Once a newborn is taken into protective custody pursuant to section 6315(a)(3) or (5), the newborn shall be considered immediately eligible for Medicaid for payment of medical services provided. Until otherwise provided by court order, the county agency shall assume the responsibility for making decisions regarding the newborn's medical care.
(b) Failure of hospital to admit child or newborn.—The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) or (a.1) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital.
(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, 2014, P.L.843, No.91, eff. 60 days)

2014 Amendment. Act 91 amended subsec. (a.1).
2002 Amendment. Act 201 amended subsec. (b) and added subsec. (a.1).
Cross References. Section 6316 is referred to in sections 6313, 6318 of this title.

§ 6317. Mandatory reporting and postmortem investigation of deaths.
A person or official required to report cases of suspected child abuse, including employees of a county agency, who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the appropriate coroner or medical examiner. The coroner or medical examiner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate county agency and, if the report is made by a hospital, the hospital.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

Cross References. Section 6317 is referred to in sections 6313, 6318, 6367 of this title.

§ 6318. Immunity from liability.
(a) General rule.—A person, hospital, institution, school, facility, agency or agency employee acting in good faith shall have immunity from civil and criminal liability that might otherwise result from any of the following:
(1) Making a report of suspected child abuse or making a referral for general protective services, regardless of whether the report is required to be made under this chapter.
(2) Cooperating or consulting with an investigation under this chapter, including providing information to a child fatality or near-fatality review team.
(3) Testifying in a proceeding arising out of an instance of suspected child abuse or general protective services.
(4) Engaging in any action authorized under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).
(b) Departmental and county agency immunity.—An official or employee of the department or county agency who refers a report of suspected child abuse for general protective services to law enforcement authorities or provides services as authorized by this chapter shall have immunity from civil and criminal liability that might otherwise result from the action.
(c) Presumption of good faith.—For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014)

§ 6319. Penalties.
(a) Failure to report or refer.—
(1) A person or official required by this chapter to report a case of suspected child abuse or to make a referral to the appropriate authorities commits an offense if the person or official willfully fails to do so.
(2) An offense under this section is a felony of the third degree if:
(i) the person or official willfully fails to report;

(ii) the child abuse constitutes a felony of the first degree or higher; and
(iii) the person or official has direct knowledge of the nature of the abuse.
(3) An offense not otherwise specified in paragraph (2) is a misdemeanor of the second degree.
(4) A report of suspected child abuse to law enforcement or the appropriate county agency by a mandated reporter, made in lieu of a report to the department, shall not constitute an offense under this subsection, provided that the report was made in a good faith effort to comply with the requirements of this chapter.
(b) Continuing course of action.—If a person's willful failure under this section to report an individual suspected of child abuse continues while the person knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while the person knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or service, the person commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the person commits a felony of the second degree.
(c) Multiple offenses.—A person who, at the time of sentencing for an offense under this section, has been convicted of a prior offense under this section commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offenses is a felony of the second degree.
(d) Statute of limitations.—The statute of limitations for an offense under this section shall be either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.
(Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 15, 2014, P.L.414, No.32, eff. 60 days; Nov. 26, 2019, P.L.648, No.88, eff. 60 days)

2019 Amendment. Act 88 amended subsecs. (b), (c) and (d).
Effective Date. Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of section 6319 shall take effect December 31, 2014.
Cross References. Section 6319 is referred to in sections 6320, 6335 of this title.

§ 6320. Protection from employment discrimination.
(a) Basis for relief.—A person may commence an action for appropriate relief if all of the following apply:
(1) The person is required to report under section 6311 (relating to persons required to report suspected child abuse) or encouraged to report under section 6312 (relating to persons encouraged to report suspected child abuse).
(2) The person acted in good faith in making or causing the report of suspected child abuse to be made.
(3) As a result of making the report of suspected child abuse, the person is discharged from employment or is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment.
(b) Applicability.—This section does not apply to an individual making a report of suspected child abuse who is found to be a perpetrator because of the report or to any individual who fails to make a report of suspected child abuse as required under section 6311 and is subject to conviction under section 6319 (relating to penalties) for failure to report or to refer.
(c) Location.—An action under this section must be filed in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred.

(d) Relief.—Upon a finding in favor of the plaintiff, the court may grant appropriate relief, which may include reinstatement of the plaintiff with back pay.
(e) Departmental intervention.—The department may intervene in an action commenced under this section.
(Apr. 15, 2014, P.L.425, No.34, eff. Dec. 31, 2014)

2014 Amendment. Act 34 added section 6320.

SUBCHAPTER C
POWERS AND DUTIES OF DEPARTMENT

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§ 6331. Establishment of Statewide database.
There shall be established in the department a Statewide database of protective services, which shall include the following, as provided by section 6336 (relating to information in Statewide database):
(1) Reports of suspected child abuse pending investigation.

(2) Reports with a status of pending juvenile court or pending criminal court action.
(3) Indicated and founded reports of child abuse.
(4) Unfounded reports of child abuse awaiting expunction.
(5) Unfounded reports accepted for services.
(6) Reports alleging the need for general protective services.
(7) General protective services reports that have been determined to be valid.
(8) Reports alleging the need for general protective services that have been determined invalid and are awaiting expunction.
(9) A family case record for all reports accepted for investigation, assessment or services.
(10) Information on reports made to the agency, but not accepted for investigation or assessment.
(11) False reports of child abuse pursuant to a conviction under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) for the purpose of identifying and tracking patterns of intentionally false reports.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended the entire section and Act 45 amended par. (11).
Cross References. Section 6331 is referred to in section 6334 of this title.

§ 6332. Establishment of Statewide toll-free telephone number.
(a) General rule.—The department shall establish a single Statewide toll-free telephone number that all persons, whether mandated by law or not, may use to report cases of suspected child abuse or children allegedly in need of general protective services. A county agency or law enforcement official shall use the Statewide toll-free telephone number or electronic technologies for determining the existence of reports of child abuse or general protective services reports in the Statewide database or reports under investigation.
(b) Limitation on use.—A county agency may only request and receive information pursuant to this subsection either on its own behalf because it has received a report of suspected child abuse or on behalf of a physician examining or treating a child or on behalf of the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by the director suspects the child of being an abused child.
(c) Posting Statewide toll-free telephone number in schools.—All public and nonpublic schools that enroll students in grades kindergarten through 12 shall publicly display at each school campus a poster uniformly designed by the department that contains the Statewide toll-free telephone number for reporting suspected child abuse or neglect and any Statewide toll-free telephone number relating to school safety. The following apply:
(1) The poster shall be posted in a high-traffic, public area of the school that is readily accessible to and widely used by students.
(2) The department shall, in consultation with the Department of Education, design the poster, which shall:
(i) be 11 inches by 17 inches or larger;
(ii) display in bold print the Statewide toll-free telephone number for reporting suspected child abuse or neglect and any Statewide toll-free telephone number relating to school safety; and
(iii) include the department's publicly accessible Internet website that provides information and resources related to child protection.

(3) The department and the Department of Education shall make the poster available on their publicly accessible Internet websites to all public and nonpublic schools.

(d) Posting Statewide toll-free telephone numbers in hospitals.—All hospitals shall publicly display a poster that contains the Statewide toll-free telephone number for reporting suspected child abuse or neglect and any Statewide toll-free telephone number relating to school safety. The poster shall be 11 inches by 17 inches or larger and of a uniform design approved by the department in consultation with the Department of Health. The poster shall be posted in a high-traffic, public area of the emergency department of the hospital. The Statewide toll-free telephone numbers shall be printed in bold print. The poster shall also include the department's publicly accessible Internet website that provides information and resources related to child protection.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; June 28, 2018, P.L.375, No.54, eff. 60 days)

2018 Amendment. Act 54 added subsecs. (c) and (d).

2014 Amendment. Act 29 amended subsec. (a).

Cross References. Section 6332 is referred to in sections 6313, 6368 of this title; sections 7382, 7389 of Title 42 (Judiciary and Judicial Procedure).

§ 6333. Continuous availability of department.

The department shall be capable of receiving oral reports of child abuse, reports of children in need of general protective services, reports made by electronic technologies pursuant to this chapter and report summaries from county agencies. The department shall be capable of immediately identifying prior reports in the Statewide database and reports under investigation with a pending status and of monitoring the provision of child protective services 24 hours a day, seven days a week.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

§ 6334. Disposition of complaints received.

(a) Receipt of reports by county agencies and law enforcement.—After ensuring the immediate safety of the child and any other child in the child's home, a county agency or law enforcement official that receives a report of suspected child abuse shall immediately notify the department of the report. If the report is an oral report by telephone, the county agency or law enforcement official shall attempt to collect as much of the information listed in section 6313(c) (relating to reporting procedure) as possible and shall submit the information to the department within 48 hours through a report in writing or by electronic technologies.

(b) Receipt of reports by department and referral to county agency.—The department shall immediately transmit an oral notice or a notice by electronic technologies to the county agency of the county where the suspected child abuse is alleged to have occurred. The notice shall contain the following information:

(1) That a report of suspected child abuse by a perpetrator has been received.

(2) The substance of the report.

(3) The existence in the Statewide database of a prior report or a current investigation or assessment concerning a subject of the report.

(c) Receipt of reports by department and referral to law enforcement.—If the department receives a report of suspected child abuse that also alleges that a criminal offense has been committed against the child, the department shall immediately transmit an oral notice or notice by electronic technologies to the appropriate law enforcement official in the county where the suspected child abuse

is alleged to have occurred. The notice shall contain the following information, consistent with section 6340(a)(9) and (10) (relating to release of information in confidential reports):
(1) That a report of suspected child abuse has been received.
(2) The substance of the report.
(3) The existence in the Statewide database under section 6331 (relating to establishment of Statewide database) of a prior report or a current investigation or assessment concerning a subject of the report.
(d) Notice of joint referrals.—When a report is referred to the county agency under subsection (b) and is also referred to a law enforcement official under subsection (c), the notice shall include information as to the name and contact information of any persons receiving the referral, if known.
(e) Jurisdictional overlap.—If the residency of any subject of a report is a factor that requires the cooperation of more than one county agency, the department shall develop procedures to ensure the cooperation of those agencies in carrying out the requirements of this chapter.
(f) Referral for services or investigation.—If the report received does not suggest a need for protective services but does suggest a need for social services or other services or investigation, the department shall transmit the information to the county agency or other public agency for appropriate action. The information shall not be considered a child abuse report unless the agency to which the information was referred has reasonable cause to suspect after investigation that abuse occurred. If the agency has reasonable cause to suspect that abuse occurred, the agency shall notify the department, and the initial report shall be considered to have been a child abuse report.
(g) Recording of pending reports.—Upon receipt of a report of suspected child abuse, the department shall maintain a record of the complaint of suspected child abuse in the Statewide database. Upon receipt of a report under section 6353.2 (relating to responsibilities of county agency), the department shall maintain a record of the report in the Statewide database under section 6331.
(h) Child abuse in another state where the victim child and the alleged perpetrator are residents of the Commonwealth.—A report of suspected child abuse by a resident perpetrator occurring in another state shall be referred by the department to the county agency where the child resides in this Commonwealth and shall be investigated by the county agency as any other report of suspected child abuse by a perpetrator if the other state's child protective services agency cannot or will not investigate the report.
(i) Child abuse in another state where only the alleged perpetrator is a resident of this Commonwealth.—If suspected child abuse occurs in a jurisdiction other than this Commonwealth and only the alleged perpetrator is a resident of this Commonwealth, the report of suspected child abuse shall be referred to the county agency where the alleged perpetrator resides. The county agency shall do all of the following:
(1) Notify the children and youth social service agency of the jurisdiction in which the suspected child abuse occurred.
(2) If requested by the other agency, assist in investigating the suspected child abuse.
(j) Child abuse in another state where only the victim child is a resident of this Commonwealth.—A report of suspected child abuse occurring in another state where only the victim child resides in this Commonwealth and where the other state's child protective services agency cannot or will not investigate the report shall be assigned as a general protective services report to the county agency where the child resides.
(k) Copies of report.—A copy of a report of suspected child abuse under subsections (h), (i) and (j) shall be provided to the other state's child protective services agency and, if appropriate, to law enforcement officials where the incident occurred.

(l) Communication.—Reports and information under subsections (h), (i) and (j) shall be provided within seven calendar days of completion of the investigation.
(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, P.L.388, No.29, eff. Dec. 31, 2014)

References in Text. Section 6353.2, referred to in this section, was repealed by the act of May 14, 2014 (P.L.645, No.44) and by the act of May 14, 2014 (P.L.653, No.45).
Cross References. Section 6334 is referred to in sections 6304, 6335, 6368 of this title.

§ 6334.1. Responsibility for investigation.
The department shall establish procedures regarding the following different responses to address suspected child abuse and protective services depending on the person's allegedly committing the suspected child abuse or causing a child to be in need of protective services:
(1) If the suspected child abuse is alleged to have been committed by a perpetrator, the appropriate county agency shall investigate the allegation as provided in this chapter.
(2) If the suspected child abuse is alleged to have been committed by a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, the appropriate county agency and law enforcement officials shall jointly investigate the allegation through the investigative team established in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse) and as provided in this chapter.
(3) If the suspected child abuse is alleged to have been committed by a person who is not a perpetrator and the behavior constituting the suspected child abuse may include a violation of a criminal offense, law enforcement officials where the suspected child abuse is alleged to have occurred shall be solely responsible for investigating the allegation.
(4) If a child is alleged to be in need of other protective services, the appropriate county agency shall assess the needs of the child as provided in this chapter.
(Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 added section 6334.1.
Cross References. Section 6334.1 is referred to in section 6340 of this title.

§ 6335. Access to information in Statewide database.
(a) Request for information.—A county agency or law enforcement official shall use the Statewide toll-free telephone number, or any manner prescribed by the department, to determine the existence of any prior reports involving a subject of the report. If the Statewide database contains information related to a report or a pending investigation or assessment concerning a subject of the report, the department shall immediately convey this information to the county agency or law enforcement official.
(b) Verification of need.—Information may be released under this section if a request for information is made orally or in writing and the department has done all of the following:
(1) Identified the requester, including electronic verification of the requester's identity.
(2) Determined whether the requester is authorized to obtain the information under this section.
(3) Provided notice to the requester that access and dissemination of the information is restricted as provided by this chapter.
(4) Obtained an affirmation by the requester that the request is within the scope of that person's official duties and the provisions of this chapter.

(c) Use by county agency or law enforcement official.—A county agency or law enforcement official may only request the information under subsection (a) for the purposes of investigating reports of child abuse, assessing allegations that a child is in need of general protective services, providing protective services to a child or investigating a crime against a child criminal offense. The following shall apply where information is requested pursuant to this section:

(1) A law enforcement official may use information contained in the Statewide database for the purpose of investigating a criminal offense as follows:

(i) Information regarding indicated and founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for the purposes of investigating a crime involving harm or threatened harm to a child, an alleged violation of section 6319 (relating to penalties for failure to report or to refer) or 6349 (relating to penalties) or an alleged violation of 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) or 4958 (relating to intimidation, retaliation or obstruction in child abuse cases).

(2) A county agency may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the county agency when determining that a new report of suspected abuse is an indicated report.

(3) The department may use information contained in the Statewide database as follows:

(i) Information regarding indicated or founded reports may be used for any purpose authorized by this chapter.

(ii) Information on all other reports may be used for any purpose authorized by this chapter, except that information in reports that are not founded or indicated may not be used as evidence by the department when determining that a new report of suspected abuse is an indicated report.

(4) Information in the Statewide database may not be used for any purpose not authorized by this chapter.

(d) Authorized releases for governmental functions.—No person, other than an employee of the department in the course of official duties in connection with the responsibilities of the department under this chapter, shall have access to any information in the Statewide database except as provided under this section and the following:

(1) Section 6334 (relating to disposition of complaints received).

(2) Section 6340 (relating to release of information in confidential reports).

(3) Section 6342 (relating to studies of data in records).

(4) Section 6343 (relating to investigating performance of county agency).

(5) Section 6343.1 (relating to citizen review panels).

(6) Section 6347 (relating to reports to Governor and General Assembly).

(e) Certifications.—Information provided in response to inquiries under section 6344 (relating to employees having contact with children; adoptive and foster parents), 6344.1 (relating to information relating to certified or licensed child-care home residents) or 6344.2 (relating to volunteers having contact with children) shall not include unfounded reports of child abuse or reports related to general protective services and shall be limited to the following:

(1) Whether the person was named as a perpetrator of child abuse in a founded or indicated report.

(2) Whether there is an investigation pending in which the individual is an alleged perpetrator.

(3) The number, date of the incidents upon which the report is based and the type of abuse or neglect involved in any reports identified under paragraph (1).

(f) Electronic technologies.—Requests under this section may be made using electronic technologies if appropriate verification is made in accordance with subsection (b).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Apr. 7, 2014, P.L.388, No.29, 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. imd.)

2015 Amendment. Act 15 amended subsec. (e).

§ 6336. Information in Statewide database.

(a) Information authorized.—The Statewide database shall include and shall be limited to the following information:

(1) The names, Social Security numbers, age, race, ethnicity and sex of the subjects of the reports.

(2) The date or dates and the nature and extent of the alleged instances that created the need for protective services.

(3) The home addresses of the subjects of the report.

(4) The county in which the alleged incidents that created the need for protective services occurred.

(5) Family composition.

(6) The name and relationship to the child in question and of other persons named in the report.

(7) Factors contributing to the need for protective services.

(8) The source of the report.

(9) Services planned or provided.

(10) If the report alleges child abuse, whether the report was determined to be founded, indicated or unfounded.

(11) If the report alleged the child was in need of general protective services, whether the report was valid or invalid.

(12) If the report was accepted for services and the reasons for the acceptance.

(13) If the report was not accepted for services, the reason the report was not accepted and whether the family was referred to other community services.

(14) Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency.

(15) The progress of any legal proceedings brought on the basis of the report of suspected child abuse.

(16) Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.

(17) In the case of an unfounded or invalid report, if it is later determined that the initial report was a false report, a notation to that effect regarding the status of the report.

(18) Unfounded reports of child abuse, limited to the information authorized under section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports).

(19) Any additional information provided in section 6313(c) (relating to reporting procedure).

(20) Any additional demographic information that the department requires to comply with section 6342 (relating to studies of data in records).

(21) A family case record for each family accepted for investigation, assessment or services which shall be maintained consistent with regulatory requirements.

(22) With respect to cases that are not accepted for child abuse investigation or general protective services assessment or are referred to community services:
(i) The reason the report was not accepted.
(ii) Any information provided to the referral source or the family related to other services or option available to address the report.
(23) Any other information that is necessary to maintain the names of persons convicted of a violation under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) or the names of persons who made a false report of the need for general protective services.
No information other than that permitted in this subsection shall be retained in the Statewide database.
(b) Type of information released.—(Deleted by amendment).
(c) Limitation on release of information.—(Deleted by amendment).
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

Cross References. Section 6336 is referred to in section 6331 of this title.

§ 6337. Disposition and expunction of unfounded reports and general protective services reports.
(a) General rule.—When a report of suspected child abuse is determined by the appropriate county agency to be an unfounded report, the information concerning that report of suspected child abuse shall be maintained for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged from the Statewide database, as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department, and no information other than that authorized by subsection (b), which shall not include any identifying information on any subject of the report, shall be retained by the department. The expunction shall be mandated and guaranteed by the department.
(b) Absence of other determination.—If an investigation of a report of suspected child abuse conducted by the appropriate county agency pursuant to this chapter does not determine within 60 days of the date of the initial report of the instance of suspected child abuse that the report is a founded report, an indicated report or an unfounded report, or unless within that same 60-day period court action has been initiated and is responsible for the delay, the report shall be considered to be an unfounded report, and all information identifying the subjects of the report shall be expunged no later than 120 days following the expiration of one year after the date the report was received by the department. The agency shall advise the department that court action or an arrest has been initiated so that the Statewide database is kept current regarding the status of all legal proceedings and expunction is delayed.
(c) Unfounded reports accepted for services.—Information on an unfounded report shall be retained in the Statewide database if the county agency has accepted the family for services and the report of suspected child abuse is clearly identified as an unfounded report. The county agency shall notify the department immediately upon closure of the case, and the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the family case was closed. If the subject child of the unfounded report becomes 23 years of age prior to the closure of the family case, the unfounded report shall be expunged when the subject child reaches 23 years of age.
(d) Expunction of valid general protective services reports.—Information concerning valid general protective services reports shall be maintained in the Statewide database as follows:

(1) Reports that are assessed by the county agency and are determined to be valid, but are not accepted for services, shall be reported to the department and entered into the Statewide database. The reports shall be maintained for a period of ten years or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first. Following the expiration of ten years after the date the report was received by the department or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the ten-year period following the date the report was received by the department or the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first.

(2) Reports that are assessed by the county agency and accepted for services shall be reported to the department, except as otherwise provided in subsection (f)(2), and entered into the Statewide database. The reports shall be maintained for a period of ten years after the closure of services by the county agency or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first. Following the expiration of ten years after the closure of services by the county agency or until the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first, the report shall be expunged from the Statewide database as soon as possible, but no later than 120 days after the ten-year period following the closure of services by the county agency or the youngest child identified in the most recent general protective services report attains 23 years of age, whichever occurs first.

(3) The expunction of information on general protective services under this subsection shall be mandated and guaranteed by the department.

(e) Expunction of invalid general protective services reports.—When a report alleging the need for general protective services is determined by the appropriate county agency to be an invalid report, the information concerning that report shall be maintained for a period of one year. Following the expiration of one year after the date the report was received by the department, the report shall be expunged as soon as possible, but no later than 120 days after the one-year period following the date the report was received by the department. The expunction shall be mandated and guaranteed by the department.

(f) County agency records.—Information concerning protective services reports shall be maintained by a county agency as follows:

(1) County agency records of protective services shall be used and maintained in a manner that is consistent with the use and maintenance of information in the Statewide database, as provided under this chapter, except as otherwise provided in paragraph (2). If required under this chapter to amend or expunge information in the Statewide database, the department shall notify the appropriate county agency of the amendment or expungement within ten days. The county agency shall amend or expunge its records in a commensurate manner within ten days of receiving notification from the department.

(2) A county agency may maintain information regarding protective services reports that have been expunged in the Statewide database for access by the county agency to assist in future risk and safety assessments and research.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; June 28, 2018, P.L.375, No.54, eff. 365 days)

2018 Amendment. Act 54 amended subsecs. (d) and (f). See section 3 of Act 54 in the appendix to this title for special provisions relating to expunction.

Cross References. Section 6337 is referred to in sections 6336, 6349 of this title.

§ 6338. Disposition of founded and indicated reports.

(a) General rule.—When a report of suspected child abuse is determined by the appropriate county agency to be a founded report or an indicated report, the status of the report shall be changed from pending to founded or indicated in the Statewide database. Notice of the determination that a report is a founded, indicated or unfounded report shall be made as provided in section 6368(f) (relating to investigation of reports).

(b) Expunction of information when child attains 23 years of age.—Except as provided in subsection (c), all information which identifies the subjects of founded and indicated child abuse reports shall be expunged when the subject child reaches the age of 23. The expunction shall be mandated and guaranteed by the department.

(c) Retention of information.—The Statewide database shall indefinitely retain the names of perpetrators of child abuse and school employees who are subjects of founded or indicated reports only if the individual's Social Security number or date of birth is known to the department. The entry in the Statewide database shall not include identifying information regarding other subjects of the report.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended subsecs. (a) and (c) and Act 45 amended subsec. (a).

Cross References. Section 6338 is referred to in section 6349 of this title.

§ 6338.1. Expunction of information of perpetrator who was under 18 years of age when child abuse was committed.

(a) General rule.—The name of a perpetrator who is the subject of an indicated report of child abuse and who was under 18 years of age when the individual committed child abuse shall be expunged from the Statewide database when the individual reaches 21 years of age or when five years have elapsed since the perpetrator's name was added to the database, whichever is later, if the individual meets all of the following:

(1) The individual has not been named as a perpetrator in any subsequent indicated report of child abuse and is not named as an alleged perpetrator in a child abuse report pending investigation.

(2) The individual has never been convicted or adjudicated delinquent following a determination by the court that the individual committed an offense under section 6344(c) (relating to employees having contact with children; adoptive and foster parents), and no proceeding is pending seeking such conviction or adjudication.

(3) The child abuse which resulted in the inclusion of the perpetrator's name in the database did not involve the use of a deadly weapon, as defined under 18 Pa.C.S. § 2301 (relating to definitions).

(b) Mandated expunction.—If the perpetrator meets all of the requirements under subsection (a), the expunction shall be mandated and guaranteed by the department.

(c) Nonapplicability.—The provisions of this section shall not apply to any of the following cases:

(1) A perpetrator who is the subject of a founded report of child abuse.

(2) A sexually violent delinquent child, as defined in 42 Pa.C.S. § 9799.12 (relating to definitions), who meets all of the following:

(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

(ii) Was found delinquent as a result of the same acts which resulted in the sexually violent delinquent child being named a perpetrator of child abuse.
(3) A juvenile offender, as defined in 42 Pa.C.S. § 9799.12, who meets all of the following:
(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H as a result of an adjudication of delinquency for the same acts which resulted in the juvenile offender being named a perpetrator of child abuse.
(ii) Has not been removed from the Statewide Registry of Sexual Offenders pursuant to 42 Pa.C.S. § 9799.17 (relating to termination of period of registration for juvenile offenders).
(4) An individual who:
(i) Is required to register under 42 Pa.C.S. Ch. 97 Subch. H or I (relating to continued registration of sexual offenders) as a result of a criminal conviction for the same acts which resulted in the sexual offender being named a perpetrator of child abuse.
(ii) Has not completed the period of registration required under 42 Pa.C.S. Subch. H or I.
(Dec. 18, 2013, P.L.1195, No.117, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendments. Act 10 amended subsec. (c)(4) and Act 29 reenacted subsec. (c)(4).
2014 Amendments. Act 45 amended subsec. (a)(1) and Act 153 amended subsec. (a)(2).
2013 Amendment. Act 117 added section 6338.1.
Cross References. Section 6338.1 is referred to in section 6341 of this title.

§ 6339. Confidentiality of reports.
Except as otherwise provided in this subchapter or by the Pennsylvania Rules of Juvenile Court Procedure, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and reports made pursuant to section 6313 (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department or a county agency shall be confidential.
(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. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

Suspension by Court Rule. Section 6339 was suspended by Pennsylvania Rule of Civil Procedure No. 1915.25, as amended May 17, 2025, insofar as it is inconsistent with Pennsylvania Rule of Civil Procedure No. 1915.3-3 and 1915.3-4, which provide for the disclosure of such reports by the court to the parties.
Section 6339 was suspended by Pennsylvania Rule of Juvenile Court Procedure No. 1800(9), adopted August 21, 2006, insofar as it is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of reports if the reports are going to be used as evidence in a hearing to prove dependency of a child.
Cross References. Section 6339 is referred to in sections 6340, 6341, 6365 of this title.

§ 6340. Release of information in confidential reports.
(a) General rule.—Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:
(1) An authorized official of a county agency, of a Federal agency that has a need for such information to carry out its responsibilities under law to protect children from abuse and neglect or of an agency of another state that performs protective services analogous to those services performed by county

agencies or the department in the course of the official's duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to voluntary or court-ordered services; findings of child abuse).
(2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child or a child alleged to be in need of protection under this chapter.
(3) A guardian ad litem or court designated advocate for the child.
(4) An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of county agency).
(5) A court of competent jurisdiction, including a magisterial district judge, a judge of the Philadelphia Municipal Court and a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under section 6303(b) (relating to definitions). Disclosure through testimony shall be subject to the restrictions of subsection (c).
(5.1) A court of common pleas in connection with any matter involving custody of a child as set forth in sections 5328 (relating to factors to consider when awarding custody) and 5329.1 (relating to consideration of child abuse and involvement with protective services) or temporary guardianship of a child under Chapter 56 (relating to standby and temporary guardianship).
(6) A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).
(7) The Attorney General.
(8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not remove identifiable reports or copies thereof from the department or county agencies.
(9) Law enforcement officials of any jurisdiction, as long as the information is relevant in the course of investigating cases of:
(i) Homicide or other criminal offense set forth in section 6344(c) (relating to employees having contact with children; adoptive and foster parents), sexual abuse or exploitation, bodily injury or serious bodily injury caused by a perpetrator or nonperpetrator.
(ii) Child abuse other than that identified under subparagraph (i) by a nonperpetrator.
(iii) Repeated physical injury to a child under circumstances which indicate that the child's health, safety or welfare is harmed or threatened.
(iv) A missing child report.
(v) Severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (114 Stat. 1466, 22 U.S.C. § 7102).
(10) The district attorney's office or other law enforcement official, as set forth in county protocols for multidisciplinary investigative teams required in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse), shall receive, immediately after the county agency has ensured the safety of the child, reports of abuse according to regulations, from the department or county agency in which the initial report of suspected child abuse or initial inquiry into the report gives evidence that the abuse is:
(i) a criminal offense set forth under section 6344.3 (relating to grounds for denying employment or participation in program, activity or service), not including an offense under 18 Pa.C.S. § 4304 (relating to endangering welfare of children) or an equivalent crime under Federal law or law of another state; or

(ii) child abuse under section 6334.1 (relating to responsibility for investigation).
(11) Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:
(i) The board of commissioners in counties other than counties of the first class.
(ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L.665, No.155), known as the First Class City Home Rule Act.
(iii) An individual serving as a county chief executive as designated by a county home rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.
(12) A mandated reporter of suspected child abuse under section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child shall be limited to the following:
(i) Whether the child abuse report is indicated, founded or unfounded.
(ii) Any services provided, arranged for or to be provided by the county agency to protect the child.
(13) School administrators and child-care service employers, as provided under this paragraph. The following shall apply:
(i) If the alleged perpetrator is a school employee or child-care service employee, school administrators and child-care service employers shall receive notice of a pending allegation and the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.
(ii) Information disclosed pursuant to this paragraph shall be provided to the school administrator or child-care service employer within ten days of the completion of the investigation.
(iii) If the perpetrator is a school employee, the notice of the final status of the report shall be sent to the Department of Education within ten days of the completion of the investigation.
(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the prospective parent may make an informed decision to adopt.
(15) Appropriate officials of another county or state regarding an investigation related to child abuse or protective services when a family has moved to that county or state. Reports under this paragraph shall include general protective service reports and related information. Reports and information under this paragraph shall be provided within seven calendar days. The department shall promulgate regulations as necessary to carry out the purposes of this paragraph.
(16) Members of citizen review panels convened pursuant to section 6343.1 (relating to citizen review panels), provided that such members shall not disclose to any person or government official any identifying information about any specific child protective services case with respect to which the panel is provided information.
(17) A member of a child fatality or near fatality review team under section 6365(d).
(18) The Department of the Auditor General in conjunction with the performances of the duties designated to the Office of Auditor General, except that the Auditor General may not remove identifiable reports or copies thereof from the department or county agency.
(b) Release of information to subject.—Upon a written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide database or in any report filed pursuant to section 6313 (relating to reporting procedure).
(c) Protecting identity.—Except for reports under subsection (a)(9) and (10) and in response to a law enforcement official investigating allegations of false reports under 18 Pa.C.S. § 4906.1 (relating

to false reports of child abuse), the release of data by the department, county, institution, school, facility or agency or designated agent of the person in charge that would identify the person who made a report of suspected child abuse or who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential informants.

(d) Exclusion of information.—Except as provided under section 6341(c.2)(4) (relating to amendment or expunction of information), information maintained in the Statewide database obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official. Information in the Statewide database or a confidential report provided under section 6341(c.2)(4) shall be subject to subsection (c).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127; Nov. 30, 2004, 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, 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, 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. imd.; Oct. 28, 2016, P.L.966, No.115, eff. imd.; Oct. 23, 2018, P.L.583, No.88, eff. 60 days)

2018 Amendment. Act 88 amended subsec. (a)(5.1).

2016 Amendment. Act 115 added subsec. (a)(9)(v).

2015 Amendment. Act 15 added subsec. (a)(18).

2014 Amendments. Act 29 amended subsecs. (a)(9), (10), (12) and (13), (b), (c) and (d) and Act 153 amended subsecs. (a)(9)(i) and (c).

2013 Amendment. See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

2008 Amendment. Act 33 added subsec. (a)(17).

2006 Amendment. Act 146 amended subsec. (a)(1) and added subsec. (a)(16).

2004 Amendment. Act 207 amended subsec. (a)(5). See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

1998 Amendment. Act 127 amended subsec. (a)(5), (9) and (10) and added subsec. (a)(15), effective immediately as to subsec. (a)(5) and (15) and March 1, 1999, as to the remainder of the section.

References in Text. The act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law, referred to in subsec. (a), was repealed by the act of December 19, 1996 (P.L.1158, No.177). The subject matter is now contained in Subpart E of Part III of Title 53 (Municipalities Generally).

Cross References. Section 6340 is referred to in sections 5329.1, 6314, 6334, 6335, 6341, 6343, 6346, 6365, 6375 of this title.

§ 6340.1. Exchange of information.

(a) Certified medical practitioners.—In circumstances which negatively affect the medical health of a child, a certified medical practitioner shall, in a timely manner, provide the county agency with the following information when an assessment for general protective services or a child abuse investigation is being conducted or when the family has been accepted for services by a county agency:

(1) Relevant medical information known to the certified medical practitioner regarding the child's prior and current health.

(2) Information from a subsequent examination.

(3) Information regarding treatment of the child.

(4) Relevant medical information known regarding any other child in the child's household where such information may contribute to the assessment, investigation or provision of services by the county agency to the child or other children in the household.

(b) Parental consent.—Parental consent is not required for the certified medical practitioner to provide the information under subsection (a).

(c) Request by certified medical practitioner.—If requested by the child's primary care physician or a certified medical practitioner who is providing medical care to the child, the county agency, in order to ensure the proper medical care of the child, shall provide the following information as it pertains to circumstances which negatively affect the medical health of the child:

(1) The final status of any assessment of general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.

(2) Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311 (relating to persons required to report suspected child abuse).

(3) If accepted for services, any service provided, arranged for or to be provided by the county agency.

(4) The identity of other certified medical practitioners providing medical care to the child to obtain the child's medical records to allow for coordination of care between medical practitioners.

(d) Notification by county agency.—In circumstances which negatively affect the medical health of a child, the county agency shall notify the certified medical practitioner who is the child's primary care provider, if known, of the following information:

(1) The final status of any assessment of general protective services or an investigation of child abuse, if the report of child abuse is indicated or founded.

(2) Information on an unfounded report of child abuse if the certified medical practitioner made the report as a mandated reporter under section 6311.

(3) If accepted for services, any service provided, arranged for or to be provided by the county agency.

(Oct. 22, 2014, P.L.2876, No.176, eff. Dec. 31, 2014)

2014 Amendment. Act 176 added section 6340.1.

§ 6341. Amendment or expunction of information.

(a) General rule.—Notwithstanding section 6338.1 (relating to expunction of information of perpetrator who was under 18 years of age when child abuse was committed):

(1) At any time, the secretary may amend or expunge any record in the Statewide database under this chapter upon good cause shown and notice to the appropriate subjects of the report. The request shall be in writing in a manner prescribed by the department. For purposes of this paragraph, good cause shall include, but is not limited to, the following:

(i) Newly discovered evidence that an indicated report of child abuse is inaccurate or is being maintained in a manner inconsistent with this chapter.

(ii) A determination that the perpetrator in an indicated report of abuse no longer represents a risk of child abuse and that no significant public purpose would be served by the continued listing of the person as a perpetrator in the Statewide database.

(2) Any person named as a perpetrator, and any school employee named, in an indicated report of child abuse may, within 90 days of being notified of the status of the report, request an administrative review by, or appeal and request a hearing before, the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. The request shall be in writing in a manner prescribed by the department.

(3) Within 60 days of a request under paragraph (1) or a request for administrative review under paragraph (2), the department shall send notice of the secretary's decision.

(b) Review of grant of request.—If the secretary grants the request under subsection (a)(2), the Statewide database, appropriate county agency, appropriate law enforcement officials and all subjects shall be so advised of the decision. The county agency and any subject have 90 days in which to file an administrative appeal with the secretary. If an administrative appeal is received, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, attending departmental regulations. If no administrative appeal is received within the designated time period, the Statewide database shall comply with the decision of the secretary and advise the county agency to amend or expunge the information in their records so that the records are consistent at both the State and local levels.

(c) Review of refusal of request.—Subject to subsection (c.1), if the secretary refuses a request under subsection (a)(1) or a request for administrative review under subsection (a)(2), or does not act within the prescribed time, the perpetrator or school employee shall have the right to appeal and request a hearing before the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. The request for hearing must be made within 90 days of notice of the decision. The appropriate county agency and appropriate law enforcement officials shall be given notice of the hearing. The burden of proof in the hearing shall be on the appropriate county agency. The department shall assist the county agency as necessary.

(c.1) Founded reports.—A person named as a perpetrator in a founded report of child abuse must provide to the department a court order indicating that the underlying adjudication that formed the basis of the founded report has been reversed or vacated.

(c.2) Hearing.—A person making an appeal under subsection (a)(2) or (c) shall have the right to a timely hearing to determine the merits of the appeal. A hearing shall be scheduled according to the following procedures:

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

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

(3) After reasonable efforts required by paragraph (2) have been made, the department shall enter a scheduling order, and proceedings before the Bureau of Hearings and Appeals shall commence within 90 days of the date the scheduling order is entered, unless all parties have agreed to a continuance. Proceedings and hearings shall be scheduled to be heard on consecutive days whenever possible, but if not on consecutive days, then the proceeding or hearing shall be concluded not later than 30 days from commencement.

(4) The department or county agency shall provide a person making an appeal with evidence gathered during the child abuse investigation within its possession that is relevant to the child abuse determination, subject to sections 6339 (relating to confidentiality of reports) and 6340 (relating to release of information in confidential reports).

(5) The department or county agency shall bear the burden of proving by substantial evidence that the report should remain categorized as an indicated report.

(c.3) Prompt decision.—The administrative law judge's or hearing officer's decision in a hearing under subsection (c.2) shall be entered, filed and served upon the parties within 45 days of the date upon which the proceeding or hearing is concluded unless, within that time, the tribunal extends the date for the decision by order entered of record showing good cause for the extension. In no event

shall an extension delay the entry of the decision more than 60 days after the conclusion of the proceeding or hearing.

(c.4) Notice of decision.—Notice of the decision shall be made to the Statewide database, the appropriate county agency, any appropriate law enforcement officials and all subjects of the report, except for the abused child.

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

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

(f) Notice of expunction.—Written notice of an expunction of any child abuse record made pursuant to the provisions of this chapter shall be served upon the subject of the record who was responsible for the abuse or injury and the appropriate county agency. Except as provided in this subsection, the county agency, upon receipt of the notice, shall take appropriate, similar action in regard to the local child abuse records and inform, for the same purpose, the appropriate coroner if that officer has received reports pursuant to section 6367 (relating to reports to department and coroner). Whenever the county agency investigation reveals, within 60 days of receipt of the report of suspected child abuse, that the report is unfounded but that the subjects need services provided or arranged by the county agency, the county agency shall retain those records and shall specifically identify that the report was an unfounded report of suspected child abuse. An unfounded report regarding subjects who receive services shall be expunged no later than 120 days following the expiration of one year after the termination or completion of services provided or arranged by the county agency.

(g) Reconsideration and appeal.—Parties to a proceeding or hearing held under subsection (c.2) have 15 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to request the secretary to reconsider the decision. Parties to a proceeding or hearing held under this section have 30 calendar days from the mailing date of the final order of the Bureau of Hearings and Appeals to perfect an appeal to Commonwealth Court. The filing for reconsideration shall not toll the 30 days provided.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendment. Act 45 reenacted and amended the entire section. Section 16 of Act 45 provided that, notwithstanding section 7(2) of Act 119 of 2013, subsecs. (c.1), (c.2), (c.3), (c.4) and (g) shall apply on and after December 31, 2014.

2013 Amendment. Section 6 of Act 119 provided that the amendment of section 6341 shall apply to appeals filed on or after the effective date of section 6.

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (b), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

Cross References. Section 6341 is referred to in sections 6340, 6368, 6381 of this title.

§ 6342. Studies of data in records.
(a) Studies.—The department may conduct or authorize the conducting of studies of the data contained in the Statewide database and by county agencies and distribute the results of the studies. No study may contain the name or other information by which a subject of a report could be identified. The department may allow Federal auditors access to nonidentifiable duplicates of reports in the Statewide database if required for Federal financial participation in funding of agencies.
(b) Data form.—The department shall develop a data form to facilitate the collection of statistical and demographic information from a child fatality or near fatality review team and a county agency, which can be incorporated into a study conducted by the department.
(July 3, 2008, P.L.276, No.33, eff. 180 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 amended subsec. (a).
Cross References. Section 6342 is referred to in sections 6335, 6336 of this title.

§ 6343. Investigating performance of county agency.
(a) General rule.—If, within 30 days from the date of an initial report of suspected child abuse, the appropriate county agency has not investigated the report and informed the department that the report is an indicated report or an unfounded report or unless within that same 30-day period the report is determined to be a founded report, the department shall have the authority to begin an inquiry into the performance of the county agency which inquiry may include a performance audit of the county agency as provided in subsection (b). On the basis of that inquiry, the department shall take appropriate action to require that the provisions of this chapter be strictly followed, which action may include, without limitation, the institution of appropriate legal action and the withholding of reimbursement for all or part of the activities of the county agency. The department shall determine in its review whether the county agency has sufficiently documented reasons why the investigation has not been completed in the 30-day period.
(b) Performance audit.—Notwithstanding any other provision of this chapter, the secretary or a designee of the secretary may direct, at their discretion, and after reasonable notice to the county agency, a performance audit of any activity engaged in pursuant to this chapter.
(c) Department reviews and reports of child fatalities and near fatalities.—
(1) The department shall conduct a child fatality and near fatality review and provide a written report on any child fatality or near fatality, if child abuse is suspected. The department shall summarize:
(i) the circumstances of the child's fatality or near fatality;
(ii) the nature and extent of its review;
(iii) statutory and regulatory compliance by the county agency in the county where:
(A) the fatality or near fatality occurred; and
(B) the child resided within the 16 months preceding the fatality or near fatality;
(iv) its findings; and
(v) recommendations for reducing the likelihood of future child fatalities and near fatalities resulting from child abuse.
(2) The department's child fatality or near fatality review shall be commenced immediately upon receipt of a report to the department that a child died or nearly died as a result of suspected child abuse. The department shall provide assistance and relevant information to the child fatality or near fatality review team and attempt to coordinate its fact-finding efforts and interviews with the team to avoid duplication. The department's child fatality or near fatality review and report shall be completed

as soon as possible but no later than six months from receipt of the initial report of the child fatality or near fatality.
(3) Prior to completing its report, the department may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:
(i) The identity of the child, only in the case of a child's fatality.
(ii) If the child was in the custody of a public or private agency, the identity of the agency.
(iii) The identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality.
(iv) A description of services provided under subparagraph (iii).
(v) The identity of the county agency that convened a child fatality or near fatality review team with respect to the child.
(4) Upon completion of the review and report, the department's child fatality or near fatality report shall be made available to the county agency, the child fatality or near fatality review team and designated county officials under section 6340(a)(11) (relating to release of information in confidential reports). The report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's report shall be made available to the public, but identifying information shall be removed from the contents of the report except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The report shall not be released to the public if the district attorney certifies that release of the report may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney.
(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, 2014, P.L.645, No.44, eff. Dec. 31, 2014)

2014 Amendment. Act 44 amended subsec. (c)(3).
2008 Amendment. Act 33 added subsec. (c).
Cross References. Section 6343 is referred to in sections 6335, 6340, 6368 of this title.

§ 6343.1. Citizen review panels.
(a) Establishment.—The department shall establish a minimum of three citizen review panels. The department may designate a child fatality or near fatality review team under section 6365(d) (relating to services for prevention, investigation and treatment of child abuse) as a citizen review panel as long as the team has the capacity to perform as a citizen review panel.
(b) Function.—The panels shall examine all of the following:
(1) Policies, procedures and practices of State and local agencies and, where appropriate, specific cases to evaluate the extent to which State and local child protective services system agencies are effectively discharging their child protection responsibilities under section 106(b) of the Child Abuse Prevention and Treatment Act (Public Law 93-247, 42 U.S.C. § 5106a(b)).
(2) Other criteria the panel considers important to ensure the protection of children, including:

(i) a review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established under Part E of Title IV of the Social Security Act (49 Stat. 620, 42 U.S.C. § 670 et seq.); and
(ii) a review of child fatalities and near fatalities, including, but not limited to, a review of any child fatality or near fatality involving a child in the custody of a public or private agency where there is no report of suspected child abuse and the cause of death is neither the result of child abuse nor natural causes.
(c) Membership.—The panels shall be composed of volunteer members who represent the community, including members who have expertise in the prevention and treatment of child abuse and neglect.
(d) Meetings.—Each citizen review panel shall meet not less than once every three months.
(e) Reports.—The department shall issue an annual report summarizing the activities and recommendations of the panels and summarizing the department response to the recommendations.
(Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; July 3, 2008, P.L.276, No.33, eff. 180 days)

2008 Amendment. Act 33 amended subsecs. (a) and (b)(2)(ii).
2006 Amendment. Act 146 added section 6343.1.
Cross References. Section 6343.1 is referred to in sections 6335, 6340 of this title.

§ 6344. Employees having contact with children; adoptive and foster parents.
(a) Applicability.—Beginning December 31, 2014, this section applies to the following individuals:
(1) An employee of child-care services.
(2) A foster parent.
(3) A prospective adoptive parent.
(4) A self-employed provider of child-care services in a family child-care home.
(5) (i) Except as provided under subparagraph (ii), an individual 14 years of age or older who is applying for or holding a paid position as an employee with a program, activity or service, as a person responsible for the child's welfare or having direct contact with children.
(ii) If the program, activity or service is an internship, externship, work study, co-op or similar program, an adult applying for or holding a paid position with an employer that participates in the internship, externship, work study, co-op or similar program with a school and whom the employer and the school identify as the child's supervisor and the person responsible for the child's welfare while the child participates in the program with the employer. The adult identified under this subparagraph as the person responsible for the child's welfare is required to be in the immediate vicinity at regular intervals with the child during the program.
(6) Any individual seeking to provide child-care services under contract with a child-care facility or program.
(7) An individual 18 years of age or older who resides in the home of a foster parent for at least 30 days in a calendar year or who resides in the home of a prospective adoptive parent for at least 30 days in a calendar year.
(8) An individual 18 years of age or older who resides for at least 30 days in a calendar year in the following homes which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code:
(i) A family living home.
(ii) A community home for individuals with an intellectual disability.
(iii) A host home for children.

This paragraph does not include an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.

(a.1) School employees.—This section shall apply to school employees as follows:

(1) School employees governed by the provisions of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall be subject to the provisions of section 111 of the Public School Code of 1949, except that this section shall apply with regard to the certification required under subsection (b)(2).

(2) (i) School employees not governed by the provisions of the Public School Code of 1949 shall be governed by this section.

(ii) This paragraph shall not apply to an employee of an institution of higher education whose direct contact with children, in the course of employment, is limited to either:

(A) prospective students visiting a campus operated by the institution of higher education; or

(B) matriculated students who are enrolled with the institution.

(iii) The exemption under subparagraph (ii)(B) shall not apply to students who are enrolled in a secondary school.

(a.2) Minors.—Unless applying for or holding a position in a child day-care center, group day-care home or family child-care home, an individual between 14 and 17 years of age who applies for or holds a paid position as an employee who is a person responsible for the child's welfare or a person with direct contact with children through a program, activity or service prior to the commencement of employment or under section 6344.4 (relating to recertification) shall be required to submit only the information under subsection (b)(1) and (2) to an employer, administrator, supervisor or other person responsible for employment decisions, if the following apply:

(1) The individual has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under subsection (b)(3) at any time since establishing residency in this Commonwealth and provides a copy of the certification to the employer.

(2) The individual and the individual's parent or legal guardian swear or affirm in writing that the individual is not disqualified from service under subsection (c) or has not been convicted of an offense similar in nature to those crimes listed in subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(a.3) Exchange visitor.—Unless applying for or holding a position in a child day-care center, group day-care home or family child-care home, an individual in possession of a nonimmigrant visa issued pursuant to 8 U.S.C. § 1101(a)(15)(J) (relating to definitions) to an exchange visitor, commonly referred to as a "J-1" Visa, shall not be required to submit information under subsection (b) if all of the following apply:

(1) The individual is applying for or holds a paid position with a program, activity or service for a period not to exceed a total of 90 days in a calendar year.

(2) The individual has not been employed previously in this Commonwealth or another state, the District of Columbia or the Commonwealth of Puerto Rico.

(3) The individual swears or affirms in writing that the individual is not disqualified from service under subsection (c) or has not been convicted of an offense similar in nature to the crimes listed under subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(b) Information to be submitted.—An individual identified in subsection (a)(7) or (8) at the time the individual meets the description set forth in subsection (a)(7) or (8) and an individual identified in subsection (a)(1), (2), (3), (4), (5)(i) or (6), (a.1), (a.2) or (a.3) prior to the commencement of employment or service or in accordance with section 6344.4 shall be required to submit the following information to an employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers:

(1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).

(2) A certification from the department as to whether the applicant is named in the Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report.

(3) A report of Federal criminal history record information. The applicant shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a record check, and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

(b.1) Required documentation to be maintained and produced.—The employer, administrator, supervisor or other person responsible for employment decisions or acceptance of the individual to serve in any capacity identified in subsection (a)(1), (2), (3), (4), (5)(i) or (6), (a.1) or (a.2) shall maintain a copy of the required information and require the individual to submit the required documents prior to employment or acceptance to serve in any such capacity or as required in section 6344.4, except as allowed under subsection (m).

(b.2) Investigation.—An employer, administrator, supervisor or other person responsible for employment decisions shall require an applicant to submit the required documentation set forth in this chapter or as required in section 6344.4. An employer, administrator, supervisor or other person responsible for employment decisions that intentionally fails to require an applicant to submit the required documentation before the applicant's hiring or upon recertification commits a misdemeanor of the third degree.

(b.3) Volunteer certification prohibition.—An employer, administrator, supervisor or other person responsible for employment decisions is prohibited from accepting a certification that was obtained for volunteering purposes under section 6344.2 (relating to volunteers having contact with children).

(c) Grounds for denying employment or participation in program, activity or service.—

(1) In no case shall an employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers hire or approve an applicant where the department has verified that the applicant is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.

(2) In no case shall an employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers hire or approve an applicant if the applicant's criminal history record information indicates the applicant has been convicted of one or more of the following offenses under Title 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the law of another state:

Chapter 25 (relating to criminal homicide).
Section 2702 (relating to aggravated assault).
Section 2709.1 (relating to stalking).
Section 2901 (relating to kidnapping).
Section 2902 (relating to unlawful restraint).
Section 3121 (relating to rape).
Section 3122.1 (relating to statutory sexual assault).
Section 3123 (relating to involuntary deviate sexual intercourse).
Section 3124.1 (relating to sexual assault).
Section 3125 (relating to aggravated indecent assault).
Section 3126 (relating to indecent assault).
Section 3127 (relating to indecent exposure).
Section 4302 (relating to incest).
Section 4303 (relating to concealing death of child).
Section 4304 (relating to endangering welfare of children).
Section 4305 (relating to dealing in infant children).
A felony offense under section 5902(b) (relating to prostitution and related offenses).
Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
Section 6301 (relating to corruption of minors).
Section 6312 (relating to sexual abuse of children).
The attempt, solicitation or conspiracy to commit any of the offenses set forth in this paragraph.
(3) In no case shall an employer, administrator, supervisor or other person responsible for employment decisions hire or approve an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.
(4) In addition to paragraphs (1), (2) and (3), in no case shall an employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers at a child day-care center, group day-care home or family child-care home hire or approve an applicant under any of the following circumstances:
(i) The applicant's criminal history record information indicates the applicant has been convicted of any of the following:
(A) One or more of the following offenses under Title 18 or an equivalent crime under Federal law or the law of another state:
A felony offense under section 2718 (relating to strangulation).
A felony offense under section 3301 (relating to arson and related offenses).
(B) An offense under 18 U.S.C. § 2261 (relating to interstate domestic violence) or 2262 (relating to interstate violation of protection order).
(ii) The applicant's name appears on the National Crime Information Center National Sex Offender Registry or on a state's sex offender registry.
(iii) The applicant's name appears on a Statewide database or its equivalent as a perpetrator of child abuse.
(c.1) Dismissal.—If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment or approval pursuant to subsection (c), the applicant shall be immediately dismissed from employment or approval.

(d) Prospective adoptive or foster parents.—With regard to prospective adoptive or prospective foster parents, the following shall apply:

(1) In the course of causing an investigation to be made pursuant to section 2535(a) (relating to investigation), an agency or person designated by the court to conduct the investigation shall require prospective adoptive parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection (b) for review in accordance with this section. If a prospective adoptive parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous five-year period, the agency or person designated by the court shall require that person to submit a certification obtained within the previous one-year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the agency or person designated by the court shall forward the certification to the department for review. The agency or person designated by the court shall not approve the prospective adoptive parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period.

(2) In the course of approving a prospective foster parent, a foster family care agency shall require prospective foster parents and any individual over the age of 18 years residing in the home to submit the information set forth in subsection (b) for review by the foster family care agency in accordance with this section. If a prospective foster parent, or any individual over 18 years of age residing in the home, has resided outside this Commonwealth at any time within the previous five-year period, the foster family care agency shall require that person to submit a certification obtained within the previous one-year period from the Statewide central registry, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator of child abuse. If the certification shows that the person is named as a perpetrator of child abuse within the previous five-year period, the foster family care agency shall forward the certification to the department for review. The foster family care agency shall not approve the prospective foster parent if the department determines that the person is named as the equivalent of a perpetrator of a founded report of child abuse within the previous five-year period. In addition, the foster family care agency shall consider the following when assessing the ability of applicants for approval as foster parents:

(i) The ability to provide care, nurturing and supervision to children.

(ii) Mental and emotional well-being. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the foster family care agency shall require a psychological evaluation of that person before approving the foster family home.

(iii) Supportive community ties with family, friends and neighbors.

(iv) Existing family relationships, attitudes and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.

(v) Ability of the applicant to accept a foster child's relationship with his own parents.

(vi) The applicant's ability to care for children with special needs.

(vii) Number and characteristics of foster children best suited to the foster family.

(viii) Ability of the applicant to work in partnership with a foster family care agency. This subparagraph shall not be construed to preclude an applicant from advocating on the part of a child.

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(4.1) If a foster parent, prospective adoptive parent or an individual over 18 years of age residing in the home is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter or is named as a perpetrator in a founded or indicated report, the foster parent or prospective adoptive parent shall provide the foster family care agency or the agency listed to provide adoption services with written notice not later than 72 hours after the arrest, conviction or notification that the individual was named as a perpetrator in the Statewide database.
(5) Foster parents and prospective adoptive parents shall be required to report any other change in the family household composition within 30 days of the change for review by the foster family care agency or the agency listed to provide adoption services. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home of an approved foster family or a prospective adoptive family, that individual shall, within 30 days of beginning residence, submit to the foster family care agency or the agency listed to provide adoption services a certification obtained from the Statewide database, or its equivalent in each state in which the person has resided within the previous five-year period, as to whether the person is named as a perpetrator. If the certification shows that the person is named as a perpetrator within the previous five-year period, the foster family care agency or the agency listed to provide adoption services shall forward the certification to the department for review. If the department determines that the person is named as the equivalent of a perpetrator of a founded report within the previous five-year period and the person does not cease residing in the home immediately, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.
(6) In cases where foster parents knowingly fail to submit the material information required in paragraphs (4.1) and (5) and section 6344.4 such that it would disqualify them as foster parents, the county agency shall immediately seek court authorization to remove the foster child or children from the home. In emergency situations when a judge cannot be reached, the county agency shall proceed in accordance with the Pennsylvania Rules of Juvenile Court Procedure.
(7) An approved foster parent shall not be considered an employee for any purpose, including, but not limited to, liability, unemployment compensation, workers' compensation or other employee benefits provided by the county agency.
(8) The department shall require information based upon certain criteria for foster and adoptive parent applications. The criteria shall include, but not be limited to, information provided by the applicant or other sources in the following areas:
(i) Previous addresses within the last 10 years.
(ii) Criminal history background certification generated by the process outlined in this section.
(iii) Child abuse certification generated by the process outlined in this section.
(iv) Composition of the resident family unit.
(v) Protection from abuse orders filed by or against either parent, provided that such orders are accessible to the county or private agency.
(vi) Details of any proceedings brought in family court, provided that such records in such proceedings are accessible to the county or private agency.
(vii) Drug-related or alcohol-related arrests, if criminal charges or judicial proceedings are pending, and any convictions or hospitalizations within the last five years. If the applicant provides information regarding convictions or hospitalizations in that five-year period, then information on the prior five years shall be requested related to any additional convictions or hospitalizations.

(viii) Evidence of financial stability, including income verification, employment history, current liens and bankruptcy findings within the last 10 years.
(ix) Number of and ages of foster children and other dependents currently placed in the home.
(x) Detailed information regarding children with special needs currently living in the home.
(xi) Previous history as a foster parent, including number and types of children served.
(xii) Related education, training or personal experience working with foster children or the child welfare system.

(d.1) Establishment of a resource family registry.—

(1) The department shall establish a registry of resource family applicants.
(2) The foster family care agency or adoption agency shall register all resource family applicants on the resource family registry in accordance with subsection (d.2).
(3) The foster family care agency or adoption agency shall register all resource families that are approved on the effective date of this subsection within six months of the effective date of this subsection.
(4) Any resource family that is voluntarily registered on the foster parent registry shall be maintained on the resource family registry mandated under this section.

(d.2) Information in the resource family registry.—

(1) The resource family registry shall include, but not be limited to, the following:
(i) The name, Social Security number, date of birth, sex, marital status, race and ethnicity of the applicants.
(ii) The date or dates of the resource family application.
(iii) The current and previous home addresses of the applicants.
(iv) The county of residence of the applicants.
(v) The name, date of birth, Social Security number and relationship of all household members.
(vi) The name, address and telephone number of all current and previous foster family care agency or adoption agency affiliations.
(vii) The foster family care agency or adoption agency disposition related to the approval or disapproval of the applicants and the date and basis for the disposition.
(viii) The type of care the resource family will provide.
(ix) The number of children that may be placed in the resource family home.
(x) The age, race, gender and level of special needs of children that may be placed in the resource family home.
(xi) The ability of the resource family to provide care for sibling groups.
(xii) The date and reason for any closure of the resource family home.
(xiii) The appeal activity initiated by a resource family applicant or an approved resource family and the basis for the appeal. This subparagraph shall not be construed to limit legitimate appeals.
(xiv) The status and disposition of all appeal-related activities. This subparagraph shall not be construed to limit legitimate appeals.
(2) The information maintained in the resource family registry may be released to the following individuals when the department has positively identified the individual requesting the information and the department, except in the case of subparagraphs (iii) and (iv), has inquired into whether and if it is satisfied that the individual has a legitimate need within the scope of the individual's official duties to obtain the information:
(i) An authorized official of a county or private agency, a Federal agency or an agency of another state who performs resource family approvals or the department in the course of the official's duties.

(ii) A guardian ad litem or court-designated advocate for a child. The information is limited to the information related to the resource family with whom the child resides.
(iii) A court of competent jurisdiction, including a district justice, a judge of the Municipal Court of Philadelphia or a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under Chapter 63 (relating to child protective services).
(iv) A court of competent jurisdiction in connection with any matter involving custody of a child. The department shall provide to the court any files that the court considers relevant.
(v) The Attorney General.
(vi) Federal auditors, if required for Federal financial participation in funding of agencies, except that Federal auditors may not remove identifiable information or copies thereof from the department or county or private agencies.
(vii) Law enforcement agents of any jurisdiction, as long as the information is relevant in the course of investigating crimes involving the resource family.
(viii) Appropriate officials of a private agency or another county or state regarding a resource family that has applied to become a resource family for that agency, county or state.
(3) At any time and upon written request, a resource family may receive a copy of all information pertaining to that resource family contained in the resource family registry.
(d.3) Family living homes, community homes for individuals with an intellectual disability and host homes.—
(1) The following shall apply to an individual over 18 years of age residing in a family living home, a community home for individuals with an intellectual disability or a host home for children, which are subject to supervision or licensure by the department under Articles IX and X of the Public Welfare Code:
(i) If an individual is arrested for or convicted of an offense that would constitute grounds for denying approval under this chapter, or is named as a perpetrator in a founded or indicated report, the individual shall provide the agency with written notice not later than 72 hours after the arrest, conviction or notification that the individual was named as a perpetrator in the Statewide database.
(ii) The adult family member who is providing services to a child in the home shall be required to report any other change in the household composition within 30 days of the change for review by the agency. If any individual over 18 years of age, who has resided outside this Commonwealth at any time within the previous five-year period, begins residing in the home, that individual shall, within 30 days of beginning residence, submit to the agency a certification obtained from the Statewide database, or its equivalent in each state in which the individual has resided within the previous five-year period, as to whether the person is named as a perpetrator. If the certification shows that the person is named as a perpetrator within the previous five-year period, the agency shall forward the certification to the department for review.
(2) This subsection shall not apply to an individual with an intellectual disability or chronic psychiatric disability receiving services in a home.
(3) As used in this subsection, the term "agency" means a family living home agency, community home agency for individuals with an intellectual disability or a host home agency.
(e) Self-employed family child-care providers.—Self-employed family child-care providers who apply for a license with the department shall submit with their licensure application the information set forth under subsection (b) for review in accordance with this section.

(f) Submissions by operators of child-care services.—The department shall require persons seeking to operate child-care services to submit the information set forth in subsection (b) for review in accordance with this section.

(f.1) Additional information for child day-care centers, group day-care homes and family child-care homes.—

(1) In addition to the required information under subsection (b), employees and volunteers of a child day-care center, group day-care home or family child-care home shall submit the following in accordance with paragraph (2):

(i) The following certifications from an out-of-state database or its equivalent in each state in which the individual resided within the previous five-year period as to whether the individual:

(A) Is named in the database as a perpetrator of child abuse.

(B) Is named on the out-of-state criminal history repository with a conviction of an offense listed in subsection (c)(2) or (4).

(C) Is named on the State's sex offender registry.

(ii) Notification from the department stating whether the individual's name appears on the National Crime Information Center National Sex Offender Registry.

(2) An applicant for employment or a prospective volunteer at a child day-care center, group day-care home or family child-care home shall submit the information required under paragraph (1) prior to the commencement of employment or service. An employee or a volunteer at a child day-care center, group day-care home or family child-care home as of the date of enactment of this subsection shall submit the information required under paragraph (1) no later than the effective date of this subsection.

(g) Regulations.—The department shall promulgate the regulations necessary to carry out this section. These regulations shall:

(1) Set forth criteria for unsuitability for employment in a child-care service in relation to criminal history record information which may include criminal history record information in addition to that set forth above. The criteria shall be reasonably related to the prevention of child abuse.

(2) Set forth sanctions for administrators who willfully hire applicants in violation of this section or in violation of the regulations promulgated under this section.

(h) Fees.—(Repealed).

(h.1) Form of payment.—Payment of the fee authorized under subsection (h) may be made by an individual or organization by check, money order, credit card or debit card.

(i) Time limit for certification.—The department shall comply with certification requests no later than 14 days from the receipt of the request.

(j) Voluntary certification of child caretakers.—The department shall develop a procedure for the voluntary certification of child caretakers to allow persons to apply to the department for a certificate indicating the person has met the requirements of subsection (b). The department shall also provide for the biennial recertification of child caretakers.

(k) Existing or transferred employees.—(Deleted by amendment).

(l) Temporary employees under special programs.—(Deleted by amendment).

(m) Provisional employees for limited periods.—The following shall apply to provisional employees:

(1) Employers, administrators, supervisors or other persons responsible for employment decisions, except for a child-care institution, a prospective adoptive parent or a prospective foster parent may employ an applicant on a provisional basis for a single period not to exceed 45 days, if all of the following conditions are met:

(i) The applicant has applied for the information required under subsection (b) and the applicant provides a copy of the appropriate completed request forms to the employer, administrator, supervisor or other person responsible for employment decisions.
(ii) The employer, administrator, supervisor or other person responsible for employment decisions has no knowledge of information pertaining to the applicant which would disqualify him from employment pursuant to subsection (c).
(iii) The applicant swears or affirms in writing that he is not disqualified from employment pursuant to subsection (c) or has not been convicted of an offense similar in nature to those crimes listed in subsection (c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.
(iv) If the information obtained pursuant to subsection (b) reveals that the applicant is disqualified from employment pursuant to subsection (c), the applicant shall be immediately dismissed by the employer, administrator, supervisor or other person responsible for employment decisions.
(v) The employer, administrator, supervisor or other person responsible for employment decisions requires that the applicant not be permitted to work alone with children and that the applicant work in the immediate vicinity of a permanent employee.
(vi) The applicant received the results of the information required under subsection (b)(2) and either subsection (b)(1) or (b)(3) and submitted the results to the employer, administrator, supervisor or other person responsible for employment decisions.
(2) For the purposes of this subsection, the term "child-care institution" shall mean a child-care institution as defined in 42 U.S.C. § 672(c)(2)(A) (relating to foster care maintenance payments program) on the effective date of this paragraph.
(3) (Deleted by amendment).
(3.1) (Deleted by amendment).
(4) (Deleted by amendment).
(5) (Deleted by amendment).
(n) Confidentiality.—The information provided and compiled under this section, including, but not limited to, the names, addresses and telephone numbers of applicants and foster and adoptive parents, shall be confidential and shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation.
(o) Use of information.—A foster family care agency may not approve a prospective foster parent if the prospective foster parent or an individual 18 years of age or older who resides for at least 30 days in a calendar year with the prospective foster parent meets either of the following:
(1) Is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.
(2) Has been found guilty of an offense listed in subsection (c).
(p) Use of information.—A prospective adoptive parent may not be approved if the prospective adoptive parent or an individual 18 years of age or older who resides for at least 30 days in a calendar year with the prospective adoptive parent meets either of the following:
(1) Is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.
(2) Has been found guilty of an offense listed in subsection (c).
(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 days; Dec. 15, 1998, P.L.963, No.127, eff. Jan. 1, 1999; Dec. 17, 2001, P.L.942, No.112, eff. imd.;

Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Nov. 29, 2004, P.L.1291, No.160, eff. 60 days; Nov. 29, 2006, 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. 31, 2014; May 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, 2015, P.L.94, No.15, eff. imd.; Oct. 30, 2017, P.L.379, No.40, eff. imd.; June 28, 2018, P.L.375, No.54, eff. imd.; July 2, 2019, P.L.336, No.47; Feb. 17, 2022, P.L.48, No.12, eff. imd.)

2022 Amendment. Act 12 amended subsec. (m).
2019 Amendment. Act 47 amended subsecs. (a.2) intro. par., (a.3) intro. par., (b) intro. par., (c)(1) and (2) and (m) intro. par. and added subsecs. (c)(4), (f.1) and (m)(3.1). Section 4 of Act 47 provided that the amendment or addition of subsec. (m) intro. par. and (3.1) shall take effect December 31, 2019, and September 30, 2019, as to the remainder of the section.
2018 Amendment. Act 54 amended subsecs. (b) intro. par. and (b.1).
2017 Amendment. Act 40 repealed subsec. (h).
2015 Amendment. Act 15 amended subsecs. (a), (a.1), (b), (b.1), (b.2), (d)(4.1), (5), (6) and (8) and (e) and added subsecs. (a.2), (a.3), (b.3) and (d.3).
2014 Amendments. Act 29 amended subsecs. (b)(2), (o)(1) and (p)(1) and added subsec. (h.1), Act 45 amended subsecs. (b), (c) hdg. and (1), (o) and (p) and Act 153 amended the section heading and subsecs. (a), (b), (c)(3), (d)(5) and (6), (m), (n) and (p), added subsecs. (a.1), (b.1), (b.2), (c.1) and (d)(4.1) and deleted subsecs. (d)(3) and (4), (k) and (l).
2007 Amendment. Act 73 amended subsecs. (b), (d)(1), (2), (3), (4) and (5), (e), (f) and (k) and added subsec. (b.1), effective immediately as to subsec. (b.1), January 1, 2008, as to subsecs. (b) and (d)(1), (2), (3), (4) and (5) and July 1, 2008, as to subsecs. (e), (f) and (k).
2004 Amendment. Act 160 amended subsecs. (d) and (g) and added subsecs. (d.1),(d.2) and (n).
1998 Amendment. Act 127 amended subsecs. (b), (c) and (h).
Special Provisions in Appendix. See section 28 of Act 207 of 2004 in the appendix to this title for special provisions relating to applicability.
See section 6 of Act 33 of 2008 in the appendix to this title for special provisions relating to Department of Public Welfare reports.
See section 15 of Act 153 of 2014 in the appendix to this title for special provisions relating to study by Department of Human Services.
References in Text. The Statewide central registry, referred to in subsec. (d)(1) and (2), shall be deemed a reference to the Statewide database.
The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsections (a) and (d.3), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.
Subsec. (h), referred to in subsec. (h.1), was repealed by the act of October 30, 2017, P.L.379, No.40.
Cross References. Section 6344 is referred to in sections 2530, 6335, 6338.1, 6340, 6344.1, 6344.2, 6344.3, 6344.4, 6349, 6383, 6387 of this title; section 6351.1 of Title 42 (Judiciary and Judicial Procedure); section 7502 of Title 67 (Public Welfare).

§ 6344.1. Information relating to certified or licensed child-care home residents.

(a) General rule.—In addition to the requirements of section 6344 (relating to employees having contact with children; adoptive and foster parents), an individual who applies to the department for a certificate of compliance or a license to provide child day care in a residence shall include criminal

history record and child abuse record information required under section 6344(b) for every individual 18 years of age or older who resides in the home for at least 30 days in a calendar year.
(b) Required information.—Child abuse record information required under subsection (a) shall include certification by the department as to whether the applicant is named in the Statewide database as the perpetrator of a founded report or an indicated report.
(c) Effect on certification or licensure.—The department shall refuse to issue or renew a certificate of compliance or license or shall revoke a certificate of compliance or license if the day-care home provider or individual 18 years of age or older who has resided in the home for at least 30 days in a calendar year:
(1) is named in the Statewide database as the perpetrator of a founded report committed within the immediately preceding five-year period; or
(2) has been convicted of an offense enumerated in section 6344(c).
(d) Regulations.—The department shall promulgate regulations to administer this section.
(Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 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, 2015, P.L.94, No.15, eff. imd.)

2015 Amendment. Act 15 amended the section heading and subsecs. (a) and (c).
2014 Amendments. Act 29 amended subsecs. (b) and (c)(1), Act 45 amended subsec. (b) and Act 153 amended the section heading and subsecs. (a), (b) and (c).
2006 Amendment. Act 179 added section 6344.1.
Cross References. Section 6344.1 is referred to in section 6335 of this title.

§ 6344.2. Volunteers having contact with children.
(a) Applicability.—This section applies to an adult applying for or holding an unpaid position as a volunteer with a child-care service, a school or a program, activity or service, as a person responsible for the child's welfare or having direct volunteer contact with children and an individual identified under section 6344(a)(5)(ii) (relating to employees having contact with children; adoptive and foster parents).
(a.1) School employees.—(Deleted by amendment).
(b) Investigation.—Employers, administrators, supervisors or other persons responsible for selection of volunteers shall require an applicant to submit to all requirements set forth in section 6344(b) except as provided in subsection (b.1). An employer, administrator, supervisor or other person responsible for selection of volunteers regarding an applicable prospective volunteer under this section that intentionally fails to require the submissions before approving that individual commits a misdemeanor of the third degree.
(b.1) Exception.—
(1) A person responsible for the selection of volunteers under this chapter shall require an applicable prospective volunteer prior to the commencement of service to submit only the information under section 6344(b)(1) and (2), if the following apply:
(i) The position the prospective volunteer is applying for is unpaid or the prospective volunteer is an individual identified under section 6344(a)(5)(ii).
(ii) The prospective volunteer has been a resident of this Commonwealth during the entirety of the previous 10-year period or, if not a resident of this Commonwealth during the entirety of the previous 10-year period, has received certification under section 6344(b)(3) at any time since establishing

residency in this Commonwealth and provides a copy of the certification to the person responsible for the selection of volunteers.
(iii) The prospective volunteer swears or affirms in writing that the prospective volunteer is not disqualified from service pursuant to section 6344(c) or has not been convicted of an offense similar in nature to those crimes listed in section 6344(c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.
(2) If the information obtained pursuant to section 6344(b) reveals that the prospective volunteer applicant is disqualified from service pursuant to section 6344(c), the applicant shall not be approved for service.
(3) If all of the following apply, an individual shall not be required to obtain the certifications required under subsection (b):
(i) The individual is currently enrolled in a school.
(ii) The individual is not a person responsible for the child's welfare.
(iii) The individual is volunteering for an event that occurs on school grounds.
(iv) The event is sponsored by the school in which the individual is enrolled as a student.
(v) The event is not for children who are in the care of a child-care service.
(4) The exceptions under this subsection do not apply to volunteers in a child day-care center, group day-care home or family child-care home.
(c) Grounds for denial.—Each prospective volunteer shall be subject to the requirements of section 6344(c).
(d) Departmental treatment of information.—Information provided and compiled under this section by the department shall be confidential and shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation. The department may charge a fee to conduct a certification as required by section 6344(b)(2) in accordance with the provisions of section 6344(h). The department shall promulgate regulations necessary to carry out this subsection.
(e) Construction.—(Deleted by amendment).
(f) Nonresident volunteer certification.—Employers, administrators, supervisors or other persons responsible for selection of volunteers may allow a volunteer to serve on a provisional basis not to exceed a total of 30 days in a calendar year if the volunteer is in compliance with the clearance standards under the law of the jurisdiction where the volunteer is domiciled. The nonresident volunteer must provide the employer, administrator, supervisor or other person responsible for selection of volunteers with documentation of certifications.
(g) Waiver of fees for certain background certifications.—The fees for certifications required under section 6344(b)(1) and (2) which a volunteer is required to submit under this section shall be waived, and the certifications shall be provided free of charge to the volunteer under the following conditions:
(1) The background certifications are necessary to comply with the requirements of subsection (b).
(2) The background certifications may not be used and shall not be valid to satisfy the requirements for employment under section 6344(b) or any other law for which a similar background check may be required.
(3) Background certifications shall only be provided free of charge to a volunteer once every 57 months.
(4) The volunteer swears or affirms, in writing, under penalty of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), the following:

(i) The background certifications are necessary to satisfy the requirements under subsection (b).
(ii) The volunteer has not received background certifications free of charge within the previous 57 months.
(iii) The volunteer understands that the certifications shall not be valid or used for any other purpose.
(h) Presumption of good faith.—For the purposes of criminal liability under this section, an employer, administrator, supervisor or other persons responsible for the selection of volunteers are presumed to have acted in good faith when identifying individuals required to submit certifications and maintain records as required by this section.
(Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; May 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, 2015, P.L.94, No.15, eff. imd.; June 28, 2018, P.L.375, No.54, eff. imd.; July 2, 2019, P.L.336, No.47, eff. Sept. 30, 2019)

2019 Amendment. Act 47 added subsec. (b.1)(4).
2018 Amendment. Act 54 amended subsecs. (a), (b) and (b.1)(1)(i).
2015 Amendment. Act 15 amended subsecs. (a), (b), (b.1) and (f), added subsecs. (g) and (h) and deleted subsec. (e).
2014 Amendments. Act 45 amended subsec. (b) and added subsec. (a.1) and Act 153 amended the entire section.
Cross References. Section 6344.2 is referred to in sections 6335, 6344, 6344.3, 6344.4 of this title.

§ 6344.3. Continued employment or participation in program, activity or service.
(a) (Reserved).
(b) (Reserved).
(c) (Reserved).
(d) (Reserved).
(e) Noninterference with decisions.—Nothing in this chapter shall be construed to otherwise interfere with the ability of an employer or person responsible for a program, activity or service to make employment, discipline or termination decisions or from establishing additional standards as part of the hiring or selection process for employees or volunteers.
(f) Portability of certification.—
(1) Subject to the restrictions under section 6344(b.3) (relating to employees having contact with children; adoptive and foster parents), if an individual's certifications are current under section 6344.4 (relating to recertification) and the individual completes an affirmation under paragraph (2), the individual may use the certifications as follows:
(i) to apply for employment as identified in section 6344 (relating to employees having contact with children; adoptive and foster parents);
(ii) to serve as an employee as identified in section 6344;
(iii) to apply as a volunteer under section 6344.2 (relating to volunteers having contact with children); and
(iv) to serve as a volunteer under section 6344.2.
(2) Prior to commencing employment or service, an individual must swear or affirm in writing that the individual has not been disqualified from employment or service under section 6344(c) or has not been convicted of an offense similar in nature to a crime listed in section 6344(c) under the laws or former laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or under a former law of this Commonwealth.

(3) An employer, administrator, supervisor, other person responsible for employment decisions or other person responsible for the selection of volunteers shall make a determination of employment or volunteer matters based on a review of the information required under section 6344(b) prior to employment or acceptance to service in any such capacity and must maintain a copy of the required information.

(g) Written notice of new arrest, conviction or substantiated child abuse.—

(1) If an employee or volunteer subject to section 6344 (relating to employees having contact with children; adoptive and foster parents) or 6344.2 (relating to volunteers having contact with children) is arrested for or convicted of an offense that would constitute grounds for denying employment or participation in a program, activity or service under this chapter, or is named as a perpetrator in a founded or indicated report, the employee or volunteer shall provide the administrator or designee with written notice not later than 72 hours after the arrest, conviction or notification that the person has been listed as a perpetrator in the Statewide database.

(2) If the person responsible for employment decisions or the administrator of a program, activity or service has a reasonable belief that an employee or volunteer was arrested or convicted for an offense that would constitute grounds for denying employment or participation in a program, activity or service under this chapter, or was named as a perpetrator in a founded or indicated report, or the employee or volunteer has provided notice as required under this section, the person responsible for employment decisions or administrator of a program, activity or service shall immediately require the employee or volunteer to submit current information as required under subsection 6344(b). The cost of the information set forth in subsection 6344(b) shall be borne by the employing entity or program, activity or service.

(h) Effect of noncompliance.—An employee or volunteer who willfully fails to disclose information required by subsection (g)(1) commits a misdemeanor of the third degree and shall be subject to discipline up to and including termination or denial of employment or volunteer position.

(Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

2015 Amendment. Act 15 amended subsecs. (e) and (f).

2014 Amendment. Act 153 added section 6344.3.

Special Provisions in Appendix. See section 15 of Act 153 of 2014 in the appendix to this title for special provisions relating to study by Department of Human Services.

Cross References. Section 6344.3 is referred to in section 6340 of this title.

§ 6344.4. Recertification.

New certifications shall be obtained in accordance with the following:

(1) Effective December 31, 2014:

(i) Except as provided in subparagraph (v), a person identified in section 6344 (relating to employees having contact with children; adoptive and foster parents) shall be required to obtain the certifications required by this chapter every 60 months.

(ii) School employees identified in section 6344(a.1)(1) shall be required to obtain reports under section 111 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and under section 6344(b)(2) every 60 months.

(iii) Any person identified in section 6344 with a current certification issued prior to the effective date of this section shall be required to obtain the certifications required by this chapter within 60 months from the date of the person's oldest certification or, if the current certification is older than 60 months, within one year of the effective date of this section.

(iv) A person identified in section 6344 without a certification or who was previously not required to have a certification shall be required to obtain the certifications required by this chapter no later than December 31, 2015.
(2) (i) Effective August 25, 2015, a person identified in section 6344.2 (relating to volunteers having contact with children) shall be required to obtain the certifications required by this chapter every 60 months from the date of the person's most recent certification or, if the current certification is older than 60 months, within one year of the effective date of this section.
(ii) A person identified under section 6344.2 without a certification or who was previously not required to have a certification shall be required to obtain the certifications required by this chapter no later than July 1, 2016.
(3) For renewals of certification required under this chapter, the date for required renewal under this section shall be from the date of the oldest certification under section 6344(b).
(Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

Special Provisions in Appendix. See section 15 of Act 153 of 2014 in the appendix to this title for special provisions relating to study by Department of Human Services.
References in Text. Subparagraph (v), referred to in paragraph (1)(i), does not exist.
Cross References. Section 6344.4 is referred to in sections 6344, 6344.3, 6387 of this title.

§ 6345. Audits by Attorney General.
The Attorney General shall conduct a mandated audit done randomly but at least once during each year on an unannounced basis to ensure that the expunction requirements of this chapter are being fully and properly conducted.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6346. Cooperation of other agencies.
(a) General rule.—The secretary may request and shall receive from Commonwealth agencies, political subdivisions, an authorized agency or any other agency providing services under the local protective services plan any assistance and data that will enable the department and the county agency to fulfill their responsibilities properly, including law enforcement officials when assistance is needed in conducting an investigation or an assessment of safety or risk to the child. School districts shall cooperate with the department and the agency by providing them upon request with the information as is consistent with law.
(b) Willful failure to cooperate.—Any agency, school or facility or any person acting on behalf of an agency, school or facility that violates this section by willfully failing to cooperate with the department or a county agency when investigating a report of suspected child abuse or when assessing safety or risk to a child commits a misdemeanor of the third degree for a first violation and a misdemeanor of the second degree for subsequent violations.
(c) Cooperation of county agency and law enforcement officials.—Consistent with the provisions of this chapter, the county agency and law enforcement officials shall cooperate and coordinate, to the fullest extent possible, their efforts to respond to and investigate reports of suspected child abuse.
(d) Advice to county agency.—Whenever a report of suspected child abuse is referred from a county agency to a law enforcement official pursuant to section 6340(a)(9) and (10) (relating to release of information in confidential reports), as soon as possible, and without jeopardizing the criminal investigation or prosecution, the law enforcement official shall advise the county agency as to whether

a criminal investigation has been undertaken and the results of the investigation and of any criminal prosecution. The county agency shall ensure that the information is referred to the Statewide database. (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended the entire section and Act 45 amended subsecs. (b) and (c).

§ 6347. Reports to Governor and General Assembly.

(a) General rule.—No later than May 1 of every year, the secretary shall prepare and transmit to the Governor and the General Assembly a report on the operations of the Statewide database and protective services provided by county agencies. The report shall include a full statistical analysis of the reports of suspected child abuse made to the department and the reports of general protective services made to the department or county agencies, together with a report on the implementation of this chapter and its total cost to the Commonwealth, the evaluation of the secretary of services offered under this chapter and recommendations for repeal or for additional legislation to fulfill the purposes of this chapter. All such recommendations should contain an estimate of increased or decreased costs resulting therefrom. The report shall also include an explanation of services provided to children who were the subjects of founded or indicated reports while receiving child-care services. The department shall also describe its actions in respect to the perpetrators of the abuse.

(b) Reports from county agencies.—To assist the department in preparing its annual report and the quarterly reports required under subsection (c), each county agency shall submit a quarterly report to the department, including, at a minimum, the following information, on an aggregate basis, regarding general protective services and child protective services:

(1) The number of referrals received and referrals accepted.
(2) The number of children over whom the agency maintains continuing supervision.
(3) The number of cases which have been closed by the agency.
(4) The services provided to children and their families.
(5) A summary of the findings with nonidentifying information about each case of child abuse or neglect which has resulted in a child fatality or near fatality.

(c) Quarterly reports.—The department shall prepare and transmit to the Governor and the General Assembly a quarterly report that includes a summary of the findings with nonidentifying information about each case of child abuse or neglect that has resulted in a child fatality or near fatality. One of the quarterly reports may be included within the annual report required under subsection (a).

(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, 2014, P.L.388, No.29, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended subsec. (a) and Act 45 amended subsecs. (a) and (b).
2006 Amendment. Act 146 amended the section heading and subsec. (b) intro. par., added subsecs. (b)(5) and (c) and carried without amendment subsec. (a).
Cross References. Section 6347 is referred to in section 6335 of this title.

§ 6348. Regulations.

The department shall adopt regulations necessary to implement this chapter.

Special Provisions in Appendix. See section 10(2) of Act 151 of 1994 in the appendix to this title for special provisions relating to promulgation of regulations pertaining to general protective services.

§ 6349. Penalties.

(a) Failure to amend or expunge information.—

(1) A person or official authorized to keep the records mentioned in section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports) or 6338 (relating to disposition of founded and indicated reports) who willfully fails to amend or expunge the information when required commits a misdemeanor of the third degree for the first violation and a misdemeanor of the second degree for a second or subsequent violation.

(2) A person who willfully fails to obey a final order of the secretary or designated agent of the secretary to amend or expunge the summary of the report in the Statewide database or the contents of any report filed pursuant to section 6313 (relating to reporting procedure) commits a misdemeanor of the third degree.

(b) Unauthorized release of information.—A person who willfully releases or permits the release of any information contained in the Statewide database or the county agency records required by this chapter to persons or agencies not permitted by this chapter to receive that information commits a misdemeanor of the second degree. Law enforcement officials shall insure the confidentiality and security of information under this chapter. A person, including a law enforcement official, who violates the provisions of this subsection shall, in addition to other civil or criminal penalties provided by law, be denied access to the information provided under this chapter.

(b.1) Unauthorized access or use of information.—A person who willfully accesses, attempts to access or uses information in the Statewide database for a purpose not authorized under this chapter commits a misdemeanor of the second degree. A person who uses information in the Statewide database for a purpose not authorized under this chapter with intent to harass, embarrass or harm another person commits a misdemeanor of the first degree.

(c) Noncompliance with child-care personnel regulations.—An administrator, or other person responsible for employment decisions in a child-care facility or program, who willfully fails to comply with the provisions of section 6344 (relating to employees having contact with children; adoptive and foster parents) commits a violation of this chapter and shall be subject to a civil penalty as provided in this subsection. The department shall have jurisdiction to determine violations of section 6344 and may, following a hearing, assess a civil penalty not to exceed $2,500. The civil penalty shall be payable to the Commonwealth.

(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. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

2014 Amendments. Act 29 amended subsecs. (a) and (b), added subsec. (b.1) and carried without amendment subsec. (c) and Act 153 amended subsec. (c).

Cross References. Section 6349 is referred to in section 6335 of this title.

SUBCHAPTER C.1

STUDENTS IN PUBLIC AND PRIVATE SCHOOLS

(Repealed)

2014 Repeal. Subchapter C.1 (§§ 6351 - 6353.4) was added December 16, 1994, P.L.1292, No.151, and repealed May 14, 2014, P.L.645, No.44, effective December 31, 2014, and May 14, 2014, P.L.653, No.45, effective December 31, 2014.

SUBCHAPTER C.2
BACKGROUND CHECKS FOR EMPLOYMENT IN SCHOOLS
(Repealed)

2014 Repeal. Subchapter C.2 (§§ 6354 - 6358) was added December 16, 1994, P.L.1292, No.151, and repealed May 14, 2014, P.L.653, No.45, effective December 31, 2014.

SUBCHAPTER D
ORGANIZATION AND RESPONSIBILITIES OF CHILD PROTECTIVE SERVICE

Sec.
6361. Organization for child protective services.
6362. Responsibilities of county agency for child protective services.
6363. County plan for protective services.
6364. Purchasing services of other agencies.
6365. Services for prevention, investigation and treatment of child abuse.
6366. Continuous availability to receive reports.
6367. Reports to department and coroner.
6368. Investigation of reports.
6369. Taking child into protective custody (Repealed).
6370. Voluntary or court-ordered services; findings of child abuse.
6371. Rehabilitative services for child and family.
6372. Protecting well-being of children maintained outside home.
6373. General protective services responsibilities of county agency.
6374. Principles and goals of general protective services.
6375. County agency requirements for general protective services.
6376. Appeals with respect to general protective services.
6377. Caseloads.
6378. Purchase of services.

§ 6361. Organization for child protective services.
(a) Establishment.—Every county agency shall make available child protective services within the agency. The department may waive the requirement that a county agency be the sole civil agency for receipt and investigation of reports pursuant to section 6362 (relating to responsibilities of county agency for child protective services) upon a showing by the county that:
(1) It is participating in a demonstration project for or has become part of an approved combined intake system for public human service agencies as permitted by department regulations. Nothing in this paragraph is intended to permit noncounty government agencies to participate in the receipt and investigation of the reports.
(2) The goals and objectives of this chapter will continue to be met if a waiver is granted.
If the department grants a waiver under this subsection, the county agency and its agents shall be bound by all other provisions of this chapter, including requirements concerning the maintenance and disclosure of confidential information and records.
(b) Staff and organization.—The county agency shall have a sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way to maximize the

continuity of responsibility, care and services of individual workers toward individual children and families. The department, by regulation, shall set forth staff-to-family ratios for the various activities required of the county agency under this chapter, including reports and investigations of suspected child abuse, risk assessment and the provision or monitoring of services to abused children and their families.

(c) Functions authorized.—The county agency staff shall perform those functions assigned to it by this chapter and such other functions as would further the purposes of this chapter.

(Dec. 16, 1994, P.L.1292, No.151)

1994 Amendment. Act 151 amended the entire section, effective July 1, 1996, as to subsec. (b) and July 1, 1995, as to the remainder of the section.

Cross References. Section 6361 is referred to in sections 6362, 6364, 6375 of this title.

§ 6362. Responsibilities of county agency for child protective services.

(a) General rule.—The county agency shall be the sole civil agency responsible for receiving and investigating all reports of child abuse made pursuant to this chapter, specifically including, but not limited to, reports of child abuse in facilities operated by the department and other public agencies, for the purpose of providing protective services to prevent further abuses to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the well-being and development of the child and to preserve and stabilize family life wherever appropriate.

(b) Assumption of responsibility by department.—When the suspected abuse has been committed by the county agency or any of its agents or employees, the department shall assume the role of the agency with regard to the investigation and directly refer the child for services.

(c) Action by agencies for abuse by agents or employees.—Where suspected child abuse has occurred and an employee or agent of the department or the county agency or a private or public institution is a subject of the report, the department, agency or institution shall be informed of the investigation so that it may take appropriate action.

(d) Reliance on factual investigation.—An agency charged by this section or section 6361 (relating to organization for child protective services) with investigating a report of child abuse may rely on a factual investigation of substantially the same allegations by a law enforcement agency to support the agency's finding. This reliance shall not, however, limit the duties imposed by section 6368(a) (relating to investigation of reports).

(e) Risk assessment.—Each county agency shall implement a State-approved risk assessment process in performance of its duties under this subchapter.

(f) Weekly face-to-face contacts.—For those children assessed as being at high risk for abuse or neglect who are remaining in or returning to the home in which the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.

(Dec. 16, 1994, P.L.1292, No.151; Nov. 24, 1999, P.L.542, No.50, eff. 60 days)

1999 Amendment. Act 50 added subsec. (f).

1994 Amendment. Act 151 amended the entire section, effective July 1, 1995, as to subsecs. (a), (b), (c) and (d). See section 10(1) of Act 151 in the appendix to this title for special provisions relating to the effective date of subsec. (e).

Cross References. Section 6362 is referred to in sections 6361, 6364 of this title; section 6328 of Title 42 (Judiciary and Judicial Procedure).

§ 6363. County plan for protective services.
The county agency shall include provisions for protective services in its annual plan as required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.
Cross References. Section 6363 is referred to in section 6364 of this title.

§ 6364. Purchasing services of other agencies.
Any other provision of law notwithstanding but consistent with sections 6361 (relating to organization for child protective services) and 6362 (relating to responsibilities of county agency for child protective services), the county agency, based upon the plan of services as provided in section 6363 (relating to county plan for protective services), may purchase and utilize the services of any appropriate public or private agency.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6365. Services for prevention, investigation and treatment of child abuse.
(a) Instruction and education.—Each county agency shall make available among its services for the prevention and treatment of child abuse instruction and education for parenthood and parenting skills, protective and preventive social counseling, outreach and counseling services to prevent newborn abandonment, emergency caretaker services, emergency shelter care, emergency medical services and the establishment of self-help groups organized for the prevention and treatment of child abuse, part-day services, out-of-home placement services, therapeutic activities for child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.
(b) Multidisciplinary review team.—The county agency shall make available among its services a multidisciplinary review team for the prevention, investigation and treatment of child abuse and shall convene the multidisciplinary review team at any time, but not less than annually:
(1) To review substantiated cases of child abuse, including responses by the county agency and other agencies providing services to the child.
(2) Where appropriate to assist in the development of a family service plan for the child.
(c) Multidisciplinary investigative team.—A multidisciplinary investigative team shall be used to coordinate child abuse investigations between county agencies and law enforcement. The county agency and the district attorney shall develop a protocol for the convening of multidisciplinary investigative teams for any case of child abuse by a perpetrator involving crimes against children which are set forth in section 6340(a)(9) and (10) (relating to release of information in confidential reports). The county multidisciplinary investigative team protocol shall include standards and procedures to be used in receiving and referring reports and coordinating investigations of reported cases of child abuse and a system for sharing the information obtained as a result of any interview. The protocol shall include any other standards and procedures to avoid duplication of fact-finding efforts and interviews to minimize the trauma to the child. The district attorney shall convene the multidisciplinary

investigative team in accordance with the protocol. The multidisciplinary investigative team shall consist of those individuals and agencies responsible for investigating the abuse or for providing services to the child and shall at a minimum include a health care provider, county caseworker and law enforcement official.

(d) Child fatality or near fatality review team and written report.—

(1) A child fatality or near fatality review team shall be convened by a county agency in accordance with a protocol developed by the county agency, the department and the district attorney in a case when a child dies or nearly dies as a result of child abuse as to which there is an indicated report or when the county agency has not made a status determination within 30 days. The team may convene after a county agency makes a determination of an indicated report and shall convene no later than 31 days from the receipt of the oral report to the department of the suspected child abuse. A county agency in the county where the abuse occurred and in any county where the child resided within the 16 months preceding the fatality or near fatality shall convene a child fatality or near fatality review team. A team shall consist of at least six individuals who are broadly representative of the county where the team is established and who have expertise in prevention and treatment of child abuse. With consideration given to the circumstances of each case and availability of individuals to serve as members, the team may consist of the following individuals:

(i) A staff person from the county agency.

(ii) A member of the advisory committee of the county agency.

(iii) A health care professional.

(iv) A representative of a local school, educational program or child care or early childhood development program.

(v) A representative of law enforcement or the district attorney.

(vi) An attorney-at-law trained in legal representation of children or an individual trained under 42 Pa.C.S. § 6342 (relating to court-appointed special advocates).

(vii) A mental health professional.

(viii) A representative of a children's advocacy center that provides services to children in the county. The individual under this subparagraph must not be an employee of the county agency.

(ix) The county coroner or forensic pathologist.

(x) A representative of a local domestic violence program.

(xi) A representative of a local drug and alcohol program.

(xii) An individual representing parents.

(xiii) Any individual whom the county agency or child fatality or near fatality review team determines is necessary to assist the team in performing its duties.

(2) Members of the team shall be responsible for all of the following:

(i) Maintaining confidentiality of information under sections 6339 (relating to confidentiality of reports) and 6340.

(ii) Providing and discussing relevant case-specific information.

(iii) Attending and participating in all meetings and activities as required.

(iv) Assisting in the development of the report under paragraph (4)(v).

(3) The county agency, in accordance with the protocol and in consultation with the team, shall appoint an individual who is not an employee of the county agency to serve as chairperson.

(4) The team shall perform the following:

(i) Review the circumstances of the child's fatality or near fatality resulting from suspected or substantiated child abuse.

(ii) Review the delivery of services to the abused child and the child's family provided by the county agency and review services provided to the perpetrator by the county agency in each county where the child and family resided within the 16 months preceding the fatality or near fatality and the services provided to the child, the child's family and the perpetrator by other public and private community agencies or professionals. This subparagraph includes law enforcement, mental health services, programs for young children and children with special needs, drug and alcohol programs, local schools and health care providers.
(iii) Review relevant court records and documents related to the abused child and the child's family.
(iv) Review the county agency's compliance with statutes and regulations and with relevant policies and procedures of the county agency.
(v) Within 90 days of convening, submit a final written report on the child fatality or near fatality to the department and designated county officials under section 6340(a)(11). Within 30 days after submission of the report to the department, the report shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The report shall be made available to the public, but identifying information shall be removed from the contents of the report except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The report shall not be released to the public if the district attorney certifies that release of the report may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney. The report shall include:
(A) Deficiencies and strengths in:
(I) compliance with statutes and regulations; and
(II) services to children and families.
(B) Recommendations for changes at the State and local levels on:
(I) reducing the likelihood of future child fatalities and near fatalities directly related to child abuse and neglect;
(II) monitoring and inspection of county agencies; and
(III) collaboration of community agencies and service providers to prevent child abuse and neglect.
(d.1) Release by county agency.—Prior to completing its child fatality or near fatality report, the investigating county agency may release the following information to the public concerning a child who died or nearly died as a result of suspected or substantiated child abuse:
(1) The identity of the child, only in the case of a child's fatality.
(2) If the child was in the custody of a public or private agency, the identity of the agency.
(3) The identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality.
(4) A description of services provided under paragraph (3).
(e) Response by department.—Within 45 days of receipt of a report of a child fatality or near fatality under subsection (d), the department shall review the findings and recommendations of the report and provide a written response to the county agency and the child fatality review team or near fatality review team. The department's response to the report of the child fatality or near fatality review team shall be made available, upon request, to other individuals to whom confidential reports may be released, as specified by section 6340. The department's response shall be made available to the public,

but identifying information shall be removed from the contents of the response, except for disclosure of: the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child. The response shall not be released to the public if the district attorney certifies that release of the response may compromise a pending criminal investigation or proceeding. Certification by the district attorney shall stay the release of the report for a period of 60 days, at which time the report shall be released unless a new certification is made by the district attorney.

(f) Construction.—The provisions of this section shall be construed to assist in the improvement of services designed to identify and prevent child abuse and to facilitate cooperation with law enforcement agencies for the purposes set forth in this section, consistent with 18 Pa.C.S. § 9106(f.1) (relating to information in central repository or automated systems). The provisions shall not be construed to impede or interfere with criminal prosecutions of persons who have committed child abuse.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Dec. 15, 1998, P.L.963, No.127, eff. Mar. 1, 1999; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1235, No.123, eff. 90 days; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014; June 30, 2021, P.L.206, No.42, eff. 60 days)

2021 Amendment. Act 42 amended subsec. (f).
2014 Amendment. Act 44 added subsec. (d.1).
2013 Amendment. Act 123 amended subsecs. (b) and (c).
2008 Amendment. Act 33 added subsecs. (d), (e) and (f).
2002 Amendment. Act 201 amended subsec. (a).
Cross References. Section 6365 is referred to in sections 6334.1, 6340, 6343.1, 6368, 6509 of this title; section 9106 of Title 18 (Crimes and Offenses).

§ 6366. Continuous availability to receive reports.

Each county agency shall receive 24 hours a day, seven days a week, all reports, both oral and written, of suspected child abuse in accordance with this chapter, the county plan for the provision of child protective services and the regulations of the department.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6367. Reports to department and coroner.

(a) Reports to department.—Upon the receipt of each report of suspected child abuse made pursuant to this chapter, the county agency shall immediately transmit a child abuse report summary as provided in section 6313 (relating to reporting procedure) to the department. Supplemental reports shall be made at regular intervals thereafter in a manner and form the department prescribes by regulation to the end that the department is kept fully informed and up-to-date concerning the status of reports of child abuse.

(b) Reports to coroner.—The county agency shall give telephone notice and forward immediately a copy of reports made pursuant to this chapter which involve the death of a child to the appropriate coroner pursuant to section 6317 (relating to mandatory reporting and postmortem investigation of deaths).

(c) Child deaths and near fatalities.—A county agency shall immediately provide information to the department regarding its involvement with the child and with the child's parent, guardian or

custodian when a child dies or nearly dies and child abuse is suspected. The county agency shall inform the department of any history of child protective or general protective services provided to the child prior to the child's death or near fatality and of services provided to other children of the child's parent, guardian or custodian by the county agency or by court order. The county agency shall inform the department if the child was in the agency's custody at the time of the child's death or near fatality. The county agency shall provide this information in writing on forms provided by the department within 48 hours of the oral report.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; July 3, 2008, P.L.276, No.33, eff. 180 days)

2008 Amendment. Act 33 added subsec. (c).
Cross References. Section 6367 is referred to in section 6341 of this title.

§ 6368. Investigation of reports.
(a) Response to direct reports.—Upon receipt of a report of suspected child abuse by a perpetrator from an individual, the county agency shall ensure the safety of the child and any other child in the child's home and immediately contact the department in accordance with the provisions of section 6334 (relating to disposition of complaints received).
(b) Response to reports referred to county agency by department.—Upon receipt of a report of suspected child abuse from the department, the county agency shall immediately commence an investigation and see the child within the following time frames:
(1) Immediately, if:
(i) emergency protective custody is required, has been or will be taken; or
(ii) it cannot be determined from the report whether emergency protective custody is needed.
(2) Within 24 hours of receipt of the report in all other cases.
(c) Investigation.—An investigation under this section shall include the following:
(1) A determination of the safety of or risk of harm to the child or any other child if each child continues to remain in the existing home environment.
(2) A determination of the nature, extent and cause of any condition listed in the report.
(3) Any action necessary to provide for the safety of the child or any other child in the child's household.
(4) The taking of photographic identification of the child or any other child in the child's household, which shall be maintained in the case file.
(5) Communication with the department's service under section 6332 (relating to establishment of Statewide toll-free telephone number).
(d) Investigative actions.—During the investigation, all of the following shall apply:
(1) The county agency shall provide or arrange for services necessary to protect the child while the agency is making a determination under this section.
(2) If the investigation indicates bodily injury, the county agency may require that a medical examination by a certified medical practitioner be performed on the child.
(3) Where there is reasonable cause to suspect that there is a history of prior or current abuse, the medical practitioner has the authority to arrange for further medical tests or the county agency has the authority to request further medical tests.
(4) The investigation shall include interviews with all subjects of the report, including the alleged perpetrator. If a subject of the report is not able to be interviewed or cannot be located, the county agency shall document its reasonable efforts to interview the subject and the reasons for its inability

to interview the subject. The interview may be reasonably delayed if notice of the investigation has been delayed pursuant to subsection (m).

(e) Review of indicated reports.—A final determination that a report of suspected child abuse is indicated shall be approved by:

(1) the county agency administrator or a designee and reviewed by a county agency solicitor, when the county agency is investigating; or

(2) the secretary or a designee and reviewed by legal counsel for the department, when the department is investigating.

(f) Final determination.—Immediately upon conclusion of the child abuse investigation, the county agency shall provide the results of its investigation to the department in a manner prescribed by the department. Within three business days of receipt of the results of the investigation from the county agency, the department shall send notice of the final determination to the subjects of the report, other than the abused child. The determination shall include the following information:

(1) The status of the report.

(2) The perpetrator's right to request the secretary to amend or expunge the report.

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

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

(5) The fact that the name of the perpetrator, the nature of the abuse and the final status of a founded or indicated report will be entered in the Statewide database, if the perpetrator's Social Security number or date of birth are known.

(6) The perpetrator's right to file an appeal of an indicated finding of abuse pursuant to section 6341 (relating to amendment or expunction of information) within 90 days of the date of notice.

(7) The perpetrator's right to a fair hearing on the merits on an appeal of an indicated report filed pursuant to section 6341.

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

(g) Notice.—Notice under subsection (f) shall constitute mailing of the final determination to the recipient's last known address. The determination is presumed received when not returned by the postal authorities as undeliverable. If the determination is returned as undeliverable, the entry in the Statewide database shall include information that the department was unable to provide notice. No further efforts to provide notice shall be required, except that the department shall resume reasonable efforts to provide notice if new information is received regarding the whereabouts of an individual who is entitled to receive notice under subsection (f).

(h) Notice to mandated reporter.—If a report was made by a mandated reporter under section 6313 (relating to reporting procedure), the department shall notify the mandated reporter who made the report of suspected child abuse of all of the following within three business days of the department's receipt of the results of the investigation:

(1) Whether the child abuse report is founded, indicated or unfounded.

(2) Any services provided, arranged for or to be provided by the county agency to protect the child.

(i) Investigation concerning a school or child-care service employee.—

(1) Upon notification that an investigation involves suspected child abuse by a school or child-care service employee, including, but not limited to, a service provider, independent contractor or administrator, the school or child-care service shall immediately implement a plan of supervision or alternative arrangement for the individual under investigation to ensure the safety of the child and other children who are in the care of the school or child-care service.

(2) The plan of supervision or alternative arrangement shall be approved by the county agency and kept on file with the agency until the investigation is completed.

(j) Referral for investigation.—If the complaint of suspected abuse is determined to be one that cannot be investigated under this chapter because the person accused of the abuse is not a perpetrator within the meaning of section 6303 (relating to definitions), but does suggest the need for investigation, the county agency shall immediately transmit the information to the appropriate law enforcement officials in accordance with the county protocols for multidisciplinary investigative teams required under section 6365(c) (relating to services for prevention, investigation and treatment of child abuse).

(k) Need for social services.—If the investigation determines that the child is being harmed by factors beyond the control of the parent or other person responsible for the child's welfare, the county agency shall promptly take all steps available to remedy and correct these conditions, including the coordination of social services for the child and the family or referral of the family to appropriate agencies for the provision of services.

(l) Notice of investigation.—

(1) Prior to interviewing a subject of a report, the county agency shall orally notify the subject, except for the alleged victim, who is about to be interviewed of the following information:

(i) The existence of the report.

(ii) The subject's rights under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights).

(iii) The subject's rights pursuant to this chapter in regard to amendment or expungement.

(iv) The subject's right to have an attorney present during the interview.

(2) Written notice shall be given to the subject within 72 hours following oral notification, unless delayed as provided in subsection (m).

(m) Delay of notification.—The notice under subsection (l)(2) may be reasonably delayed, subject to the following:

(1) If the notification is likely to:

(i) threaten the safety of a victim, a subject of the report who is not a perpetrator or the investigating county agency worker;

(ii) cause the perpetrator to abscond; or

(iii) significantly interfere with the conduct of a criminal investigation.

(2) The written notice shall be provided to all subjects of the report prior to the county agency reaching a finding on the validity of the report.

(n) Completion of investigation.—Investigations shall be completed in accordance with the following:

(1) Investigations to determine whether to accept the family for service and whether a report is founded, indicated or unfounded shall be completed within 60 days in all cases.

(2) If, due to the particular circumstances of the case, the county agency cannot complete the investigation within 30 days, the particular reasons for the delay shall be described in the child protective service record and made available to the department for purposes of determining whether either of the following occurred:

(i) The county agency strictly followed the provisions of this chapter.

(ii) The county agency is subject to action as authorized under section 6343 (relating to investigating performance of county agency).

(3) Where a petition has been filed under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) alleging that a child is a dependent child, the county agency shall make all reasonable efforts to complete the

investigation to enable the hearing on the petition to be held as required by 42 Pa.C.S. § 6335 (relating to release or holding of hearing).
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1996; Oct. 27, 2006, P.L.1192, No.126, eff. 60 days; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1235, No.123, eff. 90 days)

2023 Unconstitutionality. Section 6368 was declared unconstitutional as applied on July 11, 2023, by the Commonwealth Court in S.F. v. Pa. Dep't of Human Services, 298 A.3d 495 (Pa. Cmwlth. 2023).
2013 Amendments. Act 108 added subsecs. (e), (f), (g) and (h) and Act 123 amended the entire section. Act 123 overlooked the amendment by Act 108, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 6368.
2006 Amendments. Section 3 of Act 126 provided that the Department of Public Welfare may promulgate rules and regulations to administer and enforce the amendment of section 6368 effected by Act 126.
1994 Amendment. See section 9 of Act 151 in the appendix to this title for special provisions relating to Department of Public Welfare study.
Cross References. Section 6368 is referred to in sections 6338, 6362 of this title.

§ 6369. Taking child into protective custody (Repealed).

2014 Repeal. Section 6369 was repealed April 15, 2014, P.L.417, No.33, effective December 31, 2014.

§ 6370. Voluntary or court-ordered services; findings of child abuse.
(a) General rule.—Based on the investigation and evaluation conducted pursuant to this chapter, the county agency shall provide or contract with private or public agencies for the protection of the child at home whenever possible and those services necessary for adequate care of the child when placed in protective custody. Prior to offering these services to a family, the agency shall explain that it has no legal authority to compel the family to receive the services but may inform the family of the obligations and authority of the county agency to initiate appropriate court proceedings.
(b) Initiation of court proceeding.—
(1) In those cases in which an appropriate offer of service is refused and the county agency determines that the best interests of the child require court action, the county agency shall initiate the appropriate court proceeding. The county agency shall assist the court during all stages of the court proceeding in accordance with the purposes of this chapter.
(2) (i) If the county agency deems it appropriate in a dependency or delinquency proceeding, including an instance in which the alleged perpetrator has access or poses a threat to a child, the county agency may petition the court under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) for a finding of child abuse.
(ii) If the court makes a specific finding that child abuse as defined by this chapter has not occurred, the county agency shall consider the court's finding to be a determination that the report of suspected abuse was an unfounded report. The county agency shall immediately notify the department of the change in the status of the report from an indicated report to an unfounded report. Upon notice, the department shall be responsible for expunging the indicated report consistent with the expunction requirements of this chapter.

(iii) If there is a determination that the subjects of the unfounded report need services provided or arranged by the county agency, the county agency may retain those records only if it specifically identifies the report as an unfounded report of suspected child abuse.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

Cross References. Section 6370 is referred to in section 6340 of this title.

§ 6371. Rehabilitative services for child and family.
The county agency shall provide or arrange for and monitor rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the court.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6372. Protecting well-being of children maintained outside home.
The county agency shall be as equally vigilant of the status, well-being and conditions under which a child is living and being maintained in a facility other than that of a parent, custodian or guardian from which the child has been removed as the service is of the conditions in the dwelling of the parent, custodian or guardian. Where the county agency finds that the placement for any temporary or permanent custody, care or treatment is for any reason inappropriate or harmful in any way to the physical or mental well-being of the child, it shall take immediate steps to remedy these conditions including petitioning the court.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

§ 6373. General protective services responsibilities of county agency.
(a) Program objectives.—Each county agency is responsible for administering a program of general protective services to children and youth that is consistent with the agency's objectives to:
(1) Keep children in their own homes, whenever possible.
(2) Prevent abuse, neglect and exploitation.
(3) Overcome problems that result in dependency.
(4) Provide temporary, substitute placement in a foster family home or residential child-care facility for a child in need of care.
(5) Reunite children and their families whenever possible when children are in temporary, substitute placement.
(6) Provide a permanent, legally assured family for a child in temporary, substitute care who cannot be returned to his own home.
(7) Provide services and care ordered by the court for children who have been adjudicated dependent.
(b) Efforts to prevent need for removal from home.—In its effort to assist the child and the child's parents, pursuant to Federal regulations, the county agency will make reasonable efforts prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from his home and to make it possible for the child to return to home.
(c) Assistance in obtaining available benefits.—The county agency shall aid the child and the family in obtaining benefits and services for which they may qualify under Federal, State and local programs.
(d) Duplication of services.—Except where ordered by the court in a proceeding brought under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), a county agency shall not be required to duplicate services which are the statutory responsibility of any other agency.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6373.

§ 6374. Principles and goals of general protective services.

(a) Primary purpose.—The primary purpose of general protective services is to protect the rights and welfare of children so that they have an opportunity for healthy growth and development.

(b) Assistance to parents.—Implicit in the county agency's protection of children is assistance to parents in recognizing and remedying conditions harmful to their children and in fulfilling their parental duties more adequately.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6374.

§ 6375. County agency requirements for general protective services.

(a) Duties of county agency.—The county agency shall make available a program of general protective services within each agency. The county agency shall perform those functions assigned by this chapter and others that would further the purposes of this chapter. It shall have sufficient staff of sufficient qualifications to fulfill the purposes of this chapter and be organized in a way as to maximize the continuity of responsibility, care and service of individual workers toward individual children and families. The department by regulation shall set forth staff-to-family ratios for the receipt and assessment of reports of children in need of protective services and for the provision of services to neglected children and their families.

(b) Organization of county agency.—Each county agency shall be organized and staffed to ensure that the agency can provide intake for general protective services. Intake occurs when a report or referral is made to the agency or when a parent or person responsible for the child's welfare requests the assistance of the agency.

(c) Assessment for services.—

(1) Within 60 days of receipt of a report, an assessment shall be completed and a decision on whether to accept the family for service shall be made. The county agency shall provide or arrange for services necessary to protect the child during the assessment period.

(1.1) The county agency shall immediately notify the department upon the completion of the assessment whether the report was determined to be valid or invalid and whether the family was accepted for services or referred to community services.

(1.2) The county agency shall immediately notify the department upon the closure of services for a child or family that has been accepted for services.

(2) Each county agency shall implement a State-approved risk assessment process in performance of its duties.

(d) Receiving and assessing reports.—The county agency shall be the sole civil agency responsible for receiving and assessing all reports of children in need of protective services made pursuant to this chapter for the purpose of providing protective services to prevent abuse or neglect to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development and to preserve and stabilize family life wherever appropriate. The department may waive the receipt and assessment requirement pursuant to section 6361 (relating to organization for child protective services). Nothing in this subsection limits 42 Pa.C.S. § 6304 (relating to powers and duties of probation officers).

(e) Family service plan.—The county agency shall prepare a written family service plan in accordance with regulations adopted by the department.
(f) Types of services.—Each county agency shall make available for the prevention and treatment of child abuse and neglect: multidisciplinary teams, instruction and education for parenthood and parenting skills, protective and preventive social counseling, emergency caretaker services, emergency shelter care, emergency medical services, part-day services, out-of-home placement services, therapeutic activities for the child and family directed at alleviating conditions that present a risk to the safety and well-being of a child and any other services required by department regulations.
(g) Monitoring, evaluating and assessing.—The county agency shall frequently monitor the provision of services, evaluate the effectiveness of the services, conduct in-home visits and make a periodic assessment of the risk of harm to the child, which shall include maintaining an annually updated photograph of the child and verification of the identification of the child.
(h) Emergency coverage.—As part of its general protective services program, a county agency shall provide 24-hour-a-day emergency coverage and be accessible to the public.
(i) Protective custody.—Pursuant to section 6315 (relating to taking child into protective custody) and after receipt of a court order, the county agency shall take a child into protective custody to protect the child from abuse or further neglect. No county agency worker may take custody of a child without judicial authorization based on the merits of the situation.
(j) Court action.—If the county agency determines that protective services are in the best interest of a child and if an offer of those services is refused or if any other reason exists to warrant court action, the county agency shall initiate the appropriate court proceedings.
(k) Adjudication of dependency.—The county agency shall maintain its responsibility for petitioning the court when necessary for the adjudication of dependency of a child pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters).
(l) Assistance to court.—The county agency shall assist the court during all stages of a court proceeding in accordance with the purposes of this chapter.
(m) Weekly face-to-face contacts.—For those children assessed under this section as being at high risk for abuse or neglect who are remaining in or returning to the home in which the abuse or neglect occurred, the county agency shall ensure that those children are seen at least once a week, either directly by a county agency worker or through purchase of service, until they are no longer assessed as being at high risk for abuse or neglect.
(n) Transfer of files between county agencies.—Whenever a county agency transfers to another county agency a file relating to a child who receives or is in need of protective services under this chapter, the file shall include any photographic identification and an annual photograph taken of the child.
(o) Availability of information.—Information related to reports of a child in need of general protective services shall be available to individuals and entities to the extent they are authorized to receive information under section 6340 (relating to release of information in confidential reports).
(Dec. 16, 1994, P.L.1292, No.151; Nov. 24, 1999, P.L.542, No.50, eff. 60 days; Oct. 27, 2006, P.L.1192, No.126, eff. 60 days; Dec. 18, 2013, P.L.1167, No.107, eff. Jan. 1, 2014; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

2014 Amendment. Act 29 amended subsec. (c).
2013 Amendment. Act 107 added subsec. (o). See section 6 of Act 107 in the appendix to this title for special provisions relating to applicability.

2006 Amendment. Act 126 amended subsec. (g) and added subsec. (n). Section 3 of Act 126 provided that the Department of Public Welfare may promulgate rules and regulations to administer and enforce the amendment of section 6375 effected by Act 126.
1999 Amendment. Act 50 added subsec. (m).
1994 Amendment. Act 151 added section 6375, effective July 1, 1997, except as to subsec. (c)(2). See section 10(1) of Act 151 in the appendix to this title for special provisions relating to the effective date of subsec. (c)(2).
Cross References. Section 6375 is referred to in section 6328 of Title 42 (Judiciary and Judicial Procedure).

§ 6376. Appeals with respect to general protective services.
(a) Right to appeal.—A custodial parent or person who has primary responsibility for the welfare of a child may appeal the county agency's decision to accept the family for services. Written notice of this right, along with an explanation of the agency's decision, shall be given to the family within seven days of the decision to accept for service. The department has no authority to modify an order of a court of common pleas.
(b) Receipt and grounds of appeal.—Appeals must be received by the county agency within 45 days of the date when the notice was mailed to the custodial parent or person who has primary responsibility for the welfare of a child. Requests must be made on the grounds that the child is or is not at risk of abuse or neglect.
(c) Review and decision and request for hearing.—The county agency shall review the request and issue a written decision within 45 days of receipt of the appeal. If the agency denies the request, the custodial parent or person who has primary responsibility for the welfare of a child may request a hearing before the department. The request must be made within 45 days of the date of the county agency's decision.
(d) Hearing.—If a hearing is requested, the secretary or his designated agent shall schedule a hearing pursuant to Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and applicable department regulations. The burden of proof in the hearing shall be on the county agency. The department shall assist the county agency as necessary.
(e) Order.—The department is authorized and empowered to make any appropriate order regarding records to make them accurate or consistent with the requirements of this chapter.
(f) Other appeals.—Action by a custodial parent or person who has primary responsibility for the welfare of a child under this section does not preclude his right to exercise other appeals available through department regulations or the courts.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6376.
References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsection (d), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 6377. Caseloads.
The department by regulation shall set forth staff-to-family ratios for general protective services.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6377.

§ 6378. Purchase of services.
Except for the receipt and assessment of reports alleging a need for protective services, the county agency may purchase and utilize the services of any appropriate public or private agency. The department shall promulgate regulations establishing standards and qualifications of persons or agencies providing services for a county agency. The department may, by regulation, provide for the establishment of regional facilities or a regional coordination of licensed professional service providers to provide county agencies with access to licensed physicians and psychologists, as required by this section.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1997)

1994 Amendment. Act 151 added section 6378.

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec.
6381. Evidence in court proceedings.
6382. Guardian ad litem for child in court proceedings (Repealed).
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§ 6381. Evidence in court proceedings.
(a) General rule.—In addition to the rules of evidence provided under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the rules of evidence in this section shall govern in child abuse proceedings in court or in any department administrative hearing pursuant to section 6341 (relating to amendment or expunction of information).
(b) Reports of unavailable persons.—Whenever a person required to report under this chapter is unavailable due to death or removal from the jurisdiction of the court, the written report of that person shall be admissible in evidence in any proceedings arising out of child abuse other than proceedings under Title 18 (relating to crimes and offenses). Any hearsay contained in the reports shall be given such weight, if any, as the court determines to be appropriate under all of the circumstances. However, any hearsay contained in a written report shall not of itself be sufficient to support an adjudication based on abuse.
(c) Privileged communications.—Except for privileged communications between a lawyer and a client and between a minister and a penitent, a privilege of confidential communication between husband and wife or between any professional person, including, but not limited to, physicians, psychologists, counselors, employees of hospitals, clinics, day-care centers and schools and their patients or clients, shall not constitute grounds for excluding evidence at any proceeding regarding child abuse or the cause of child abuse.

(d) Prima facie evidence of abuse.—Evidence that a child has suffered child abuse of such a nature as would ordinarily not be sustained or exist except by reason of the acts or omissions of the parent or other person responsible for the welfare of the child shall be prima facie evidence of child abuse by the parent or other person responsible for the welfare of the child.
(e) Child victims and witnesses.—In addition to the provisions of this section, any consideration afforded to a child victim or witness pursuant to 42 Pa.C.S. Ch. 59 Subch. D (relating to child victims and witnesses) in any prosecution or adjudication shall be afforded to a child in child abuse proceedings in court or in any department administrative hearing pursuant to section 6341.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014)

2013 Amendment. Act 108 added subsec. (e).
1994 Amendment. Act 151 amended subsecs. (a) and (d).

§ 6382. Guardian ad litem for child in court proceedings (Repealed).

2000 Repeal. Section 6382 was repealed May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 6383. Education and training.
(a) Duties of department and county agencies.—The department and each county agency, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse and child neglect, including the prevention of newborn abandonment, the identification of abused and neglected children and the provision of necessary ameliorative services to abused and neglected children and their families. The department and each county agency shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families. In addition, the department shall, by regulation, establish a program of training and certification for persons classified as protective services workers. The regulations shall provide for the grandfathering of all current permanent protective services workers as certified protective services workers. Upon request by the county agency and approval of the department, the agency may conduct the training of the county's protective services workers.
(a.1) Study by department.—The department shall conduct a study to determine the extent of the reporting of suspected child abuse in this Commonwealth where the reports upon investigation are determined to be unfounded and to be knowingly false and maliciously reported or it is believed that a minor was persuaded to make or substantiate a false and malicious report. The department shall submit the report to the Governor, General Assembly and Attorney General no later than June 1, 1996. The report shall include the department's findings and recommendations on how to reduce the incidence of knowingly false and malicious reporting.
(a.2) Information for mandated and permissive reporters.—
(1) In addition to the requirements of subsection (a), the department shall provide specific information related to the recognition and reporting of child abuse on its Internet website in forms, including, but not limited to, the following:
(i) Website content.

(ii) Printable booklets and brochures.
(iii) Educational videos.
(iv) Internet-based interactive training exercises.
(2) Information shall be pertinent to both mandated and permissive reporters and shall address topics, including, but not limited to:
(i) Conduct constituting child abuse under this chapter.
(ii) Persons classified as mandated reporters.
(iii) Reporting requirements and procedures.
(iv) The basis for making a report of suspected child abuse.
(v) Penalties for failure to report.
(vi) Background clearance requirements for individuals who work or volunteer with children.
(vii) Recognition of the signs and symptoms of child abuse.
(viii) Alternative resources to assist with concerns not related to child abuse.
(3) The department shall include the following with all certifications provided pursuant to section 6344(b)(2) (relating to employees having contact with children; adoptive and foster parents):
(i) Information that certain persons are required by law to report suspected child abuse.
(ii) The Internet address where the information and guidance required by this subsection can be obtained.
(iii) A telephone number and mailing address where guidance materials can be requested by individuals who cannot access the department's Internet website.
(4) The department shall implement this subsection within 180 days of the effective date of this subsection.

(b) Duties of Department of State.—

(1) The Department of State shall make training and educational programs and materials available for all professional licensing boards whose licensees are charged with responsibilities for reporting child abuse under this chapter with a program of distributing educational materials to all licensees.
(2) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall promulgate regulations within one year of the effective date of this subsection on the responsibilities of mandated reporters. These regulations shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse.
(3) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall:
(i) Require all persons applying for a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least three hours of approved child abuse recognition and reporting training. Training shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Training shall be approved by the department. The training may occur as part of the continuing education requirement of the license.
(ii) Require all persons applying for the renewal of a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least two hours of approved continuing education per licensure cycle. Continuing education shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Continuing education curricula shall be approved by the licensing board in consultation with the department. The two hours of continuing education on

child abuse recognition and reporting shall be completed by each licensee as a portion of the total continuing education required for biennial license renewal.
(4) A licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter may exempt an applicant or licensee from the training or continuing education required by paragraph (3) if all of the following apply:
(i) The applicant or licensee submits documentation acceptable to the licensing board that the person has already completed child abuse recognition training.
(ii) The training was:
(A) required by section 1205.6 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the department; or
(B) required by the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, and the training program was approved by the department.
(iii) The amount of training received equals or exceeds the amount of training or continuing education required by paragraph (3).
(5) Upon biennial renewal of a license, a licensing board shall provide to professional licensees under its jurisdiction identified as mandated reporters information related to mandatory reporting of child abuse and the reporting requirements of licensees.
(6) A professional licensee identified as a mandated reporter may apply to the licensing board with jurisdiction over the licensee for an exemption from the training or continuing education required by paragraph (3). A licensing board may exempt the licensee if the licensee submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.
(c) Training of persons subject to department regulation.—
(1) The following persons shall be required to meet the child abuse recognition and reporting training requirements of this subsection:
(i) Operators of institutions, facilities or agencies which care for children and are subject to supervision by the department under Article IX of the Public Welfare Code, and their employees who have direct contact with children.
(ii) Foster parents.
(iii) Operators of facilities and agencies which care for children and are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.
(iv) Caregivers in family child-care homes which are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.
(v) The adult family member who is a person responsible for the child's welfare and is providing services to a child in a family living home, a community home for individuals with an intellectual disability or a host home which is subject to supervision or licensure by the department under Articles IX and X of the Public Welfare Code.
(2) Within six months of the effective date of this subsection, operators and caregivers shall receive three hours of training prior to the issuance of a license or approval certificate and three hours of training every five years thereafter.
(3) Employees who have direct contact with children and foster parents shall receive three hours of training within six months of the issuance of a license or approval certificate and three hours of training every five years thereafter. New employees and new foster parents shall receive three hours

of training within 90 days of hire or approval as a foster parent and three hours of training every five years thereafter.
(4) Training curriculum shall be approved by the department and shall address, but not be limited to, the following:
(i) Recognition of the signs of abuse and reporting requirements for suspected abuse in this Commonwealth.
(ii) For institutions, facilities and agencies under paragraph (1)(i), their policies related to reporting of suspected abuse.
(5) A person may be exempted from the requirements of this subsection if all of the following apply:
(i) The person provides documentation that the person has already completed child abuse recognition and reporting training.
(ii) The training was:
(A) required by section 1205.6 of the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the department; or
(B) required by this chapter and the training program was approved by the department.
(iii) The amount of training received equals or exceeds the amount of training required by this subsection.
(d) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Direct contact with children." The care, supervision, guidance or control of children or routine interaction with children.
"Operator." An executive or facility director. The term does not include a person who is not involved in managerial decisions related to the provision of services for or care of children with regard to any of the following:
(1) Personnel.
(2) Policy and procedures.
(3) Regulatory compliance.
(4) Services related to the general or medical care of children.
(5) Supervision of children.
(6) Safety of children.
(Dec. 16, 1994, P.L.1292, No.151; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Apr. 15, 2014, P.L.411, No.31, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.417, No.33, 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. imd.)

2015 Amendment. Act 15 amended subsec. (c)(1), (2) and (3).
2014 Amendments. Act 31 added subsecs. (b)(3), (4), (5) and (6), (c) and (d), Act 33 added subsec. (a.2) and Act 153 amended subsec. (a.2)(3). Section 2 of Act 31 provided that the amendment shall apply to persons applying for a license, certification, approval or registration, or for the renewal of a license, certification, approval or registration, on or after January 1, 2015.
2002 Amendment. Act 201 amended subsec. (a).
1994 Amendment. Section 10 of Act 151 provided that the amendment of subsec. (a) shall take effect July 1, 1996, and the remainder of the section shall take effect July 1, 1995.
References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in subsections (b) and (c), was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.
Cross References. Section 6383 is referred to in section 6509 of this title.

§ 6384. Legislative oversight.
A committee of the Senate designated by the President pro tempore of the Senate and a committee of the House of Representatives designated by the Speaker of the House of Representatives, either jointly or separately, shall review the manner in which this chapter has been administered at the State and local level for the following purposes:
(1) Providing information that will aid the General Assembly in its oversight responsibilities.
(2) Enabling the General Assembly to determine whether the programs and services mandated by this chapter are effectively meeting the goals of this chapter.
(3) Assisting the General Assembly in measuring the costs and benefits of this program and the effects and side-effects of mandated program services.
(4) Permitting the General Assembly to determine whether the confidentiality of records mandated by this chapter is being maintained at the State and local level.
(5) Providing information that will permit State and local program administrators to be held accountable for the administration of the programs mandated by this chapter.

Cross References. Section 6384 is referred to in section 6340 of this title.

§ 6385. Reimbursement to county agencies.
The department shall certify in accordance with the needs-based budgeting provisions of Article VII of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, a level of funds sufficient to meet the cost of services required by the provisions of this chapter which are reasonable and allowable as defined in Article VII.
(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995)

1994 Amendment. Act 151 added section 6385.
References in Text. The short title of the act of June 13, 1967, P.L.31, No.21, known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015, P.L.500, No.92. The amended short title is now the Human Services Code.

§ 6386. Notification to department and development of plan of safe care for children under one year of age.
(a) Notification to department.—For the purpose of assessing a child and the child's family for a plan of safe care, a health care provider shall immediately give notice or cause notice to be given to the department if the provider is involved in the delivery or care of a child under one year of age and the health care provider has determined, based on standards of professional practice, the child was born affected by:
(1) substance use or withdrawal symptoms resulting from prenatal drug exposure; or
(2) a Fetal Alcohol Spectrum Disorder.
(i) (Deleted by amendment).
(ii) (Deleted by amendment).
(3) (Deleted by amendment).
(a.1) Notification not to constitute child abuse report.—The notification by a health care provider to the department and any transmittal to the county agency by the department shall not constitute a child abuse report.

(b) Safety or risk assessment.—(Deleted by amendment).
(b.1) Development of interagency protocols and plan of safe care.—The department, in collaboration with the Department of Health and the Department of Drug and Alcohol Programs, shall develop written protocols that include, but are not limited to:
(1) Definitions and evidence-based screening tools, based on standards of professional practice, to be utilized by health care providers to identify a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder.
(2) Notification to the department that a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder has been born and identified. Ongoing involvement of the county agency after taking into consideration the individual needs of the child and the child's parents and immediate caregivers may not be required.
(3) Collection of data to meet Federal and State reporting requirements.
(4) Identification, informed by an assessment of the needs of the child and the child's parents and immediate caregivers, of the most appropriate lead agency responsible for developing, implementing and monitoring a plan of safe care, informed by a multidisciplinary team meeting that is held prior to the child's discharge from the health care facility, which may include:
(i) public health agencies;
(ii) maternal and child health agencies;
(iii) home visitation programs;
(iv) substance use disorder prevention and treatment providers;
(v) mental health providers;
(vi) public and private children and youth agencies;
(vii) early intervention and developmental services;
(viii) courts;
(ix) local education agencies;
(x) managed care organizations and private insurers; and
(xi) hospitals and medical providers.
(5) Engagement of the child's parents and immediate caregivers in order to identify the need for access to treatment for any substance use disorder or other physical or behavioral health condition that may impact the safety, early childhood development and well-being of the child.
(c) County agency duties.—(Deleted by amendment).
(Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Jan. 22, 2014, P.L.6, No.4, eff. 90 days; July 1, 2015, P.L.94, No.15, eff. imd.; June 28, 2018, P.L.375, No.54)

2018 Amendment. Section 4(3) of Act 54 provided that the amendment of section 6386 shall take effect after October 1, 2018.

§ 6387. Pandemic of 2020.
(a) General rule.—Notwithstanding any provision of law to the contrary, the following shall apply to any individual required to obtain recertification under section 6344.4 (relating to recertification) during the disaster emergency relating to COVID-19. The following shall apply:
(1) An individual shall have until December 31, 2020, to obtain the recertification under section 6344(b)(3) (relating to employees having contact with children; adoptive and foster parents) or under section 111(c.1) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(2) An individual shall be required to obtain the certifications under section 6344(b)(1) and (2) as required under section 6344.4.
(3) An individual who delays recertification under section 6344(b)(3) or under section 111(c.1) of the Public School Code of 1949 shall be required to obtain the individual's subsequent recertifications required under section 6344.4 within 60 months from the date of the individual's most recent certification.
(b) Initial applicants.—(Expired).
(c) Required record.—An employer, administrator, supervisor or other person responsible for employment decisions shall maintain a copy of the required information under subsections (a) and (b).
(d) Definition.—As used in this section, the term "COVID-19" means the novel coronavirus as identified in the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020).
(May 8, 2020, P.L.121, No.18, eff. imd.)

2020 Expiration. Subsection (b) expired December 31, 2020. See Act 18 of 2020.
2020 Amendment. Act 18 added section 6387. Section 3(2) of Act 18 provided that the addition of subsecs. (a) and (c) shall be retroactive to March 6, 2020.
§ 6388. Task Force on Child Pornography.
(a) Establishment.—The Task Force on Child Pornography is established.
(b) Purpose.—The purpose of the task force is to conduct a review to ascertain any inadequacies relating to the offense of child pornography in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
(c) Composition.—The task force shall consist of the following members, who shall be appointed within 25 days after the effective date of this section:
(1) The secretary or a designee.
(2) The Attorney General or a designee.
(3) The Commissioner of Pennsylvania State Police or a designee.
(4) The Chairman of the Pennsylvania Commission on Crime and Delinquency or a designee.
(5) The Executive Director of the Pennsylvania Commission on Sentencing or a designee.
(6) Two members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the Minority Leader of the Senate.
(7) Two members of the House of Representatives, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives.
(8) The Victim Advocate from the Office of Victim Advocate or a designee from that office.
(9) The President of the Pennsylvania District Attorneys Association or a designee.
(10) The Director of the Pennsylvania Coalition Against Rape or a designee.
(11) One member of the Pennsylvania Sexual Offenders Assessment Board. If possible, the member shall be a member of the Association for the Treatment of Sexual Abusers.
(12) One member of the Pennsylvania Internet Crimes Against Children (ICAC) Task Force.
(13) The director of a rape crisis center located in this Commonwealth or a designee, appointed by the Governor.
(14) One representative of a children's advocacy center that assists in the investigation, prosecution and treatment of child sexual and physical abuse cases, appointed by the Governor.
(15) Two medical professionals that specialize in the field of child sexual abuse, one of whom shall be appointed by the President pro tempore of the Senate and one of whom shall be appointed by the Speaker of the House of Representatives.

(16) One member of the public, appointed by the President pro tempore of the Senate.
(17) One member of the public, appointed by the Speaker of the House of Representatives.
(d) Chairperson.—The Governor shall select the chairperson of the task force.
(e) Member requirements.—
(1) The appointed members of the task force under subsection (c)(16) and (17) must be individuals who have experience in investigations or prosecutions of child pornography or sexual abuse of children, have experience in the treatment of victims of child pornography or sexual abuse of children, have experience in the prevention of child pornography or sexual abuse of children or are victims of child pornography or sexual abuse of children.
(2) The appointment of members must reflect the geographic diversity of this Commonwealth.
(f) Meetings and expenses.—The task force shall conduct its business as follows:
(1) The task force shall meet at least four times but may hold additional meetings as determined by the chairperson of the task force.
(2) The chairperson of the task force shall schedule a meeting upon written request of eight members of the task force.
(3) The first meeting of the task force shall be convened within 45 days of the effective date of this section.
(4) The task force shall hold public hearings as necessary to obtain the information required to conduct its review.
(5) Action of the task force shall be authorized or ratified by majority vote of the members of the task force.
(6) The Pennsylvania Commission on Crime and Delinquency and the Joint State Government Commission shall cooperate to provide administrative or other assistance to the task force.
(7) The members of the task force shall not receive compensation but shall be reimbursed for reasonable and necessary expenses incurred in the service of the task force.
(g) Powers.—The task force shall have the following powers:
(1) To recommend any improvements relating to the investigation and prosecution of child pornography as defined in 18 Pa.C.S. § 6312.
(2) To recommend any necessary changes in State statutes and practices, policies and procedures relating to the recognition or prosecution of child pornography as defined in 18 Pa.C.S. § 6312.
(h) Report.—
(1) Within one year of the first meeting of the task force, the task force shall submit a report with its recommendations to the following:
(i) The Governor.
(ii) The President pro tempore of the Senate.
(iii) The Speaker of the House of Representatives.
(iv) The chairperson and minority chairperson of the Judiciary Committee of the Senate.
(v) The chairperson and minority chairperson of the Judiciary Committee of the House of Representatives.
(2) The report under this subsection must be adopted at a public meeting of the task force.
(3) The report under this subsection shall be a public record under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
(i) Expiration.—The task force shall expire upon the submission of the report under subsection (h).
(j) Definition.—As used in this section, the term "task force" means the Task Force on Child Pornography established in this section.
(June 30, 2021, P.L.249, No.53, eff. 60 days)

2021 Amendment. Act 53 added section 6388.

CHAPTER 65
NEWBORN PROTECTION

Sec.
6501. Short title of chapter.
6502. Definitions.
6503. Nonliability.
6504. Health care providers accepting newborns.
6504.1. Police officers accepting newborns.
6504.2. Emergency services providers accepting newborns.
6504.3. Incubators for newborns.
6504.4. Health care providers at urgent care centers accepting newborns.
6505. Reporting acceptance of newborns.
6506. Failure to report acceptance of newborns.
6507. Immunity.
6508. Duty of hospitals and urgent care centers.
6509. Duties of department.

Enactment. Chapter 65 was added December 9, 2002, P.L.1549, No.201, effective in 60 days unless otherwise noted.
Cross References. Chapter 65 is referred to in section 6315 of this title; section 4306 of Title 18 (Crimes and Offenses).

§ 6501. Short title of chapter.
This chapter shall be known and may be cited as the Newborn Protection Act.

§ 6502. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Child abuse." Child abuse as defined in section 6303(b) (relating to definitions).
"County agency" or **"agency."** County agency as defined in section 6303(a) (relating to definitions).
"Department." The Department of Human Services of the Commonwealth.
"Emergency services provider." An emergency medical responder, emergency medical technician, advanced emergency medical technician or a paramedic as defined in 35 Pa.C.S. § 8103 (relating to definitions).
"Health care provider." A person who is licensed or certified by the laws of this Commonwealth to administer health care in the ordinary course of business or practice of a profession. For purposes of accepting a newborn as provided in section 6504(a)(1) (relating to accepting newborns) and for immunity provided pursuant to section 6507 (relating to immunity), the term includes administrative, managerial and security personnel and any other person employed by a hospital or urgent care center.
"Hospital." An institution having an organized medical staff which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services or

rehabilitation services for the care or rehabilitation of people who are injured, disabled, pregnant, diseased, sick or mentally ill. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific medical specialties, but not facilities caring exclusively for people with mental illness or those facilities primarily engaged in providing rehabilitation services or long-term care.

"Newborn." A child less than 28 days of age as reasonably determined by a physician.

"Police department." A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.

"Police officer." A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.

"Police station." The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.

"Urgent care center." As defined in section 2 of the act of November 2, 2016 (P.L.976, No.122), known as the Safe Emergency Prescribing Act.

(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

2024 Amendment. Act 134 amended the defs. of "department" and "health care provider" and added the def. of "urgent care center."

2017 Amendment. Act 68 added the def. of "emergency services provider."

2014 Amendment. Act 91 amended the def. of "health care provider" and added the defs. of "police department," "police officer" and "police station."

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 6303(b), referred to in the def. of "child abuse," was deleted by Act 108 of 2013.

Cross References. Section 6502 is referred to in sections 6303, 6315 of this title; section 4306 of Title 18 (Crimes and Offenses).

§ 6503. Nonliability.

A parent of a newborn shall not be criminally liable under any provision of Title 18 (relating to crimes and offenses) if the criteria set forth in 18 Pa.C.S § 4306 (relating to newborn protection) are met.

§ 6504. Health care providers accepting newborns.

(a) General rule.—A health care provider at a hospital shall do all of the following relating to a newborn accepted under this chapter:

(1) Take the newborn into protective custody as provided in section 6315(a)(3) (relating to taking child into protective custody) or 6504.1(a)(2) (relating to police officers accepting newborns).

(2) Perform a medical evaluation as well as perform any act necessary to care for and protect the physical health and safety of the newborn.

(3) Notify the county agency and the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists as provided in section 6505 (relating to reporting acceptance of newborns).

(b) Accepting newborns.—When a health care provider accepts a newborn pursuant to this chapter, a parent, police officer or emergency services provider may provide a health care provider with information about the newborn's medical history and any identifying information.

(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

2017 Amendment. Act 68 amended subsec. (b).
2014 Amendment. Act 91 amended the section heading and subsecs. (a)(1) and (b).
Cross References. Section 6504 is referred to in sections 6502, 6504.1, 6504.2, 6504.4 of this title.

§ 6504.1. Police officers accepting newborns.
(a) Duties.—A police officer at a police station shall do all of the following relating to a newborn accepted under this chapter:
(1) Take the newborn into protective custody under section 6315(a)(5) (relating to taking child into protective custody).
(2) Ensure the newborn is transported to a hospital and placed into the care of a health care provider under section 6504 (relating to health care providers accepting newborns).
(b) Information.—When a police officer accepts a newborn pursuant to this chapter, a parent may provide the police officer with information about the newborn's medical history and any identifying information.
(July 2, 2014, P.L.843, No.91, eff. 60 days)

2014 Amendment. Act 91 added section 6504.1.
Cross References. Section 6504.1 is referred to in sections 6504, 6505 of this title.
§ 6504.2. Emergency services providers accepting newborns.
(a) Duties.—In accepting a newborn under this chapter, an emergency services provider shall:
(1) take the newborn into protective custody as specified under section 6315(a)(6) (relating to taking child into protective custody); and
(2) ensure the newborn is transported to a hospital and placed into the care of a health care provider as specified under section 6504 (relating to health care providers accepting newborns).
(b) Medical history.—When an emergency services provider accepts a newborn under this chapter, a parent may provide the emergency services provider with information about the newborn's medical history and identifying information.
(c) Temporary signage.—An entity employing an emergency services provider accepting newborns under this chapter shall ensure its grounds or the grounds of an entity otherwise providing access to an emergency services provider clearly indicate, for a minimum of 18 months, that emergency services providers may accept newborns under section 6315(a) and 18 Pa.C.S. § 4306 (relating to newborn protection).
(Dec. 22, 2017, P.L.1219, No.68, eff. 60 days)

2017 Amendment. Act 68 added section 6504.2.
Cross References. Section 6504.2 is referred to in section 6505 of this title.

§ 6504.3. Incubators for newborns.
(a) Provision optional.—A hospital, police station, urgent care center or entity employing or otherwise providing access to an emergency services provider may provide an incubator for the care of a newborn accepted under this chapter.
(b) Regulations.—The Department of Health shall promulgate regulations for providing an incubator under subsection (a). The regulations shall include all of the following:
(1) Sanitation standards for an incubator.
(2) Procedures to provide emergency care for an infant placed in an incubator.
(3) Manufacturing and manufacturer standards for an incubator.

(4) Design and function requirements for an incubator which shall include all of the following:
(i) Installation of an incubator at a hospital, police station, urgent care center or entity which employs or otherwise provides access to an emergency services provider.
(ii) Allowance of an infant to be placed in the incubator anonymously by the parent.
(iii) Locking an incubator after the parent places the infant in the incubator to prevent third parties from having access to the infant.
(iv) Providing a controlled environment to protect and care for the infant.
(v) Providing notice to the personnel of a hospital, police station, urgent care center or entity which employs or otherwise provides access to an emergency services provider within 30 seconds of the infant being placed by the parent in the incubator.
(vi) Triggering a 911 call if the personnel of a hospital, police station, urgent care center or entity which employs or otherwise provides access to an emergency services provider does not respond within a reasonable amount of time under subparagraph (v).
(5) Operating policy, supervision and maintenance requirements for an incubator, including that only an emergency services provider at an entity that employs or otherwise provides access to the emergency services provider, a health care provider at a hospital, police officer at a police station or a health care provider at an urgent care center may take an infant into protective custody in accordance with Chapter 63 (relating to child protective services).
(6) Qualifications to install an incubator.
(7) Procedures and forms for the free registration with the Department of Health of installers qualified to install incubators in accordance with this chapter.
(8) Procedures for the free registration with the Department of Health of an incubator installed in accordance with this chapter.
(9) The creation and installation of signs near an incubator to provide information to parents about how to use the incubators.
(10) Any other provisions deemed necessary by the Department of Health to ensure the safety of an infant and the safe use of an incubator by a parent.
(c) Notice.—The Department of Health shall publish notice in the Pennsylvania Bulletin of the promulgation of final regulations regarding incubators under subsection (b).
(Dec. 22, 2017, P.L.1219, No.68; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

2024 Amendment. Act 134 amended subsecs. (a) and (b)(4)(i), (v) and (vi) and (5).
2017 Amendment. Act 68 added section 6504.3. Section 7(1)(ii) of Act 68 provided that subsecs. (b) and (c) shall take effect immediately. Section 7(2) of Act 68 provided that subsec. (a) shall take effect 120 days after the publication in the Pennsylvania Bulletin of the promulgation of final regulations under 23 Pa.C.S. § 6504.3(c).

§ 6504.4. Health care providers at urgent care centers accepting newborns.
(a) Duties.—A health care provider at an urgent care center shall do all of the following relating to a newborn accepted under this chapter:
(1) Take the newborn into protective custody under section 6315(a)(7) (relating to taking child into protective custody).
(2) Ensure that the newborn is transported to a hospital and placed into the care of a health care provider under section 6504 (relating to health care providers accepting newborns).

(b) Medical history.—When a health care provider at an urgent care center accepts a newborn under this chapter, a parent may provide the health care provider with information about the newborn's medical history and identifying information.
(c) Signage.—An urgent care center accepting newborns under this chapter shall ensure that the urgent care center's grounds and building display signs that specify the operating hours during which the urgent care center accepts newborns under section 6315(a)(7) and 18 Pa.C.S. § 4306 (relating to newborn protection).
(Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

2024 Amendment. Act 134 added section 6504.4.
Cross References. Section 6504.4 is referred to in section 6505 of this title.

§ 6505. Reporting acceptance of newborns.
A health care provider at a hospital shall in all cases notify the county agency and the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists immediately by telephone regarding a newborn accepted by a hospital under this chapter. A written report shall be submitted to the county agency and local municipal police department or the Pennsylvania State Police within 48 hours after the oral report. This section applies in the case of a hospital accepting a newborn pursuant to sections 6504.1(a)(2) (relating to police officers accepting newborns), 6504.2(a)(2) (relating to emergency services providers accepting newborns) and 6504.4(a)(2) (relating to health care providers at urgent care centers accepting newborns).
(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

Cross References. Section 6505 is referred to in section 6504 of this title.

§ 6506. Failure to report acceptance of newborns.
A health care provider at a hospital who intentionally or knowingly fails to report the acceptance by a hospital of a newborn as required by this chapter commits a summary offense. A second or subsequent failure to report such acceptance is a misdemeanor of the third degree.

Cross References. Section 6506 is referred to in section 6507 of this title.

§ 6507. Immunity.
Except for a violation of section 6506 (relating to failure to report acceptance of newborns), no emergency services provider, entity that employs or otherwise provides access to an emergency services provider, hospital, urgent care center, health care provider at a hospital or urgent care center or police department, police officer or administrative or managerial personnel of a police department shall be subject to civil liability or criminal penalty solely by reason of complying with the provisions of this chapter.
(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. 60 days; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

Cross References. Section 6507 is referred to in section 6502 of this title.

§ 6508. Duty of hospitals and urgent care centers.

Each hospital and urgent care center shall ensure that its officers, health care providers and employees are familiar with the provisions of this chapter, section 6315(a) (relating to taking child into protective custody) and other applicable provisions of Chapter 63 (relating to child protective services) that relate to newborn protection and shall insure that the appropriate officers, health care providers and employees, as the case may be, receive educational materials provided by the department as established under section 6509 (relating to duties of department). Information concerning this chapter, section 6315(a) and other applicable provisions of Chapter 63 that relate to newborn protection and regulations adopted by the department shall be made part of the training at each hospital and urgent care center. Each hospital and urgent care center shall adopt a written policy in accordance with the provisions of this chapter, section 6315(a) and other applicable provisions of Chapter 63 that relate to newborn protection.
(Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

§ 6509. Duties of department.
The department shall provide educational materials for use by emergency services providers, entities which employ or otherwise provide access to emergency services providers, hospitals, urgent care centers, health care providers, employees at hospitals and police officers regarding this chapter, section 6315(a)(3) (relating to taking child into protective custody) and other applicable provisions of Chapter 63 (relating to child protective services) that relate to newborn protection. The department shall promulgate such regulations as may be necessary to implement this chapter, section 6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection. The department shall also provide emergency services providers, entities which employ or otherwise provide access to emergency services providers, health care providers, hospitals, urgent care centers, the Pennsylvania State Police and police departments with an informational pamphlet regarding this chapter, section 6315(a)(3) and other applicable provisions of Chapter 63 that relate to newborn protection which may be distributed to the public. In addition, the department shall comply with the provisions regarding infant abandonment in sections 6365 (relating to services for prevention, investigation and treatment of child abuse) and 6383 (relating to education and training). A report shall be made annually to the General Assembly on the number and disposition of newborns accepted in accordance with this chapter, section 6315(a)(3) and (5) and other applicable provisions of Chapter 63 that relate to newborn protection.
(July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68, eff. imd.; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

Cross References. Section 6509 is referred to in section 6508 of this title.

CHAPTER 67
DOMESTIC AND SEXUAL VIOLENCE VICTIM ADDRESS CONFIDENTIALITY

Sec.
6701. Short title of chapter.
6702. Definitions.
6703. Address Confidentiality Program.
6704. Persons eligible to apply.
6705. Application and certification process.
6706. Cancellation, expiration and voluntary withdrawal.

6707. Agency use of designated address.
6708. Disclosure of actual address.
6709. Waiver process.
6710. Emergency disclosure.
6711. Penalties.
6712. Rules and regulations.
6713. Civil immunity.

Enactment. Chapter 67 was added November 30, 2004, P.L.1474, No.188, effective in 180 days.
Cross References. Chapter 67 is referred to in sections 1302, 5336 of this title; sections 4521.1, 62A18 of Title 42 (Judiciary and Judicial Procedure); section 8865 of Title 53 (Municipalities Generally); sections 1103.1, 1132.1, 1305, 1510 of Title 75 (Vehicles).

§ 6701. Short title of chapter.

This chapter shall be known and may be cited as the Domestic and Sexual Violence Victim Address Confidentiality Act.

§ 6702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Actual address." A residential address, school address or work address of an individual.
"Law enforcement agency." A police department of a city, borough, incorporated town or township, the Pennsylvania State Police, district attorneys' offices and the Office of Attorney General.
"Office of Victim Advocate." The office established under section 301 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, that is responsible for the address confidentiality program pursuant to this chapter.
"Program participant." A person certified by the Office of Victim Advocate as eligible to participate in the address confidentiality program established by this chapter.
"Substitute address." The official address of the Office of Victim Advocate or a confidential address designated by the Office of Victim Advocate.
"Victim of domestic violence." A person who is a victim as defined by section 6102 (relating to definitions).
"Victim of human trafficking." As defined in 18 Pa.C.S. § 3001 (relating to definitions).
"Victim of kidnapping." A victim of an offense that is enumerated in 18 Pa.C.S. § 2901 (relating to kidnapping).
"Victim of sexual assault." A victim of an offense enumerated in 18 Pa.C.S. §§ 3121 (relating to rape), 3133 (relating to sexual extortion), 4302 (relating to incest), 6312 (relating to sexual abuse of children), 6318 (relating to unlawful contact with minor) and 6320 (relating to sexual exploitation of children).
"Victim of stalking." A victim of an offense enumerated in 18 Pa.C.S. § 2709.1 (relating to stalking). (July 7, 2022, P.L.501, No.50, eff. 60 days; Dec. 14, 2023, P.L.366, No.39, eff. 60 days)

2023 Amendment. Act 39 amended the def. of "victim of human trafficking."
2022 Amendment. Act 50 amended the def. of "victim of sexual assault" and added the defs. of "victim of human trafficking" and "victim of kidnapping." Section 4(1) of Act 50 provided that the

Office of Victim Advocate may promulgate regulations to effectuate the addition of the definitions of "victim of human trafficking" and "victim of kidnapping."

§ 6703. Address Confidentiality Program.

(a) Establishment.—The Office of Victim Advocate shall establish a program to be known as the Address Confidentiality Program. Upon application and certification, persons eligible under section 6704 (relating to persons eligible to apply) shall receive a confidential substitute address provided by the Office of Victim Advocate.

(b) Administration.—The Office of Victim Advocate shall forward all first class, registered and certified mail at no expense to a program participant within three business days. The Office of Victim Advocate may arrange to receive and forward other classes or kinds of mail at the program participant's expense.

(c) Notice.—Upon certification, the Office of Victim Advocate shall provide notice of participation and the program participant's substitute address to appropriate officials involved in an ongoing civil or criminal case in which a program participant is a victim, witness, plaintiff or defendant.

(d) Records.—All records relating to applicants and program participants are the property of the Office of Victim Advocate. These records, including program applications, participants' actual addresses and waiver proceedings, shall be kept confidential and shall not be subject to the provisions of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, except that records may be released as specifically set forth in this chapter and to a district attorney to the extent necessary for the prosecution of conduct as set forth in section 6711 (relating to penalties).

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (d), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

§ 6704. Persons eligible to apply.

The following persons shall be eligible to apply to become program participants:

(1) A victim of domestic violence who files an affidavit with the Office of Victim Advocate stating the affiant's eligibility for a protection from abuse order and further stating that the affiant fears future violent acts by the perpetrator of the abuse.

(2) A victim of sexual assault who files an affidavit with the Office of Victim Advocate describing the perpetrator's violent actions or threatened violent actions toward the affiant and further stating that the affiant fears future violent acts by the perpetrator of the sexual violence.

(3) A victim of stalking who files an affidavit with the Office of Victim Advocate describing the perpetrator's course of conduct or repeated actions toward the affiant meeting the criteria enumerated in 18 Pa.C.S. § 2709.1 (relating to stalking) and further stating that the affiant fears future violent acts by the perpetrator of the stalking.

(4) A person who is a member of the same household as a program participant.

(5) A program participant who notifies the Office of Victim Advocate of the participant's intent to continue in the program prior to the expiration of certification.

(6) A victim of kidnapping who files an affidavit with the Office of Victim Advocate describing the perpetrator's conduct toward the affiant meeting the criteria enumerated in 18 Pa.C.S. § 2901 (relating to kidnapping) and further stating that the affiant fears future violent acts by the perpetrator of the kidnapping.

(7) A victim of human trafficking who files an affidavit with the Office of Victim Advocate describing the perpetrator's course of conduct or repeated actions toward the affiant meeting the criteria enumerated in 18 Pa.C.S. § 3011 (relating to trafficking in individuals), 3012 (relating to involuntary servitude) or 3013 (relating to patronizing a victim of sexual servitude) and further stating that the affiant fears future violent acts by the perpetrator of the human trafficking.
(July 7, 2022, P.L.501, No.50, eff. 60 days; Dec. 14, 2023, P.L.366, No.39, eff. 60 days)

2023 Amendment. Act 39 amended par. (7).
2022 Amendment. Act 50 added pars. (6) and (7). Section 4(2) of Act 50 provided that the Office of Victim Advocate may promulgate regulations to effectuate the addition of pars. (6) and (7).

§ 6705. Application and certification process.
(a) General rule.—A person must file an application with the Office of Victim Advocate on a form prescribed by the Office of Victim Advocate. An application and any supporting documentation may be filed electronically, by mail or in person. The Office of Victim Advocate shall certify eligible applicants as program participants in accordance with the procedures outlined in subsection (b). Certification shall be valid for a period of three years following the date of certification unless the certification is withdrawn or canceled before the expiration of that period.
(b) Requirements for certification.—The Office of Victim Advocate shall certify an applicant as a program participant if:
(1) The applicant meets the eligibility requirements under section 6704 (relating to persons eligible to apply).
(2) The applicant designates the Office of Victim Advocate as an agent for the purpose of receiving service of process.
(3) The application contains the applicant's actual address and telephone number where the applicant can be contacted.
(4) The application contains a list of all pending civil and criminal proceedings in which the applicant is a victim, witness, plaintiff or defendant and, if applicable, the applicant's involvement with State and county probation and parole.
(5) The application contains a statement signed by the applicant affirming that the information provided by the applicant is true to the best of the applicant's information, knowledge and belief.
(6) The application contains a statement signed by the applicant acknowledging that the applicant has a continuing duty to notify the Office of Victim Advocate of any change in the information provided to the Office of Victim Advocate in accordance with this chapter. The duty shall remain in effect for the duration of participation in the program.
(7) The application contains the date, the applicant's signature and the signature of any person who assisted in the preparation of the application.
(July 7, 2022, P.L.501, No.50, eff. 60 days)

2022 Amendment. Act 50 amended subsec. (a). Section 4(2) of Act 50 provided that the Office of Victim Advocate may promulgate regulations to effectuate the amendment of subsec. (a).
Cross References. Section 6705 is referred to in section 6711 of this title.

§ 6706. Cancellation, expiration and voluntary withdrawal.
(a) Cancellation.—The Office of Victim Advocate shall cancel the certification of a program participant if:

(1) the program participant willingly provided false information on any portion of the application;
(2) the program participant failed to notify the Office of Victim Advocate within five days of a name change or an address change; or
(3) the program participant's mail is returned to the Office of Victim Advocate as nondeliverable.
(b) Expiration.—Certification as a program participant shall expire three years from the date on which an applicant was certified as a program participant. The Office of Victim Advocate shall send written notification of pending expiration to a program participant's last known actual address 30 days prior to the expiration of certification.
(c) Withdrawal.—A program participant may withdraw at any time by notifying the Office of Victim Advocate in writing.
(d) Effect of cancellation, expiration or withdrawal.—Notwithstanding cancellation, expiration or prior withdrawal from the program, all persons eligible to apply to become program participants may reapply for participation in the program.

§ 6707. Agency use of designated address.
State and local government agencies shall accept the substitute address designated on a valid program participation card issued to the program participant by the Office of Victim Advocate as the program participant's address except as follows:
(1) when the State or local government agency has been granted a waiver pursuant to section 6709 (relating to waiver process); or
(2) when the program participant is any of the following:
(i) a released offender complying with State or county probation or parole requirements; or
(ii) a convicted sexual offender who has fulfilled the offender's sentence but must register the offender's community residence as required under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) or any similar registration requirement imposed by any other jurisdiction.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 6707.

§ 6708. Disclosure of actual address.
The Office of Victim Advocate shall not disclose the actual address of a program participant except to any of the following:
(1) A State or local government agency when the State or local government agency has been granted a waiver by the Office of Victim Advocate and the disclosure is made pursuant to section 6709 (relating to waiver process).
(2) A person or agency when disclosure is determined by the Office of Victim Advocate to be required due to an emergency and the disclosure is made pursuant to section 6710 (relating to emergency disclosure).
(3) A person identified in an order of court directing the Office of Victim Advocate to disclose the program participant's actual address and disclosure is made pursuant to the court order.

Cross References. Section 6708 is referred to in section 6711 of this title.

§ 6709. Waiver process.

(a) Request for waiver.—A State or local government agency requesting disclosure of a program participant's actual address pursuant to this section shall make such a request in writing on agency letterhead and shall provide the Office of Victim Advocate with the following information:
(1) The name of the program participant for whom the agency seeks disclosure of the actual address.
(2) A statement, with explanation, setting forth the reason or reasons that the agency needs the program participant's actual address and a statement that the agency cannot meet its statutory or administrative obligations without disclosure of the program participant's actual address.
(3) A particular statement of facts showing that other methods to locate the program participant or the program participant's actual address have been tried and have failed or that the methods reasonably appear to be unlikely to succeed.
(4) A statement that the agency has adopted a procedure setting forth the steps the agency will take to protect the confidentiality of the program participant's actual address.
(b) Notice to program participant.—
(1) Except as provided in paragraph (3), the Office of Victim Advocate shall provide the program participant with notice of a request for waiver received pursuant to subsection (a), and, to the extent possible, the program participant shall be afforded an opportunity to be heard regarding the request.
(2) Except as provided in paragraph (3), the Office of Victim Advocate shall provide the program participant with written notification whenever a waiver has been granted or denied pursuant to this section.
(3) No notice or opportunity to be heard shall be given to the program participant when the request for disclosure is made by a State or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the program participant or when providing notice to the program participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.
(c) Review of request for waiver.—The Office of Victim Advocate shall promptly conduct a review of all requests received pursuant to this section. In conducting a review, the Office of Victim Advocate shall consider all information received pursuant to subsections (a) and (b) and any other appropriate information that the Office of Victim Advocate may require.
(d) Criteria for granting a request for waiver.—The Office of Victim Advocate shall grant a State or local government agency's request for waiver and release a program participant's actual address pursuant to this section if:
(1) the agency has a bona fide statutory or administrative need for the actual address;
(2) the actual address will only be used for the purpose stated in the request;
(3) other methods to locate the program participant or the program participant's actual address have been tried and have failed or such methods reasonably appear to be unlikely to succeed; and
(4) the agency has adopted a procedure for protecting the confidentiality of the actual address of the program participant.
(e) Form of waiver.—Upon granting a request for waiver pursuant to this section, the Office of Victim Advocate shall provide the State or local government agency receiving the waiver with a form containing:
(1) the program participant's actual address;
(2) a statement setting forth the permitted use of the actual address and the names or classes of persons permitted to have access to and use of the actual address;
(3) a statement that the agency receiving the waiver is required to limit access to and use of the actual address to the permitted use and persons set forth in the waiver; and

(4) the date on which the waiver expires if the permitted use makes the expiration appropriate, after which the agency may no longer maintain, use or have access to the actual address.

(f) Requirements of a State and local government agency receiving a waiver.—A State or local government agency granted a waiver by the Office of Victim Advocate pursuant to this section shall:

(1) limit the use of the program participant's actual address to the purposes set forth in the waiver;

(2) limit the access to the program participant's actual address to the persons or classes of persons set forth in the waiver;

(3) cease to use and dispose of the program participant's actual address upon the expiration of the waiver; and

(4) except as otherwise set forth in the waiver, maintain the confidentiality of a program participant's actual address.

(g) Denial of request for waiver.—Upon denial of a State or local government agency's request for waiver, the Office of Victim Advocate shall provide prompt written notification to the agency stating that the agency's request has been denied and setting forth the specific reasons for the denial.

(h) Filing of exceptions.—A State or local government agency may file written exceptions with the Office of Victim Advocate no more than 15 days after written notification is provided pursuant to subsection (g). The exceptions shall restate the information contained in the request for waiver, state the grounds upon which the agency asserts that the request for waiver should be granted and specifically respond to the Office of Victim Advocate's specific reasons for denial.

(i) Review of exceptions and determination.—Unless the State or local government agency filing exceptions agrees otherwise, the Office of Victim Advocate shall make a final determination regarding the exceptions within 30 days after the filing of exceptions pursuant to subsection (h). Prior to making a final determination regarding the exceptions, the Office of Victim Advocate may request additional information from the agency or the program participant and conduct a hearing. If the final determination of the Office of Victim Advocate is that the denial of the agency's request for waiver was properly denied, the Office of Victim Advocate shall provide the agency with written notification of this final determination stating that the agency's request has again been denied and setting forth the specific reasons for the denial. If the final determination of the Office of Victim Advocate is that the denial of the agency's request for waiver has been improperly denied, the Office of Victim Advocate shall grant the agency's request for waiver in accordance with this section. The final determination of the Office of Victim Advocate shall be the final order of the Office of Victim Advocate.

(j) Agency appeal of final determination.—Within 30 days after notification that the Office of Victim Advocate has made a final determination affirming the denial of a State or local government agency's request for waiver, an agency may file a petition for review or any such other document as permitted or required by general court rules. The Office of Victim Advocate shall be given notice of any action commenced in accordance with this subsection or general rule and shall be afforded an opportunity to respond as permitted or required by general court rules.

(k) Record on appeal.—The record before any court hearing an agency appeal pursuant to subsection (j) shall consist of the State or local government agency's request for waiver, the Office of Victim Advocate's written response, the agency's exceptions, the hearing transcript, if any, and the Office of Victim Advocate's final determination.

(l) Use of substitute address during certain periods.—During any period of review, evaluation or appeal, the agency shall, to the extent possible, accept and use the program participant's substitute address.

(m) Waiver.—Nothing in this section shall be construed to prevent the Office of Victim Advocate from granting a waiver to a State or local government agency pursuant to this section upon receipt of a program participant's written consent to do so.

Cross References. Section 6709 is referred to in sections 6707, 6708 of this title.

§ 6710. Emergency disclosure.

(a) General rule.—The Office of Victim Advocate shall establish a system to respond to requests for emergency disclosures that will provide for 24-hour access to a program participant's actual address.

(b) Request for emergency disclosure.—A government agency may request that the Office of Victim Advocate disclose a program participant's actual address through the system established pursuant to subsection (a). The Office of Victim Advocate shall disclose a program participant's actual address if the disclosure:

(1) will prevent physical harm to a program participant or to a program participant's family member; or

(2) is made to a law enforcement agency for law enforcement purposes and the circumstances warrant immediate disclosure.

(c) Requirements for emergency disclosure.—Prior to disclosing a program participant's actual address pursuant to this section, the Office of Victim Advocate shall require:

(1) verification of the requester's identity and the requester's employment with a government agency;

(2) verification of the stated reason for the request to adequately ensure that emergency disclosure is required pursuant to subsection (b);

(3) proof, to the satisfaction of the Office of Victim Advocate, that other methods to locate the program participant or the program participant's actual address have been tried and have failed or that the methods reasonably appear to be unlikely to succeed given the circumstances of the stated reason for the request;

(4) that the program participant's actual address only be used by the requester or the agency to the extent necessary to respond to the stated reason for the request;

(5) that the requester and the requester's agency maintain the confidentiality of the actual address of the program participant; and

(6) that the requester and the requester's agency agree to dispose of the program participant's actual address as soon as practicable after the circumstances surrounding the stated reason for the request no longer require emergency disclosure pursuant to this section.

Cross References. Section 6710 is referred to in section 6708 of this title.

§ 6711. Penalties.

(a) False information.—Any person who knowingly provides false information in regard to a material fact contained in any application made pursuant to section 6704 (relating to persons eligible to apply) or 6705 (relating to application and certification process) shall be subject to termination from the program and to criminal penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Access by fraud or misrepresentation.—

(1) Except as provided in paragraph (2), any person who intentionally, knowingly or recklessly attempts to gain access to or gains access to a program participant's actual address by fraud or

misrepresentation commits a misdemeanor of the second degree. A second or subsequent violation of this paragraph shall be graded as a felony of the third degree.
(2) A first offense under paragraph (1) shall be graded as a felony of the third degree if it is committed by any person who has previously been convicted of a crime of violence involving the program participant under paragraph (1) or the program participant's family or household member as defined in section 6102 (relating to definitions), including:
18 Pa.C.S. § 2701 (relating to simple assault);
18 Pa.C.S. § 2702 (relating to aggravated assault);
18 Pa.C.S. § 2705 (relating to recklessly endangering another person);
18 Pa.C.S. § 2709 (relating to harassment);
18 Pa.C.S. § 2709.1 (relating to stalking);
18 Pa.C.S. § 2718 (relating to strangulation);
18 Pa.C.S. § 2901 (relating to kidnapping);
18 Pa.C.S. § 3121 (relating to rape);
18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
18 Pa.C.S. § 4954 (relating to protective orders); or
23 Pa.C.S. § 6108 (relating to relief).
(c) Unauthorized use of disclosed actual address.—A person who lawfully obtains a program participant's actual address pursuant to an exception contained in section 6708 (relating to disclosure of actual address) and who subsequently discloses or uses the actual address in a manner not authorized by this chapter commits a summary offense.
(June 5, 2020, P.L.246, No.32, eff. 60 days)

2020 Amendment. Act 32 amended subsec. (b)(2).
Cross References. Section 6711 is referred to in section 6703 of this title.

§ 6712. Rules and regulations.
The Office of Victim Advocate shall have the following duties in order to implement this chapter:
(1) The Office of Victim Advocate shall adopt and use guidelines which shall be published in the Pennsylvania Bulletin. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.
(2) By July 1, 2006, the Office of Victim Advocate shall in accordance with law promulgate regulations to replace the guidelines under paragraph (1).
(3) The guidelines under paragraph (1) shall take effect in 180 days and expire on the earlier of the effective date of regulations promulgated under paragraph (2) or July 1, 2007.

§ 6713. Civil immunity.
Except for gross negligence, recklessness or intentional misconduct, the Office of Victim Advocate, law enforcement agencies and all agents, contractors and employees of the Office of Victim Advocate or a law enforcement agency shall be immune from civil liability in any action arising in connection with this chapter.

PENNSYLVANIA CONSOLIDATED STATUTES
TITLE 42. JUDICIAL CODE

CHAPTER 62A. Protection of Victims of Sexual Violence or Intimidation

Sec.
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Enactment. Chapter 62A was added March 21, 2014, P.L.365, No.25, effective July 1, 2015.
Cross References. Chapter 62A is referred to in sections 6302, 67A01, 8340.14 of this title; section 2718 of Title 18 (Crimes and Offenses); sections 8611, 8655 of Title 20 (Decedents, Estates and Fiduciaries).

§ 62A01. Scope of chapter.

This chapter relates to protection of victims of sexual violence or intimidation.

§ 62A02. Findings and purpose.

The General Assembly finds and declares that:
(1) Sexual violence is the most heinous crime against a person other than murder.
(2) Sexual violence and intimidation can inflict humiliation, degradation and terror on the victim.
(3) According to the Department of Justice, someone is sexually assaulted every two minutes in the United States.
(4) Rape is recognized as one of the most underreported crimes, and studies indicate that only one in three rapes is reported to law enforcement.
(5) Victims of sexual violence and intimidation desire safety and protection from future interactions with their offender, regardless of whether they seek criminal prosecution.

(6) This chapter provides the victim with a civil remedy requiring the offender to stay away from the victim, as well as other appropriate relief.

§ 62A03. Definitions.

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

"Adult." An individual who is 18 years of age or older.

"Certified copy." A paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court, regardless of whether or not there is a raised seal on the copy of the order of the issuing court.

"Confidential communications." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Coparticipant." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Court." The court or magisterial district judge having jurisdiction over the matter under and exercised as provided in this title or as otherwise provided or prescribed by law.

"Family or household members." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

"Hearing officer." A magisterial district judge, judge of the Philadelphia Municipal Court, bail commissioner appointed under section 1123 (relating to jurisdiction and venue), master appointed under section 1126 (relating to masters) or master for emergency relief.

"Intimidation." Conduct constituting a crime under either of the following provisions between persons who are not family or household members:

18 Pa.C.S. § 2709(a)(4), (5), (6) or (7) (relating to harassment) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

18 Pa.C.S. § 2709.1 (relating to stalking) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

"Master for emergency relief." A member of the bar of the Commonwealth appointed under section 62A09(e) (relating to emergency relief by minor judiciary).

"Minor." An individual who is not an adult.

"Plaintiff." An individual who applies for a protection order, either for the benefit of that individual or on behalf of another individual.

"Protection order" or **"order."** An order issued under this chapter designed to protect a victim of sexual violence or intimidation.

"Rape crisis center." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Sexual assault counselor." As defined in section 5945.1 (relating to confidential communications with sexual assault counselors).

"Sexual violence." Conduct constituting a crime under any of the following provisions between persons who are not family or household members:

18 Pa.C.S. Ch. 31 (relating to sexual offenses), except 18 Pa.C.S. §§ 3129 (relating to sexual intercourse with animal) and 3130 (relating to conduct relating to sex offenders).

18 Pa.C.S. § 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).
18 Pa.C.S. § 6312(b) (relating to sexual abuse of children).
18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
"Sheriff." The sheriff of a county or, in a city of the first class, the chief or head of the police department.
"Victim." A person who is the victim of sexual violence or intimidation.

Cross References. Section 62A03 is referred to in section 2718 of Title 18 (Crimes and Offenses).

§ 62A04. Responsibilities of law enforcement agencies.
(a) General rule.—The police department of each municipal corporation, the Pennsylvania State Police and the sheriff of each county shall ensure that all their officers, deputies and employees are familiar with the provisions of this chapter. Instruction concerning orders shall be made a part of the training curriculum for all trainee officers and deputies. All law enforcement agencies shall adopt a written policy regarding orders issued under this chapter.
(b) Notice of arrest.—The police department of each municipal corporation and the Pennsylvania State Police shall make reasonable efforts to notify any person protected by an order issued under this chapter of the arrest of the defendant for violation of an order as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after preliminary arraignment.
(c) Statewide registry.—
(1) A complete and systematic record and index of all valid temporary and final orders issued under this chapter shall be entered and maintained in the database established and maintained by the Pennsylvania State Police pursuant to 23 Pa.C.S. § 6105(e) (relating to responsibilities of law enforcement agencies).
(2) With respect to orders issued under this chapter, the Statewide registry shall include, but need not be limited to, the following:
(i) The names of the plaintiff and the victim, if the victim is not the same individual as the plaintiff.
(ii) The name of other designated persons protected by the order under section 62A07(b) (relating to relief).
(iii) The name and address of the defendant.
(iv) The date the order was entered.
(v) The date the order expires.
(vi) The relief granted under sections 62A07 and 62A09 (relating to emergency relief by minor judiciary).
(vii) The judicial district in which the order was entered.
(viii) Where furnished, the Social Security number and date of birth of the defendant.
(3) The prothonotary shall send, on a form prescribed by the Pennsylvania State Police, a copy of an order to the Statewide registry so that it is received within 24 hours of the entry of the order. An amendment to or revocation of an order shall be transmitted by the prothonotary within 24 hours of the entry of the order for modification or revocation. The Pennsylvania State Police shall enter orders, amendments and revocations in the Statewide registry within eight hours of receipt. Vacated or expired orders shall be purged from the registry.
(4) The registry of the Pennsylvania State Police shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid order involving any defendant.

(5) Information contained in the Statewide registry relating to orders shall not be subject to access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 62A04 is referred to in sections 62A05, 62A14 of this title.

§ 62A05. Commencement of proceedings.

(a) General rule.—An adult or emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of a minor child, or the guardian of the person of an adult who has been declared incapacitated under 20 Pa.C.S. Ch. 55 (relating to incapacitated persons) may seek relief on behalf of an incapacitated adult, by filing a petition with the court alleging the need for protection from the defendant with respect to sexual violence or intimidation.

(a.1) False reports.—A person who knowingly gives false information to a law enforcement officer with intent to implicate another under this chapter commits an offense under 18 Pa.C.S. § 4906 (relating to false reports to law enforcement authorities).

(b) No prepayment of fees.—The petition shall be filed and service shall be made without the prepayment of fees.

(c) Assessment of fees and costs.—

(1) (i) No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with the filing, issuance, registration or service of a petition, motion, complaint, order or any other filing. Prohibited fees or costs shall include, but are not limited to, those associated with modifying, withdrawing, dismissing or certifying copies of a petition, motion, complaint, order or any other filing, as well as any judicial surcharge or computer system fee.

(ii) No plaintiff seeking relief under this chapter shall be charged any fees or costs associated with filing a motion for reconsideration or an appeal from any order or action taken under this chapter.

(2) When an order is granted under this chapter, fees and costs shall be assessed against the defendant. The court shall waive fees and costs upon a showing of good cause or when the court makes a finding that the defendant is not able to pay the fees and costs.

(3) Nothing in this section is intended to expand or diminish the court's authority to enter an order under Pa.R.C.P. No.1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation.).

(c.1) Surcharge on order.—When an order is granted under section 62A06 (relating to hearings), a surcharge of $100 shall be assessed against the defendant. All moneys received from surcharges shall be distributed in the following order of priority:

(1) Twenty-five dollars shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 62A04(c) (relating to responsibilities of law enforcement agencies).

(2) Fifty dollars shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:

(i) Twenty-five dollars shall be used by the sheriff.

(ii) Twenty-five dollars shall be used by the court.

(3) Twenty-five dollars shall be forwarded to the Department of Public Welfare for use for victims of sexual assault in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(4) The surcharge allocated under paragraphs (1) and (3) shall be used to supplement and not to supplant any other source of funds received for the purpose of carrying out the provisions of this chapter.

(d) Service.—

(1) The court shall adopt a means of prompt and effective service. If the court so orders, the sheriff or another court-designated agency or individual shall serve the petition and protection order. Under no circumstances shall the plaintiff be obligated to serve the petition or protection order.

(2) The petition and order shall be served upon the defendant.

(3) Within two business days, the order shall be served upon the police department, sheriff and district attorney in the jurisdiction where the order was entered.

(4) A certified copy of the order shall be issued to the plaintiff.

(5) In the case of a minor victim of sexual violence, a copy of the petition and order shall be served upon the county agency and the Department of Public Welfare. For purposes of this subparagraph, the term "county agency" shall be as defined in 23 Pa.C.S. § 6303 (relating to definitions).

(6) A copy of the order shall be issued as otherwise ordered by the court or hearing officer.

(7) Failure to serve the police department, sheriff or district attorney's office shall not stay the effect of a valid order.

(e) Assistance and advice to plaintiff.—The courts and hearing officers shall:

(1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for an order for an individual not represented by counsel.

(2) Provide the plaintiff with written and oral referrals, in English and Spanish, to local sexual assault services in the case of sexual violence and to the local legal services office and to the county bar association's lawyer referral service in the case of sexual violence or intimidation.

(f) Effect of departure and nonresidence.—The right of the plaintiff to relief under this chapter shall not be affected by the defendant's absence from this Commonwealth or the defendant's nonresidence in this Commonwealth, provided that the court has personal jurisdiction over the defendant in accordance with section 5322 (relating to bases of personal jurisdiction over persons outside this Commonwealth).

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Cross References. Section 62A05 is referred to in sections 62A07, 62A09 of this title.

§ 62A06. Hearings.

(a) General rule.—Within ten business days of the filing of a petition under this chapter, a hearing shall be held before the court where the plaintiff must:

(1) assert that the plaintiff or another individual, as appropriate, is a victim of sexual violence or intimidation committed by the defendant; and

(2) prove by preponderance of the evidence that the plaintiff or another individual, as appropriate, is at a continued risk of harm from the defendant.

(a.1) Right to counsel.—The court shall, at the time the defendant is given notice of the hearing, advise the defendant of the right to be represented by counsel. The notice shall be printed and delivered in a manner that easily attracts attention to its contents.

(b) Temporary orders.—If a plaintiff seeks a temporary order for protection from an immediate and present danger, the court shall conduct an ex parte proceeding. The court may enter a temporary order as it deems necessary to protect the plaintiff or another individual, as appropriate, when it finds

the plaintiff or another individual is in immediate and present danger from the defendant. The temporary order shall remain in effect until modified or terminated by the court after notice and hearing.

(c) Continued hearings.—If a hearing under subsection (a) is continued and no temporary order is issued, the court may make ex parte temporary orders under subsection (b), as it deems necessary.

Cross References. Section 62A06 is referred to in sections 62A05, 62A07 of this title.

§ 62A07. Relief.

(a) Order or consent agreement.—The court may issue an order or approve a consent agreement to protect the plaintiff or another individual, as appropriate, from the defendant.

(b) General rule.—An order or a consent agreement may include:

(1) Prohibiting the defendant from having any contact with the victim, including, but not limited to, restraining the defendant from entering the victim's residence, place of employment, business or school. This may include prohibiting indirect contact through third parties and also prohibiting direct or indirect contact with other designated persons.

(2) Granting any other appropriate relief sought by the plaintiff.

(c) Duration and amendment of order or agreement.—A protection order or an approved consent agreement shall be for a fixed period of time not to exceed 36 months. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(d) Extension of protection orders.—

(1) An extension of an order may be granted:

(i) Where the court, after a duly filed petition, notice to the defendant and a hearing, in accordance with the procedures set forth in sections 62A05 (relating to commencement of proceedings) and 62A06 (relating to hearings), finds that the extension is necessary because the defendant engaged in one or more acts or finds some other circumstances that, in the discretion of the court, demonstrate a continued risk of harm to the victim.

(ii) When a contempt petition or charge has been filed with the court or, in a county of the first class, a hearing officer, but the hearing has not occurred before the expiration of the protection order, the order shall be extended, at a minimum, until the disposition of the contempt petition.

(2) Service of an extended order shall be made in accordance with section 62A05(d).

(3) There shall be no limitation on the number of extensions that may be granted.

(e) Notice.—Notice shall be given to the defendant stating that violations of the order will subject the defendant to arrest under section 62A12 (relating to arrest for violation of order) or contempt of court under section 62A14 (relating to contempt for violation of order).

(f) Incarceration.—When the defendant is or was incarcerated and will be released from custody in the next 90 days or has been released from custody within the past 90 days, a plaintiff does not need to show that the defendant engaged in one or more acts that indicate a continued risk of harm to the victim in order to obtain an extension or a subsequent protection order under this chapter.

(g) Identifying information.—Any order issued under this chapter shall, when furnished by either party, specify the Social Security number and date of birth of the defendant.

Cross References. Section 62A07 is referred to in sections 62A04, 62A09, 62A12, 62A17 of this title.

§ 62A08. (Reserved).

§ 62A09. Emergency relief by minor judiciary.

(a) General rule.—When:

(1) in counties with fewer than four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning;

(ii) from the end of the business week to the beginning of the business week; and

(iii) during the business day by reason of duties outside the county, illness or vacation; or

(2) in counties with at least four judges, the court is unavailable:

(i) from the close of business at the end of each day to the resumption of business the next morning; and

(ii) from the end of the business week to the beginning of the business week;

a petition may be filed before a hearing officer who may grant relief in accordance with section 62A07 (relating to relief) if the hearing officer deems it necessary to protect the victim upon good cause shown in an ex parte proceeding. Immediate and present danger posed by the defendant to the victim shall constitute good cause for the purposes of this subsection.

(b) Expiration of order.—An order issued under subsection (a) shall expire at the end of the next business day the court deems itself available. The court shall schedule hearings on orders entered by hearing officers under subsection (a) and shall review and continue in effect orders that are necessary to protect the plaintiff or another individual, as appropriate, until the hearing, at which time the plaintiff may seek a temporary order from the court.

(c) Certification of order to court.—An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 62A05 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the reasons for the need for protection at least five days prior to the hearing. Service of the verified statement shall be made subject to section 62A05(d).

(d) Instructions regarding the commencement of proceedings.—Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of rape crisis centers in the county or in nearby counties in the case of sexual violence and inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them in the case of sexual violence or intimidation.

(e) Master of emergency relief.—The president judge of a court of common pleas of a judicial district may, with the approval of the Administrative Office of Pennsylvania Courts, provide for the selection and appointment of a master for emergency relief on a full-time or part-time basis. The number of masters for emergency relief shall be fixed by the president judge with the approval of the Administrative Office of Pennsylvania Courts. The compensation of a master for emergency relief shall be fixed and paid by the county.

Cross References. Section 62A09 is referred to in sections 62A03, 62A04 of this title.

§ 62A10. Sexual assault counselor.

A sexual assault counselor may accompany and provide assistance to a plaintiff in any legal

proceeding or hearing under this chapter which relates to sexual violence.

§ 62A11. Disclosure of addresses.

(a) General rule.—During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or victim, as appropriate, is endangered by disclosure of the permanent or temporary address of the plaintiff or victim. The court shall consider the wishes of the plaintiff regarding the disclosure of the address. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a rape crisis center or the plaintiff or victim, as appropriate.

(b) Order.—Where the court concludes that the defendant poses a continued risk of harm to the victim and where the plaintiff requests that the address, telephone number and information about the victim's whereabouts not be disclosed, the court shall enter an order directing that law enforcement agencies, human service agencies and school districts shall not disclose the presence of the victim in the jurisdiction or district or furnish any address, telephone number or any other demographic information about the victim except by further order of the court.

§ 62A12. Arrest for violation of order.

(a) General rule.—An arrest for a violation of an order issued under this chapter may be without warrant upon probable cause, whether or not the violation is committed in the presence of the police officer or sheriff, in circumstances where the defendant has violated a provision of an order consistent with section 62A07 (relating to relief). The police officer or sheriff may verify the existence of an order by telephone, radio or other electronic communication with the appropriate police department, Pennsylvania State Police registry or issuing authority. A police officer or sheriff shall arrest a defendant for violating an order by a court within the judicial district or issued by a court in another judicial district within this Commonwealth.

(b) Procedure following arrest.—

(1) Subsequent to an arrest, the defendant shall be taken by the police officer or sheriff without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred.

(2) When that court is unavailable, the police officer or sheriff shall convey the defendant to a magisterial district judge designated as appropriate by local rules of court or, in counties of the first class, to the appropriate hearing officer.

(c) Preliminary arraignment.—The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(d) Other emergency powers unaffected.—This section shall not be construed to in any way limit any of the other powers for emergency relief provided under this chapter.

(e) Hearing.—A hearing shall be scheduled within ten business days of the filing of the charge or complaint of indirect criminal contempt. The hearing and any adjudication shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing or adjudication on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

Cross References. Section 62A12 is referred to in section 62A07 of this title.

§ 62A13. Private criminal complaints for violation of order or agreement.

(a) General rule.—A plaintiff may file a private criminal complaint against a defendant, alleging indirect criminal contempt for a violation of any provision of an order or court-approved consent

agreement issued under this chapter, with the court, the office of the district attorney or the magisterial district judge in the jurisdiction or county where the violation occurred, except that in a county of the first class, a complaint may only be filed with the family division of the court of common pleas or the office of district attorney.

(b) Procedure service.—

(1) Procedure for filing and service of a private criminal complaint shall be provided as set forth by local rule.

(2) Nothing in this subsection is intended to expand or diminish the court's authority to enter an order pursuant to Pa.R.C.P. No.1023.1 (relating to Scope. Signing of Documents. Representations to the Court. Violation.).

(c) Fees and costs.—

(1) No fees or costs associated with the prosecution of the private criminal complaint shall be assigned to the plaintiff, including, but not limited to, filing, service, failure to prosecute, withdrawal or dismissal.

(2) (i) After a finding of indirect criminal contempt, fees and costs may be assigned against the defendant.

(ii) The court shall waive fees and costs imposed under this chapter upon a showing of good cause or if the court makes a finding that the defendant is not able to pay the costs associated with the indirect criminal contempt action.

(3) Nothing in this subsection shall be construed to expand or diminish the court's authority to enter an order under Pa.R.C.P. No.1023.1.

§ 62A14. Contempt for violation of order.

(a) General rule.—Where the police department, sheriff or the plaintiff has filed charges of indirect criminal contempt against a defendant for violation of an order or court-approved consent agreement entered into under this chapter, the court may hold the defendant in indirect criminal contempt and punish the defendant in accordance with law.

(b) Jurisdiction.—A court shall have jurisdiction over indirect criminal contempt charges for violation of a protection order in the county where the violation occurred and in the county where the order was granted.

(c) Minor defendant.—Any defendant who is a minor and who is charged with indirect criminal contempt for allegedly violating a protection order related to sexual violence shall be considered to have committed an alleged delinquent act as that term is defined in section 6302 (relating to definitions) and shall be treated as provided in Chapter 63 (relating to juvenile matters).

(d) Trial and punishment.—

(1) Notwithstanding section 4136(a) (relating to rights of persons charged with certain indirect criminal contempts), the defendant shall not have the right to a jury trial on the charge of indirect criminal contempt; however, the defendant shall be entitled to counsel.

(2) A sentence for indirect criminal contempt under this chapter may include:

(i) A fine of not less than $300 nor more than $1,000 and imprisonment for a period not exceeding six months.

(ii) A fine of not less than $300 nor more than $1,000 and supervised probation for a period not exceeding six months.

(iii) An order for any other relief provided for under this chapter.

(3) Upon conviction for indirect criminal contempt and at the request of the plaintiff, the court shall also grant an extension of the protection order for an additional term.

(4) Upon conviction for indirect criminal contempt, the court shall notify the sheriff of the jurisdiction which issued the protection order of the conviction.
(5) All moneys received under this section shall be distributed in the following order of priority:
(i) One hundred dollars shall be forwarded to the Commonwealth and shall be used by the Pennsylvania State Police to establish and maintain the Statewide registry of protection orders provided for in section 62A04(c) (relating to responsibilities of law enforcement agencies).
(ii) One hundred dollars shall be retained by the county and shall be used to carry out the provisions of this chapter as follows:
(A) Fifty dollars shall be used by the sheriff.
(B) Fifty dollars shall be used by the court.
(iii) One hundred dollars shall be forwarded to the Department of Public Welfare for use for victims of sexual assault in accordance with the provisions of section 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.
(iv) Any additional money shall be distributed in the manner under subparagraph (i).
(e) Notification upon release.—
(1) The appropriate releasing authority or other official as designated by local rule shall use all reasonable means to notify the victim sufficiently in advance of the release of the offender from any incarceration imposed under subsection (d). Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody.
(2) The plaintiff must keep the appropriate releasing authority or other official as designated by local rule advised of contact information; failure to do so will constitute waiver of any right to notification under this section.
(f) Multiple remedies.—Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.
Cross References. Section 62A14 is referred to in section 62A07 of this title.

§ 62A15. Civil contempt or modification for violation of order or agreement.
(a) General rule.—A plaintiff may file a petition for civil contempt with the issuing court alleging that the defendant has violated any provision of an order or court-ï»¿approved consent agreement entered into under this chapter.
(b) Civil contempt order.—Upon finding of a violation of a protection order or court-approved consent agreement issued under this chapter, the court, either pursuant to petition for civil contempt or on its own accord, may hold the defendant in civil contempt and constrain the defendant in accordance with law.
(c) Sentencing.—A sentence for civil contempt under this chapter may include imprisonment until the defendant complies with provisions of the order or court-approved consent agreement or demonstrates the intent to do so, but in no case shall a term of imprisonment under this section exceed a period of six months.

(d) Jury trial and counsel.—Notwithstanding section 4136(a) (relating to rights of persons charged with certain indirect criminal contempts), the defendant shall not have a right to a jury trial; however, the defendant shall be entitled to counsel.

§ 62A16. Confidentiality.

(a) Nature of privilege.—

(1) Unless a victim of sexual violence who consults a sexual assault counselor for the purpose of securing advice, counseling or assistance waives the privilege in a signed writing prior to testimony or disclosure, a sexual assault counselor or a coparticipant who is present during sexual assault counseling or advocacy shall not be competent nor permitted to testify, release the records of or to otherwise disclose confidential communications made to or by the counselor by or to the victim. The privilege shall terminate upon the death of the victim.

(2) Neither the sexual assault counselor nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual violence under 23 Pa.C.S. Ch. 63 (relating to child protective services), a Federal or State mandatory reporting statute or a local mandatory reporting ordinance.

(b) Scope.—The provisions of this section applicable to the victim of sexual violence shall also apply to a person who seeks advice, counseling or assistance from a sexual assault counselor regarding the victim.

§ 62A17. Procedure and other remedies.

(a) General rule.—Unless otherwise indicated under this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies. The plaintiff and the defendant may seek modification of a protection order issued under section 62A07 (relating to relief) at any time during the pendency of the order. Except as otherwise provided in this chapter, modification may be ordered after the filing of a petition for modification, service of the petition and a hearing on the petition.

(b) Remedies for bad faith.—Notwithstanding any other provision of law, upon finding that an individual commenced a proceeding under this chapter in bad faith, a court shall direct the individual to pay to the defendant actual damages and reasonable attorney fees. Failure to prove an allegation of continued risk of harm by a preponderance of the evidence shall not, by itself, result in a finding of bad faith.

§ 62A18. Applicability.

The provisions of the following acts relating to victims who are protected by an order issued under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) shall apply also to victims who are protected by an order issued under this chapter:

(1) The act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(2) 23 Pa.C.S. Ch. 67 (relating to domestic and sexual violence victim address confidentiality).

§ 62A19. Inability to pay.

(a) Order for installment payments.—Upon plea and proof that a person is without the financial means to pay a fine, a fee or a cost, a court may order payment of money owed in installments appropriate to the circumstances of the person and shall fix the amounts, times and manner of payment.

(b) Electronic payment.—The treasurer of each county may allow the use of credit cards and bank cards in the payment of money owed under this chapter.

§ 62A20. Construction.

Nothing in this chapter shall be construed to preclude an action for wrongful use of civil process in accordance with Subchapter E of Chapter 83 (relating to wrongful use of civil proceedings) or criminal prosecution for a violation of 18 Pa.C.S. Ch. 49 (relating to falsification and intimidation).

1B. Purdon's Pennsylvania Statutes and Consolidated Statutes
Title 35 P.S. Health and Safety
Chapter 46A. Domestic Violence Health Care Response Act

§ 7661.1. Short title
This act shall be known and may be cited as the Domestic Violence Health Care Response Act.
Credits
1998, Dec. 3, P.L. 925, No. 115, § 1, effective July 1, 1999.

§ 7661.2. Definitions
Currentness
The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Department." The Department of Public Welfare of the Commonwealth.[1]
"Domestic violence program." A nonprofit organization or program having a primary purpose of providing services to domestic violence victims, including, but not limited to, crisis hotline, safe homes or shelter, community education, counseling, victim advocacy, systems intervention and information, transportation, information and referral and victim assistance.
"Health center." A for-profit or nonprofit health center providing clinically related health services.
"Health clinic." A for-profit or nonprofit clinic providing health services.
"Hospital." A for-profit or nonprofit basic, general or comprehensive hospital providing clinically related health services.
"Medical advocacy." The provision of education and training for the purpose of universal screening in order to identify victims of domestic violence who are seeking medical treatment for related or unrelated reasons.
"Universal screening." The process of asking patients seeking medical treatment at a hospital, health center or clinic during the course of medical examinations or treatment about the possibility of domestic violence within their relationships, regardless of whether they are suspected to be victims of domestic violence.
Credits
1998, Dec. 3, P.L. 925, No. 115, § 2, effective July 1, 1999.
Footnotes
1. Now Department of Human Services; see 62 P.S. § 103.

§ 7661.3. Domestic violence health care response program
Currentness
(a) Establishment of program.—There is established within the Department of Public Welfare[1] the Domestic Violence Health Care Response Program.
(b) Purpose of programs.—The purpose of the program shall be to support the development of domestic violence medical advocacy projects in this Commonwealth which would assist in the implementation of domestic violence policies and procedures as well as provide training for health care workers to improve hospital, health center and clinic response to domestic violence victims seeking medical treatment.
(c) Medical advocacy project sites.—The department shall select medical advocacy project sites with representation from urban, rural and suburban areas. To ensure the effectiveness of the program, the project sites shall not be publicized.

(d) Annual report.—Utilizing information provided under subsection (e)(5), the department shall compile an annual report to be submitted to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives providing oversight of the Department of Public Welfare.

(e) Program elements.—Each domestic violence medical advocacy project shall:

(1) Demonstrate active collaboration between a local community-based domestic violence program and the hospital, health center or clinic participating in the project.

(2) Develop and implement uniform multidisciplinary domestic violence policies and procedures which incorporate the roles and responsibilities of all staff who provide services or interact with victims of domestic violence, including the identification of victims of domestic violence through universal screening.

(3) Develop and implement a multidisciplinary, comprehensive and ongoing domestic violence education and training program for hospital, health center or clinic personnel adapted to the particular hospital's, health center's or clinic's demographics, policies, staffing patterns and resources. The training program shall include, but is not limited to, identifying characteristics of domestic violence, screening patients for domestic violence, appropriately documenting in the medical record and offering referral services, including domestic violence resources available in the community.

(4) Provide available educational materials to inform victims of domestic violence about the services and assistance available through the domestic violence program.

(5) Develop formal project assessment procedures, including, but not limited to, coordinating and collecting data for the evaluation of the projects and their effectiveness in reducing the incidence of domestic violence and overall health care costs, including emergency room costs.

Credits

1998, Dec. 3, P.L. 925, No. 115, § 3, effective July 1, 1999.

Footnotes

1. Now Department of Human Services; see 62 P.S. § 103.

CHAPTER 2. PENNSYLVANIA COURT RULES

A. Title 231. Pennsylvania Rules of Civil Procedure

Chapter 1950. Actions Pursuant to the Protection of Victims of Sexual Violence or Intimidation Act

Rule
1951. Definitions.
1952. Venue.
1953. Commencement of Action.
1954. Service of Original Process. Registration of Order. Service of Petition and Order. Fees.
1955. Enforcement.
1956. No Responsive Pleading Required.
1957. Decision. Post-Trial Relief.
1958. Discontinuance or Modification.
1959. Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

Source

The provisions of this Chapter 1950 adopted June 29, 2015, effective July 1, 2015, 45 Pa.B. 3802, unless otherwise noted.

Rule 1951. Definitions.

As used in this chapter:

the Act—Act of Mar. 21, 2014, P. L. 365, No. 25 relating to the protection of victims of sexual violence or intimidation, 42 Pa.C.S. §§ 62A01—62A20.

action—a proceeding for protection from sexual violence or intimidation as defined in § 62A03 of the Act.

court—the court of common pleas.

emergency order—an order entered by a hearing officer, who is a person satisfying the definition set forth in 42 Pa.C.S. § 62A03.

fees—any fees or costs, including but not limited to the filing, issuance, registration, service or appeal of a protection action under the Act, including any foreign protection order.

temporary order or temporary protection order—an *ex parte* order entered by the court pursuant to 42 Pa.C.S. § 62A06(b).

plaintiff—an individual who applies for a protection order, either for the benefit of that individual or on behalf of another individual.

protection order or order—an order issued under the Act.

Rule 1952. Venue.

(a) An action for protection of victims of sexual violence or intimidation may be brought in a county where:

(1) the plaintiff resides, either temporarily or permanently;
(2) the plaintiff is employed;
(3) the defendant may be served; or
(4) the sexual violence or intimidation occurred.

(b) An action for indirect criminal contempt may be filed in, and heard by, the court in the county where the order was issued or the violation occurred.

Rule 1953. Commencement of Action.

(a) Except as provided in subdivision (b), an action shall be commenced by filing with the prothonotary a petition alleging the need for protection from the defendant with respect to sexual violence or intimidation. The petition shall be identical in content to the form set forth in Pa.R.C.P. No. 1959(b) and shall have the Notice of Hearing and Order set forth in Pa.R.C.P. No. 1959(a) as the first page(s).

(b) If an emergency order has been entered pursuant to 42 Pa.C.S. § 62A09, an action shall be commenced by filing with the prothonotary the certified emergency order and any documentation in support.

(c) Any fees associated with this action shall not be charged to the plaintiff.

Official Note

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.*

Source

The provisions of this Rule 1953 amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 477; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3520. Immediately preceding text appears at serial page (390158).

Rule 1954. Service of Original Process. Registration of Order. Service of Petition and Order. Fees.

(a) Service of the petition or certified emergency order, the notice and order scheduling the hearing and any temporary order in a protection of victims of sexual violence and intimidation action shall be in accordance with Pa.R.C.P. No. 1930.4 and consistent with the rules for service in protection from abuse matters.

(b) An Affidavit of Service, substantially in the form set forth in Pa.R.C.P. No. 1959(d), shall be filed with the prothonotary.

(c) Within 24 hours of entry of a protection order under the Act, the prothonotary shall transmit a copy of the order to the Pennsylvania State Police Statewide Registry in the manner prescribed by the Pennsylvania State Police.

(d) If a petition alleges an act of sexual violence perpetrated on a minor child, the prothonotary shall serve a copy of the petition and any protection order entered under the Act to the Department of Human Services of the Commonwealth and the county children and youth social service agency in the jurisdiction where the order was entered.

(e) Within two business days of any protection order under the Act being entered, the prothonotary shall serve a copy of the order to the police department, sheriff and district attorney in the jurisdiction where the order was entered.

(f) No fee shall be charged to the plaintiff for service of any protection order or pleading or for the registration, filing and service of any foreign protection order.

Rule 1955. Enforcement.

A plaintiff may file a private criminal complaint against a defendant alleging indirect criminal contempt for a violation of any provision of a protection order or agreement with the court, the Office of the District Attorney or the magisterial district judge in the jurisdiction or county where the violation occurred. However, in a county of the first class, a complaint may be filed only with the Family Division of the Court of Common Pleas or the Office of the District Attorney.

Official Note
See 42 Pa.C.S. § 62A13.

Rule 1956. No Responsive Pleading Required.

No pleading need be filed in response to the petition or the certified emergency order. All averments not admitted shall be deemed denied.

Rule 1957. Decision. Post-Trial Relief.

(a) The decision of the court may consist of only general findings of sexual violence and/or intimidation, but shall dispose of all claims for relief. The court's final order shall be rendered identical in content to the form set forth in Pa.R.C.P. No. 1959(e).

(b) No motion for post-trial relief may be filed to the final order.

Rule 1958. Discontinuance or Modification.

(a) In cases in which a temporary protection order has not yet been granted or has been denied, a plaintiff in a protection of victims of sexual violence or intimidation action, who wishes to discontinue the action, may file a praecipe to discontinue, pursuant to Pa.R.C.P. No. 229, prior to the final order hearing. The plaintiff also may request the discontinuance by oral motion at a hearing.

(b) In cases in which a temporary protection order has been granted, a plaintiff who wishes to vacate the temporary order and discontinue the action shall either file a petition with the court prior to the final order hearing or make the request by oral motion at the final order hearing.

(c) If either party seeks a modification after a final protection order has been entered, the party shall petition the court to modify the final order. Modification may be ordered after the filing and service of the petition and a hearing on the petition pursuant to 42 Pa.C.S. § 62A17.

Rule 1959. Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

(a) The Notice of Hearing and Order required by Pa.R.C.P. No. 1953 shall be identical in content to the following form:

(Caption)

NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to appear, the case may proceed against you and a FINAL order may be entered against you granting the relief requested in the petition.

A hearing on the matter is scheduled for the

__

day of

___

, 20

__

at

_

___

.m. in Courtroom

__

at

___

Courthouse,

___

, Pennsylvania.

If a temporary protection order has been entered, you MUST obey the order until it is modified or terminated by the court after notice and a hearing. If you disobey that order, the police or sheriff may arrest you. A violation of this order may subject you to a charge of indirect criminal contempt. A violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under 18 U.S.C. § 2265, an order entered by the court may be enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. § 2262.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER IMMEDIATELY. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR CALL THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

County Lawyer Referral Service
(insert Street Address)
(insert City, State, and ZIP)
(insert Phone Number)

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of

County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

BY THE COURT:

Judge

Date

(b) The petition in an action filed pursuant to the Act shall be identical in content to the following form:

(Caption)

PETITION FOR PROTECTION OF VICTIMS OF
☐ SEXUAL VIOLENCE ☐ SEXUAL VIOLENCE AGAINST A MINOR CHILD
☐ INTIMIDATION

1. Plaintiff:

First Middle Last Name

Plaintiff's Address:

☐ Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11.

Plaintiff's Date of Birth:

I am filing this petition on behalf of ☐myself or ☐another person.

If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as "Plaintiff," and provide your name and address below.

Name:

Address:

If you checked "another person," indicate your relationship to the plaintiff:

2. Defendant:

First Middle Last Name
Defendant's Address:

DEFENDANT IDENTIFIERS	
DOB	HEIGHT
SEX	WEIGHT
RACE	EYES
HAIR	
SSN	
DRIVERS LICENSE #	
EXP DATE	STATE

3. Name(s) of other designated person(s) under 42 Pa.C.S. § 62A07(b)(1):

4. Is there a relationship between Plaintiff and Defendant?

. If yes, what is the relationship?

5. Have Plaintiff and Defendant been involved in any other legal proceedings? If so, state when and where the case was filed and the court docket number, if known:

6. Has Defendant been involved in any criminal proceedings?

If you answered Yes, is Defendant currently on probation or parole?

7. (a) The facts of the most recent incident of sexual violence are as follows:
Approximate Date:

Approximate Time:

Place:

Describe in detail what happened, including any physical or sexual abuse, threats, injury, incidents of stalking, medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

(b) The facts of the most recent incident of intimidation are as follows:
Approximate Date:

Approximate Time:

Place:

Describe in detail what happened, including medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

8. If Defendant has committed prior acts of sexual violence or intimidation against Plaintiff, describe these prior incidents, and indicate approximately when such acts occurred (attach additional sheets of paper if necessary):

9. Identify the sheriff, police department, or other law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

10. Is Plaintiff in immediate and present danger from Defendant? If so, please describe:

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER AND, AFTER A HEARING, A FINAL ORDER THAT WOULD INCLUDE ALL OF THE FOLLOWING RELIEF (CHECK ALL FORMS OF RELIEF REQUESTED):

☐ A. Restrain Defendant from having any contact with the victim, including, but not limited to, entering the victim's residence, place of employment, business, or school.
☐ B. Prohibit indirect contact through third parties.
☐ C. Prohibit direct or indirect contact with other designated persons.
☐ D. Order Defendant to pay the fees of this action.
☐ E. Order the following additional relief, not listed above:

_____

_____

_____

_____

☐ F. Grant such other relief as the court deems appropriate, including, but not limited to, issuing an order under 42 Pa.C.S. § 62A11(b) related to the non-disclosure of the victim's address, telephone number, whereabouts or other demographic information.
☐ G. Order the police, sheriff or other law enforcement agency to serve the Defendant with a copy of this petition, any order issued, and the order for the hearing. Plaintiff will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.

VERIFICATION

I verify that the statements made in this petition are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

_____

Signature

_____

Date

Official Note

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania.*

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be identical in content to the following form:

(Caption)

TEMPORARY ORDER FOR PROTECTION OF VICTIMS OF
☐ SEXUAL VIOLENCE ☐ SEXUAL VIOLENCE AGAINST A MINOR CHILD
☐ INTIMIDATION

Plaintiff:

First Middle Last Name
Plaintiff's address:

☐ Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11.
Defendant:

First Middle Last Name
Defendant's Address:

DEFENDANT IDENTIFIERS	
DOB	HEIGHT
SEX	WEIGHT
RACE	EYES
HAIR	
SSN	
DRIVERS LICENSE #	
EXP DATE	STATE

AND NOW, this

day of

, 20

, upon consideration of the attached Petition for Protection of Victims of Sexual Violence or Intimidation, the court hereby enters the following Temporary Order:

☐ Plaintiff's request for a Temporary Protection Order is denied.

☐ Plaintiff's request for a Temporary Protection Order is granted.

1. The following person is protected under this order:

2. Defendant is:

☐ A. Restrained from having any contact with the victim, including, but not limited to, entering the victim's residence, place of employment, business, or school.

☐ B. Prohibited from indirect contact with the victim through third parties.

☐ C. Prohibited from direct or indirect contact with the following designated persons:

_____

☐ 3. Additional relief, including, but not limited to, issuing an order under 42 Pa.C.S. § 62A11(b) related to the non-disclosure of the victim's address, telephone number, whereabouts or other demographic information:

_____

_____

_____

_____

☐ 4. A certified copy of this order shall be provided to the sheriff or police department where Plaintiff resides and any other agency specified (insert name of agency):

_____

☐ 5. THIS ORDER SUPERSEDES ANY PRIOR PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

6. THIS ORDER APPLIES IMMEDIATELY TO THE DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL

_____

(insert expiration date) OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND A HEARING.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt. Under 18 U.S.C. § 2265, an order entered by the court may be enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. § 2262. Consent of Plaintiff shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 42 Pa.C.S. § 62A17. Defendant is further notified that violation of this order may subject him/her to prosecution and criminal penalties under the Pennsylvania Crimes Code.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police department and sheriff who have jurisdiction over Plaintiff's residence, the location where a violation of this order occurs, or where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 2 and 3 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 42 Pa.C.S. § 62A12.

When Defendant is placed under arrest for violation of the order, Defendant shall be taken to the appropriate authority or authorities before whom Defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer, sheriff or Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged: (1) Defendant shall be arraigned; (2) bond set, if appropriate; and (3) both parties shall be given notice of the date of the hearing.

BY THE COURT:

_____

Judge

_____

Date

(d) The form of the Affidavit of Service in a proceeding under the Act shall be substantially in the following form:

(Caption)

AFFIDAVIT OF SERVICE

I,

_____

, the undersigned, hereby state that I served a copy of the Notice of Hearing and Order, Petition and Temporary Order in the above-captioned action upon Defendant by handing the papers to

_____

at the following address:

_____

on the

_____

day of

_____

, 20

_____

, at approximately

_____

o'clock

_____

.m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

_____

(Signature)

_____

(Title)

_____

(Address)

_____

(Date)
THIS FORM MUST BE COMPLETED AND SIGNED BY THE PERSON WHO SERVES THE DEFENDANT WITH THE NOTICE OF HEARING AND ORDER, PETITION AND TEMPORARY ORDER. IT MUST BE FILED WITH THE PROTHONOTARY OR BROUGHT TO THE COURT ON THE HEARING DATE.

(e) The Final Order of Court, or any amended, modified or extended Final Order of Court, entered pursuant to the Act shall be identical in content to the following form:

(Caption)

FINAL ORDER FOR PROTECTION OF VICTIMS OF
☐ SEXUAL VIOLENCE ☐ SEXUAL VIOLENCE AGAINST A MINOR CHILD
☐ INTIMIDATION

Plaintiff:

_____

First Middle Last Name
Plaintiff's address:

☐ Plaintiff's address is confidential pursuant to 42 Pa.C.S. § 62A11.
Defendant:

_____

First Middle Last Name
Defendant's Address:

DEFENDANT IDENTIFIERS	
DOB	HEIGHT
SEX	WEIGHT

RACE	EYES
HAIR	
SSN	
DRIVERS LICENSE #	
EXP DATE	STATE

The court hereby finds that it has jurisdiction over the parties and the subject matter and that Defendant has been provided with reasonable notice and opportunity to be heard.

Defendant was served in accordance with Pa.R.C.P. No. 1954(a) and provided notice of the time, date and location of the hearing scheduled in this matter.

Order Effective Date:

Order Expiration Date:

AND NOW, this

day of

, 20

, upon consideration of the attached Petition for Protection of Victims of Sexual Violence or Intimidation, the court hereby enters the following Final Order:

It is ORDERED, ADJUDGED AND DECREED as follows:

This order is entered (check one) ☐by agreement; ☐by agreement without an admission; ☐after a hearing and decision by the court; ☐after a hearing at which Defendant was not present, despite proper service being made; ☐by default. Without regard as to how the order was entered, this is a final order of court subject to full enforcement pursuant to the Protection of Victims of Sexual Violence or Intimidation Act.

☐ Plaintiff's request for a final protection order is denied.

OR

☐ Plaintiff's request for a final protection order is granted.

1. The following person is protected under this order:

2. Defendant is:

☐ A. Restrained from having any contact with the victim, including, but not limited to, entering the victim's residence, place of employment, business or school.

☐ B. Prohibited from indirect contact with the victim through third parties.

☐ C. Prohibited from direct or indirect contact with the following designated persons:

☐ D. Ordered to pay the fees of this action.

☐ 3. Additional relief, including, but not limited to, issuing an order under 42 Pa.C.S. § 62A11(b) related to the non-disclosure of the victim's address, telephone number, whereabouts or other demographic information:

_____

_____

_____

_____

☐ 4. Because this order followed a contested proceeding, or a hearing at which Defendant was not present, despite being served with a copy of the petition, temporary order and notice of the date, time and place of the hearing, Defendant is ordered to pay an additional $100 surcharge to the court, which shall be distributed in the manner set forth in 42 Pa.C.S. § 62A05(c.1).

☐ 5. THIS ORDER SUPERSEDES ANY PRIOR PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt. Under 18 U.S.C. § 2265, an order entered by the court may be enforceable in all fifty (50) States, the District of Columbia, Tribal Lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. § 2262. Consent of Plaintiff shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 42 Pa.C.S. § 62A17. Defendant is further notified that violation of this order may subject him/her to prosecution and criminal penalties under the Pennsylvania Crimes Code.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police department and sheriff who have jurisdiction over Plaintiff's residence, the location where a violation of this order occurs, or where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 2 and 3 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 42 Pa.C.S. § 62A12.

When Defendant is placed under arrest for violation of the order, Defendant shall be taken to the appropriate authority or authorities before whom Defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer, sheriff or Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged: (1) Defendant shall be arraigned; (2) bond set, if appropriate; and (3) both parties shall be given notice of the date of the hearing.

BY THE COURT:

_____

Judge

Date

If a Final Order of Court is entered pursuant to the consent of the plaintiff and the defendant, both shall sign the order along with their counsel, if any:

(Plaintiff's signature)(Defendant's signature)

(Plaintiff's attorney's signature)(Defendant's attorney's signature)

Official Note

Pa.R.C.P. No. 1959(a), (b), (c), and (e) utilize the phrase "shall be identical in content" in reference to the form documents provided under those subparagraphs, which include the Notice of Hearing, the Petition for Protection of Victims of Sexual Violence or Intimidation, the Temporary Order, and the Final Order. In using "shall be identical in content" rather than the more usual phrase "shall be substantially in the following form," the intent of the rule is to ensure only the relevant information and relief authorized under the Act is incorporated into any third-party generated form document while allowing for stylistic differences as to format and layout.

Source

The provisions of this Rule 1959 amended October 27, 2016, effective in 60 days, 46 Pa.B. 7164; amended January 5, 2018, effective January 6, 2018, 48 Pa.B. 477; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3520. Immediately preceding text appears at serial pages (390160) to (390170).

Title 246. Minor Court Rules

Chapter 1200. Actions for Emergency Protective Relief

Rule
1201. Applicability.
1202. Definitions.
1203. Limitation on Jurisdiction.
1204. Venue.
1205. Persons Who May Seek Emergency Relief.
1206. Commencement of Proceedings.
1207. Hearing.
1208. Protection Orders; Findings; Instructions to Plaintiff; Denial of Petition.
1209. Service and Execution of Emergency Protection Orders.
1210. Duration of Emergency Protection Orders.
1211. Certification to Court of Common Pleas.

Source

The provisions of these Rules 1201—1211 adopted March 24, 1977, 7 Pa.B. 894, effective March 24, 1977, unless otherwise noted.

Rule 1201. Applicability.

The rules in this chapter apply to the exercise by a hearing officer of jurisdiction under:

(1) Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, granting emergency relief from abuse, and

(2) Section 62A09 of Title 42, 42 Pa.C.S. § 62A09, granting emergency relief in connection with claims of sexual violence or intimidation.

Official Note

See the Protection From Abuse Act set forth in the Domestic Relations Code, 23 Pa.C.S. § § 6101—6122, and 42 Pa.C.S. § § 62A01—62A20.

The court of common pleas of each judicial district is responsible to ensure that a judge or magisterial district judge "is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under" the Older Adult Protective Services Act. 35 P.S. § 10225.307. Actions commenced under the Older Adult Protective Services Act are governed by statute and local procedures, not by these rules.

This chapter was amended in 2015 to provide procedural rules for protective orders sought for victims of sexual violence or intimidation. *See* 42 Pa.C.S. § § 62A01—62A20.

Source

The provisions of this Rule 1201 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended July 7, 2006, effective immediately, 36 Pa.B. 3810; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811; amended October 28, 2016, effective December 31, 2016, 46 Pa.B. 7165. Immediately preceding text appears at serial page (378021).

Rule 1202. Definitions.

As used in this chapter:

(1) "abuse" means the occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(a) attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest with or without a deadly weapon.

(b) placing another in reasonable fear of imminent serious bodily injury.

(c) the infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).

(d) physically or sexually abusing minor children, including such terms as defined in Chapter 63 of the Domestic Relations Code (relating to child protective services).

(e) knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury. This definition applies only to proceedings commenced under the Domestic Relations Code and is inapplicable to any criminal prosecutions commenced under Title 18 (relating to crimes and offenses).

(2) "adult" means an individual who is 18 years of age or older.

(3) "court" means:

(a) the court of common pleas of the judicial district in which the office of the hearing officer taking action under these rules is located in actions brought under the Protection from Abuse Act, 23 Pa.C.S. §§ 6101—6122, or

(b) the court or magisterial district judge having jurisdiction over the matter in actions brought pursuant to Section 62A09 of Title 42, 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation).

(4) "family or household members" means spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

(5) "hearing officer" means a magisterial district judge, judge of the Philadelphia Municipal Court, arraignment court magistrate appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue), master appointed under 42 Pa.C.S. § 1126 (relating to masters), and master for emergency relief appointed under 23 Pa.C.S. § 6110(e) or 42 Pa.C.S. § 62A09(e) (relating to master for emergency relief).

(6) "intimidation" means conduct constituting a crime under either of the following provisions between persons who are not family or household members:

(a) 18 Pa.C.S. § 2709(a)(4), (5), (6) or (7) (relating to harassment) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

(b) 18 Pa.C.S. § 2709.1 (relating to stalking) where the conduct is committed by a person 18 years of age or older against a person under 18 years of age.

(7) "minor" means an individual who is not an adult.

(8) "sexual violence" means conduct constituting a crime under any of the following provisions between persons who are not family or household members:

(a) 18 Pa.C.S. Ch. 31 (relating to sexual offenses), except 18 Pa.C.S. §§ 3129 (relating to sexual intercourse with animal) and 3130 (relating to conduct relating to sex offenders).

(b) 18 Pa.C.S. § 4304 (relating to endangering welfare of children) if the offense involved sexual contact with the victim.

(c) 18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).

(d) 18 Pa.C.S. § 6312(b) (relating to sexual abuse of children).

(e) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(f) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(9) "victim" means a person who is a victim of abuse, sexual violence or intimidation.

Official Note

These definitions are largely derived from 23 Pa.C.S. § 6102 and 42 Pa.C.S. § 62A03.

Source

The provisions of this Rule 1202 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended July 7, 2006, effective immediately, 36 Pa.B. 3810; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811. Immediately preceding text appears at serial pages (321829) to (321830).

Rule 1203. Limitation on Jurisdiction.

The hearing officer may grant relief under these rules only when the court is unavailable to do so pursuant to the provisions of:

(1) Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110,

(2) 42 Pa.C.S. § 62A09 (providing for protection of victims of sexual violence or intimidation), or

(3) local rule of court.

Official Note

The limitation in this rule is taken from Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, and 42 Pa.C.S. § 62A09.

This rule recognizes and reaffirms the existing practice in many counties. The availability of each court to grant necessary emergency relief will vary greatly, both during the business and non-business day; therefore, it was deemed desirable to permit each court to promulgate such rules as would best serve its specific needs in providing for efficient implementation of emergency relief measures.

Source

The provisions of this Rule 1203 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811. Immediately preceding text appears at serial page (321830).

Rule 1204. Venue.

A. Except as provided in subdivision B, a proceeding for emergency relief may be brought in a magisterial district within the county in which

(1) the plaintiff resides, either temporarily or permanently, or

(2) the abuse, sexual violence or intimidation occurred.

B. If the relief sought includes possession of the residence or household to the exclusion of the defendant, the action may be brought only in a magisterial district within the county in which the residence or household is located.

Official Note

This rule is consistent with Pa.R.C.P. No. 1901.1 and provides the necessary flexibility to a plaintiff who may have to flee the county of permanent residence to escape further abuse. This rule is intended to provide maximum flexibility to a plaintiff to use a convenient forum to seek an emergency protective order. However, where practicable, plaintiffs should give preference to filing in the magisterial district in which the plaintiff resides, either temporarily or permanently, or in the magisterial district in which the abuse occurred. A proceeding is considered to have been brought in a magisterial district even if it is before a hearing officer serving temporarily in that district, or before a hearing officer who has been invested by local rule with temporary county-wide jurisdiction.

Subdivision B of this rule only applies to actions brought pursuant to Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110.

Source

The provisions of this Rule 1204 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811. Immediately preceding text appears at serial page (321830).

Rule 1205. Persons Who May Seek Emergency Relief.

A. In actions brought pursuant to Section 6110 of the Protection From Abuse Act, 23 Pa.C.S. § 6110, an adult or an emancipated minor may seek emergency relief from abuse for himself or herself. Also, any parent, adult household member or guardian ad litem may seek emergency relief from abuse on behalf of minor children. In addition, a guardian of the person of an incapacitated person as defined in 20 Pa.C.S. § 5501 may seek emergency relief on behalf of the incapacitated person.

B. In actions brought pursuant to Section 62A09 of Title 42, 42 Pa.C.S. § 62A09 (providing for protection in connection with claims of sexual violence and intimidation), an adult or emancipated minor may seek emergency relief for himself or herself. Also, any parent, adult household member or guardian ad litem may seek emergency relief on behalf of a minor child. In addition, a guardian of the person of an incapacitated person as defined in 20 Pa.C.S. § 5501 may seek emergency relief on behalf of the incapacitated person.

Official Note

This rule is derived from Section 6106 of the Protection From Abuse Act, 23 Pa.C.S. § 6106, as well as 42 Pa.C.S. § 62A05.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*. *See* Rule 217.

Source

The provisions of this Rule 1205 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811; amended October 28, 2016, effective December 31, 2016, 46 Pa.B. 7165; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3581. Immediately preceding text appears at serial page (384812).

Rule 1206. Commencement of Proceedings.

(a) *Petition.*

(1) A proceeding for emergency relief from abuse or in connection with claims of sexual violence or intimidation shall be commenced by the filing of a petition by the plaintiff with the hearing officer on a form that shall be prescribed by the State Court Administrator.

(2) The petition shall be signed by the plaintiff and shall set forth the names and addresses of the plaintiff and the defendant and the names, addresses, and ages of any person on whose behalf the plaintiff is seeking relief.

(3) The plaintiff shall allege in the petition, in general terms, the cause for seeking emergency relief.

(b) {Rescinded}.

(c) *Costs.* The petition shall be filed and service shall be made without prepayment of costs.

Comment:

Former subdivision (b), pertaining to instructions that the hearing officer must provide the plaintiff if a petition is granted, was rescinded and relocated to Pa.R.Civ.P.M.D.J. 1208(a)(3). Subdivision (c) is derived from 23 Pa.C.S. § 6106(b) and 42 Pa.C.S. § 62A05(b). *Compare* Pa.R.Civ.P. 1901.3(c) and 1953(c) (petitions for protective relief filed with the court of common pleas).

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. See* Pa.R.Civ.P.M.D.J. 217.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1992

The responsibilities of Hearing Officers to the plaintiff have been increased as a result of the amendments to the Protection from Abuse Act, 23 Pa.C.S.A., Section 6110(d). When issuing an emergency order, Hearing Officers must advise the plaintiff of the existence of programs for victims of domestic violence in the county or in nearby counties and they must inform the plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them. Rule 1206, through the inclusion of Subdivision B, conforms the Rule to this particular statutory provision; and the amendment to the Note simply provides the justification for Subdivision B, *i.e.*, to assure compliance with the Title 23 provisions of the Protection from Abuse Act.

Source

The provisions of this Rule 1206 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811; amended October 28, 2016, effective December 31, 2016, 46 Pa.B. 7165; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3581; amended January 8, 2025, effective July 1, 2025, 55 Pa.B. 708. Immediately preceding text appears at serial pages (392790) to (392791).

Rule 1207. Hearing.

As soon as possible after the filing of the petition, the hearing officer shall hold an ex parte hearing thereon. The plaintiff may present witnesses at the hearing. Neither in the petition nor during a hearing shall the hearing officer require disclosure of the address of a domestic violence program, a rape crisis center, or the plaintiff or victim, as appropriate.

Official Note

The hearing is ex parte, and the emergency order issued by the hearing officer as a result of the hearing is of short duration. *See* 23 Pa.C.S. § 6110(a)—(b), 42 Pa.C.S. § 62A09(a)—(b). Accordingly, there are no provisions in these rules for notice to the defendant prior to the hearing. The hearing need not be held at the office of the hearing officer. *See* Rule 215 (permitting the use of advanced communication technology in any civil action or proceeding governed by the Rules of Civil Procedure for Magisterial District Judges.) The last phrase was added to ensure compliance with Section 6112 of the Act, 23 Pa.C.S. § 6112 and 42 Pa.C.S. § 62A11. Nothing in the last phrase is intended to preclude a magisterial district judge from determining that venue is proper pursuant to Rule 1204.

Source

The provisions of this Rule 1207 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811. Immediately preceding text appears at serial page (285624).

Rule 1208. Protection Orders; Findings; Instructions to Plaintiff; Denial of Petition.

(a) *Petition Granted.*

(1) *Order Issued.*

(i) *Emergency Protection from Abuse.* If the hearing officer, upon good cause shown, finds it necessary to protect the plaintiff or minor children from abuse, the hearing officer may grant relief in accordance

with 23 Pa.C.S. § 6110(a). The hearing officer shall issue any protection orders necessary to effectuate that relief. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause.

(ii) *Emergency Protection from Sexual Violence or Intimidation.* If the hearing officer, upon good cause shown, finds it necessary to protect the plaintiff or another individual in connection with claims of sexual violence or intimidation, the hearing officer may grant relief in accordance with 42 Pa.C.S. § 62A09(a). The hearing officer shall issue any protection orders necessary to effectuate that relief. Immediate and present danger posed by the defendant to the plaintiff or another individual shall constitute good cause.

(2) *Findings.* The hearing officer shall enter on the petition form the findings and any protection order issued or other action taken.

(3) *Instructions.* The hearing officer shall instruct the plaintiff regarding:

(i) commencing proceedings in the court of common pleas;

(ii) initiating a contempt charge if the defendant violates the emergency order;

(iii) programs for victims of domestic or sexual violence in the county or in nearby counties, as well as the existence of rape crisis centers in the county or nearby counties in the case of sexual violence; and

(iv) the availability of legal assistance without cost if the plaintiff is without resources to pay.

(b) *Petition Denied.*

(1) If the hearing officer does not find good cause pursuant to subdivision (a)(1)(i) or (a)(1)(ii), the hearing officer shall deny the petition.

(2) A denied petition shall not be available to the public.

(3) The hearing officer shall:

(i) not issue a written denial order;

(ii) orally inform the plaintiff that the petition is denied;

(iii) confirm that no identifying information relating to the denied petition, such as the name of the plaintiff or defendant, is made public or retained in court files;

(iv) enter on the docket non-identifying information relating to the petition, including the date of filing, the municipality and zip code of the plaintiff's residence, and the relief sought by the plaintiff; and

(v) destroy the denied petition.

Comment:

Subdivision (a)(1)(i) permits the hearing officer to grant limited relief pursuant to 23 Pa.C.S. § 6108(a)(1), (a)(2), and (a)(6), or (a)(1) and (a)(6), or (a)(1) and (a)(9.1), which includes directing the defendant to refrain from abusing the plaintiff or minor children, possession of the residence, prohibiting contact by the defendant, and certain relief pertaining to companion animals. Subdivision (a)(1)(ii) permits the hearing officer to grant limited relief pursuant to 42 Pa.C.S. § 62A07(b), which includes prohibiting contact by the defendant and any other appropriate relief.

Subdivision (a)(3) is derived from former Pa.R.Civ.P.M.D.J. 1206(b). Practice varies among the judicial districts regarding procedures to maintain a protection order in the court of common pleas upon the certification of an emergency protection order to that court. *See* Pa.R.Civ.P. 1210, cmt. and Pa.R.Civ.P. 1211, cmt.

Subdivision (b) provides for denial of a petition for emergency relief. Subdivision (b)(3) is intended to protect the plaintiff's personal safety and the defendant's reputational interest following the denial of a petition for emergency relief.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1992

Hearing Officers' authority to grant relief under the Act has been enlarged under 23 Pa.C.S.A., Section 6108. In accordance with the provisions of the Act, the court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include the following:

(a)(1) Directing the defendant to refrain from abusing the plaintiff or minor children.

(a)(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(a)(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, by consent agreement, allowing the defendant to provide suitable alternate housing.

Therefore, Rule 1208 incorporates the additional relief remedies available to the Hearing Officer.

Source

The provisions of this Rule 1208 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811; amended October 28, 2016, effective December 31, 2016, 46 Pa.B. 7165; amended January 8, 2025, effective July 1, 2025, 55 Pa.B. 708; amended February 19, 2025, effective July 1, 2025, 55 Pa.B. 1791. Immediately preceding text appears at serial pages (422212) to (422213).

Rule 1209. Service and Execution of Emergency Protection Orders.

(a) *Emergency Protection from Abuse.*

(1) *Plaintiff.* If the hearing officer grants the petition in whole or in part, then the hearing officer shall give the plaintiff a copy of the protection order issued pursuant to Pa.R.Civ.P.M.D.J. 1208(a)(1)(i).

(2) *Defendant.*

(i) The hearing officer or, when necessary, the plaintiff shall immediately deliver a service copy of the protection order issued pursuant to Pa.R.Civ.P.M.D.J. 1208(a)(1)(i) to a police officer, police department, sheriff, or certified constable for service upon the defendant and execution.

(ii) After making reasonable effort, if the executing officer is unable to serve the protection order upon the defendant in a timely fashion, the executing officer shall leave a service copy of the petition containing the order with the police department with jurisdiction over the area in which the plaintiff resides for service upon the defendant, and shall advise such police department that the order could not be served.

(b) *Emergency Protection in Connection with Claims of Sexual Violence or Intimidation.*

(1) *Plaintiff.* If the hearing officer grants the petition in whole or in part, then the hearing officer shall give the plaintiff the protection order issued pursuant to Pa.R.Civ.P.M.D.J. 1208(a)(1)(ii).

(2) *Defendant.*

(i) The hearing officer or, when necessary, the plaintiff shall immediately deliver a service copy of the protection order issued pursuant to Pa.R.Civ.P.M.D.J. 1208(a)(1)(ii) to a police officer, police department, sheriff, or certified constable for service upon the defendant and execution.

(ii) After making reasonable effort, if the executing officer is unable to serve the protection order upon the defendant in a timely fashion, the executing officer shall leave a service copy of the petition containing the order with the police department with jurisdiction over the area in which the plaintiff resides for service upon the defendant, and shall advise such police department that the order could not be served.

(3) *Law Enforcement.* Within two business days after the protection order is issued, the hearing officer shall serve the order upon the police department, sheriff, and district attorney in the jurisdiction where the order was entered.

(4) *Minor Victims.* In the case of a minor victim of sexual violence, the hearing officer shall serve a copy of the petition and order upon the county agency, as defined by 23 Pa.C.S. § 6303, and the Department of Human Services.

Comment:

The hearing officer shall provide the plaintiff with at least one copy of the protection order, but more than one copy may be needed. For example, the plaintiff may wish to serve the order upon multiple police departments if the plaintiff lives and works in different police jurisdictions. If it is necessary for the plaintiff to deliver the protection order to the executing officer, the hearing officer should make sure that the plaintiff fully understands the process and what must be done to have the order served upon the defendant.

Service of protection orders upon the defendant at the time of execution may not be possible under some circumstances. The intention of subdivisions (a)(2)(ii) and (b)(2)(ii) is for the local police to have a service copy if they are called to the plaintiff's residence should the defendant return there.

The hearing officer should make every effort to have the protection order served by a law enforcement officer in a timely fashion. For emergency protection orders to be meaningful, they must be served and executed at night or on a weekend. Therefore, the hearing officer should have the authority to use police officers, sheriffs, and certified constables to serve and execute protection orders.

Protection orders issued pursuant to Pa.R.Civ.P.M.D.J. 1208(a)(1)(ii) in accordance with 42 Pa.C.S. § 62A09, providing for protection of victims of sexual violence or intimidation, are subject to additional service requirements. *Compare* 23 Pa.C.S. § 6109(a) *with* 42 Pa.C.S. § 62A05(d).

Service shall be made without prepayment of costs. *See* Pa.R.Civ.P.M.D.J. 1206(c).

Source

The provisions of this Rule 1209 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811; amended January 8, 2025, effective July 1, 2025, 55 Pa.B. 708. Immediately preceding text appears at serial pages (392792) and (384815).

Rule 1210. Duration of Emergency Protection Orders.

Protection orders issued pursuant to Pa.R.Civ.P.M.D.J. 1208(a) shall expire at the end of the next business day the court deems itself available.

Comment:

This rule is derived from 23 Pa.C.S. § 6110(b) and 42 Pa.C.S. § 62A09(b). Practice varies among the judicial districts as to what procedures the plaintiff must follow to maintain a protection order in the court of common pleas upon the certification of an emergency protection order to the court of

common pleas. The hearing officer should instruct the plaintiff what must be done to maintain the protection order in the court of common pleas. *See* Pa.R.Civ.P.M.D.J. 1208(a)(3)(i), cmt. and Pa.R.Civ.P.M.D.J. 1211, cmt.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

EXPLANATORY COMMENT—1992

Initially, the Protection from Abuse Act provided that emergency orders issued by Hearing Officers were to expire at the resumption of business of the court at the beginning of the week or within 72 hours, whichever occurs sooner. This language has been simplified under 23 Pa.C.S.A., Section 6110(b) to provide that said orders expire as of the resumption of business of the court at the beginning of the next business day. Rule 1210 incorporates this simplification.

Source

The provisions of this Rule 1210 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811; amended January 8, 2025, effective July 1, 2025, 55 Pa.B. 708. Immediately preceding text appears at serial pages (384815) to (384816).

Rule 1211. Certification to Court of Common Pleas.

(a) A protection order issued pursuant to Pa.R.Civ.P.M.D.J. 1208(a), together with any documentation in support thereof, shall immediately be certified to the court of common pleas by the hearing officer.

(b) Certification pursuant to subdivision (a) shall be accomplished by sending to the prothonotary of the court by first class mail or messenger a certified copy of the petition form containing the order, with any supporting documentation attached.

Comment:

Certification pursuant to subdivision (a) is required by 23 Pa.C.S. § 6110(c) and 42 Pa.C.S. § 62A09(c). This rule is consistent with Pa.R.Civ.P. 1901.3(b) and 1953(b), which permit commencement of an action by filing with the prothonotary a certified copy of an emergency protection order. However, practice varies among the judicial districts as to how a protection order is maintained after certification to the court of common pleas. For example, some judicial districts may require that the plaintiff appear in person to continue the action in the court of common pleas. Others may automatically commence an action in the court of common pleas upon receipt of a certified copy of the emergency order from the hearing officer. *See* Pa.R.Civ.P.M.D.J. 1208(a)(3)(i), cmt. and Pa.R.Civ.P.M.D.J. 1210, cmt.

Depending on local practice, the plaintiff or the plaintiff's representative may act as a messenger under subdivision (b).

Source

The provisions of this Rule 1211 amended March 27, 1992, effective immediately, 22 Pa.B. 1900; amended November 2, 2001, effective February 1, 2002, 31 Pa.B. 6385; amended June 29, 2015, effective July 1, 2015, 45 Pa.B. 3811; amended January 8, 2025, effective July 1, 2025, 55 Pa.B. 708. Immediately preceding text appears at serial page (384816).

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B. Carol Behers. Pennsylvania Family Law Citator (12th ed. 2019)

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Chilcot, Michael R. *LexisNexis Practical Guide: Pennsylvania Family Law* (2025).

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Joanne Ross Wilder, Darren K. Oglesby, Brian E. McKinley, and Bruce Lord Wilder. Pennsylvania Family Law & Procedure. (8th ed. 2019). West Pennsylvania Practice Series, Vol. 17.
Chapter 15. Protection from Abuse
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CHAPTER 6. PENNSYVANIA BAR INSTITUTE CONTINUING LEGAL EDUCATION PUBLICATIONS

The Pennsylvania Bar Institute has published numerous CLE books on family law dating back to the early 1980s. The most important series are *Family Law Institute* (1996-), *Family Law Update* (1997-), *Family Law 101* (2009-), and *Family Law From A to Z* (2012-). There are specific titles for geographical sections of the state, e.g., Western Pennsylvania, Central Pennsylvania, Northeastern Pennsylvania, Lehigh Valley, and Philadelphia County. There are also individual volumes on divorce, custody, support, and adoption. Research of these titles can be found in the catalogs of the Allegheny County Law Library collection now within the Carnegie Library of Pittsburgh, Jenkins Law Library of Philadelphia, and the State Library of Pennsylvania. Fo more information, see Joel Fishman, *Pennsylvania Family Law: A Legal Research Guide* (2025).

Previous articles published on Pennsylvania family law were:

•Fishman, Joel. *Divorce, Support and Custody & Related Subjects in Pennsylvania (1980-2005): A Bibliography*. 28 no. 3 Pennsylvania Family Lawyer 50-91 (September 2006).

• Fishman, Joel and David T. Leake. *Index of PBI's Current Issues for Child Advocates Volumes 1-16 (1997-2012).* 34 no. 3 Pennsylvania Family Lawyer 185-97 (October 2012).

• Fishman, Joel, J. Barbour, C. Callahan. *Index of PBI's How to Handle a Child Abuse Case (2001-2012).* 35 no. 1 *Pennsylvania Family Lawyer* 42-47 (March 2013).

• Fishman, Joel and Olivia C. DeSimone, *Bibliography of the Annual Family Law Update Volumes 1-13 (1997-2010) and Family Law Institute Volumes 1-5 (2006-2010),* 33 no. 1 Pennsylvania Family Lawyer 33-48 (March 2011).

• Fishman, Joel, Jenna C. Bigley, Keila Estevez, Allison N. Kowalewsiki-Lewis, Keanna Seabrooks. *Bibliography of the Pennsylvania Bar Institute Annual Family Law Updates Volumes 14-19 (2010-2015) and Family Law Institute Volumes 6-10 (2011-2015).*" 37 no.4 Pennsylvania Family Lawyer 187-205 (December 2015).

• Fishman, Joel, Rebekah S. Miller, Keanna A. Seabrooks. *Pennsylvania Family Law (2006-2015): A Bibliography*. 38 no. 1 Pennsylvania Family Lawyer 47-77 (March/April 2016).

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The following PBI publications contain chapters that update earlier publications; however, beginning in 2024, PBI stopped publishing paper copy of these books and are now only available online through purchase at the PBA website.

Kayden's Law Update (2024). PBI no. 2024-12083.

Tara C. Toohil, Julie R. Colton, Heather K. Green, & Lawrence J. Persick. Kayden's Law Update 2024.

Senate Bill No. 55

House Bill No. 1587

Additional Resources

MAT v. GST

Supervision Acknowledgement

Affidavit of Accountability of Supervisor

Kayden's Law Update (Slides)

Beginning to Explore the Presumptions in Kayden's Law

Mastering Narcissism in Family Law 2024 (2024). PBI no. 2024-12104.
Deborah L. Gilman, Kim D. Easton, Michelle N. Barr, Elizabeth W. Molnar. Learning Objectives.
How Do I Know if I am dealing with a NARCISSIST?
The Narcissist in Conflict
Why Do Narcissists Drag out Court Processes?
Managing Narcissistic Clients
Writing a Custody Order When Co-Parenting with a Narcissist
Case Studies
Appendix Slides
Mastering Narcissism in Family Law: Strategies for Legal Professionals Workbook
Module 1. Introduction to Narcissism
Module 2. Managing NPD Behaviors
Module 3. Resources for Skill Building
References & Further Reading

Family Law Update 2025 (2025). PBI no. 2025-12166.
Alita A. Rovito, Heather K. Green, Lawrence J. Persick, and Maris J. Weiner. Kayden's Law Update.

Protection from Abuse Cases: Effective Advocacy and Attorney Well-Being (2025). PBI no. 2025-12367.
Lance D. Greene and Schawnne K. Kilgus. Protection from Abuse Cases: Effective Advocacy and Attorney Well-Being.

CHAPTER 7. ONLINE RESOURCES

Online Resources: Appendix 4D. Internet Resources for Domestic Violence Information; Philadelphia County Domestic Relations Practice (20th ed. 2017).

American Bar Association Commission on Domestic & Sexual Violence

Homepage

Trauma-Informed Representation Project

LGBTQI+ Legal Access Project

Five-for-Five Project: A Project for Gender-Based Violence (GBV) Survivors

PCADV Publications on the Lethality Assessment Program (LAP):

a. The Lethality Assessment Program Five Years Later: Improving Safety for Victims Through a Coordinated Community Response (2017)

b. Lethality Assessment Program: 2025 Information Guide (2025)

Pennsylvania Coalition Against Domestic Violence

Pennsylvania Domestic Violence Bench Book (2020)

Chapter I. The Court's Role in Addressing Domestic Violence
Chapter II. Evidence
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The Lethality Assessment Program Five Years Later: Improving Safety for Victims Through a Coordinated Community Response (2017)

Lethality Assessment Program: 2025 Information Guide (2025)

Pennsylvania Office of Victim Services – Domestic Violence Webpage

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ARTICLE B. OFFENSES INVOLVING DANGER TO THE PERSON

CHAPTER 23
GENERAL PROVISIONS

Sec.
2301. Definitions.

Enactment. Chapter 23 was added December 6, 1972, P.L.1482, No.334, effective in six months.

§ 2301. Definitions.
Subject to additional definitions contained in subsequent provisions of this article which are applicable to specific chapters or other provisions of this article, the following words and phrases, when used in this article shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:
"Bodily injury." Impairment of physical condition or substantial pain.
"Deadly weapon." Any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or serious bodily injury, or any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or serious bodily injury.
"Serious bodily injury." Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
"Serious provocation." Conduct sufficient to excite an intense passion in a reasonable person.

Cross References. Section 2301 is referred to in sections 2602, 2801, 3101, 3505, 5106, 5131 of this title; section 6338.1 of Title 23 (Domestic Relations); sections 6302, 6355 of Title 42 (Judiciary and Judicial Procedure); sections 3326, 3327 of Title 75 (Vehicles).

CHAPTER 25
CRIMINAL HOMICIDE

Sec.
2501. Criminal homicide.
2502. Murder.
2503. Voluntary manslaughter.
2504. Involuntary manslaughter.
2505. Causing or aiding suicide.
2506. Drug delivery resulting in death.
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Enactment. Chapter 25 was added December 6, 1972, P.L.1482, No.334, effective in six months.
Cross References. Chapter 25 is referred to in sections 911, 2602, 3502 of this title; section 5432 of Title 20 (Decedents, Estates and Fiduciaries); sections 2511, 3103, 5329, 6344 of Title 23 (Domestic Relations); sections 5750, 5985.1, 5993, 6302, 9774.1 of Title 42 (Judiciary and Judicial Procedure).

§ 2501. Criminal homicide.
(a) Offense defined.—A person is guilty of criminal homicide if he intentionally, knowingly, recklessly or negligently causes the death of another human being.
(b) Classification.—Criminal homicide shall be classified as murder, voluntary manslaughter, or involuntary manslaughter.

Cross References. Section 2501 is referred to in section 5708 of this title; section 4503 of Title 42 (Judiciary and Judicial Procedure).

§ 2502. Murder.
(a) Murder of the first degree.—A criminal homicide constitutes murder of the first degree when it is committed by an intentional killing.
(b) Murder of the second degree.—A criminal homicide constitutes murder of the second degree when it is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony.
(c) Murder of the third degree.—All other kinds of murder shall be murder of the third degree. Murder of the third degree is a felony of the first degree.
(d) Definitions.—As used in this section the following words and phrases shall have the meanings given to them in this subsection:
"Fireman." Includes any employee or member of a municipal fire department or volunteer fire company.
"Hijacking." Any unlawful or unauthorized seizure or exercise of control, by force or violence or threat of force or violence.
"Intentional killing." Killing by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing.
"Perpetration of a felony." The act of the defendant in engaging in or being an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit robbery, rape, or deviate sexual intercourse by force or threat of force, arson, burglary or kidnapping.
"Principal." A person who is the actor or perpetrator of the crime.

(Mar. 26, 1974, P.L.213, No.46, eff. imd.; Apr. 28, 1978, P.L.84, No.39, eff. 60 days)

Cross References. Section 2502 is referred to in sections 2506, 2507, 2602, 5702, 5708, 6105 of this title; section 5329 of Title 23 (Domestic Relations); sections 1515, 5551, 9711.1, 9718, 9802 of Title 42 (Judiciary and Judicial Procedure); sections 3903, 4103, 5007, 6139, 7122 of Title 61 (Prisons and Parole).

§ 2503. Voluntary manslaughter.

(a) General rule.—A person who kills an individual without lawful justification commits voluntary manslaughter if at the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by:

(1) the individual killed; or

(2) another whom the actor endeavors to kill, but he negligently or accidentally causes the death of the individual killed.

(b) Unreasonable belief killing justifiable.—A person who intentionally or knowingly kills an individual commits voluntary manslaughter if at the time of the killing he believes the circumstances to be such that, if they existed, would justify the killing under Chapter 5 of this title (relating to general principles of justification), but his belief is unreasonable.

(c) Grading.—Voluntary manslaughter is a felony of the first degree.

(Nov. 17, 1995, 1st Sp.Sess., P.L.1144, No.36, eff. 60 days)

1995 Amendment. Act 36, 1st Sp.Sess., amended subsec. (c).

Cross References. Section 2503 is referred to in sections 5702, 5708, 6105 of this title; sections 1515, 9711, 9802 of Title 42 (Judiciary and Judicial Procedure); sections 6139, 7122 of Title 61 (Prisons and Parole).

§ 2504. Involuntary manslaughter.

(a) General rule.—A person is guilty of involuntary manslaughter when as a direct result of the doing of an unlawful act in a reckless or grossly negligent manner, or the doing of a lawful act in a reckless or grossly negligent manner, he causes the death of another person.

(b) Grading.—Involuntary manslaughter is a misdemeanor of the first degree. Where the victim is under 12 years of age and is in the care, custody or control of the person who caused the death, involuntary manslaughter is a felony of the second degree.

(July 6, 1995, P.L.251, No.31, eff. 60 days)

Cross References. Section 2504 is referred to in sections 2711, 6105 of this title; section 1611 of Title 75 (Vehicles).

§ 2505. Causing or aiding suicide.

(a) Causing suicide as criminal homicide.—A person may be convicted of criminal homicide for causing another to die by suicide only if he intentionally causes such suicide by force, duress or deception.

(b) Aiding or soliciting suicide as an independent offense.—A person who intentionally aids or solicits another to die by suicide is guilty of a felony of the second degree if his conduct causes such suicide or an attempted suicide, and otherwise of a misdemeanor of the second degree.

(c) Sentencing.—

(1) The Pennsylvania Commission on Sentencing, in accordance with 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under this section when at the time of the offense the person who died by suicide or was aided or solicited to die by suicide is under 18 years of age or has an intellectual disability or autism spectrum disorder.
(2) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:
"Autism spectrum disorder." As defined under 42 Pa.C.S. § 5992 (relating to definitions), regardless of the age of the individual.
"Intellectual disability." Regardless of the age of the individual, significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas:
(i) Communication.
(ii) Self-care.
(iii) Home living.
(iv) Social and interpersonal skills.
(v) Use of community resources.
(vi) Self-direction.
(vii) Functional academic skills.
(viii) Work.
(ix) Health.
(x) Safety.
(Sept. 30, 2021, P.L.400, No.71, eff. 60 days)

§ 2506. Drug delivery resulting in death.
(a) Offense defined.—A person commits a felony of the first degree if the person intentionally administers, dispenses, delivers, gives, prescribes, sells or distributes any controlled substance or counterfeit controlled substance in violation of section 13(a)(14) or (30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, and another person dies as a result of using the substance.
(b) Penalty.—
(1) A person convicted under subsection (a) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.
(2) Paragraph (1) shall not apply to a person convicted under section 2502(c) (relating to murder) when the victim is less than 13 years of age and the conduct arises out of the same criminal act.
(c) Proof of sentencing.—(Deleted by amendment).
(d) Authority of court in sentencing.—(Deleted by amendment).
(e) Appeal by Commonwealth.—(Deleted by amendment).
(f) Forfeiture.—Assets against which a forfeiture petition has been filed and is pending or against which the Commonwealth has indicated an intention to file a forfeiture petition shall not be subject to a fine. Nothing in this section shall prevent a fine from being imposed on assets which have been subject to an unsuccessful forfeiture petition.
(Dec. 22, 1989, P.L.773, No.109, eff. imd.; Feb. 18, 1998, P.L.102, No.19, eff. 60 days; July 7, 2011, P.L.220, No.40, eff. 60 days; June 18, 2014, P.L.741, No.56, eff. 60 days)

2014 Amendment. Act 56 amended subsec. (b).

Cross References. Section 2506 is referred to in sections 3308, 5702 of this title; section 9714 of Title 42 (Judiciary and Judicial Procedure).

§ 2507. Criminal homicide of law enforcement officer.

(a) Murder of a law enforcement officer of the first degree.—A person commits murder of a law enforcement officer of the first degree who intentionally kills a law enforcement officer while in the performance of duty knowing the victim is a law enforcement officer.

(b) Murder of a law enforcement officer of the second degree.—A person commits murder of a law enforcement officer of the second degree who engages as a principal or an accomplice in the perpetration of a felony during which a law enforcement officer is killed while in the performance of duty.

(c) Manslaughter of a law enforcement officer in the first degree.—A person commits a felony in the first degree who does any of the following:

(1) Without lawful justification kills a law enforcement officer while in the performance of duty and with knowledge that the victim was a law enforcement officer, if at the time of the killing:

(i) the person is acting under a sudden and intense passion resulting from serious provocation by the victim killed; or

(ii) the person is acting under a sudden and intense passion resulting from serious provocation by another individual whom the actor endeavors to kill, but the person negligently or accidentally causes the death of the victim.

(2) Intentionally or knowingly kills a law enforcement officer while in the performance of duty and with knowledge that the victim was a law enforcement officer, if at the time of the killing the person believes the circumstances to be such that, if they existed, would justify the killing under Chapter 5 (relating to general principles of justification), but his belief is unreasonable.

(d) Manslaughter of a law enforcement officer in the second degree.—A person commits a felony of the second degree who, as a direct result of the doing of an unlawful or lawful act in a reckless or grossly negligent manner, causes the death of a law enforcement officer while in the performance of duty and the person knew or should have known the victim was a law enforcement officer.

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Law enforcement officer." This term shall have the same meaning as the term "peace officer" is given under section 501 (relating to definitions).

"Perpetration of a felony." As defined under section 2502(d) (relating to murder).

(Oct. 17, 2008, P.L.1628, No.131, eff. 60 days)

2008 Amendment. Act 131 added section 2507.

Cross References. Section 2507 is referred to in section 9714 of Title 42 (Judiciary and Judicial Procedure).

CHAPTER 26
CRIMES AGAINST UNBORN CHILD

Sec.

2601. Short title of chapter.
2602. Definitions.

2603. Criminal homicide of unborn child.
2604. Murder of unborn child.
2605. Voluntary manslaughter of unborn child.
2606. Aggravated assault of unborn child.
2607. Culpability.
2608. Nonliability and defenses.
2609. Construction.

Enactment. Chapter 26 was added October 2, 1997, P.L.379, No.44, effective in 180 days.

§ 2601. Short title of chapter.
This chapter shall be known and may be cited as the Crimes Against the Unborn Child Act.

§ 2602. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Abortion." As defined in section 3203 (relating to definitions).
"Intentional killing." Killing by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing.
"Murder." As used in this chapter, the term includes the same element of malice which is required to prove murder under Chapter 25 (relating to criminal homicide).
"Perpetration of a felony." As defined in section 2502(d) (relating to murder).
"Principal." As defined in section 2502(d) (relating to murder).
"Serious bodily injury." Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.
"Serious provocation." As defined in section 2301 (relating to definitions).
"Unborn child." As defined in section 3203 (relating to definitions).

§ 2603. Criminal homicide of unborn child.
(a) Offense defined.—An individual commits criminal homicide of an unborn child if the individual intentionally, knowingly, recklessly or negligently causes the death of an unborn child in violation of section 2604 (relating to murder of unborn child) or 2605 (relating to voluntary manslaughter of unborn child).
(b) Classification.—Criminal homicide of an unborn child shall be classified as murder of an unborn child or voluntary manslaughter of an unborn child.

§ 2604. Murder of unborn child.
(a) First degree murder of unborn child.—
(1) A criminal homicide of an unborn child constitutes first degree murder of an unborn child when it is committed by an intentional killing.
(2) The penalty for first degree murder of an unborn child shall be imposed in accordance with section 1102(a)(2) (relating to sentence for murder and murder of an unborn child).
(b) Second degree murder of unborn child.—

(1) A criminal homicide of an unborn child constitutes second degree murder of an unborn child when it is committed while the defendant was engaged as a principal or an accomplice in the perpetration of a felony.
(2) The penalty for second degree murder of an unborn child shall be the same as for murder of the second degree.
(c) Third degree murder of unborn child.—
(1) All other kinds of murder of an unborn child shall be third degree murder of an unborn child.
(2) The penalty for third degree murder of an unborn child is the same as the penalty for murder of the third degree.

Cross References. Section 2604 is referred to in section 2603 of this title; section 9714 of Title 42 (Judiciary and Judicial Procedure).

§ 2605. Voluntary manslaughter of unborn child.
(a) Offense defined.—A person who kills an unborn child without lawful justification commits voluntary manslaughter of an unborn child if at the time of the killing he is acting under a sudden and intense passion resulting from serious provocation by:
(1) the mother of the unborn child whom the actor endeavors to kill, but he negligently or accidentally causes the death of the unborn child; or
(2) another whom the actor endeavors to kill, but he negligently or accidentally causes the death of the unborn child.
(b) Unreasonable belief killing justifiable.—A person who intentionally or knowingly kills an unborn child commits voluntary manslaughter of an unborn child if at the time of the killing he believes the circumstances to be such that, if they existed, would justify the killing under Chapter 5 (relating to general principles of justification) but his belief is unreasonable.
(c) Penalty.—The penalty for voluntary manslaughter of an unborn child shall be the same as the penalty for voluntary manslaughter.

Cross References. Section 2605 is referred to in section 2603 of this title.

§ 2606. Aggravated assault of unborn child.
(a) Offense.—A person commits aggravated assault of an unborn child if he attempts to cause serious bodily injury to the unborn child or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the life of the unborn child.
(b) Grading.—Aggravated assault of an unborn child is a felony of the first degree.

Cross References. Section 2606 is referred to in section 108 of this title; section 9714 of Title 42 (Judiciary and Judicial Procedure).

§ 2607. Culpability.
In any criminal prosecution pursuant to this chapter, the provisions of Chapter 3 (relating to culpability) shall apply, except that:
(1) The term "different person" as used in section 303(b) and (c) (relating to causal relationship between conduct and result) shall also include an unborn child.
(2) The term "victim" as used in section 311 (relating to consent) shall not include the mother of the unborn child.

§ 2608. Nonliability and defenses.

(a) Nonliability.—Nothing in this chapter shall impose criminal liability:

(1) For acts committed during any abortion or attempted abortion, whether lawful or unlawful, in which the pregnant woman cooperated or consented.

(2) For the consensual or good faith performance of medical practice, including medical procedures, diagnostic testing or therapeutic treatment, the use of an intrauterine device or birth control pill to inhibit or prevent ovulation, fertilization or the implantation of a fertilized ovum within the uterus.

(3) Upon the pregnant woman in regard to crimes against her unborn child.

(b) Defenses.—In any prosecution pursuant to this chapter, it shall be a defense that:

(1) The use of force that caused death or serious bodily injury to the unborn child would have been justified pursuant to Chapter 5 (relating to general principles of justification) if it caused death or serious bodily injury to the mother.

(2) Death or serious bodily injury to the unborn child was caused by the use of force which would have been justified pursuant to Chapter 5 if the same level of force was used upon or toward the mother.

§ 2609. Construction.

The provisions of this chapter shall not be construed to prohibit the prosecution of an offender under any other provision of law.

CHAPTER 27

ASSAULT

Sec.

2701. Simple assault.
2702. Aggravated assault.
2702.1. Assault of law enforcement officer.
2703. Assault by prisoner.
2703.1. Aggravated harassment by prisoner.
2704. Assault by life prisoner.
2705. Recklessly endangering another person.
2706. Terroristic threats.
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2712. Assault on sports official.
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2713.1. Abuse of care-dependent person.
2714. Unauthorized administration of intoxicant.
2715. Threat to use weapons of mass destruction.

2716. Weapons of mass destruction.
2717. Terrorism.
2718. Strangulation.
2719. Endangerment of public safety official.

Enactment. Chapter 27 was added December 6, 1972, P.L.1482, No.334, effective in six months.
Cross References. Chapter 27 is referred to in sections 3104, 3502 of this title; section 8801 of Title 20 (Decedents, Estates and Fiduciaries); section 3103 of Title 23 (Domestic Relations); sections 5750, 5985.1, 5993 of Title 42 (Judiciary and Judicial Procedure).

§ 2701. Simple assault.
(a) Offense defined.—Except as provided under section 2702 (relating to aggravated assault), a person is guilty of assault if he:
(1) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to another;
(2) negligently causes bodily injury to another with a deadly weapon;
(3) attempts by physical menace to put another in fear of imminent serious bodily injury; or
(4) conceals or attempts to conceal a hypodermic needle on his person and intentionally or knowingly penetrates a law enforcement officer or an officer or an employee of a correctional institution, county jail or prison, detention facility or mental hospital during the course of an arrest or any search of the person.
(b) Grading.—Simple assault is a misdemeanor of the second degree unless committed:
(1) in a fight or scuffle entered into by mutual consent, in which case it is a misdemeanor of the third degree; or
(2) against a child under 12 years of age by a person 18 years of age or older, in which case it is a misdemeanor of the first degree.
(Dec. 19, 1988, P.L.1275, No.158, eff. 60 days; June 22, 2001, P.L.605, No.48, eff. 60 days; Dec. 9, 2002, P.L.1391, No.172, eff. 60 days; Dec. 18, 2013, P.L.1198, No.118, eff. Jan. 1, 2014)

2013 Amendment. Act 118 amended subsecs. (a) and (b)(2).
Cross References. Section 2701 is referred to in sections 2709.1, 2711, 2712, 6105.1, 9158 of this title; sections 5329, 6711 of Title 23 (Domestic Relations); sections 5920, 9720.8, 9774.1 of Title 42 (Judiciary and Judicial Procedure); section 2303 of Title 44 (Law and Justice); sections 4503, 4601 of Title 61 (Prisons and Parole).

§ 2702. Aggravated assault.
(a) Offense defined.—A person is guilty of aggravated assault if he:
(1) attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;
(2) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c) or to an employee of an agency, company or other entity engaged in public transportation, while in the performance of duty;
(3) attempts to cause or intentionally or knowingly causes bodily injury to any of the officers, agents, employees or other persons enumerated in subsection (c), in the performance of duty;
(4) attempts to cause or intentionally or knowingly causes bodily injury to another with a deadly weapon;

(5) attempts to cause or intentionally or knowingly causes bodily injury to a teaching staff member, school board member or other employee, including a student employee, of any elementary or secondary publicly-funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school;
(6) attempts by physical menace to put any of the officers, agents, employees or other persons enumerated in subsection (c), while in the performance of duty, in fear of imminent serious bodily injury;
(7) uses tear or noxious gas as defined in section 2708(b) (relating to use of tear or noxious gas in labor disputes) or uses an electric or electronic incapacitation device against any officer, employee or other person enumerated in subsection (c) while acting in the scope of his employment;
(8) attempts to cause or intentionally, knowingly or recklessly causes bodily injury to a child less than six years of age, by a person 18 years of age or older; or
(9) attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a child less than 13 years of age, by a person 18 years of age or older.
(b) Grading.—Aggravated assault under subsection (a)(1), (2) and (9) is a felony of the first degree. Aggravated assault under subsection (a)(3), (4), (5), (6), (7) and (8) is a felony of the second degree.
(c) Officers, employees, etc., enumerated.—The officers, agents, employees and other persons referred to in subsection (a) shall be as follows:
(1) Police officer.
(2) Firefighter.
(3) County adult probation or parole officer.
(4) County juvenile probation or parole officer.
(5) An agent of the Pennsylvania Board of Probation and Parole.
(6) Sheriff.
(7) Deputy sheriff.
(8) Liquor control enforcement agent.
(9) Officer or employee of a correctional institution, county jail or prison, juvenile detention center or any other facility to which the person has been ordered by the court pursuant to a petition alleging delinquency under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).
(10) Judge of any court in the unified judicial system.
(11) The Attorney General.
(12) A deputy attorney general.
(13) A district attorney.
(14) An assistant district attorney.
(15) A public defender.
(16) An assistant public defender.
(17) A Federal law enforcement official.
(18) A State law enforcement official.
(19) A local law enforcement official.
(20) Any person employed to assist or who assists any Federal, State or local law enforcement official.
(21) Emergency medical services personnel.
(22) Parking enforcement officer.
(23) A magisterial district judge.
(24) A constable.
(25) A deputy constable.

(26) A psychiatric aide.
(27) A teaching staff member, a school board member or other employee, including a student employee, of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education or any elementary or secondary parochial school while acting in the scope of his or her employment or because of his or her employment relationship to the school.
(28) Governor.
(29) Lieutenant Governor.
(30) Auditor General.
(31) State Treasurer.
(32) Member of the General Assembly.
(33) An employee of the Department of Environmental Protection.
(34) An individual engaged in the private detective business as defined in section 2(a) and (b) of the act of August 21, 1953 (P.L.1273, No.361), known as The Private Detective Act of 1953.
(35) An employee or agent of a county children and youth social service agency or of the legal representative of such agency.
(36) A public utility employee or an employee of an electric cooperative.
(37) A wildlife conservation officer or deputy wildlife conservation officer of the Pennsylvania Game Commission.
(38) A waterways conservation officer or deputy waterways conservation officer of the Pennsylvania Fish and Boat Commission.
(39) A health care practitioner or technician.
(d) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Electric or electronic incapacitation device." A portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current, including devices operated by means of carbon dioxide propellant. The term does not include cattle prods, electric fences or other electric devices when used in agricultural, animal husbandry or food production activities.
"Emergency medical services personnel." The term includes, but is not limited to, doctors, residents, interns, registered nurses, licensed practical nurses, nurse aides, ambulance attendants and operators, paramedics, emergency medical technicians and members of a hospital security force while working within the scope of their employment.
"Health care practitioner." As defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.
"Technician." As defined in section 2 of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985.
(Oct. 1, 1980, P.L.689, No.139, eff. 60 days; Oct. 16, 1980, P.L.978, No.167, eff. 60 days; Dec. 11, 1986, P.L.1517, No.164, eff. 60 days; Feb. 2, 1990, P.L.6, No.4, eff. 60 days; July 6, 1995, P.L.238, No.27, eff. 60 days; Feb. 23, 1996, P.L.17, No.7, eff. 60 days; July 2, 1996, P.L.478, No.75, eff. 60 days; Dec. 21, 1998, P.L.1245, No.159, eff. 60 days; Nov. 6, 2002, P.L.1096, No.132, eff. 60 days; Nov. 29, 2004, P.L.1349, No.173, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days; Oct. 24, 2012, P.L.1205, No.150, eff. 60 days; Dec. 18, 2013, P.L.1198, No.118, eff. Jan. 1, 2014; July 1, 2020, P.L.571, No.51, eff. 60 days)

2020 Amendment. Act 51 amended subsec. (d) and added subsec. (c)(39).

2013 Amendment. Act 118 amended subsecs. (a)(6) and (7) and (b) and added subsec. (a)(8) and (9).
2012 Amendment. Act 150 amended subsec. (c).
2004 Amendments. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.
References in Text. The Pennsylvania Board of Probation and Parole, referred to in subsec. (c)(5), was renamed the Pennsylvania Parole Board by the act of June 30, 2021 (P.L.260, No.59).
Cross References. Section 2702 is referred to in sections 2701, 2703, 2709.1, 2711, 2719, 5702, 5708, 6105, 9158 of this title; sections 2511, 5329, 6344, 6711 of Title 23 (Domestic Relations); section 904 of Title 30 (Fish); section 905.1 of Title 34 (Game); sections 5551, 5552, 5920, 6302, 6307, 6308, 6336, 6355, 9714, 9717, 9718, 9719, 9720.8, 9802 of Title 42 (Judiciary and Judicial Procedure); section 702 of Title 54 (Names); section 7122 of Title 61 (Prisons and Parole).

§ 2702.1. Assault of law enforcement officer.
(a) Assault of a law enforcement officer.—
(1) A person commits a felony of the first degree who attempts to cause or intentionally or knowingly causes bodily injury to a law enforcement officer, while in the performance of duty and with knowledge that the victim is a law enforcement officer, by discharging a firearm.
(2) Except as provided under sections 2703 (relating to assault by prisoner), 2703.1 (relating to aggravated harassment by prisoner) and 2704 (relating to assault by life prisoner), a person is guilty of a felony of the third degree if the person intentionally or knowingly causes or attempts to cause a law enforcement officer, while in the performance of duty and with knowledge that the victim is a law enforcement officer, to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling the fluid or material.
(3) A person who commits an offense under paragraph (2) shall be guilty of a felony of the second degree if:
(i) the person knew, had reason to know, should have known or believed the fluid or material to have been obtained from an individual, including the person charged under this section, infected by a communicable disease declared reportable by regulation authorized by the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955; and
(ii) the communicable disease referenced in subparagraph (i) is communicable to the law enforcement officer by the method used or attempted to be used to cause the law enforcement officer to come into contact with the blood, seminal fluid, saliva, urine or feces.
(b) Penalties.—Notwithstanding section 1103(1) (relating to sentence of imprisonment for felony), a person convicted under subsection (a)(1) shall be sentenced to a term of imprisonment fixed by the court at not more than 40 years.
(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Law enforcement officer." The term shall have the same meaning as the term "peace officer" is given under section 501 (relating to definitions).
"Firearm." As defined under 42 Pa.C.S. § 9712(e) (relating to sentences for offenses committed with firearms).
(Oct. 17, 2008, P.L.1628, No.131, eff. 60 days; Nov. 3, 2022, P.L.1634, No.99, eff. 60 days)

2022 Amendment. Act 99 amended subsecs. (a) and (b).
2008 Amendment. Act 131 added section 2702.1.

Cross References. Section 2702.1 is referred to in section 904 of Title 30 (Fish); section 905.1 of Title 34 (Game); sections 9714, 9719.1 of Title 42 (Judiciary and Judicial Procedure).

§ 2703. Assault by prisoner.

(a) Offense defined.—

(1) Except as provided under section 2704 (relating to assault by life prisoner), a person who is confined in or committed to any local or county detention facility, jail or prison or any State penal or correctional institution or other State penal or correctional facility located in this Commonwealth is guilty of a felony of the second degree if he, while so confined or committed or while undergoing transportation to or from such an institution or facility in or to which he was confined or committed intentionally or knowingly, commits an assault upon any of the following:

(i) Except as provided under subparagraph (ii), another with a deadly weapon or instrument, or by any means or force likely to produce serious bodily injury.

(ii) A detention facility or correctional facility employee with a deadly weapon or instrument, or by any means or force likely to produce bodily injury.

(2) A person is guilty of this offense if:

(i) he intentionally or knowingly causes another to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material when, at the time of the offense, the person knew, had reason to know, should have known or believed such fluid or material to have been obtained from an individual, including the person charged under this section, infected by a communicable disease declared reportable by regulation authorized by the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955; and

(ii) the communicable disease referenced in subparagraph (i) is communicable to another by the method used or attempted to be used to cause another to come into contact with the blood, seminal fluid, saliva, urine or feces.

(3) Except as provided under section 2704, a person who is confined in or committed to any local or county detention facility, jail or prison or any State penal or correctional institution or other State penal or correctional facility located in this Commonwealth is guilty of a felony of the first degree if he, while so confined or committed or while undergoing transportation to or from an institution or facility in or to which he was confined or committed, intentionally or knowingly, commits an assault upon a detention facility or correctional facility employee with a deadly weapon or instrument, or by any means or force likely to produce serious bodily injury.

(b) Consecutive sentences.—The court shall order that any sentence imposed for a violation of subsection (a), or any sentence imposed for a violation of section 2702(a) (relating to aggravated assault) where the victim is a detention facility or correctional facility employee, be served consecutively with the person's current sentence.

(Dec. 10, 1974, P.L.810, No.268; Feb. 18, 1998, P.L.102, No.19, eff. imd.; July 23, 2020, P.L.641, No.63, eff. 60 days; Nov. 3, 2022, P.L.1634, No.99, eff. 60 days)

2022 Amendment. Act 99 amended subsec. (a)(2).

2020 Amendment. Act 63 amended subsec. (a)

Cross References. Section 2703 is referred to in sections 2702.1, 6105 of this title; section 9802 of Title 42 (Judiciary and Judicial Procedure); section 7122 of Title 61 (Prisons and Parole).

§ 2703.1. Aggravated harassment by prisoner.

A person who is confined in or committed to any local or county detention facility, jail or prison or any State penal or correctional institution or other State penal or correctional facility located in this Commonwealth commits a felony of the third degree if he, while so confined or committed or while undergoing transportation to or from such an institution or facility in or to which he was confined or committed, intentionally or knowingly causes or attempts to cause another to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material.
(Feb. 18, 1998, P.L.102, No.19, eff. imd.)

1998 Amendment. Act 19 added section 2703.1.
Cross References. Section 2703.1 is referred to in section 2702.1 of this title.

§ 2704. Assault by life prisoner.
Every person who has been sentenced to death or life imprisonment in any penal institution located in this Commonwealth, and whose sentence has not been commuted, who commits an aggravated assault with a deadly weapon or instrument upon another, or by any means of force likely to produce serious bodily injury, is guilty of a crime, the penalty for which shall be the same as the penalty for murder of the second degree. A person is guilty of this offense if:
(1) he intentionally or knowingly causes another to come into contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material when, at the time of the offense, the person knew, had reason to know, should have known or believed such fluid or material to have been obtained from an individual, including the person charged under this section, infected by a communicable disease declared reportable by regulation authorized by the act of April 23, 1956 (1955 P.L.1510, No.500), known as the Disease Prevention and Control Law of 1955; and
(2) the communicable disease referenced in paragraph (1) is communicable to another by the method used or attempted to be used to cause another to come into contact with the blood, seminal fluid, saliva, urine or feces.
(Mar. 26, 1974, P.L.213, No.46, eff. imd.; Feb. 18, 1998, P.L.102, No.19, eff. imd.; Nov. 3, 2022, P.L.1634, No.99, eff. 60 days)

Cross References. Section 2704 is referred to in sections 2702.1, 2703, 6105 of this title; section 9802 of Title 42 (Judiciary and Judicial Procedure); section 7122 of Title 61 (Prisons and Parole).

§ 2705. Recklessly endangering another person.
A person commits a misdemeanor of the second degree if he recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury.

Cross References. Section 2705 is referred to in sections 2709.1, 2711 of this title; sections 5329, 6711 of Title 23 (Domestic Relations).

§ 2706. Terroristic threats.
(a) Offense defined.—A person commits the crime of terroristic threats if the person communicates, either directly or indirectly, a threat to:
(1) commit any crime of violence with intent to terrorize another;
(2) cause evacuation of a building, place of assembly or facility of public transportation; or

(3) otherwise cause serious public inconvenience, or cause terror or serious public inconvenience with reckless disregard of the risk of causing such terror or inconvenience.

(b) Restitution.—A person convicted of violating this section shall, in addition to any other sentence imposed or restitution ordered under 42 Pa.C.S. § 9721(c) (relating to sentencing generally), be sentenced to pay restitution in an amount equal to the cost of the evacuation, including, but not limited to, fire and police response; emergency medical service or emergency preparedness response; and transportation of an individual from the building, place of assembly or facility.

(c) Preservation of private remedies.—No judgment or order of restitution shall debar a person, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall be reduced by the amount paid under the criminal judgment.

(d) Grading.—An offense under subsection (a) constitutes a misdemeanor of the first degree unless the threat causes the occupants of the building, place of assembly or facility of public transportation to be diverted from their normal or customary operations, in which case the offense constitutes a felony of the third degree.

(e) Definition.—As used in this section, the term "communicates" means conveys in person or by written or electronic means, including telephone, electronic mail, Internet, facsimile, telex and similar transmissions.

(June 18, 1998, P.L.534, No.76, eff. 60 days; Dec. 15, 1999, P.L.915, No.59, eff. 60 days; June 28, 2002, P.L.481, No.82, eff. 60 days)

2002 Amendment. Act 82 amended subsecs. (b), (c) and (d).

1999 Amendment. Act 59 amended subsec. (a) and added subsecs. (d) and (e).

Cross References. Section 2706 is referred to in sections 911, 2711, 5708, 9122.1 of this title; section 5329 of Title 23 (Domestic Relations); section 5552 of Title 42 (Judiciary and Judicial Procedure); section 1532 of Title 75 (Vehicles).

§ 2709. Harassment.

(a) Offense defined.—A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person:

(1) strikes, shoves, kicks or otherwise subjects the other person to physical contact, or attempts or threatens to do the same;

(2) follows the other person in or about a public place or places;

(3) engages in a course of conduct or repeatedly commits acts which serve no legitimate purpose;

(4) communicates to or about such other person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures;

(5) communicates repeatedly in an anonymous manner;

(6) communicates repeatedly at extremely inconvenient hours; or

(7) communicates repeatedly in a manner other than specified in paragraphs (4), (5) and (6).

(a.1) Cyber harassment of a child.—

(1) A person commits the crime of cyber harassment of a child if, with intent to harass, annoy or alarm, the person engages in a continuing course of conduct of making any of the following by electronic means directly to a child or by publication through an electronic social media service:

(i) seriously disparaging statement or opinion about the child's physical characteristics, sexuality, sexual activity or mental or physical health or condition; or

(ii) threat to inflict harm.

(2) (i) If a juvenile is charged with a violation of paragraph (1), the judicial authority with jurisdiction over the violation shall give first consideration to referring the juvenile charged with the violation to a diversionary program under Pa.R.J.C.P. No. 312 (relating to Informal Adjustment) or No. 370 (relating to Consent Decree). As part of the diversionary program, the judicial authority may order the juvenile to participate in an educational program which includes the legal and nonlegal consequences of cyber harassment.

(ii) If the person successfully completes the diversionary program, the juvenile's records of the charge of violating paragraph (1) shall be expunged as provided for under section 9123 (relating to juvenile records).

(b) Stalking.—(Deleted by amendment).

(b.1) Venue.—

(1) An offense committed under this section may be deemed to have been committed at either the place at which the communication or communications were made or at the place where the communication or communications were received.

(2) Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

(3) In addition to paragraphs (1) and (2), an offense under subsection (a.1) may be deemed to have been committed at the place where the child who is the subject of the communication resides.

(c) Grading.—

(1) Except as provided under paragraph (3), an offense under subsection (a)(1), (2) or (3) shall constitute a summary offense.

(2) An offense under subsection (a)(4), (5), (6) or (7) or (a.1) shall constitute a misdemeanor of the third degree.

(3) The grading of an offense under subsection (a)(1), (2) or (3) shall be enhanced one degree if the person has previously violated an order issued under 23 Pa.C.S. § 6108 (relating to relief) involving the same victim, family or household member.

(d) False reports.—A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this section commits an offense under section 4906 (relating to false reports to law enforcement authorities).

(e) Application of section.—This section shall not apply to constitutionally protected activity.

(e.1) Course of conduct.—(Deleted by amendment).

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Communicates." Conveys a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

"Course of conduct." A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

"Emotional distress." A temporary or permanent state of mental anguish.

"Family or household member." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.
"Seriously disparaging statement or opinion." A statement or opinion which is intended to and under the circumstances is reasonably likely to cause substantial emotional distress to a child of the victim's age and which produces some physical manifestation of the distress.

(June 23, 1993, P.L.124, No.28, eff. imd.; Oct. 2, 1997, P.L.379, No.44, eff. 60 days; Dec. 15, 1999, P.L.915, No.59, eff. 60 days; Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Nov. 27, 2013, P.L.1061, No.91, eff. 60 days; July 10, 2015, P.L.140, No.26, eff. 60 days; Nov. 4, 2015, P.L.224, No.59, eff. 60 days)

2015 Amendments. Act 26 amended subsecs. (c)(2) and (f) and added subsecs. (a.1) and (b.1)(3) and Act 59 amended subsec. (e). See the preamble to Act 59 of 2015 in the appendix to this title for special provisions relating to legislative intent.
2013 Amendment. Act 91 amended subsec. (c) and added the def. of "family or household member" in subsec. (f).
2002 Amendment. See sections 9 and 10 of Act 218 in the appendix to this title for special provisions relating to references to section 2709 and references to section 5504.
Cross References. Section 2709 is referred to in sections 4954, 4955, 5708 of this title; sections 6108, 6711 of Title 23 (Domestic Relations); sections 3573, 62A03 of Title 42 (Judiciary and Judicial Procedure); section 6138 of Title 61 (Prisons and Parole).

§ 2709.1. Stalking.
(a) Offense defined.—A person commits the crime of stalking when the person either:
(1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
(2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.
(b) Venue.—
(1) An offense committed under this section may be deemed to have been committed at either the place at which the communication or communications were made or at the place where the communication or communications were received.
(2) Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.
(c) Grading.—
(1) Except as otherwise provided for in paragraph (2), a first offense under this section shall constitute a misdemeanor of the first degree.
(2) A second or subsequent offense under this section or a first offense under subsection (a) if the person has been previously convicted of a crime of violence involving the same victim, family or household member, including, but not limited to, a violation of section 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2705 (relating to recklessly endangering another person),

2718 (relating to strangulation), 2901 (relating to kidnapping), 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), an order issued under section 4954 (relating to protective orders) or an order issued under 23 Pa.C.S. § 6108 (relating to relief) shall constitute a felony of the third degree.

(d) False reports.—A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this section commits an offense under section 4906 (relating to false reports to law enforcement authorities).

(e) Application of section.—This section shall not apply to constitutionally protected activity.

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Communicates." To convey a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

"Course of conduct." A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

"Emotional distress." A temporary or permanent state of mental anguish.

"Family or household member." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

(Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Nov. 4, 2015, P.L.224, No.59, eff. 60 days; June 5, 2020, P.L.246, No.32, eff. 60 days)

2020 Amendment. Act 32 amended subsec. (c)(2).

2015 Amendment. Act 59 amended subsec. (e). See the preamble to Act 59 of 2015 in the appendix to this title for special provisions relating to legislative intent.

2002 Amendment. Act 218 added section 2709.1. See sections 9 and 10 of Act 218 in the appendix to this title for special provisions relating to references to section 2709 and references to section 5504.

Cross References. Section 2709.1 is referred to in sections 2711, 2713.1, 2718, 3133, 4954, 4955, 5708, 6105, 9158 of this title; sections 5322, 5329, 6108, 6344, 6702, 6704, 6711 of Title 23 (Domestic Relations); sections 5920, 62A03, 9774.1 of Title 42 (Judiciary and Judicial Procedure).

§ 2710. Ethnic intimidation.

(a) Offense defined.—A person commits the offense of ethnic intimidation if, with malicious intention toward the race, color, religion or national origin of another individual or group of individuals, he commits an offense under any other provision of this article or under Chapter 33 (relating to arson, criminal mischief and other property destruction) exclusive of section 3307 (relating to institutional vandalism) or under section 3503 (relating to criminal trespass) with respect to such individual or his or her property or with respect to one or more members of such group or to their property.

(b) Grading.—An offense under this section shall be classified as a misdemeanor of the third degree if the other offense is classified as a summary offense. Otherwise, an offense under this section shall

be classified one degree higher in the classification specified in section 106 (relating to classes of offenses) than the classification of the other offense.
(c) Definition.—As used in this section "malicious intention" means the intention to commit any act, the commission of which is a necessary element of any offense referred to in subsection (a) motivated by hatred toward the race, color, religion or national origin of another individual or group of individuals.
(June 18, 1982, P.L.537, No.154, eff. imd.; Dec. 3, 2002, P.L.1176, No.143, eff. imd.; Dec. 9, 2002, P.L.1759, No.218, eff. 60 days)

2008 Effectuation of Declaration of Unconstitutionality. The Legislative Reference Bureau effectuated the 2007 unconstitutionality.
2007 Unconstitutionality. Act 143 of 2002 was declared unconstitutional. Marcavage v. Rendell, 936 A.2d 188 (Pa. Commonwealth 2007).
2002 Amendments. Act 143 amended the entire section and Act 218 amended subsec. (a). Act 218 overlooked the amendment by Act 143, but the amendments do not conflict in substance and both have been given effect in setting forth the text of subsec. (a).
1982 Amendment. See section 2 of Act 154 of 1982 in the appendix to this title for special provisions relating to right of action for injunction, damages or other relief.
Effective Date. After December 2, 2002, and before February 7, 2003, section 2710 will reflect only the amendment by Act 143, as follows:
§ 2710. Ethnic intimidation.
(a) Offense defined.—A person commits the offense of ethnic intimidation if, with malicious intention toward the actual or perceived race, color, religion, national origin, ancestry, mental or physical disability, sexual orientation, gender or gender identity of another individual or group of individuals, he commits an offense under any other provision of this article or under Chapter 33 (relating to arson, criminal mischief and other property destruction) exclusive of section 3307 (relating to institutional vandalism) or under section 3503 (relating to criminal trespass) or under section 5504 (relating to harassment by communication or address) with respect to such individual or his or her property or with respect to one or more members of such group or to their property.
(b) Grading.—An offense under this section shall be classified as a misdemeanor of the third degree if the other offense is classified as a summary offense. Otherwise, an offense under this section shall be classified one degree higher in the classification specified in section 106 (relating to classes of offenses) than the classification of the other offense.
(c) Definition.—As used in this section "malicious intention" means the intention to commit any act, the commission of which is a necessary element of any offense referred to in subsection (a) motivated by hatred toward the actual or perceived race, color, religion or national origin, ancestry, mental or physical disability, sexual orientation, gender or gender identity of another individual or group of individuals.
Cross References. Section 2710 is referred to in section 8309 of Title 42 (Judiciary and Judicial Procedure).

§ 2711. Probable cause arrests in domestic violence cases.
(a) General rule.—A police officer shall have the same right of arrest without a warrant as in a felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2701 (relating to simple assault), 2702(a)(3), (4) and (5) (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2706 (relating to

terroristic threats), 2709.1 (relating to stalking) or 2718 (relating to strangulation) against a family or household member although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence. For the purposes of this subsection, the term "family or household member" has the meaning given that term in 23 Pa.C.S. § 6102 (relating to definitions).

(b) Seizure of weapons.—The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.

(c) Bail.—

(1) A defendant arrested pursuant to this section shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. In no case shall the arresting officer release the defendant from custody rather than taking the defendant before the issuing authority.

(2) In determining whether to admit the defendant to bail, the issuing authority shall consider whether the defendant poses a threat of danger to the victim. In making a determination whether the defendant poses a threat of danger to the victim in cases under this section, the issuing authority may use a pretrial risk assessment tool as set forth in subsection (c.1). If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant shall refrain from entering the residence or household of the victim and the victim's place of employment and shall refrain from committing any further criminal conduct against the victim and shall so notify the defendant thereof at the time the defendant is admitted to bail. Such condition shall expire at the time of the preliminary hearing or upon the entry or the denial of the protection of abuse order by the court, whichever occurs first. A violation of this condition may be punishable by the revocation of any form of pretrial release or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody or a modification of the terms of the bail. The defendant shall be provided a hearing on this matter.

(c.1) Pretrial risk assessment tool.—The president judge of a court of common pleas may adopt a pretrial risk assessment tool for use by the court of common pleas or by the Philadelphia Municipal Court, the Pittsburgh Magistrates Court or magisterial district judges when acting as the issuing authority in cases under this section. The issuing authority may use the pretrial risk assessment tool to aid in determining whether the defendant poses a threat of danger to the victim. However, the pretrial risk assessment tool may not be the only means of determining whether to admit the defendant to bail. Nothing in this subsection shall be construed to conflict with the issuing authority's ability to determine whether to admit the defendant to bail under the Pennsylvania Rules of Criminal Procedure.

(c.2) Pennsylvania Commission on Sentencing.—The following apply to the Pennsylvania Commission on Sentencing:

(1) The commission shall develop a model pretrial risk assessment tool which may be used by the issuing authority in cases under this section, as set forth in subsection (c.1).

(2) Subject to any inconsistent rule of court, in order to ensure that the model pretrial risk assessment tool or other pretrial risk assessment tool adopted under this section is effective, accurate and free from racial or economic bias, prior to the adoption of the tool, the commission shall publish a report of validation using information from cases from the judicial district where the tool is to be utilized. The report shall be updated every two years.

(d) Notice of rights.—Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: "If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for

protection from domestic abuse pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) which could include the following:
(1) An order restraining the abuser from further acts of abuse.
(2) An order directing the abuser to leave your household.
(3) An order preventing the abuser from entering your residence, school, business or place of employment.
(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."
(Feb. 15, 1986, P.L.27, No.10, eff. 60 days; Dec. 19, 1990, P.L.1240, No.206, eff. 90 days; Dec. 20, 2000, P.L.728, No.101, eff. 60 days; Dec. 9, 2002, P.L.1759, No.218, eff. 60 days; Apr. 16, 2018, P.L.89, No.14)

2018 Amendment. Act 14 amended subsecs. (a) and (c)(2) and added subsecs. (c.1) and (c.2), effective in 60 days as to subsecs. (a), (c)(2), (c.1) and (c.2)(1) and two years as to subsec. (c.2)(2).
1990 Amendment. Act 206 amended subsec. (d).
Cross References. Section 2711 is referred to in section 6108.7 of Title 23 (Domestic Relations).

§ 2712. Assault on sports official.
(a) Offense defined.—A person who violates section 2701 (relating to simple assault), where the victim is a sports official who was assaulted during a sports event or was assaulted as a result of his or her official acts as a sports official, is guilty of assault on a sports official.
(b) Grading.—Assault on a sports official is a misdemeanor of the first degree.
(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Sports event." Any interscholastic athletic activity in a junior high school, high school, college or university in this Commonwealth or any other organized athletic activity in this Commonwealth, including a professional or semiprofessional event.
"Sports official." A person at a sports event who enforces the rules of the event, such as an umpire or referee, or a person who supervises the participants, such as a coach. The term includes a trainer, team attendant, game manager, athletic director, assistant athletic director, president, dean, headmaster, principal and assistant principal of a school, college or university.
(Feb. 14, 1990, P.L.54, No.7, eff. imd.)

1990 Amendment. Act 7 added section 2712.

§ 2713. Neglect of care-dependent person.
(a) Offense defined.—A caretaker is guilty of neglect of a care-dependent person if he:
(1) Intentionally, knowingly or recklessly causes bodily injury, serious bodily injury or death by failing to provide treatment, care, goods or services necessary to preserve the health, safety or welfare of a care-dependent person for whom he is responsible to provide care.
(2) Intentionally or knowingly uses a physical restraint or chemical restraint or medication on a care-dependent person, or isolates a care-dependent person contrary to law or regulation, such that bodily injury, serious bodily injury or death results.

(3) Intentionally, knowingly or recklessly endangers the welfare of a care-dependent person for whom he is responsible by failing to provide treatment, care, goods or services necessary to preserve the health, safety or welfare of the care-dependent person.

(b) Penalty.—

(1) A violation of subsection (a)(1) constitutes a misdemeanor of the first degree if the victim suffers bodily injury.

(2) A violation of subsection (a)(1) constitutes a felony of the first degree if the victim suffers serious bodily injury or death.

(3) A violation of subsection (a)(2) constitutes a misdemeanor of the first degree if the victim suffers bodily injury.

(4) A violation of subsection (a)(2) constitutes a felony of the first degree if the victim suffers serious bodily injury or death.

(5) A violation of subsection (a)(3) constitutes a misdemeanor of the second degree, except that where there is a course of conduct of endangering the welfare of a care-dependent person, the offense constitutes a felony of the third degree.

(c) Report during investigation.—When in the course of conducting any regulatory or investigative responsibility, the Department of Aging, the Department of Health or the Department of Public Welfare has a reasonable cause to believe that a care-dependent person or care-dependent persons residing in a facility have suffered bodily injury or been unlawfully restrained in violation of subsection (a)(1) or (2), a report shall be made immediately to the local law enforcement agency or to the Office of Attorney General.

(d) Enforcement.—

(1) The district attorneys of the several counties shall have authority to investigate and to institute criminal proceedings for any violations of this section.

(2) In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and institute criminal proceedings for any violation of this section. A person charged with a violation of this section by the Attorney General shall not have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.

(e) Treatment in conformance with care-dependent person's right to accept or refuse services.—A caretaker or any other individual or facility may offer an affirmative defense to charges filed pursuant to this section if the caretaker, individual or facility can demonstrate through a preponderance of the evidence that the alleged violations result directly from:

(1) the caretaker's, individual's or facility's lawful compliance with a care-dependent person's living will as provided in 20 Pa.C.S. Ch. 54 (relating to health care);

(2) the caretaker's, individual's or facility's lawful compliance with the care-dependent person's written, signed and witnessed instructions, executed when the care-dependent person is competent as to the treatment he wishes to receive;

(3) the caretaker's, individual's or facility's lawful compliance with the direction of the care-dependent person's:

(i) agent acting pursuant to a lawful durable power of attorney under 20 Pa.C.S. Ch. 56 (relating to powers of attorney), within the scope of that power; or

(ii) health care agent acting pursuant to a health care power of attorney under 20 Pa.C.S. Ch. 54 Subch. C (relating to health care agents and representatives), within the scope of that power;

(4) the caretaker's, individual's or facility's lawful compliance with a "Do Not Resuscitate" order written and signed by the care-dependent person's attending physician; or
(5) the caretaker's, individual's or facility's lawful compliance with the direction of the care-dependent person's health care representative under 20 Pa.C.S. § 5461 (relating to decisions by health care representative), provided the care-dependent person has an end-stage medical condition or is permanently unconscious as these terms are defined in 20 Pa.C.S. § 5422 (relating to definitions) as determined and documented in the person's medical record by the person's attending physician.
(e.1) Reckless conduct.—For purposes of this section, a person acts recklessly when the person consciously disregards a substantial and unjustifiable risk to the care-dependent person.
(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Care-dependent person." Any adult who, due to physical or cognitive disability or impairment, requires assistance to meet his needs for food, shelter, clothing, personal care or health care.
"Caretaker." Any person who:
(1) is an owner, operator, manager or employee of any of the following licensed or unlicensed entities:
(i) A nursing home, personal care home, assisted living facility or private care residence.
(ii) A community residential facility or intermediate care facility for a person with mental disabilities.
(iii) An adult daily living center.
(iv) A home health service provider.
(v) A health care facility as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act;
(2) provides care to a care-dependent person in the settings described under paragraph (1);
(3) has an obligation to care for a care-dependent person for monetary consideration in the settings described under paragraph (1);
(4) is an adult who resides with a care-dependent person and who has a legal duty to provide care or who has voluntarily assumed an obligation to provide care because of a familial relationship, contract or court order; or
(5) is an adult who does not reside with a care-dependent person but who has a legal duty to provide care or who has affirmatively assumed a responsibility for care, or who has responsibility by contract or court order.
"Legal entity." An individual, partnership, unincorporated association, corporation or governing authority.
"Person." A natural person, corporation, partnership, unincorporated association or other business entity.
"Private care residence." A private residence, including a domiciliary care home:
(1) in which the owner of the residence or the legal entity responsible for the operation of the residence, for monetary consideration, provides or assists with or arranges for the provision of food, room, shelter, clothing, personal care or health care in the residence, for a period exceeding 24 hours, to fewer than four care-dependent persons who are not relatives of the owner; and
(2) (i) that is not required to be licensed as a long-term care nursing facility, as defined in section 802.1 of the Health Care Facilities Act; and
(ii) that is not identified in paragraph (1) of the definition of "caretaker."
(July 6, 1995, P.L.242, No.28, eff. 60 days; June 25, 1997, P.L.284, No.26, eff. 60 days; June 18, 1998, P.L.503, No.70, eff. 60 days; Nov. 29, 2006, P.L.1484, No.169, eff. 60 days; June 28, 2018, P.L.371, No.53, eff. 60 days; July 11, 2022, P.L.722, No.61, eff. 60 days)

2022 Amendment. Act 61 amended the defs. of "caretaker" and "private care residence" in subsec. (f).
2018 Amendment. Act 53 amended subsecs. (a) and (b) and the def. of "caretaker" in subsec. (f) and added subsec. (e.1) and the defs. of "legal entity" and "private care residence" in subsec. (f).
2006 Amendment. Act 169 amended subsec. (e).
1998 Amendment. Act 70 amended subsec. (d)(2).
1997 Amendment. Act 26 amended subsec. (f).
1995 Amendment. Act 28 added section 2713.
References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.
Cross References. Section 2713 is referred to in sections 2713.1, 4120 of this title; section 5461 of Title 20 (Decedents, Estates and Fiduciaries); section 5552 of Title 42 (Judiciary and Judicial Procedure).

§ 2713.1. Abuse of care-dependent person.
(a) Offense defined.—A caretaker is guilty of abuse of a care-dependent person if the caretaker:
(1) With the intent to harass, annoy or alarm a care-dependent person:
(i) strikes, shoves, kicks or otherwise subjects or attempts to subject a care-dependent person to or threatens a care-dependent person with physical contact;
(ii) engages in a course of conduct or repeatedly commits acts that serve no legitimate purpose;
(iii) communicates to a care-dependent person any lewd, lascivious, threatening or obscene words, language, drawings or caricatures; or
(iv) communicates repeatedly with the care-dependent person at extremely inconvenient hours.
(2) Commits an offense under section 2709.1 (relating to stalking) against a care-dependent person.
(3) With the intent to ridicule or demean a care-dependent person, uses any audio, video or still image of the care-dependent person in any format or medium on or through any electronic service, wireless communication or any form of electronic service or wireless communication as pertaining to communication.
(b) Penalty.—
(1) A violation of subsection (a)(1) constitutes a misdemeanor of the first degree.
(2) A violation of subsection (a)(2) constitutes a felony of the third degree.
(3) A violation of subsection (a)(3) constitutes a misdemeanor of the third degree.
(c) Report during investigation.—When, in the course of conducting a regulatory or investigative responsibility, the Department of Aging, the Department of Health or the Department of Human Services has reasonable cause to believe that a caretaker has engaged in conduct in violation of this section or section 2713 (relating to neglect of care-dependent person), a report shall be made immediately to the local law enforcement agency or to the Office of Attorney General.
(d) Enforcement.—
(1) The district attorneys of the several counties shall have authority to investigate and institute criminal proceedings for a violation of this section or section 2713.
(2) In addition to the authority conferred upon the Attorney General under the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and institute criminal proceedings for a violation of this section. A person charged with a violation of this section by the Attorney General shall not have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if the challenge is

made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the person making the challenge.
(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Care-dependent person." The term shall have the same meaning given to it under section 2713.
"Caretaker." The term shall have the same meaning given to it under section 2713.
"Person." The term shall have the same meaning given to it under section 2713.
(June 28, 2018, P.L.371, No.53, eff. 60 days; June 30, 2021, P.L.231, No.49, eff. 60 days)

2021 Amendment. Act 49 amended subsecs. (a) and (b).
2018 Amendment. Act 53 added section 2713.1.

§ 2714. Unauthorized administration of intoxicant.
A person commits a felony of the third degree when, with the intent to commit an offense under section 3121(a)(4) (relating to rape), 3123(a)(4) (relating to involuntary deviate sexual intercourse), 3125(5) (relating to aggravated indecent assault) or 3126(a)(5) (relating to indecent assault), he or she substantially impairs the complainant's power to appraise or control his or her conduct by administering, without the knowledge of the complainant, drugs or other intoxicants.
(Dec. 19, 1997, P.L.621, No.65, eff. 60 days)

1997 Amendment. Act 65 added section 2714.

§ 2715. Threat to use weapons of mass destruction.
(a) Offense defined.—A person who intentionally:
(1) (Deleted by amendment).
(2) (Deleted by amendment).
(3) reports without factual basis of knowledge the existence or potential existence of a weapon of mass destruction; or
(4) threatens by any means the placement or setting of a weapon of mass destruction;
commits an offense under this section. A separate offense shall occur for each report or threat to place or set a weapon of mass destruction.
(b) Penalty.—An offense under this section shall be graded as follows:
(1) Except as set forth in paragraph (2), a misdemeanor of the first degree.
(2) If the report or threat causes the occupants of a building, place of assembly or facility of public transportation to be diverted from their normal or customary operations, a felony of the third degree.
(3) A felony of the second degree if the offense occurs during a declared state of emergency and the report or threat causes disruption to the operations of any person, business entity or governmental agency where the weapon of mass destruction is reported to exist or threatened to be placed or set.
(c) Emergency response costs.—A person convicted of violating this section shall, in addition to any other sentence imposed or restitution ordered under 42 Pa.C.S. § 9721(c) (relating to sentencing generally), be sentenced to pay restitution in an amount equal to the cost of the evacuation, including, but not limited to, fire and police response; emergency medical service or emergency preparedness response; and transportation of an individual from the building, place of assembly or facility.
(c.1) Preservation of private remedies.—No judgment or order of restitution shall debar a person, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall be reduced by the amount paid under the criminal judgment.

(c.2) Application of section.—(Deleted by amendment).
(d) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Biological agent." A natural or genetically engineered pathogen, toxin, virus, bacteria, prion, fungus or microorganism which causes infections, disease or bodily harm.
"Bomb." An explosive device used for unlawful purposes.
"Chemical agent." Any of the following:
(1) A nerve agent, including tabun (GA), sarin (GB), soman (GD), GF and VX.
(2) A choking agent, including phosgene (CG) and diphosgene (DP).
(3) A blood agent, including hydrogen cyanide (AC), cyanogen chloride (CK) and arsine (SA).
(4) A blister agent. This paragraph includes:
(i) Mustard (H).
(ii) Sulfur mustard (HD).
(iii) HN-1.
(iv) HN-2.
(v) Sulfur mustard (HN-3).
(vi) An arsenical, such as lewisite (L).
(vii) An urticant, such as CX.
(viii) An incapacitating agent, such as B2.
(5) Any other chemical element or compound which causes death or bodily harm.
"Nuclear agent." A radioactive material.
"Weapon of mass destruction." A bomb, biological agent, chemical agent or nuclear agent.

(Dec. 20, 2000, P.L.728, No.101, eff. 60 days; June 28, 2002, P.L.481, No.82, eff. 60 days; Nov. 4, 2015, P.L.224, No.59, eff. 60 days)

2015 Amendment. Act 59 deleted subsec. (c.2). See the preamble to Act 59 of 2015 in the appendix to this title for special provisions relating to legislative intent.

§ 2716. Weapons of mass destruction.
(a) Unlawful possession or manufacture.—A person commits an offense if the person, without lawful authority to do so, intentionally, knowingly or recklessly possesses or manufactures a weapon of mass destruction.
(b) Use.—A person commits an offense if the person, without lawful authority to do so, intentionally, knowingly or recklessly sells, purchases, transports or causes another to transport, delivers or causes to be delivered or uses a weapon of mass destruction and if such action causes any of the following:
(1) Illness or injury to another individual.
(2) Damage to or disruption of a water or food supply or public natural resources, including waterways, State forests and parks, surface water, groundwater and wildlife.
(3) Evacuation of a building, place of assembly or facility of public transportation.
(c) Grading.—
(1) A first offense under subsection (a) constitutes a felony of the second degree. A subsequent offense under subsection (a) constitutes a felony of the first degree.
(2) An offense under subsection (b)(1) constitutes a felony of the first degree. If the offense results in the death of an individual, the defendant shall be sentenced to life imprisonment.

(3) An offense under subsection (b)(2) or (3) constitutes a felony of the first degree.

(d) Restitution.—A person convicted of violating this section shall, in addition to any other sentence imposed or restitution ordered under 42 Pa.C.S. § 9721(c) (relating to sentencing generally), be sentenced to pay restitution in an amount equal to the cost of the evacuation, including, but not limited to, fire and police response; emergency medical service or emergency preparedness response; and transportation of an individual from the building, place of assembly or facility.

(e) Preservation of private remedies.—No judgment or order of restitution shall debar a person, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall be reduced by the amount paid under the criminal judgment.

(f) Possession.—For purposes of this section, an individual shall not be deemed to be in possession of an agent if the individual is naturally exposed to or innocently infected or contaminated with the agent.

(g) Enforcement.—

(1) In addition to the authority conferred upon the Attorney General under sections 205 and 206 of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General has the authority to investigate and to institute criminal proceedings for a violation of this section committed:

(i) anywhere in this Commonwealth;

(ii) in different counties; or

(iii) in this Commonwealth and another jurisdiction.

(2) Each district attorney has the authority to investigate and to institute criminal proceedings for a violation of this section.

(h) Jurisdiction.—No person charged with a violation of this section shall have standing to challenge the authority of the Attorney General under subsection (g)(1). If a challenge is made in violation of this subsection, the challenge shall be dismissed, and no relief shall be available in the courts of this Commonwealth to the person making the challenge.

(i) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Biological agent." A natural or genetically engineered pathogen, toxin, virus, bacteria, prion, fungus or microorganism which causes infections, disease or bodily harm.

"Bomb." An explosive device used for unlawful purposes.

"Chemical agent." Any of the following:

(1) A nerve agent, including tabun (GA), sarin (GB), soman (GD), GF and VX.

(2) A choking agent, including phosgene (CG) and diphosgene (DP).

(3) A blood agent, including hydrogen cyanide (AC), cyanogen chloride (CK) and arsine (SA).

(4) A blister agent. This paragraph includes:

(i) Mustard (H).

(ii) Sulfur mustard (HD).

(iii) HN-1.

(iv) HN-2.

(v) Nitrogen mustard (HN-3).

(vi) An arsenical, such as lewisite (L).

(vii) An urticant, such as CX.

(viii) An incapacitating agent, such as B2.

(5) Any other chemical element or compound which causes death or bodily harm.

"Nuclear agent." A radioactive material.

"Weapon of mass destruction." A biological agent, bomb, chemical agent or nuclear agent.
(June 28, 2002, P.L.481, No.82, eff. 60 days)

2002 Amendment. Act 82 added section 2716.
Cross References. Section 2716 is referred to in sections 5708, 6105 of this title; section 9714 of Title 42 (Judiciary and Judicial Procedure).

§ 2717. Terrorism.
(a) General rule.—A person is guilty of terrorism if he commits a violent offense intending to do any of the following:
(1) Intimidate or coerce a civilian population.
(2) Influence the policy of a government by intimidation or coercion.
(3) Affect the conduct of a government.
(b) Grading and penalty.—
(1) If the violent offense is a misdemeanor or a felony of the third or second degree, an offense under this section shall be classified one degree higher than the classification of the violent offense specified in section 106 (relating to classes of offenses).
(2) If the violent offense is a felony of the first degree, a person convicted of an offense under this section shall be sentenced to a term of imprisonment fixed by the court at not more than 40 years and may be sentenced to pay a fine of not more than $100,000.
(b.1) Forfeiture.—Each foreign or domestic asset related to terrorism, including the following, shall be subject to forfeiture under 42 Pa.C.S. §§ 5803 (relating to asset forfeiture), 5805 (relating to forfeiture procedure), 5806 (relating to motion for return of property), 5807 (relating to restrictions on use), 5807.1 (relating to prohibition on adoptive seizures) and 5808 (relating to exceptions) and no property right shall exist in the asset:
(1) Each foreign or domestic asset:
(i) Of an individual, entity or organization engaged in planning or perpetrating an act in this Commonwealth which violates this section and each foreign or domestic asset affording a person a source of influence over the entity or organization.
(ii) Acquired or maintained by a person with the intent and for the purpose of supporting, planning, conducting or concealing an act in this Commonwealth which violates this section.
(iii) Derived from, involved in or used or intended to be used to commit an act in this Commonwealth which violates this section.
(2) Each asset within this Commonwealth:
(i) Of an individual, entity or organization engaged in planning or perpetrating an act which violates this section.
(ii) Acquired or maintained with the intent and for the purpose of supporting, planning, conducting or concealing an act which violates this section.
(iii) Derived from, involved in or used or intended to be used to commit an act which violates this section.
(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Dangerous to human life or property." A violent act or an act which is intended to or likely to cause death, serious bodily injury or mass destruction.
"Mass destruction." An act which is intended to or likely to destroy or cause serious damage to transportation-related infrastructure or facilities, energy-related infrastructure or facilities, public or

private buildings, places of public accommodation or public works under circumstances evincing depraved indifference to human life or property.
"Violent offense." An offense under this part, including an attempt, conspiracy or solicitation to commit any such offense, which is punishable by imprisonment of more than one year and involves an act dangerous to human life or property.
(July 7, 2006, P.L.342, No.71, eff. 60 days; June 29, 2017, P.L.247, No.13, eff. July 1, 2017)

2017 Amendment. Act 13 added subsec. (b.1).
2006 Amendment. Act 71 added section 2717.
Cross References. Section 2717 is referred to in sections 5803, 9714 of Title 42 (Judiciary and Judicial Procedure).

§ 2718. Strangulation.
(a) Offense defined.—A person commits the offense of strangulation if the person knowingly or intentionally impedes the breathing or circulation of the blood of another person by:
(1) applying pressure to the throat or neck; or
(2) blocking the nose and mouth of the person.
(b) Physical injury.—Infliction of a physical injury to a victim shall not be an element of the offense. The lack of physical injury to a victim shall not be a defense in a prosecution under this section.
(c) Affirmative defense.—It shall be an affirmative defense to a charge under this section that the victim consented to the defendant's actions as provided under section 311 (relating to consent).
(d) Grading.—
(1) Except as provided in paragraph (2) or (3), a violation of this section shall constitute a misdemeanor of the second degree.
(2) A violation of this section shall constitute a felony of the second degree if committed:
(i) against a family or household member as defined in 23 Pa.C.S. § 6102 (relating to definitions);
(ii) by a caretaker against a care-dependent person; or
(iii) in conjunction with sexual violence as defined in 42 Pa.C.S. § 62A03 (relating to definitions) or conduct constituting a crime under section 2709.1 (relating to stalking) or Subchapter B of Chapter 30 (relating to prosecution of human trafficking).
(3) A violation of this section shall constitute a felony of the first degree if:
(i) at the time of commission of the offense, the defendant is subject to an active protection from abuse order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or a sexual violence or intimidation protection order under 42 Pa.C.S. Ch. 62A (relating to protection of victims of sexual violence or intimidation) that covers the victim;
(ii) the defendant uses an instrument of crime as defined in section 907 (relating to possessing instruments of crime) in commission of the offense under this section; or
(iii) the defendant has previously been convicted of an offense under paragraph (2) or a substantially similar offense in another jurisdiction.
(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Care-dependent person." An adult who, due to physical or cognitive disability or impairment, requires assistance to meet his needs for food, shelter, clothing, personal care or health care.
"Caretaker." Any person who:
(1) Is an owner, operator, manager or employee of any of the following:

(i) A nursing home, personal care home, assisted living facility, private care residence or domiciliary home.
(ii) A community residential facility or intermediate care facility for a person with mental disabilities.
(iii) An adult daily living center.
(iv) A home health service provider whether licensed or unlicensed.
(v) An entity licensed under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.
(2) Provides care to a care-dependent person in the settings described under paragraph (1).
(3) Has an obligation to care for a care-dependent person for monetary consideration in the settings described under paragraph (1).
(4) Is an adult who resides with a care-dependent person and who has a legal duty to provide care or who has voluntarily assumed an obligation to provide care because of a familial relationship, contract or court order.
(5) Is an adult who does not reside with a care-dependent person but who has a legal duty to provide care or who has affirmatively assumed a responsibility for care or who has responsibility by contract or court order.
"Legal entity." An individual, partnership, unincorporated association, corporation or governing authority.
"Private care residence."
(1) A private residence:
(i) in which the owner of the residence or the legal entity responsible for the operation of the residence, for monetary consideration, provides or assists with or arranges for the provision of food, room, shelter, clothing, personal care or health care in the residence, for a period exceeding 24 hours, to fewer than four care-dependent persons who are not relatives of the owner; and
(ii) which is not required to be licensed as a long-term care nursing facility, as defined in section 802.1 of the Health Care Facilities Act.
(2) The term does not include:
(i) Domiciliary care as defined in section 2202-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.
(ii) A facility which provides residential care for fewer than four care-dependent adults and which is regulated by the Department of Human Services.
(Oct. 26, 2016, P.L.888, No.111, eff. 60 days)

2016 Amendment. Act 111 added section 2718.
Cross References. Section 2718 is referred to in sections 2709.1, 2711, 5702, 9158 of this title; sections 5329, 6344, 6711 of Title 23 (Domestic Relations); sections 5920, 9714 of Title 42 (Judiciary and Judicial Procedure).

§ 2719. Endangerment of public safety official.
(a) Endangerment of public safety official.—A person commits the offense of endangering a public safety official if the person intentionally or knowingly communicates, or publishes through an electronic social media service, the restricted personal information of a public safety official or a family or household member of a public safety official with:
(1) reckless disregard that the restricted personal information will be used to threaten, intimidate or facilitate the commission of a crime against the public safety official or a family or household member of the public safety official; or

(2) the intent that the restricted personal information will be used to threaten, intimidate or facilitate the commission of a crime against the public safety official or a family or household member of the public safety official.

(b) Grading.—

(1) Except as provided under paragraph (2), an offense under subsection (a) shall constitute a misdemeanor of the first degree.

(2) An offense under subsection (a) that results in bodily injury to a public safety official or a family or household member of a public safety official shall constitute a felony of the second degree.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Communicate." Convey a message by oral, nonverbal, written or electronic means, including telephone, electronic mail, Internet, facsimile, telex, wireless communication or similar transmission.

"Family or household member." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents, children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

"Federal judicial officer." The following:

(1) An active, retired or senior judge of the United States Court of Appeals for the Third Circuit who is a resident of this Commonwealth.

(2) An active, retired or senior judge of a Federal district court for the Eastern, Middle or Western District of Pennsylvania.

(3) An active, retired or senior bankruptcy judge or tax court judge of the United States Bankruptcy Courts or United States Tax Courts for the Eastern, Middle or Western District of Pennsylvania.

(4) An active or senior judge or full-time magistrate of the District Courts of the United States for the Eastern, Middle or Western District of Pennsylvania.

"Public safety official." An individual listed under section 2702(c) (relating to aggravated assault), including a Federal judicial officer.

"Restricted personal information." An individual's image, name, Social Security number, home address, home phone number, mobile phone number, personal email or home fax number.

(Nov. 17, 2022, P.L.2179, No.165, eff. 90 days; Oct. 16, 2024, P.L.981, No.98, eff. 60 days)

2024 Amendment. Act 98 amended the def. of "public safety official" and added the def. of "Federal judicial officer" in subsec. (c).

2022 Amendment. Act 165 added section 2719.

CHAPTER 29
KIDNAPPING

Sec.

2901. Kidnapping.
2902. Unlawful restraint.
2903. False imprisonment.
2904. Interference with custody of children.
2905. Interference with custody of committed persons.
2906. Criminal coercion.
2907. Disposition of ransom.
2908. Missing children.

2909. Concealment of whereabouts of a child.
2910. Luring a child into a motor vehicle or structure.

Enactment. Chapter 29 was added December 6, 1972, P.L.1482, No.334, effective in six months.
Cross References. Chapter 29 is referred to in sections 911, 3104, 3502, 5743.1 of this title; section 3103 of Title 23 (Domestic Relations); sections 5750, 5985.1, 5993 of Title 42 (Judiciary and Judicial Procedure).

§ 2901. Kidnapping.
(a) Offense defined.—Except as provided in subsection (a.1), a person is guilty of kidnapping if he unlawfully removes another a substantial distance under the circumstances from the place where he is found, or if he unlawfully confines another for a substantial period in a place of isolation, with any of the following intentions:
(1) To hold for ransom or reward, or as a shield or hostage.
(2) To facilitate commission of any felony or flight thereafter.
(3) To inflict bodily injury on or to terrorize the victim or another.
(4) To interfere with the performance by public officials of any governmental or political function.
(a.1) Kidnapping of a minor.—A person is guilty of kidnapping of a minor if he unlawfully removes a person under 18 years of age a substantial distance under the circumstances from the place where he is found, or if he unlawfully confines a person under 18 years of age for a substantial period in a place of isolation, with any of the following intentions:
(1) To hold for ransom or reward, or as a shield or hostage.
(2) To facilitate commission of any felony or flight thereafter.
(3) To inflict bodily injury on or to terrorize the victim or another.
(4) To interfere with the performance by public officials of any governmental or political function.
(b) Grading.—The following apply:
(1) Kidnapping under subsection (a) is a felony of the first degree. A removal or confinement is unlawful within the meaning of subsection (a) if it is accomplished by force, threat or deception, or, in the case of an incapacitated person, if it is accomplished without the consent of a parent, guardian or other person responsible for general supervision of his welfare.
(2) Kidnapping under subsection (a.1) is a felony of the first degree. A removal or confinement is unlawful within the meaning of subsection (a.1) if it is accomplished by force, threat or deception, or, in the case of a person under 14 years of age, if it is accomplished without consent of a parent, guardian or other person responsible for general supervision of his welfare.
(Apr. 16, 1992, P.L.108, No.24, eff. 60 days; Dec. 20, 2011, P.L.446, No.111, eff. 60 days)

Cross References. Section 2901 is referred to in sections 2709.1, 5702, 5708, 6105 of this title; sections 5329, 6344, 6702, 6704, 6711 of Title 23 (Domestic Relations); sections 5552, 6302, 9720.2, 9799.14, 9799.55, 9802 of Title 42 (Judiciary and Judicial Procedure); sections 6139, 7122 of Title 61 (Prisons and Parole).

§ 2902. Unlawful restraint.
(a) Offense defined.—Except as provided under subsection (b) or (c), a person commits a misdemeanor of the first degree if he knowingly:
(1) restrains another unlawfully in circumstances exposing him to risk of serious bodily injury; or
(2) holds another in a condition of involuntary servitude.

(b) Unlawful restraint of a minor where offender is not victim's parent.—If the victim is a person under 18 years of age, a person who is not the victim's parent commits a felony of the second degree if he knowingly:
(1) restrains another unlawfully in circumstances exposing him to risk of serious bodily injury; or
(2) holds another in a condition of involuntary servitude.
(c) Unlawful restraint of minor where offender is victim's parent.—If the victim is a person under 18 years of age, a parent of the victim commits a felony of the second degree if he knowingly:
(1) restrains another unlawfully in circumstances exposing him to risk of serious bodily injury; or
(2) holds another in a condition of involuntary servitude.
(d) Definition.—As used in this section the term "parent" means a natural parent, stepparent, adoptive parent or guardian of a minor.
(Dec. 30, 1974, P.L.1120, No.361, eff. imd.; Dec. 20, 2000, P.L.721, No.98, eff. imd.; Dec. 20, 2011, P.L.446, No.111, eff. 60 days)

Cross References. Section 2902 is referred to in section 6105 of this title; sections 5329, 6344 of Title 23 (Domestic Relations); section 9799.14 of Title 42 (Judiciary and Judicial Procedure).

§ 2903. False imprisonment.
(a) Offense defined.—Except as provided under subsection (b) or (c), a person commits a misdemeanor of the second degree if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.
(b) False imprisonment of a minor where offender is not victim's parent.—If the victim is a person under 18 years of age, a person who is not the victim's parent commits a felony of the second degree if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.
(c) False imprisonment of a minor where offender is victim's parent.—If the victim is a person under 18 years of age, a parent of the victim commits a felony of the second degree if he knowingly restrains another unlawfully so as to interfere substantially with his liberty.
(d) Definition.—As used in this section the term "parent" means a natural parent, stepparent, adoptive parent or guardian of a minor.
(Dec. 20, 2000, P.L.721, No.98, eff. imd.; Dec. 20, 2011, P.L.446, No.111, eff. 60 days)

2000 Amendment. See the preamble to Act 98 in the appendix to this title for special provisions relating to legislative intent.
Cross References. Section 2903 is referred to in sections 5329, 6102 of Title 23 (Domestic Relations); section 9799.14 of Title 42 (Judiciary and Judicial Procedure); section 2303 of Title 44 (Law and Justice).

§ 2904. Interference with custody of children.
(a) Offense defined.—A person commits an offense if he knowingly or recklessly takes or entices any child under the age of 18 years from the custody of its parent, guardian or other lawful custodian, when he has no privilege to do so.
(b) Defenses.—It is a defense that:
(1) the actor believed that his action was necessary to preserve the child from danger to its welfare; or

(2) the child, being at the time not less than 14 years old, was taken away at its own instigation without enticement and without purpose to commit a criminal offense with or against the child; or
(3) the actor is the child's parent or guardian or other lawful custodian and is not acting contrary to an order entered by a court of competent jurisdiction.
(c) Grading.—The offense is a felony of the third degree unless:
(1) the actor, not being a parent or person in equivalent relation to the child, acted with knowledge that his conduct would cause serious alarm for the safety of the child, or in reckless disregard of a likelihood of causing such alarm. In such cases, the offense shall be a felony of the second degree; or
(2) the actor acted with good cause for a period of time not in excess of 24 hours; and
(i) the victim child is the subject of a valid order of custody issued by a court of this Commonwealth;
(ii) the actor has been given either partial custody or visitation rights under said order; and
(iii) the actor is a resident of this Commonwealth and does not remove the child from the Commonwealth.
In such cases, the offense shall be a misdemeanor of the second degree.
(July 9, 1984, P.L.661, No.138, eff. imd.)

1984 Amendment. Act 138 amended subsec. (c).
Cross References. Section 2904 is referred to in sections 5329, 6108 of Title 23 (Domestic Relations); section 9799.14 of Title 42 (Judiciary and Judicial Procedure).
§ 2905. Interference with custody of committed persons.
(a) Offense defined.—A person is guilty of a misdemeanor of the second degree if he knowingly or recklessly takes or entices any committed person away from lawful custody when he is not privileged to do so.
(b) Definition.—As used in this section, the term "committed person" means, in addition to anyone committed under judicial warrant, any orphan, neglected or delinquent child, mentally disabled person, or other dependent or incapacitated person entrusted to the custody of another by or through a recognized social agency or otherwise by authority of law.
(Apr. 16, 1992, P.L.108, No.24, eff. 60 days)

1992 Amendment. Act 24 amended subsec. (b).

§ 2906. Criminal coercion.
(a) Offense defined.—A person is guilty of criminal coercion, if, with intent unlawfully to restrict freedom of action of another to the detriment of the other, he threatens to:
(1) commit any criminal offense;
(2) accuse anyone of a criminal offense;
(3) expose any secret tending to subject any person to hatred, contempt or ridicule; or
(4) take or withhold action as an official, or cause an official to take or withhold action.
(b) Defense.—It is a defense to prosecution based on paragraphs (a)(2), (a)(3) or (a)(4) of this section that the actor believed the accusation or secret to be true or the proposed official action justified and that his intent was limited to compelling the other to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure or proposed official action, as by desisting from further misbehavior, making good a wrong done, refraining from taking any action or responsibility for which the actor believes the other disqualified.

(c) Grading.—Criminal coercion is a misdemeanor of the second degree unless the threat is to commit a felony or the intent of the actor is felonious, in which cases the offense is a misdemeanor of the first degree.

Cross References. Section 2906 is referred to in section 3012 of this title.

§ 2907. Disposition of ransom.

A person, other than a member of the family or an intermediary of the family of a person held for ransom, who knowingly receives, retains or disposes of any money or other property of another knowing that the money or other property constitutes a ransom derived from an offense under this chapter, or has reason to believe that such money or other property is ransom derived from an offense under this chapter, is guilty of a felony of the third degree.
(Dec. 30, 1974, P.L.1120, No.361, eff. imd.)

1974 Amendment. Act 361 added section 2907.

§ 2908. Missing children.

(a) Duties of law enforcement agencies.—Law enforcement agencies shall have the following duties with respect to missing children:
(1) To investigate a report of a missing child immediately upon receipt of the report regardless of the age of the missing child or the circumstances surrounding the disappearance of the child. In no case shall law enforcement agencies impose a mandatory waiting period prior to commencing the investigation of a missing child.
(2) When conducting a missing child investigation, to record all information relevant to the missing child and the circumstances surrounding the disappearance of the missing child on the appropriate law enforcement investigative report.
(3) To make an entry into the Missing Persons File through the Commonwealth Law Enforcement Assistance Network (CLEAN) in accord with Pennsylvania State Police policy and procedures immediately upon receipt of sufficient identification information on the missing child.
(3.1) To make an entry into the Unidentified Persons File through Commonwealth Law Enforcement Assistance Network (CLEAN) in accord with Pennsylvania State Police policy and procedures immediately upon:
(i) taking custody of an unidentified living child, such as an infant, or a physically or mentally disabled child; or
(ii) discovering an unidentified deceased child.
(3.2) To deliver any of the missing child's DNA to the Pennsylvania State Police in accordance with 44 Pa.C.S. § 2316.2 (relating to collection of DNA in investigations of high-risk missing persons and missing children) for submission to the National Missing and Unidentified Persons System.
(4) To insure timely cancellation of any entry made pursuant to this section where the missing child has returned or is located.
(a.1) Unidentified deceased children.—Law enforcement agencies and coroners shall, with respect to unidentified deceased children, have the duty to collect DNA samples from the unidentified deceased child and submit the DNA samples to the Pennsylvania State Police in accordance with 44 Pa.C.S. § 2316.4 (relating to collection of DNA in investigations of unidentified decedents) for law enforcement identification purposes and make an entry into the Unidentified Deceased Person File through the Commonwealth Law Enforcement Assistance Network (CLEAN) in accordance with

Pennsylvania State Police policy and procedures immediately upon observing or receiving any descriptive information on an unidentified deceased child.
(b) Definition.—As used in this section the term "child" means a person under 18 years of age.
(May 9, 1985, P.L.31, No.14, eff. imd.; Feb. 2, 1990, P.L.6, No.4, eff. 60 days; June 25, 1992, P.L.315, No.59, eff. 60 days; Feb. 3, 2022, P.L.16, No.4, eff. 60 days)

2022 Amendment. Act 4 amended subsecs. (a) and (a.1). See section 7 of Act 4 in the appendix to this title for special provisions relating to Pennsylvania State Police.
1985 Amendment. Act 14 added section 2908.
Cross References. Section 2908 is referred to in section 5701 of Title 23 (Domestic Relations).

§ 2909. Concealment of whereabouts of a child.
(a) Offense defined.—A person who removes a child from the child's known place of residence with the intent to conceal the child's whereabouts from the child's parent or guardian, unless concealment is authorized by court order or is a reasonable response to domestic violence or child abuse, commits a felony of the third degree. For purposes of this subsection, the term "removes" includes personally removing the child from the child's known place of residence, causing the child to be removed from the child's known place of residence, preventing the child from returning or being returned to the child's known place of residence and, when the child's parent or guardian has a reasonable expectation that the person will return the child, failing to return the child to the child's known place of residence.
(b) Application.—A person may be convicted under subsection (a) if either of the following apply:
(1) The acts that initiated the concealment occurred in this Commonwealth.
(2) The offender or the parent or guardian from whom the child is being concealed resides in this Commonwealth.
(Feb. 2, 1990, P.L.6, No.4, eff. 60 days)

1990 Amendment. Act 4 added section 2909.

§ 2910. Luring a child into a motor vehicle or structure.
(a) Offense.—Unless the circumstances reasonably indicate that the child is in need of assistance, a person who lures or attempts to lure a child into a motor vehicle or structure without the consent, express or implied, of the child's parent or guardian commits an offense.
(a.1) Grading.—The following shall apply:
(1) Except as provided under paragraph (2), an offense under subsection (a) is a misdemeanor of the first degree.
(2) If an offense under subsection (a) involves a child under 13 years of age, the offense is a felony of the second degree.
(a.2) Mistake as to age.—If an offense under subsection (a) involves a child under 13 years of age, it shall be no defense that the defendant did not know the age of the child or reasonably believed the child to be 13 years of age or older.
(b) Affirmative defense.—It shall be an affirmative defense to a prosecution under this section that the person lured or attempted to lure the child into the structure for a lawful purpose.
(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Child." A person under 18 years of age.

"Motor vehicle." Every self-propelled device in, upon or by which any person or property is or may be transported or drawn on a public highway.
"Structure." A house, apartment building, shop, warehouse, barn, building, vessel, railroad car, cargo container, house car, trailer, trailer coach, camper, mine, floating home or other enclosed structure capable of holding a child, which is not open to the general public.
(Feb. 2, 1990, P.L.6, No.4, eff. 60 days; Nov. 10, 2005, P.L.330, No.64, eff. 60 days; Dec. 18, 2013, P.L.1194, No.116, eff. 60 days)

Cross References. Section 2910 is referred to in section 6105 of this title; section 5329 of Title 23 (Domestic Relations); sections 9799.14, 9799.53, 9799.55 of Title 42 (Judiciary and Judicial Procedure); section 3113 of Title 63 (Professions and Occupations (State Licensed)).

CHAPTER 30
HUMAN TRAFFICKING

Subchapter
A. General Provisions
B. Prosecution of Human Trafficking
C. Prevention of Human Trafficking
D. Protection of Victims of Human Trafficking
D.1. Safe Harbor for Sexually Exploited Children
E. Miscellaneous Provisions

Enactment. Chapter 30 was added July 2, 2014, P.L.945, No.105, effective in 60 days.
Prior Provisions. Former Chapter 30, which related to Trafficking of Persons, was added November 9, 2006, P.L.1340, No.139, and repealed July 2, 2014, P.L.945, No.105, effective in 60 days.
Special Provisions in Appendix. See section 9 of Act 105 of 2014 in the appendix to this title for special provisions relating to application of law.
Cross References. Chapter 30 is referred to in sections 911, 3104, 5743.1, 6318 of this title; sections 3103, 5329 of Title 23 (Domestic Relations); sections 5920, 5985.1, 5993, 9718.1 of Title 42 (Judiciary and Judicial Procedure); section 3113 of Title 63 (Professions and Occupations (State Licensed)).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
3001. Definitions.

§ 3001. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Commercial sex act." A sex act for which anything of value is given to or received by a person.
"Commission." The Pennsylvania Commission on Crime and Delinquency.
"County agency." A county children and youth social service agency established under section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, and

supervised by the department under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

"Debt coercion." Exploitation of the status or condition of a debtor arising from a pledge by the debtor of the personal services of the debtor or an individual under the debtor's control as a security or payment for debt, if any of the following apply:

(1) The value of those services as reasonably assessed is not applied toward the liquidation of the debt.

(2) The length and nature of those services are not respectively limited and defined.

(3) The principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

(4) The debtor is coerced to perform sex acts as payment for the debt.

(5) The creditor controls and determines the movement, housing and services performed by the debtor until repayment of the debt.

"Department." The Department of Human Services of the Commonwealth.

"Extortion." As defined in section 3923 (relating to theft by extortion).

"Financial harm." Includes any of the following:

(1) A violation of the act of March 30, 1859 (P.L.318, No.318), entitled "An act for the better securing the Payment of the Wages of Labor in certain counties of this Commonwealth."

(2) A violation of the act of May 23, 1887 (P.L.181, No.122), entitled "An act to regulate the employment of labor."

(3) A criminal violation of the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law (Usury Law).

(4) A violation of Chapter 2 of the act of June 23, 1978 (P.L.537, No.93), known as the Seasonal Farm Labor Act.

(5) A violation of any other law of this Commonwealth governing the payment of wages for labor or services.

"Fund." The Safe Harbor for Sexually Exploited Children Fund.

"Human trafficking." Any activity in violation of section 3011 (relating to trafficking in individuals) either alone or in conjunction with an activity in violation of section 3012 (relating to involuntary servitude).

"Involuntary servitude." Labor servitude or sexual servitude.

"Labor." Work or service of economic or financial value.

"Labor servitude." Labor which is performed or provided by another individual and is induced or obtained by any of the means set forth in section 3012(b).

"Minor." An individual who is less than 18 years of age.

"Record." Information, regardless of physical form or characteristics, that documents a transaction or activity and that is created, received or retained under law or in connection with a transaction, business or activity. The term includes any of the following:

(1) A document, paper, letter, map, book, tape, photograph, film or sound recording.

(2) Information stored or maintained electronically.

(3) A data-processed or image-processed document.

"Serious harm." Any harm, whether physical or nonphysical, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances as the victim of human trafficking to perform or to continue performing labor or a service, a commercial sex act or a performance involving sex acts in order to avoid incurring that harm.

"Service." Any act committed at the behest of, under the supervision of or for the benefit of another.
"Sex act." Any touching or exposure of the sexual or other intimate parts of any individual for the purpose of gratifying sexual desire of any individual.
"Sexual servitude." A commercial sex act or a sex act which is performed or provided by any individual and is induced or obtained from:
(1) A minor.
(2) Any other individual by any of the means set forth in section 3012(b).
"Sexually exploited child." An individual under 18 years of age who:
(1) is a victim of sexual servitude; or
(2) is a victim of an offense under 18 U.S.C. § 1591 (relating to sex trafficking of children or by force, fraud, or coercion).
"Victim of human trafficking" or **"victim."** An individual who has been subjected to human trafficking. The term includes a victim of an offense under this chapter.
(Oct. 24, 2018, P.L.797, No.130, eff. 60 days; Dec. 14, 2023, P.L.366, No.39, eff. 60 days)

2023 Amendment. Act 39 amended the defs. of "sexual servitude" and "victim of human trafficking" or "victim" and added the def. of "commercial sex act."
2018 Amendment. Act 130 added the defs. of "county agency," "department," "fund" and "sexually exploited child."
Cross References. Section 3001 is referred to in section 3065 of this title; section 6702 of Title 23 (Domestic Relations); sections 5945.3, 6328, 9738 of Title 42 (Judiciary and Judicial Procedure).

SUBCHAPTER B
PROSECUTION OF HUMAN TRAFFICKING

Sec.
3011. Trafficking in individuals.
3012. Involuntary servitude.
3013. Patronizing a victim of sexual servitude.
3014. Unlawful conduct regarding documents.
3015. Nonpayment of wages.
3016. Obstruction of justice.
3017. Violation by business entities.
3018. Evidence and defenses to human trafficking.
3019. Victim protection during prosecution.
3020. Restitution.
3021. Asset forfeiture.
3022. Professional licenses.
3023. Cumulative remedies.
3024. Sentencing.
3025. Data collection.
3026. Concurrent jurisdiction.

Cross References. Subchapter B is referred to in section 2718 of this title.

§ 3011. Trafficking in individuals.

(a) Offense defined.—A person commits a felony:

(1) of the first degree if the person recruits, entices, solicits, patronizes, advertises, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to sexual servitude;

(2) of the first degree if the person knowingly benefits financially or receives anything of value from any act that facilitates any activity described in paragraph (1);

(3) of the second degree if the person recruits, entices, solicits, advertises, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to labor servitude; or

(4) of the second degree if the person knowingly benefits financially or receives anything of value from an act which facilitates any activity under paragraph (3).

(b) Trafficking in minors.—Notwithstanding section 1103 (relating to sentence of imprisonment for felony), a person shall be sentenced to a term of imprisonment fixed by the court at not more than 40 years if:

(1) the person violates subsection (a)(1) or (2); and

(2) the violation:

(i) results in a minor being subjected to sexual servitude; and

(ii) is part of a course of conduct subjecting minors to sexual servitude.

(Feb. 5, 2020, P.L.1, No.1, eff. 60 days; Dec. 14, 2023, P.L.366, No.39, eff. 60 days)

2023 Amendment. Act 39 amended subsec. (a)(1).

Cross References. Section 3011 is referred to in sections 3001, 3021, 3064, 5708, 9158 of this title; section 6704 of Title 23 (Domestic Relations); sections 5551, 5552, 9714, 9720.2, 9799.14 of Title 42 (Judiciary and Judicial Procedure); section 6139 of Title 61 (Prisons and Parole).

§ 3012. Involuntary servitude.

(a) Offense defined.—A person commits a felony of the first degree if the person knowingly, through any of the means described in subsection (b), subjects an individual to labor servitude or sexual servitude, except where the conduct is permissible under Federal or State law other than this chapter.

(b) Means of subjecting an individual to involuntary servitude.—A person may subject an individual to involuntary servitude through any of the following means:

(1) Causing or threatening to cause serious harm to any individual.

(2) Physically restraining or threatening to physically restrain another individual.

(3) Kidnapping or attempting to kidnap any individual.

(4) Abusing or threatening to abuse the legal process.

(5) Taking or retaining the individual's personal property or real property as a means of coercion.

(6) Engaging in unlawful conduct with respect to documents, as defined in section 3014 (relating to unlawful conduct regarding documents).

(7) Extortion.

(8) Fraud.

(9) Criminal coercion, as defined in section 2906 (relating to criminal coercion).

(10) Duress, through the use of or threat to use unlawful force against the person or another.

(11) Debt coercion.

(12) Facilitating or controlling the individual's access to a controlled substance.

(13) Using any scheme, plan or pattern intended to cause the individual to believe that, if the individual does not perform the labor, services, acts or performances, that individual or another individual will suffer serious harm or physical restraint.

Cross References. Section 3012 is referred to in sections 3001, 3018, 3021, 3064, 5708, 9158 of this title; section 6704 of Title 23 (Domestic Relations); sections 5551, 5552, 9720.2, 9799.14 of Title 42 (Judiciary and Judicial Procedure); section 6139 of Title 61 (Prisons and Parole).

§ 3013. Patronizing a victim of sexual servitude.

(a) Offense defined.—

(1) A person commits a felony of the first degree if the person engages in any sex act or performance with another individual knowing that the act or performance is the result of the individual being a victim of human trafficking.

(2) A person commits an offense if the person engages in any sex act or performance with another individual with reckless disregard for whether the act or performance is the result of the individual being a victim of human trafficking. An offense under this paragraph constitutes:

(i) A felony of the third degree when the offense is a first offense.

(ii) A felony of the first degree when the offense is a second or subsequent offense.

(3) A person commits an offense if the person engages in a sex act or performance with an individual who is under 18 years of age, causing the individual to engage in a commercial sex act and with reckless disregard for whether the act or performance is the result of the individual being a victim of human trafficking. An offense under this paragraph constitutes:

(i) A felony of the second degree when the offense is a first offense.

(ii) A felony of the first degree when the offense is a second or subsequent offense.

(b) Investigation.—An individual arrested for a violation of section 5902(e) (relating to prostitution and related offenses) may be formally detained and questioned by law enforcement personnel to determine if the individual engaged in any sex act or performance with the alleged prostitute knowing that the individual is a victim of human trafficking.

(c) Fine.—A person whose violation of this section results in a judicial disposition other than acquittal or dismissal shall also pay a fine in one of the following amounts to the court, to be distributed to the commission to fund the grant program established under section 3031 (relating to grants):

(1) Except as otherwise provided in paragraph (2):

(i) Not less than $1,000 and not more than the maximum amount applicable under section 1101 (relating to fines).

(ii) A person convicted of a second offense shall pay a fine of not less than $5,000 nor more than $25,000.

(iii) A person convicted of a third or subsequent offense shall pay a fine of not less than $10,000 nor more than $50,000.

(2) Not less than $10,000 nor more than $50,000, if the victim of sexual servitude was a minor at the time of the offense.

(d) Distribution of fines.—

(1) From all fines collected under this section, 50% shall be deposited in the Safe Harbor for Sexually Exploited Children Fund established under section 3064 (relating to Safe Harbor for Sexually Exploited Children Fund) and 50% shall be deposited in the restricted account established in paragraph (2).

(2) The Prevention of Human Trafficking Restricted Account is established in the General Fund. The money in the restricted account is appropriated on a continuing basis to the commission for the purpose of funding the grant programs under section 3031.
(Feb. 5, 2020, P.L.1, No.1, eff. 60 days; Dec. 14, 2023, P.L.366, No.39, eff. 60 days)

2023 Amendment. Act 39 added subsec. (a)(3).
2020 Amendment. Act 1 amended subsecs. (a) and (c) and added subsec. (d).
Cross References. Section 3013 is referred to in sections 3021, 3064 of this title; section 6704 of Title 23 (Domestic Relations); section 9799.14 of Title 42 (Judiciary and Judicial Procedure).

§ 3014. Unlawful conduct regarding documents.
A person commits a felony of the third degree if, to prevent or restrict or attempt to prevent or restrict, without lawful authority, the ability of an individual to move or travel, the person knowingly destroys, conceals, removes, confiscates or possesses an actual or purported:
(1) passport or other immigration document of an individual; or
(2) government identification document of an individual.

Cross References. Section 3014 is referred to in section 3012 of this title.

§ 3015. Nonpayment of wages.
(a) Offense defined.—A person who, in connection with, as a part of or in addition to engaging in human trafficking, willfully or with intent to defraud, fails or refuses to pay wages for or otherwise causes financial harm to an individual in connection with labor services rendered commits:
(1) A misdemeanor of the third degree if the amount owed to the individual is less than $2,000.
(2) A felony of the third degree, if:
(i) the amount owed to the individual is equal to or greater than $2,000;
(ii) the failure or refusal constitutes a second or subsequent violation of this section; or
(iii) the person falsely denies the amount due or the validity of the debt.
(b) Offenses cumulative.—A person commits a separate offense under this section for each calendar month during which the individual earned wages that the person failed to pay or was otherwise financially harmed.

§ 3016. Obstruction of justice.
A person who commits a violation of Subchapter B of Chapter 49 (relating to victim and witness intimidation) or Chapter 51 (relating to obstructing governmental operations) that in any way interferes with or prevents the enforcement of this chapter shall be subject to the same penalties that may be imposed for the offense for which the person has been charged under this chapter.

§ 3017. Violation by business entities.
(a) Penalty.—Any business entity, including a corporation or unincorporated association, limited liability partnership or company or other legal entity, that knowingly aids or participates in any violation of this chapter, shall be subject to any of the following penalties:
(1) A fine of not more than $1,000,000.
(2) Revocation of the business entity's:

(i) charter, if it is organized under the laws of this Commonwealth; or
(ii) certificate of authority to do business in this Commonwealth, if the business entity is not organized under the laws of this Commonwealth.
(3) Other relief as the court deems equitable, including forfeiture of assets or restitution as provided in this chapter.
(b) Disposition of fines.—Fines imposed under this section shall be deposited as provided in section 3031 (relating to grants).

§ 3018. Evidence and defenses to human trafficking.
(a) General rule.—Evidence of the age of the victim of human trafficking with respect to the age of consent to sex or legal age of marriage shall not constitute a defense in a prosecution for a violation under this chapter, nor shall the evidence preclude a finding of a violation under this chapter.
(1) (Deleted by amendment).
(2) (Deleted by amendment).
(a.1) Evidence of victim's sexual conduct.—The provisions of section 3104 (relating to evidence of victim's sexual conduct) shall apply to prosecutions under this chapter.
(b) Victim's consent to employment contract in labor servitude.—The consent of the victim of human trafficking to an employment contract, notwithstanding if there was not fraud involved in the contract's formation, shall not be a defense to labor trafficking if force or coercion as described in section 3012(b) (relating to involuntary servitude) were involved in the making of the contract.
(c) Victim's age in sexual servitude.—Except as provided in section 3102 (relating to mistake as to age), evidence of a defendant's lack of knowledge of a person's age, or a reasonable mistake of age, is not a defense for a violation of this chapter involving the sexual servitude of a minor.
(June 30, 2021, P.L.179, No.32, eff. 60 days)

2021 Amendment. Act 32 amended subsec. (a) and added subsec. (a.1).

§ 3019. Victim protection during prosecution.
(a) Disclosure of name of victim of human trafficking.—Notwithstanding any other provision of law to the contrary, unless the court otherwise orders in a prosecution involving a victim of human trafficking, an officer or employee of the court may not disclose the identity of the victim of human trafficking to the public. Any record revealing the name of the victim of human trafficking shall not be open to public inspection.
(b) Affirmative defense.—An individual who is charged with any violation under section 5902 (relating to prostitution and related offenses) may offer the defense at trial that he engaged in the conduct charged because he was compelled to do so by coercion or the use of or a threat to use unlawful force against his person or the person of another, which a person of reasonable firmness in his situation would have been unable to resist.
(c) Diversionary program.—An individual who is charged with violating a trespassing, loitering, obstruction of highway, disorderly conduct or simple possession of a controlled substance statute as a direct result of being a victim of human trafficking, where the violation is his first offense, shall be given first consideration for a pretrial diversionary program by the judicial authority with jurisdiction over the violations. If the individual successfully completes the diversionary program, the court shall order that the individual's records of the charge of violating the statute shall be expunged as provided for under section 9122 (relating to expungement).
(d) Motion to vacate conviction.—

(1) An individual convicted under section 3503 (relating to criminal trespass), 5503 (relating to disorderly conduct), 5506 (relating to loitering and prowling at night time), 5507 (relating to obstructing highways and other public passages) or 5902 or an offense for simple possession of a controlled substance committed as a direct result of being a victim of human trafficking may file a motion to vacate the conviction.
(2) In order to be considered, a motion under this subsection must:
(i) Be in writing.
(ii) Be consented to by the attorney for the Commonwealth.
(iii) Describe the supporting evidence with particularity.
(iv) Include copies of any documents showing that the moving party is entitled to relief under this section.
(e) Official documentation.—No official determination or documentation is required to grant a motion under this section, but official documentation from a Federal, State or local government agency indicating that the defendant was a victim at the time of the offense creates a presumption that the defendant's participation in the offense was a direct result of being a victim.
(f) Grant of motion.—The court shall grant the motion if it finds that:
(1) The moving party was convicted of an offense described in subsection (d)(1).
(2) The conviction was obtained as a result of the moving party's having been a victim of human trafficking.
(g) Conviction vacated.—If the motion under subsection (d) is granted, the court shall vacate the conviction, strike the adjudication of guilt and order the expungement of the record of the criminal proceedings. The court shall issue an order to expunge all records and files related to the moving party's arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings and probation for the offense.

§ 3020. Restitution.
In addition to the provisions of section 1106 (relating to restitution for injuries to person or property), the following shall apply:
(1) A person who violates this chapter shall be ineligible to receive restitution.
(2) The following items may be included in an order of restitution:
(i) For the period during which the victim of human trafficking was engaged in involuntary servitude, the greater of the following:
(A) The value of the victim's time during the period of involuntary servitude as guaranteed under the minimum wage and overtime provisions of the laws of this Commonwealth.
(B) The gross income or value to the defendant of the services of the victim.
(C) The amount the victim was promised or the amount an individual in the position of the victim would have reasonably expected to earn. This clause shall not apply to the amount an individual would have reasonably expected to earn in an illegal activity.
(ii) The return of property of the victim of human trafficking, cost of damage to the property or the replacement value of the property if taken, destroyed or damaged beyond repair as a result of human trafficking.
(3) Collection and distribution of restitution payments shall be governed by the provisions of 42 Pa.C.S. §§ 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties), 9730 (relating to payment of court costs, restitution and fines) and 9730.1 (relating to collection of court costs, restitution and fines by private collection agency).

§ 3021. Asset forfeiture.

(a) General rule.—The following shall be subject to forfeiture to this Commonwealth, and no property right shall exist in them:

(1) All assets, foreign or domestic:

(i) Of an individual, entity or organization engaged in planning or perpetrating an act in this Commonwealth which violates section 3011 (relating to trafficking in individuals) or 3012 (relating to involuntary servitude).

(ii) Affording a person a source of influence over the individual, entity or organization under subparagraph (i).

(iii) Acquired or maintained by a person with the intent and for the purpose of supporting, planning, conducting or concealing an act in this Commonwealth which violates section 3011 or 3012.

(iv) Derived from, involved in or used or intended to be used to commit an act in this Commonwealth which violates section 3011 or 3012.

(2) All assets within this Commonwealth:

(i) Of an individual, entity or organization engaged in planning or perpetrating an act which violates section 3011 or 3012.

(ii) Acquired or maintained with the intent and for the purpose of supporting, planning, conducting or concealing an act which violates section 3011 or 3012.

(iii) Derived from, involved in or used or intended to be used to commit an act which violates section 3011 or 3012.

(b) Process and seizures.—

(1) Property subject to forfeiture under this section may be seized by a law enforcement agency upon process issued by any court of common pleas having jurisdiction over the property.

(2) Seizure without process may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant or inspection under an administrative inspection warrant;

(ii) the property subject to seizure has been the subject of a prior judgment in favor of the Commonwealth in a criminal injunction or forfeiture proceeding under this chapter;

(iii) there is probable cause to believe that the property is dangerous to health or safety; or

(iv) there is probable cause to believe that the property has been used or is intended to be used in violation of this chapter.

(3) In the event that seizure without process occurs as provided for in paragraph (2), proceedings for the issuance of process shall be instituted promptly.

(c) Custody of property.—

(1) Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the law enforcement agency, the district attorney or the Attorney General subject only to the orders and decrees of the court of common pleas having jurisdiction over the forfeiture proceedings.

(2) When property is seized under this section, the law enforcement agency shall place the property under seal and either:

(i) remove the property to a place designated by it; or

(ii) require that the district attorney take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(d) Transfer of property.—If property is forfeited under this section, the property shall be transferred to the custody of the district attorney if the law enforcement authority seizing the property has county or local jurisdiction, or the Attorney General if the law enforcement authority seizing the

property has Statewide jurisdiction. The Attorney General or district attorney, where appropriate, may sell the property. The proceeds from a sale shall first be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance of the proceeds shall be distributed under subsection (m).

(e) Proceedings and petition.—

(1) The proceedings for the forfeiture or condemnation of property shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant.

(2) A petition shall:

(i) be filed in the court of common pleas of the judicial district where the property is located;

(ii) be verified by oath or affirmation of an officer or citizen; and

(iii) contain the following:

(A) A description of the property seized.

(B) A statement of the time and place where seized.

(C) The owner, if known.

(D) The person or persons in possession, if known.

(E) An allegation that the property is subject to forfeiture under this section and an averment of material facts upon which forfeiture action is based.

(F) A prayer for an order of forfeiture that the property be adjudged forfeited to the Commonwealth and condemned unless cause to the contrary is shown.

(f) Service.—

(1) A copy of the petition required under subsection (e) shall be served personally or by certified mail on the owner or the person or persons in possession at the time of the seizure.

(2) The copy shall have endorsed a notice as follows:

To the claimant of the within described property:

You are required to file an answer to this petition, setting forth your title in and right to possession of the property within 30 days from the service of this notice. You are also notified that, if you fail to file the answer, a decree of forfeiture and condemnation will be entered against the property.

(3) The notice shall be signed by the district attorney, deputy district attorney or assistant district attorney or the Attorney General or a deputy attorney general.

(g) Notice.—

(1) Notice of the petition shall be given by the Commonwealth through an advertisement in only one newspaper of general circulation published in the county where the property shall have been seized, once a week for two successive weeks if:

(i) the owner of the property is unknown;

(ii) there was no person in possession of the property when seized; or

(iii) the owner or the person or persons in possession at the time of the seizure cannot be personally served or located within the jurisdiction of the court.

(2) Notwithstanding any other law to the contrary, no advertisement shall be required.

(3) The notice shall:

(i) contain a statement of the seizure of the property, a description of the property and the place and date of seizure; and

(ii) direct any claimants to the property to file a claim on or before a date given in the notice, which date shall not be less than 30 days from the date of the first publication.

(4) If no claims are filed within 30 days of publication, the property shall summarily forfeit to the Commonwealth.

(h) Unknown owner.—For purposes of this section, the owner or other person cannot be found in the jurisdiction of the court if:
(1) A copy of the petition is mailed to the last known address by certified mail and is returned without delivery.
(2) Personal service is attempted once but cannot be made at the last known address.
(3) A copy of the petition is left at the last known address.
(i) Waiver of notice.—The notice provisions of this section are automatically waived if the owner, without good cause, fails to appear in court in response to a subpoena on the underlying criminal charges. If good cause has not been demonstrated and 45 days have passed since the owner failed to appear, the property shall summarily forfeit to the Commonwealth.
(j) Hearing date.—Upon the filing of a claim for the property setting forth a right of possession, the case shall be deemed at issue, and a date and time shall be fixed for the hearing.
(k) Burden of proof.—If the Commonwealth produces evidence at the hearing under this section that the property in question was unlawfully used, possessed or otherwise subject to forfeiture under this section, the burden shall be upon the claimant to show by a preponderance of the evidence that:
(1) the claimant is the owner of the property or the holder of a chattel mortgage or contract of conditional sale thereon;
(2) the claimant lawfully acquired the property; and
(3) the property was not unlawfully used or possessed by the claimant. If it appears that the property was unlawfully used or possessed by a person other than the claimant, the claimant shall show that the unlawful use or possession was without his knowledge or consent. The absence of knowledge or consent must be reasonable under the circumstances presented.
(l) Claims of ownership.—
(1) A person may file a petition or answer the Commonwealth's petition alleging:
(i) Ownership of the property.
(ii) A right of possession to the property.
(iii) A lien or reservation of title to the property as the holder of:
(A) a chattel mortgage upon the property; or
(B) a contract of conditional sale upon the property.
(2) A public hearing shall be held, with due notice given to the district attorney or Attorney General.
(3) The court may order the property returned or delivered to the claimant upon proof by a preponderance of the evidence by the claimant that:
(i) the property was lawfully acquired, possessed and used by the claimant; or
(ii) if it appears that the property was unlawfully used by a person other than the claimant, the unlawful use was without the claimant's knowledge or consent. The absence of knowledge or consent must be reasonable under the circumstances presented.
(m) Disposition of proceeds.—Subject to subsection (d), all moneys forfeited and the proceeds from the sale of all property forfeited and seized under this section shall be paid as follows:
(1) Any law enforcement agency shall be reimbursed if it has used its own funds in the detection, investigation, apprehension and prosecution of persons for violation of sections 3011 and 3012.
(2) Any amount remaining after reimbursement under paragraph (1) shall be distributed under the following formula:
(i) Thirty percent to the office of the prosecuting attorney to be used to investigate and prosecute human trafficking cases.
(ii) Seventy percent to the commission, one-half of which shall be deposited in the restricted account established in section 3013(d)(2) (relating to patronizing a victim of sexual servitude) to fund the grant

programs established under section 3031 (relating to grants) and one-half to be used by the Office of Victims' Services within the commission to provide services to victims of human trafficking in the manner set forth in Chapter 9 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(n) Assets located outside United States.—Assets of persons convicted of violations of sections 3011 and 3012 that are located outside the United States shall also be subject to forfeiture to the extent they can be retrieved by the Commonwealth.

(Feb. 5, 2020, P.L.1, No.1, eff. 60 days)

2020 Amendment. Act 1 amended subsec. (m).

§ 3022. Professional licenses.

(a) Suspension of professional license.—The professional license of a licensee who in the course of a violation of this chapter knowingly employs or permits the employment of a victim of human trafficking shall be suspended for a minimum period of one year.

(b) Administrative procedure.—A suspension under subsection (a) shall be subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(c) Definition.—As used in this section, "licensee" shall mean an individual, corporation, partnership, limited liability company or other legal entity that holds a license issued by an administrative board or commission under the Bureau of Professional and Occupational Affairs in the Department of State.

§ 3023. Cumulative remedies.

Any remedies under this chapter shall be in addition to any other criminal penalties or forfeitures authorized under the laws of this Commonwealth.

§ 3024. Sentencing.

The Pennsylvania Commission on Sentencing, in accordance with 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for sentencing enhancements for courts to consider in cases involving trafficking in individuals and involuntary servitude.

§ 3025. Data collection.

The Pennsylvania Commission on Sentencing established in 42 Pa.C.S. § 2151.2 (relating to commission) shall collect data and other relevant information on sentences imposed under this subchapter.

§ 3026. Concurrent jurisdiction.

The Attorney General and the district attorneys of the several counties shall have concurrent authority to investigate and institute criminal proceedings under the provisions of this chapter.

(Oct. 24, 2018, P.L.797, No.130, eff. 60 days)

2018 Amendment. Act 130 added section 3026.

SUBCHAPTER C

PREVENTION OF HUMAN TRAFFICKING

Sec.
3031. Grants.
3032. (Reserved).

§ 3031. Grants.

Subject to the availability of funds, the commission shall make grants to State agencies, units of local government and nongovernmental organizations to:
(1) Develop, expand or strengthen programs for victims of human trafficking. Such programs may include:
(i) Health services, including mental health services.
(ii) Temporary and permanent housing placement.
(iii) Legal and immigration services.
(iv) Employment placement, education and training.
(2) Ensure prevention of human trafficking, including increasing public awareness.
(3) Ensure protection of victims of human trafficking, including training of first responders.

Cross References. Section 3031 is referred to in sections 3013, 3017, 3021 of this title.

§ 3032. (Reserved).

SUBCHAPTER D
PROTECTION OF VICTIMS OF HUMAN TRAFFICKING

Sec.
3051. Civil causes of action.
3052. Protection of victims.
3053. Appropriate implementation for minor victims of human trafficking (Repealed).
3054. Services.
3055. Victims in shelters.
3056. Special relief to restore victim's dignity and autonomy.

§ 3051. Civil causes of action.

(a) General rule.—
(1) An individual who is a victim of human trafficking may bring a civil action against any person that participated in the human trafficking of the individual in the court of common pleas of the county where the individual resides or where any of the alleged violations of this chapter occurred.
(2) An individual who is a victim of the sex trade may bring a civil action in the court of common pleas of the county where the individual resides against a person that:
(i) recruits, profits from or maintains the victim in any sex trade act;
(ii) abuses or causes bodily harm to the victim in any sex trade act; and
(iii) knowingly advertises or publishes advertisements for purposes of recruitment into sex trade activity.
(b) Exception.—This section shall not be construed to create liability for any person who provides goods or services to the general public and to a person who would be liable under subsection (a)(2), absent a showing that the person:

(1) knowingly markets or provides its goods or services to a person liable under subsection (a)(2);
(2) knowingly receives a higher level of compensation from a person liable under subsection (a)(2); or
(3) supervises or exercises control over a person liable under subsection (a)(2).

(c) Damages.—The court may award any of the following forms of relief:
(1) Actual damages.
(2) Compensatory damages.
(3) Punitive damages.
(4) Injunctive relief.
(5) Any other appropriate relief.

(d) Attorney fees and costs.—A prevailing plaintiff who is a victim of human trafficking shall be awarded reasonable attorney fees and costs.

(e) Treble damages.—Treble damages shall be awarded to a victim of human trafficking on proof of actual damages where the defendant's acts were willful and malicious.

(f) Joinder of actions.—In the discretion of the court:
(1) Two or more individuals may join in one action under this section as plaintiffs if their respective actions involve at least one defendant in common.
(2) Two or more persons may be joined in one action under this section as defendants if those persons may be liable to at least one plaintiff in common.

(g) Attempts at avoidance of liability.—No person may avoid liability under this section by:
(1) a conveyance of any right, title or interest in real property; or
(2) an agreement, including an indemnification agreement or hold harmless agreement, that purports to show the consent of the victim of human trafficking.

(h) Statute of limitations.—
(1) An action may be brought under this section by an individual who was the victim of human trafficking while an adult within five years of the last act against that individual that constitutes an offense under this chapter.
(2) An action may be brought under this section by an individual who was a victim of human trafficking while a minor for any offense committed against the victim while the victim was under 18 years of age until that victim reaches 30 years of age.

(i) Estoppel.—A defendant is estopped from asserting a defense of the statute of limitations when the expiration of the statute is due to intentional conduct by the defendant knowingly inducing or coercing the plaintiff to delay the filing of the action.

(j) Nondefenses.—It shall not be a defense to an action under this section that the following occurred:
(1) The victim of the sex trade and the defendant had a consensual sexual relationship.
(2) The defendant is related to the victim of the sex trade by blood or marriage.
(3) The defendant has lived with the victim of the sex trade in any formal or informal household arrangement.
(4) The victim of the sex trade was paid or otherwise compensated for sex trade activity.
(5) The victim of the sex trade engaged in sex trade activity prior to any involvement with the defendant.
(6) The victim of the sex trade continued to engage in sex trade activity following any involvement with the defendant.
(7) The victim of the sex trade made no attempt to escape, flee or otherwise terminate the contact with the defendant.

(8) The victim of the sex trade consented to engage in sex trade activity.
(9) The victim of the sex trade engaged in only a single incident of sex trade activity.
(10) There was no physical contact involved in the sex trade activity.
(11) As a condition of employment, the defendant required the victim of the sex trade to agree not to engage in prostitution.
(12) The defendant's place of business was posted with signs prohibiting prostitution or prostitution-related activities.
(13) The victim of the sex trade has been convicted or charged with prostitution or prostitution-related offenses.
(14) The victim of labor trafficking made no attempt to escape, flee or otherwise terminate the contact with the defendant.
(k) Definitions.—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Sex trade." An act, which if proven beyond a reasonable doubt, could support a conviction for violation or attempted violation of Chapter 59 (relating to public indecency) or section 6312 (relating to sexual abuse of children).
"Victim of the sex trade." An individual who has:
(1) been the object of a solicitation for prostitution;
(2) been the object of a transaction in a sex act;
(3) been intended or compelled to engage in an act of prostitution;
(4) been intended or compelled to engage in a sex act;
(5) been described or depicted in material that advertises an intent or compulsion to engage in sex acts; or
(6) in the case of obscenity or child sexual abuse material, appeared in or been described or depicted in the offending conduct or material.
(Oct. 29, 2024, P.L.1095, No.125, eff. 60 days)

2024 Amendment. Act 125 amended subsec. (k).

§ 3052. Protection of victims.
Law enforcement agencies shall take reasonable steps necessary to identify, protect and assist victims of human trafficking.

§ 3053. Appropriate implementation for minor victims of human trafficking (Repealed).

2018 Repeal. Section 3053 was repealed October 24, 2018, P.L.797, No.130, effective in 60 days.

§ 3054. Services.
(a) Information for victims.—Subject to the availability of funding, the commission shall prepare a model informational form to be used by any person having contact with victims of human trafficking that informs victims of human trafficking, in a language they can understand, of the following:
(1) The procedure for repatriation to the country of citizenship or lawful residence of the victim of human trafficking.
(2) A directory of local service organizations for victims of human trafficking.
(3) A directory of legal services organizations that can assist victims of human trafficking in obtaining or maintaining legal immigration status.

(4) A directory of benefits for victims of human trafficking under Federal and State laws.

(b) Labor standards and working conditions.—The Department of Labor and Industry shall:

(1) Administer labor standards regarding wages, hours of work and working conditions under its jurisdiction without regard to the legal status of the individual's right to work in the United States.

(2) Report to the appropriate law enforcement agency any evidence of human trafficking that may be discovered during the course of an investigation of wages, hours of work and working conditions.

(c) Immigration certification.—

(1) The Attorney General, a district attorney or any representative of a law enforcement agency may certify in writing to the United States Department of Justice or other Federal agency, including the United States Department of Homeland Security, that:

(i) an investigation or prosecution under this chapter has begun; and

(ii) an individual who may be a victim of human trafficking is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under Federal law, to qualify for an appropriate special immigrant visa and to access available Federal benefits.

(2) Cooperation with law enforcement agencies shall not be required of a victim of human trafficking who is a minor.

(3) Certification under this subsection may be made available to the victim of human trafficking and the designated legal representative of the victim of human trafficking.

(d) Access to crime victims services.—Victims of human trafficking shall be eligible for benefits and compensation under the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

§ 3055. Victims in shelters.

(a) Voluntary placement.—Residence of a victim of human trafficking in a shelter or other facility shall be voluntary, and a victim of human trafficking may decline to stay in a shelter or other facility.

(b) Restrictions on admission.—Admission to a shelter:

(1) shall be made without regard to race, religion, ethnic background, sexual orientation, country of origin or culture; and

(2) may not be conditioned on whether the victim of human trafficking is cooperating with a law enforcement agency in its attempts to prosecute persons under this chapter.

§ 3056. Special relief to restore victim's dignity and autonomy.

(a) General rule.—An individual who is a victim of human trafficking and has been tattooed with an identifying mark of human trafficking as a direct result of being trafficked may be eligible for special relief.

(b) Form of special relief.—

(1) An individual who is a victim of human trafficking may be reimbursed from the fund for the costs of removing or covering up a tattoo with an identifying mark.

(2) No reimbursement may be paid if the individual has incurred reimbursable expenses of less than $100, and no reimbursement may exceed $10,000 per individual.

(3) If a reimbursement paid from the fund to an individual is later recovered by an insurance settlement, civil suit settlement or restitution, the individual shall pay to the fund an amount equal to the reimbursement.

(Oct. 24, 2018, P.L.797, No.130, eff. 60 days)

2018 Amendment. Act 130 added section 3056.

SUBCHAPTER D.1
SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN

Sec.
3061. Statewide protocol.
3062. Specialized services for sexually exploited children.
3063. Law enforcement training.
3064. Safe Harbor for Sexually Exploited Children Fund.
3065. Safe harbor for sexually exploited children.

Enactment. Subchapter D.1 was added October 24, 2018, P.L.797, No.130, effective in 60 days.

§ 3061. Statewide protocol.
The department shall develop a Statewide protocol to efficiently and effectively coordinate the provision of specialized services to sexually exploited children.

§ 3062. Specialized services for sexually exploited children.
The department shall, in conjunction with county agencies:
(1) Develop and provide specialized programs and services for sexually exploited children that address a victim's needs, including the following:
(i) Safe and stable housing.
(ii) Access to education.
(iii) Employment and life-skills training.
(iv) Comprehensive case management.
(v) Physical and behavioral health care, including trauma therapy.
(vi) Treatment for drug or alcohol dependency.
(vii) Medical and dental care.
(viii) Access to personal care items and adequate clothing.
(ix) Other needs that sexually exploited children may have as determined by the department or the county agencies.
(2) Ensure that providers of the specialized programs and services provided under paragraph (1) receive sufficient training and understand the unique circumstances surrounding the victimization of sexually exploited children.

Cross References. Section 3062 is referred to in section 3065 of this title.

§ 3063. Law enforcement training.
The Municipal Police Officers' Education and Training Commission and the Pennsylvania State Police shall provide training to appropriate law enforcement officers. The training shall include:
(1) Methods used to identify a sexually exploited child.
(2) Methods used to interview and engage with a sexually exploited child.
(3) Methods to assist victims to access specialized programs and services for a sexually exploited child.
(4) Methods to minimize trauma in the detention of a sexually exploited child.

§ 3064. Safe Harbor for Sexually Exploited Children Fund.

(a) Establishment.—

(1) The Safe Harbor for Sexually Exploited Children Fund is established in the State Treasury and shall be administered by the department.

(2) Appropriations for transfers to the fund and fines paid and interest accrued on money collected under subsection (b) shall be deposited into the fund.

(3) In addition to money that may be appropriated by the General Assembly, the department may apply for and expend Federal grants and contributions from other public, quasi-public or private sources to assist in implementing this subchapter.

(4) Money in the fund shall be used as follows:

(i) At least 50% of the fund may be expended by the department to provide victim services either directly by the department or through grants.

(ii) At least 40% of the fund may be expended to increase public awareness through an anti-demand campaign.

(iii) Not more than 10% of the fund may be expended by the department for the costs of operating and maintaining the fund.

(b) Fines.—Notwithstanding any law to the contrary, the fines provided by this subsection shall be in addition to any fine authorized or required by law:

(1) An individual who is convicted of an offense under section 3011 (relating to trafficking in individuals), 3012 (relating to involuntary servitude), 3013 (relating to patronizing a victim of sexual servitude) or 5902(b) or (b.1) (relating to prostitution and related offenses) shall be ordered to pay a fine of $5,000 for each offense.

(2) An individual who is convicted of an offense under section 5902(e) shall be ordered to pay a fine of $2,500 for each offense.

(3) An individual who is convicted of an offense under section 5902(e), when the individual knew or should have known the victim was under 18 years of age, shall be ordered to pay a fine of $5,000 for each offense.

Cross References. Section 3064 is referred to in section 3013 of this title.

§ 3065. Safe harbor for sexually exploited children.

(a) Safe harbor.—If it is determined by a law enforcement officer, after reasonable detention for investigative purposes, that an individual is under 18 years of age and is determined to be a sexually exploited child as defined in section 3001 (relating to definitions), the individual shall be immune from:

(1) Prosecution or adjudication as a delinquent child for a violation of sections 5507 (relating to obstructing highways and other public passages) and 5902(a) (relating to prostitution and related offenses).

(2) Revocation of an existing term of probation or parole arising from a conviction or adjudication for another offense if the revocation is based on conduct under paragraph (1).

(b) Exceptions to safe harbor.—The safe harbor under subsection (a) shall not:

(1) Interfere with or prevent an investigation, arrest, charge, prosecution, delinquency adjudication or revocation for violations other than a violation under subsection (a).

(2) Bar the admission of evidence in connection with the investigation and prosecution for a violation other than a violation under subsection (a).

(3) Bar the admission of evidence in connection with an investigation and prosecution of an individual who does not qualify for safe harbor as provided under this section.

(c) Detainment.—An individual determined to be a sexually exploited child as defined in section 3001 (relating to definitions) shall be detained no longer than necessary and only to assist the child in securing specialized services available under section 3062 (relating to specialized services for sexually exploited children) or to refer the child to a county agency if required under 42 Pa.C.S. § 6328 (relating to dependency in lieu of delinquency).

(d) Immunity.—In addition to any other immunity or limitation on civil liability, a law enforcement officer or prosecuting attorney who, acting in good faith, investigates, detains, charges or institutes delinquency proceedings against an individual who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the actions.

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec.
3071. Funding.
3072. Nonexclusivity.

§ 3071. Funding.
In addition to any money that may be appropriated from time to time by the General Assembly for its work, the commission may apply for and expend Federal grants and grants and contributions from other public, quasi-public or private sources to assist in implementing this chapter.

§ 3072. Nonexclusivity.
Remedies under this chapter are not exclusive and shall be in addition to other procedures or remedies for a violation or conduct provided for in other law.

CHAPTER 31
SEXUAL OFFENSES

Subchapter
A. General Provisions
B. Definition of Offenses
C. Loss of Property Rights

Enactment. Chapter 31 was added December 6, 1972, P.L.1482, No.334, effective in six months.
Cross References. Chapter 31 is referred to in sections 3104, 3502, 5743.1, 6301, 6318 of this title; section 8801 of Title 20 (Decedents, Estates and Fiduciaries); section 3103 of Title 23 (Domestic Relations); sections 1726.1, 5750, 5920, 5985.1, 5987, 5993, 62A03, 9718.1, 9912 of Title 42 (Judiciary and Judicial Procedure); section 2303 of Title 44 (Law and Justice); section 3113 of Title 63 (Professions and Occupations (State Licensed)).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
3101. Definitions.
3102. Mistake as to age.
3103. Spouse relationships (Repealed).
3104. Evidence of victim's sexual conduct.
3105. Prompt complaint.
3106. Testimony of complainants.
3107. Resistance not required.

§ 3101. Definitions.
Subject to additional definitions contained in subsequent provisions of this chapter which are applicable to specific provisions of this chapter, the following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:
"Complainant." An alleged victim of a crime under this chapter.
"Deviate sexual intercourse." Sexual intercourse per os or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.
"Forcible compulsion." Compulsion by use of physical, intellectual, moral, emotional or psychological force, either express or implied. The term includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after sexual intercourse.
"Foreign object." Includes any physical object not a part of the actor's body.
"Indecent contact." Any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire, in any person.
"Serious bodily injury." As defined in section 2301 (relating to definitions).
"Sexual intercourse." In addition to its ordinary meaning, includes intercourse per os or per anus, with some penetration however slight; emission is not required.
(Dec. 21, 1984, P.L.1210, No.230, eff. 60 days; Feb. 2, 1990, P.L.6, No.4, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 9, 2002, P.L.1350, No.162, eff. 60 days; Dec. 16, 2002, P.L.1953, No.226, eff. 60 days; Dec. 18, 2013, P.L.1163, No.105, eff. Jan. 1, 2014)

2013 Amendment. Act 105 amended the def. of "indecent contact."
2002 Amendments. Act 162 added the def. of "serious bodily injury" and Act 226 added the def. of "serious bodily injury." The amendments by Acts 162 and 226 are identical and therefore have been merged.
Cross References. Section 3101 is referred to in sections 3133, 5902, 5903, 6312 of this title; sections 5533, 6302, 9720.5 of Title 42 (Judiciary and Judicial Procedure).

§ 3102. Mistake as to age.
Except as otherwise provided, whenever in this chapter the criminality of conduct depends on a child being below the age of 14 years, it is no defense that the defendant did not know the age of the child or reasonably believed the child to be the age of 14 years or older. When criminality depends on the child's being below a critical age older than 14 years, it is a defense for the defendant to prove by a

preponderance of the evidence that he or she reasonably believed the child to be above the critical age.
(May 18, 1976, P.L.120, No.53, eff. 30 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days)

1995 Amendment. Section 18 of Act 10, 1st Sp.Sess., provided that the amendment of section 3102 shall apply to offenses committed on or after the effective date of Act 10.
Cross References. Section 3102 is referred to in section 3018 of this title.

§ 3103. Spouse relationships (Repealed).

1995 Repeal. Section 3103 was repealed March 31, 1995, 1st Sp.Sess. (P.L.985, No.10), effective in 60 days.

§ 3104. Evidence of victim's sexual conduct.
(a) General rule.—Evidence of specific instances of the alleged victim's past sexual conduct, past sexual victimization, allegations of past sexual victimization, opinion evidence of the alleged victim's past sexual conduct, and reputation evidence of the alleged victim's past sexual conduct shall not be admissible in prosecutions of any offense listed in subsection (c) except evidence of the alleged victim's past sexual conduct with the defendant where consent of the alleged victim is at issue and such evidence is otherwise admissible pursuant to the rules of evidence.
(b) Evidentiary proceedings.—A defendant who proposes to offer evidence of the alleged victim's past sexual conduct, past sexual victimization, allegations of past sexual victimization, opinion evidence of the alleged victim's past sexual conduct and reputation evidence of the alleged victim's past sexual conduct pursuant to subsection (a) shall file a written motion and offer of proof at the time of trial. If, at the time of trial, the court determines that the motion and offer of proof are sufficient on their faces, the court shall order an in camera hearing and shall make findings on the record as to the relevance and admissibility of the proposed evidence pursuant to the standards set forth in subsection (a).
(c) Applicability.—This section shall apply to prosecutions of any of the following offenses, including conspiracy, attempt or solicitation to commit any of the following offenses, enumerated in this title:
Chapter 27 (relating to assault).
Chapter 29 (relating to kidnapping).
Chapter 30 (relating to human trafficking).
Chapter 31 (relating to sexual offenses).
Section 4302 (relating to incest).
Section 4304 (relating to endangering welfare of children), if the offense involved sexual contact with the victim.
Section 6301(a)(1)(ii) (relating to corruption of minors).
Section 6312(b) (relating to sexual abuse of children).
Section 6318 (relating to unlawful contact with minor).
Section 6320 (relating to sexual exploitation of children).
(May 18, 1976, P.L.120, No.53, eff. 30 days; June 28, 2019, P.L.214, No.24, eff. 60 days)

Cross References. Section 3104 is referred to in section 3018 of this title.

§ 3105. Prompt complaint.
Prompt reporting to public authority is not required in a prosecution under this chapter: Provided, however, That nothing in this section shall be construed to prohibit a defendant from introducing evidence of the complainant's failure to promptly report the crime if such evidence would be admissible pursuant to the rules of evidence.
(May 18, 1976, P.L.120, No.53, eff. 30 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days)

1995 Amendment. Section 18 of Act 10, 1st Sp.Sess., provided that the amendment of section 3105 shall apply to offenses committed on or after the effective date of Act 10.

§ 3106. Testimony of complainants.
The credibility of a complainant of an offense under this chapter shall be determined by the same standard as is the credibility of a complainant of any other crime. The testimony of a complainant need not be corroborated in prosecutions under this chapter. No instructions shall be given cautioning the jury to view the complainant's testimony in any other way than that in which all complainants' testimony is viewed.
(May 18, 1976, P.L.120, No.53, eff. 30 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days)

1995 Amendment. Section 18 of Act 10, 1st Sp.Sess., provided that the amendment of section 3106 shall apply to offenses committed on or after the effective date of Act 10.
Prior Provisions. Former section 3106, which related to the same subject matter, was added December 6, 1972 (P.L.1482, No.334), and repealed November 21, 1973 (P.L.339, No.115), effective in 60 days.

§ 3107. Resistance not required.
The alleged victim need not resist the actor in prosecutions under this chapter: Provided, however, That nothing in this section shall be construed to prohibit a defendant from introducing evidence that the alleged victim consented to the conduct in question.
(May 18, 1976, P.L.120, No.53, eff. 30 days)

1976 Amendment. Act 53 added section 3107.

SUBCHAPTER B
DEFINITION OF OFFENSES

Sec.
3121. Rape.
3122. Statutory rape (Repealed).
3122.1. Statutory sexual assault.
3123. Involuntary deviate sexual intercourse.
3124. Voluntary deviate sexual intercourse (Repealed).
3124.1. Sexual assault.
3124.2. Institutional sexual assault.
3124.3. Sexual assault by sports official, volunteer or employee of nonprofit association.
3125. Aggravated indecent assault.

3126. Indecent assault.
3127. Indecent exposure.
3128. Spousal sexual assault (Repealed).
3129. Sexual intercourse with animal.
3130. Conduct relating to sex offenders.
3131. Unlawful dissemination of intimate image.
3132. Female mutilation.
3133. Sexual extortion.

§ 3121. Rape.

(a) Offense defined.—A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

(1) By forcible compulsion.

(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.

(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.

(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.

(5) Who suffers from a mental disability which renders the complainant incapable of consent.

(6) (Deleted by amendment).

(b) Additional penalties.—In addition to the penalty provided for by subsection (a), a person may be sentenced to an additional term not to exceed ten years' confinement and an additional amount not to exceed $100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

(c) Rape of a child.—A person commits the offense of rape of a child, a felony of the first degree, when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

(d) Rape of a child with serious bodily injury.—A person commits the offense of rape of a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is under 13 years of age and suffers serious bodily injury in the course of the offense.

(e) Sentences.—Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.

(2) Subsection (d) shall be sentenced up to a maximum term of life imprisonment.

(Dec. 21, 1984, P.L.1210, No.230, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 19, 1997, P.L.621, No.65, eff. 60 days; Dec. 9, 2002, P.L.1350, No.162, eff. 60 days; Dec. 16, 2002, P.L.1953, No.226, eff. 60 days)

2002 Amendments. Act 226 overlooked the amendment by Act 162, but the amendments do not conflict in substance (except for the designation of the offenses in subsecs. (c) and (d) as felonies of

the first degree, as to which Act 162 has been given effect) and both have been given effect in setting forth the text of section 3121.

Effective Date. After February 6, 2003, and before February 14, 2003, section 3121 will reflect only the amendment by Act 162, as follows:

§ 3121. Rape.

(a) Offense defined.—A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:

(1) By forcible compulsion.

(2) By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.

(3) Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.

(4) Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.

(5) Who suffers from a mental disability which renders the complainant incapable of consent.

(b) Additional penalties.—In addition to the penalty provided for by subsection (a), a person may be sentenced to an additional term not to exceed ten years' confinement and an additional amount not to exceed $100,000 where the person engages in sexual intercourse with a complainant and has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, any substance for the purpose of preventing resistance through the inducement of euphoria, memory loss and any other effect of this substance.

(c) Rape of a child.—A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant who is less than 13 years of age.

(d) Rape of a child with serious bodily injury.—A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant who is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.

(e) Sentences.—Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:

(1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.

(2) Subsection (d) shall be sentenced up to a maximum term of life imprisonment.

Cross References. Section 3121 is referred to in sections 1111, 2709.1, 2714, 3122.1, 3124.1, 3124.2, 3124.3, 3125, 3141, 5702, 5708, 6105, 9122, 9123, 9158 of this title; sections 4321, 5329, 6303, 6304, 6344, 6702, 6711 of Title 23 (Domestic Relations); sections 5551, 5552, 6302, 6358, 6402, 6403, 9717, 9718, 9720.2, 9799.12, 9799.14, 9799.17, 9799.24, 9799.55, 9799.58 of Title 42 (Judiciary and Judicial Procedure); sections 6139, 7122 of Title 61 (Prisons and Parole).

§ 3122. Statutory rape (Repealed).

1995 Repeal. Section 3122 was repealed March 31, 1995 (1st Sp.Sess., P.L.985, No.10), effective in 60 days.

§ 3122.1. Statutory sexual assault.

(a) Felony of the second degree.—Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:
(1) four years older but less than eight years older than the complainant; or
(2) eight years older but less than 11 years older than the complainant.
(b) Felony of the first degree.—A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.
(Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 20, 2011, P.L.446, No.111, eff. 60 days)

Cross References. Section 3122.1 is referred to in sections 3124.2, 3124.3, 3125, 3141, 9122, 9158 of this title; sections 4321, 5329, 6303, 6344 of Title 23 (Domestic Relations); sections 5551, 5552, 6302, 9799.14, 9802 of Title 42 (Judiciary and Judicial Procedure); section 6139 of Title 61 (Prisons and Parole).

§ 3123. Involuntary deviate sexual intercourse.
(a) Offense defined.—A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:
(1) by forcible compulsion;
(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;
(4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
(5) who suffers from a mental disability which renders him or her incapable of consent; or
(6) (Deleted by amendment).
(7) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.
(b) Involuntary deviate sexual intercourse with a child.—A person commits involuntary deviate sexual intercourse with a child, a felony of the first degree, when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.
(c) Involuntary deviate sexual intercourse with a child with serious bodily injury.—A person commits an offense under this section with a child resulting in serious bodily injury, a felony of the first degree, when the person violates this section and the complainant is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.
(d) Sentences.—Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:
(1) Subsection (b) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.
(2) Subsection (c) shall be sentenced up to a maximum term of life imprisonment.

(e) Definition.—As used in this section, the term "forcible compulsion" includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.
(Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 9, 2002, P.L.1350, No.162, eff. 60 days; Dec. 16, 2002, P.L.1953, No.226, eff. 60 days)

2002 Amendments. Act 226 overlooked the amendment by Act 162, but the amendments do not conflict in substance (except for the designation of the offenses in subsecs. (b) and (c) as felonies of the first degree, as to which Act 162 has been given effect) and both have been given effect in setting forth the text of section 3123.
Effective Date. After February 6, 2003, and before February 14, 2003, section 3123 will reflect only the amendment by Act 162, as follows:
§ 3123. Involuntary deviate sexual intercourse.
(a) Offense defined.—A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant:
(1) by forcible compulsion;
(2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(3) who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;
(4) where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
(5) who suffers from a mental disability which renders him or her incapable of consent; or
(6) who is less than 16 years of age and the person is four or more years older than the complainant and the complainant and person are not married to each other.
(b) Definition.—As used in this section, the term "forcible compulsion" includes, but is not limited to, compulsion resulting in another person's death, whether the death occurred before, during or after the sexual intercourse.
(c) Involuntary deviate sexual intercourse with a child.—A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age.
(d) Involuntary deviate sexual intercourse with a child with serious bodily injury.—A person commits a felony of the first degree when the person engages in deviate sexual intercourse with a complainant who is less than 13 years of age and the complainant suffers serious bodily injury in the course of the offense.
(e) Sentences.—Notwithstanding the provisions of section 1103 (relating to sentence of imprisonment for felony), a person convicted of an offense under:
(1) Subsection (c) shall be sentenced to a term of imprisonment which shall be fixed by the court at not more than 40 years.
(2) Subsection (d) shall be sentenced up to a maximum term of life imprisonment.
Cross References. Section 3123 is referred to in sections 1111, 2709.1, 2714, 3124.1, 3124.2, 3124.3, 3125, 3141, 5702, 5708, 6105, 9122, 9123, 9158 of this title; sections 5329, 6303, 6304, 6344, 6711 of Title 23 (Domestic Relations); sections 5551, 5552, 6302, 6358, 6402, 6403, 9717, 9718, 9720.2, 9799.12, 9799.14, 9799.17, 9799.24, 9799.55, 9799.58 of Title 42 (Judiciary and Judicial Procedure); sections 6139, 7122 of Title 61 (Prisons and Parole).

§ 3124. Voluntary deviate sexual intercourse (Repealed).

1995 Repeal. Section 3124 was repealed March 31, 1995 (1st Sp.Sess., P.L.985, No.10), effective in 60 days.

§ 3124.1. Sexual assault.

Except as provided in section 3121 (relating to rape) or 3123 (relating to involuntary deviate sexual intercourse), a person commits a felony of the second degree when that person engages in sexual intercourse or deviate sexual intercourse with a complainant without the complainant's consent.
(Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days)

1995 Amendment. Act 10, 1st Sp.Sess., added section 3124.1. Section 18 of Act 10, 1st Sp.Sess., provided that section 3124.1 shall apply to offenses committed on or after the effective date of Act 10.

Cross References. Section 3124.1 is referred to in sections 3124.2, 3124.3, 3125, 3141, 5702, 5708, 9122, 9158 of this title; sections 4321, 5329, 6303, 6304, 6344 of Title 23 (Domestic Relations); sections 5551, 5552, 6302, 6307, 6308, 6358, 6402, 6403, 9799.14, 9799.24, 9799.53, 9799.55, 9799.58 of Title 42 (Judiciary and Judicial Procedure); section 6139 of Title 61 (Prisons and Parole).

§ 3124.2. Institutional sexual assault.

(a) General rule.—Except as provided under subsection (a.1) and in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth, or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, detainee, another person being supervised by that person under probation or parole supervision, patient or resident.

(a.1) Institutional sexual assault of a minor.—A person who is an employee or agent of the Department of Corrections or a county correctional authority, youth development center, youth forestry camp, State or county juvenile detention facility, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with an inmate, another person being supervised by that person under probation or parole supervision, detainee, patient or resident who is under 18 years of age.

(a.2) Schools.—

(1) Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a school or any other person who has direct contact with a student at a school commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a student of the school.

(2) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:

(i) "Direct contact." Care, supervision, guidance or control.

(ii) "Employee."

(A) Includes:

(I) A teacher, a supervisor, a supervising principal, a principal, an assistant principal, a vice principal, a director of vocational education, a dental hygienist, a visiting teacher, a home and school visitor, a school counselor, a child nutrition program specialist, a school librarian, a school secretary the selection of whom is on the basis of merit as determined by eligibility lists, a school nurse, a substitute teacher, a janitor, a cafeteria worker, a bus driver, a teacher aide and any other employee who has direct contact with school students.
(II) An independent contractor who has a contract with a school for the purpose of performing a service for the school, a coach, an athletic trainer, a coach hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association or an athletic trainer hired as an independent contractor by the Pennsylvania Interscholastic Athletic Association.
(B) The term does not include:
(I) A student employed at the school.
(II) An independent contractor or any employee of an independent contractor who has no direct contact with school students.
(iii) "School." A public or private school, intermediate unit or area vocational-technical school.
(iv) "Volunteer." The term does not include a school student.
(a.3) Child care.—Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a volunteer or an employee of a center for children commits a felony of the third degree when he engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is receiving services at the center.
(a.4) Peace officers.—
(1) Except as provided under sections 3121, 3122.1, 3123, 3124.1 and 3125, a person who is a peace officer or employee of an agency employing a peace officer in his official capacity commits a felony of the third degree when the person engages in sexual intercourse, deviate sexual intercourse or indecent contact with another person who is under official detention or in the custody of the person or is a confidential informant of the person.
(2) A person who is a peace officer commits a felony of the third degree when the person engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child who is under official detention or in the custody of the person or is a confidential informant of the person.
(a.5) Consent not a defense.—Consent is not a defense to a violation of subsection (a), (a.1), (a.2), (a.3), (a.4) or (a.6).
(a.6) Caretakers.—
(1) Except as provided in paragraph (2) and in sections 3121, 3122.1, 3123, 3124.1 and 3125, a caretaker commits a felony of the third degree if the caretaker engages in sexual intercourse, deviate sexual intercourse or indecent contact with a care-dependent person who receives care, services or treatment in or from a facility.
(2) Paragraph (1) does not apply if the victim and defendant are spouses, persons living as spouses or current sexual or intimate partners whose relationship preexisted the caretaker relationship.
(3) As used in this subsection, the following terms shall have the meanings given to them in this paragraph:
(i) "Care-dependent person." An adult who, due to physical or cognitive disability or impairment, requires assistance to meet the needs for food, shelter, clothing, personal care or health care.
(ii) "Caretaker." A person who is any of the following:
(A) An owner, operator, manager or employee of a facility.
(B) An individual who provides care to a care-dependent person in a facility.

(C) An individual who has an obligation to provide care to a care-dependent person for monetary consideration in a facility.
(D) An individual who does not reside with a care-dependent person but who, with respect to the care-dependent person, has:
(I) a legal duty to provide care;
(II) affirmatively assumed a responsibility to provide care; or
(III) responsibility by contract or court order to provide care.
(iii) "Facility." Any of the following:
(A) A nursing home, personal care home, assisted living facility, private care residence or the care-dependent person's residence.
(B) A community residential facility or intermediate care facility for an individual with a mental disability.
(C) An adult daily living center.
(D) A home health care agency.
(E) A health care facility, as defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.
(iv) "Private care residence." A private residence, including a domiciliary care home:
(A) In which the owner of the residence or the legal entity responsible for the operation of the residence, for monetary consideration, provides or assists with or arranges for the provision of food, room, shelter, clothing, personal care or health care in the residence, for a period exceeding 24 hours, to fewer than four care-dependent persons who are not relatives of the owner.
(B) That is not:
(I) required to be licensed as a long-term care nursing facility, as defined in section 802.1 of the Health Care Facilities Act; and
(II) specified in subparagraph (iii)(A).
(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Agent." A person who is assigned to work in a State or county correctional or juvenile detention facility, a youth development center, youth forestry camp, other licensed residential facility serving children and youth or mental health or mental retardation facility or institution, who is employed by any State or county agency or any person employed by an entity providing contract services to the agency.
"Center for children." Includes a child day-care center, group and family day-care home, boarding home for children, a center providing early intervention and drug and alcohol services for children or other facility which provides child-care services which are subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or which are provided pursuant to a contract with the department or a county social services agency. The term does not include a youth development center, youth forestry camp, State or county juvenile detention facility and other licensed residential facility serving children and youth.
"Child." An individual who is less than 18 years of age.
"Confidential informant." An individual who engages in the activity of associating with persons engaged in criminal activity for the purpose of furnishing information to or acting as an agent for a law enforcement agency.
"Custody." The term includes a traffic stop, a custodial interrogation or an interview conducted in connection with an investigation.
"Official detention." As that term is defined in section 5121 (relating to escape).

(Dec. 21, 1998, P.L.1240, No.157, eff. 60 days; May 10, 2000, P.L.38, No.12, eff. imd.; Dec. 20, 2011, P.L.446, No.111, eff. 60 days; July 23, 2020, P.L.641, No.63, eff. 60 days; July 11, 2022, P.L.722, No.61, eff. 60 days)

2022 Amendment. Act 61 amended subsec. (a.5) and added subsec. (a.6).
2020 Amendment. Act 63 amended subsecs. (a), (a.1) and (b) and added subsecs. (a.4) and (a.5).
References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.
Section 27 of Act 16 of 2019 provided that a reference in statute or regulation to "area vocational-technical school" shall be deemed a reference to "area career and technical school," and a reference in statute or regulation to "vocational curriculums" shall be deemed a reference to "career and technical curriculums."
Cross References. Section 3124.2 is referred to in section 9158 of this title; sections 4321, 5329, 6303 of Title 23 (Domestic Relations); sections 5551, 5552, 9799.14, 9799.53, 9799.55 of Title 42 (Judiciary and Judicial Procedure); section 6139 of Title 61 (Prisons and Parole).

§ 3124.3. Sexual assault by sports official, volunteer or employee of nonprofit association.
(a) Sports official.—Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault) and 3125 (relating to aggravated indecent assault), a person who serves as a sports official in a sports program of a nonprofit association or a for-profit association commits a felony of the third degree when that person engages in sexual intercourse, deviate sexual intercourse or indecent contact with a child under 18 years of age who is participating in a sports program of the nonprofit association or for-profit association.
(b) Volunteer or employee of nonprofit association.—Except as provided in sections 3121, 3122.1, 3123, 3124.1 and 3125, a volunteer or an employee of a nonprofit association having direct contact with a child under 18 years of age who participates in a program or activity of the nonprofit association commits a felony of the third degree if the volunteer or employee engages in sexual intercourse, deviate sexual intercourse or indecent contact with that child.
(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Direct contact." Care, supervision, guidance or control.
"Nonprofit association." As defined in 42 Pa.C.S. § 8332.1 (relating to manager, coach, umpire or referee and nonprofit association negligence standard).
"Sports official." A person who supervises children participating in a sports program of a nonprofit association or a for-profit association, including, but not limited to, a coach, assistant coach, athletic trainer, team attendant, game manager, instructor or a person at a sports program who enforces the rules of a sporting event sponsored by a sports program of a nonprofit association or a for-profit association, including, but not limited to, an umpire or referee, whether receiving remuneration or holding the position as a volunteer.
"Sports program." As defined in 42 Pa.C.S. § 8332.1.
(June 18, 2014, P.L.741, No.56, eff. 60 days)

2014 Amendment. Act 56 added section 3124.3.
Cross References. Section 3124.3 is referred to in section 9799.14 of Title 42 (Judiciary and Judicial Procedure).

§ 3125. Aggravated indecent assault.

(a) Offenses defined.—Except as provided in sections 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse) and 3124.1 (relating to sexual assault), a person who engages in penetration, however slight, of the genitals or anus of a complainant with a part of the person's body for any purpose other than good faith medical, hygienic or law enforcement procedures commits aggravated indecent assault if:

(1) the person does so without the complainant's consent;

(2) the person does so by forcible compulsion;

(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;

(4) the complainant is unconscious or the person knows that the complainant is unaware that the penetration is occurring;

(5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;

(6) the complainant suffers from a mental disability which renders him or her incapable of consent;

(7) the complainant is less than 13 years of age; or

(8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

(b) Aggravated indecent assault of a child.—A person commits aggravated indecent assault of a child when the person violates subsection (a)(1), (2), (3), (4), (5) or (6) and the complainant is less than 13 years of age.

(c) Grading and sentences.—

(1) An offense under subsection (a) is a felony of the second degree.

(2) An offense under subsection (b) is a felony of the first degree.

(Feb. 2, 1990, P.L.6, No.4, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 9, 2002, P.L.1350, No.162, eff. 60 days; Dec. 16, 2002, P.L.1953, No.226, eff. 60 days)

2002 Amendments. The amendments by Acts 162 and 226 are identical and therefore have been merged.

Prior Provisions. Former section 3125, which related to corruption of minors, was added December 6, 1972 (P.L.1482, No.334), and repealed July 1, 1978 (P.L.573, No.104), effective in 60 days.

Cross References. Section 3125 is referred to in sections 1111, 2714, 3124.2, 3124.3, 3141, 5702, 5708, 6105, 9122, 9123, 9158 of this title; sections 5329, 6303, 6304, 6344 of Title 23 (Domestic Relations); sections 5551, 5552, 6302, 6307, 6308, 6358, 6402, 6403, 9718, 9799.12, 9799.14, 9977.17, 9799.24, 9799.55, 9799.58 of Title 42 (Judiciary and Judicial Procedure); sections 6139, 7122 of Title 61 (Prisons and Parole).

§ 3126. Indecent assault.

(a) Offense defined.—A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

(1) the person does so without the complainant's consent;

(2) the person does so by forcible compulsion;

(3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
(4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;
(5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
(6) the complainant suffers from a mental disability which renders the complainant incapable of consent;
(7) the complainant is less than 13 years of age; or
(8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.
(b) Grading.—Indecent assault shall be graded as follows:
(1) An offense under subsection (a)(1) or (8) is a misdemeanor of the second degree.
(2) An offense under subsection (a)(2), (3), (4), (5) or (6) is a misdemeanor of the first degree.
(3) An offense under subsection (a)(7) is a misdemeanor of the first degree unless any of the following apply, in which case it is a felony of the third degree:
(i) It is a second or subsequent offense.
(ii) There has been a course of conduct of indecent assault by the person.
(iii) The indecent assault was committed by touching the complainant's sexual or intimate parts with sexual or intimate parts of the person.
(iv) The indecent assault is committed by touching the person's sexual or intimate parts with the complainant's sexual or intimate parts.
(May 18, 1976, P.L.120, No.53, eff. 30 days; Feb. 2, 1990, P.L.6, No.4, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Nov. 23, 2005, P.L.412, No.76, eff. 60 days)

Cross References. Section 3126 is referred to in sections 2714, 3141, 9122, 9123, 9158 of this title; sections 5329, 6303, 6304, 6344 of Title 23 (Domestic Relations); sections 5552, 6302, 6304, 6352, 6358, 6402, 6403, 9799.14, 9799.24, 9799.55, 9799.58 of Title 42 (Judiciary and Judicial Procedure); sections 6139, 7122 of Title 61 (Prisons and Parole).

§ 3127. Indecent exposure.
(a) Offense defined.—A person commits indecent exposure if that person exposes his or her genitals in any public place or in any place where there are present other persons under circumstances in which he or she knows or should know that this conduct is likely to offend, affront or alarm.
(b) Grading.—If the person knows or should have known that any of the persons present are less than 16 years of age, indecent exposure under subsection (a) is a misdemeanor of the first degree. Otherwise, indecent exposure under subsection (a) is a misdemeanor of the second degree.
(Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days)

1995 Amendment. Section 18 of Act 10, 1st Sp.Sess., provided that the amendment of section 3127 shall apply to offenses committed on or after the effective date of Act 10.
Cross References. Section 3127 is referred to in sections 9122, 9122.1, 9122.3, 9158 of this title; sections 5329, 6303, 6304, 6344 of Title 23 (Domestic Relations); section 5552 of Title 42 (Judiciary and Judicial Procedure); section 2303 of Title 44 (Law and Justice).

§ 3128. Spousal sexual assault (Repealed).

1995 Repeal. Section 3128 was repealed March 31, 1995 (1st Sp.Sess., P.L.985, No.10), effective in 60 days.

§ 3129. Sexual intercourse with animal.
A person who engages in any form of sexual intercourse with an animal commits a misdemeanor of the second degree.
(June 18, 1999, P.L.67, No.8, eff. 60 days)

1999 Amendment. Act 8 added section 3129.
Cross References. Section 3129 is referred to in sections 9122.1, 9122.3 of this title; section 5329 of Title 23 (Domestic Relations); section 62A03 of Title 42 (Judiciary and Judicial Procedure).

§ 3130. Conduct relating to sex offenders.
(a) Offense defined.—A person commits a felony of the third degree if the person has reason to believe that a sex offender is not complying with or has not complied with the requirements of the sex offender's probation or parole, imposed by statute or court order, or with the registration requirements of 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders), and the person, with the intent to assist the sex offender in eluding a law enforcement agent or agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of the sex offender's probation or parole or the requirements of 42 Pa.C.S. Ch. 97 Subch. H or I:
(1) withholds information from or does not notify the law enforcement agent or agency about the sex offender's noncompliance with the requirements of parole, the requirements of 42 Pa.C.S. Ch. 97 Subch. H or I or, if known, the sex offender's whereabouts;
(2) harbors or attempts to harbor or assist another person in harboring or attempting to harbor the sex offender;
(3) conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or
(4) provides information to the law enforcement agent or agency regarding the sex offender which the person knows to be false.
(b) Definition.—As used in this section, the term "sex offender" means a person who is required to register with the Pennsylvania State Police pursuant to the provisions of 42 Pa.C.S. Ch. 97 Subch. H or I.
(Nov. 29, 2006, P.L.1567, No.178, eff. Jan. 1, 2007; Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 3130.
2006 Amendment. See the preamble to Act 178 in the appendix to this title for special provisions relating to legislative intent.
Cross References. Section 3130 is referred to in section 5329 of Title 23 (Domestic Relations); section 62A03 of Title 42 (Judiciary and Judicial Procedure).

§ 3131. Unlawful dissemination of intimate image.

(a) Offense defined.—Except as provided in sections 5903 (relating to obscene and other sexual materials and performances), 6312 (relating to sexual abuse of children) and 6321 (relating to transmission of sexually explicit images by minor), a person commits the offense of unlawful dissemination of intimate image if, with intent to harass, annoy or alarm another, the person disseminates:

(1) A visual depiction of the current or former sexual or intimate partner in a state of nudity or engaged in sexual conduct.

(2) An artificially generated sexual depiction of an individual.

(b) Defense.—It is a defense to a prosecution under this section that the actor disseminated the visual depiction with the consent of the person depicted.

(c) Grading.—

(1) An offense under subsection (a)(1) shall be:

(i) A misdemeanor of the first degree, when the person depicted is a minor.

(ii) A misdemeanor of the second degree, when the person depicted is not a minor.

(2) An offense under subsection (a)(2) shall be:

(i) A misdemeanor of the first degree, when the person depicted is a minor.

(ii) A misdemeanor of the second degree, when the person depicted is not a minor.

(d) Territorial applicability.—A person may be convicted under the provisions of this section if the victim or the offender is located within this Commonwealth.

(e) Nonapplicability.—Nothing in this section shall be construed to apply to a law enforcement officer engaged in the performance of the law enforcement officer's official duties.

(f) Concurrent jurisdiction to prosecute.—In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of this section or any series of violations involving more than one county of this Commonwealth or another state. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if a challenge is made, the challenge shall be dismissed, and no relief shall be made available in the courts of this Commonwealth to the person making the challenge.

(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Artificial intelligence."

(1) A machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments, including the ability to:

(i) perceive real and virtual environments;

(ii) abstract perceptions made under this paragraph into models through analysis in an automated manner; and

(iii) use model inference to formulate options for information or action based on outcomes under subparagraphs (i) and (ii).

(2) The term includes generative artificial intelligence.

"Artificially generated sexual depiction." A visual depiction:

(1) that appears to authentically depict an individual in a state of nudity or engaged in sexual conduct that did not occur in reality; and

(2) the production of which was substantially dependent upon technical means, including artificial intelligence or photo editing software, rather than the ability of another person to physically impersonate the other person.

"Generative artificial intelligence." The class of models that emulate the structure and characteristics of input data in order to generate derived synthetic content, including information such as images, videos, audio clips or text, that has been significantly modified or generated by algorithms, including by artificial intelligence.
"Law enforcement officer." Any officer of the United States, of the Commonwealth or political subdivision thereof, or of another state or subdivision thereof, who is empowered to conduct investigations of or to make arrests for offenses enumerated in this title or an equivalent crime in another jurisdiction, and any attorney authorized by law to prosecute or participate in the prosecution of such offense.
"Minor." An individual under 18 years of age.
"Nudity." As defined in section 5903(e).
"Photo editing software." A software used primarily for editing photographs, videos or computer depictions that contains a variety of filters, effects or tools that can be used to manipulate photographs, videos or computer depictions.
"Sexual conduct." As defined in section 5903(e).
"Visual depiction." As defined in section 6321.
(July 9, 2014, P.L.1013, No.115, eff. 60 days; Oct. 29, 2024, P.L.1095, No.125, eff. 60 days)

2024 Amendment. Act 125 amended subsecs. (a) and (c) and added the defs. of "artificial intelligence," "artificially generated sexual depiction," "generative artificial intelligence" and "photo editing software" in subsec. (g).
2014 Amendment. Act 115 added section 3131.
Cross References. Section 3131 is referred to in sections 6312, 6321 of this title; section 8316.1 of Title 42 (Judiciary and Judicial Procedure).
§ 3132. Female mutilation.
(a) Offense defined.—A person commits the offense of female mutilation if the person:
(1) knowingly circumcises, excises or infibulates the whole or any part of the genitalia of a minor;
(2) is a parent of a minor and the parent knowingly consents or permits the circumcision, excision or infibulation of the whole or any part of the minor's genitalia; or
(3) knowingly removes or permits the removal of a minor from this Commonwealth for the purpose of circumcising, excising or infibulating, in whole or in part, the genitalia of the minor.
(b) Grading.—Female mutilation is a felony of the first degree.
(c) Exception.—The provisions of subsection (a) shall not apply if the circumcision, excision or infibulation is:
(1) necessary to the health of the minor on whom it is performed and either is performed by a physician or is performed in the presence of a physician by a person in training to become a physician in accordance with the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, or the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985; or
(2) performed on a minor in labor or who has just given birth and is performed for medical reasons connected with that labor or birth by a physician or in the presence of a physician by a person in training to become a physician in accordance with the Osteopathic Medical Practice Act or the Medical Practice Act of 1985.
(d) Custom or consent not a defense.—It shall not be a defense to a prosecution under this section that:

(1) the actor believed that the procedure was necessary or appropriate as a matter of custom, ritual or standard practice; or
(2) the minor upon whom the circumcision, excision or infibulation was performed consented to the procedure or that the minor's parent consented to the procedure.
(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Minor." A natural person who is a female under 18 years of age.
"Parent." The term includes a natural parent, stepparent, adoptive parent, guardian or custodian of the minor.
(June 28, 2019, P.L.210, No.21, eff. 60 days)

2019 Amendment. Act 21 added section 3132.

§ 3133. Sexual extortion.
(a) Offense defined.—A person commits the offense of sexual extortion if the person knowingly or intentionally coerces or causes a complainant, through any means set forth in subsection (b), to:
(1) engage in sexual conduct, the simulation of sexual conduct or a state of nudity; or
(2) make, produce, disseminate, transmit or distribute any image, video, recording or other material depicting the complainant in a state of nudity or engaging in sexual conduct or in the simulation of sexual conduct.
(b) Means of subjecting complainant to sexual extortion.—A person subjects a complainant to sexual extortion through any of the following means:
(1) Harming or threatening to harm the complainant or the property of the complainant, the reputation of the complainant or any other thing of value of the complainant.
(2) Making, producing, disseminating, transmitting or distributing or threatening to make, produce, disseminate, transmit or distribute any image, video, recording or other material depicting the complainant in a state of nudity or engaged in sexual conduct or in the simulation of sexual conduct.
(3) Exposing or threatening to expose any fact or piece of information that, if revealed, would tend to subject the complainant to criminal proceedings, a civil action, hatred, contempt, embarrassment or ridicule.
(4) Holding out, withholding or threatening to withhold a service, employment, position or other thing of value.
(5) Threatening to cause or causing a loss, disadvantage or injury, including a loss, disadvantage or injury to a family or household member.
(c) Demanding property.—A person commits the offense of sexual extortion if the person knowingly or intentionally:
(1) solicits or demands the payment of money, property or services or any other thing of value from the complainant or a family or household member of the complainant in exchange for removing from public view or preventing the disclosure of any image, video, recording or other material obtained through a violation of subsection (a)(2); or
(2) disseminates, transmits or distributes, or threatens to disseminate, transmit or distribute, an image, video, recording or other material depicting the complainant in a state of nudity or engaging in sexual conduct or the simulation of sexual conduct to another person or entity, including a commercial social networking site, and solicits or demands the payment of money, property or services or any other thing of value from the complainant or a family or household member of the complainant in exchange

for removing from public view or preventing disclosure of the image, video, recording or other material.

(d) Grading.—

(1) Except as otherwise provided in paragraphs (2) and (3), a violation of this section shall constitute a misdemeanor of the first degree.

(2) A violation of this section shall constitute a felony of the third degree if the actor is at least 18 years of age and:

(i) the complainant is under 18 years of age;

(ii) the complainant has an intellectual disability; or

(iii) the actor holds a position of trust or supervisory or disciplinary power over the complainant by virtue of the actor's legal, professional or occupational status.

(3) A violation of this section shall constitute a felony of the third degree if:

(i) the violation is part of a course of conduct of sexual extortion by the actor; or

(ii) the actor was previously convicted or adjudicated delinquent of a violation of this section or of a similar offense in another jurisdiction.

(e) Sentencing.—The Pennsylvania Commission on Sentencing, in accordance with 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under this section when:

(1) at the time of the offense the complainant is under 18 years of age or has an intellectual disability or the actor holds a position of trust or supervisory or disciplinary power over the complainant by virtue of the actor's legal, professional or occupational status; or

(2) the complainant attempts suicide resulting in serious bodily injury or dies by suicide, within 90 days of the commission of the offense, as a proximate result of the trauma that the complainant experienced during or following the commission of the offense.

(f) Venue.—

(1) An offense committed under this section may be deemed to have been committed at either the place at which the communication was made or at the place where the communication was received.

(2) Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct.

(g) Territorial applicability.—A person may be convicted under the provisions of this section if the complainant or the offender is located within this Commonwealth.

(h) Concurrent jurisdiction to prosecute.—In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of this section or any series of violations involving more than one county of this Commonwealth or another state. No person charged with a violation of this section by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if a challenge is made, the challenge shall be dismissed, and no relief shall be made available in the courts of this Commonwealth to the person making the challenge.

(i) Applicability.—Nothing in this section shall be construed to apply to:

(1) A person who acts within the legitimate and lawful course of the person's employment.

(2) Works of public interest, including commentary, satire or parody.

(j) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Commercial social networking site." A business, organization or other similar entity that operates an Internet website and permits persons to become registered users for the purposes of establishing personal relationships with other users through direct or real-time communication with other users or the creation of web pages or profiles available to the public or to other users. The term does not include an electronic mail program or a message board program.
"Course of conduct." A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct.
"Disseminate." To cause or make an electronic or actual communication from one place or electronic communication device to two or more other persons, places or electronic communication devices.
"Distribute." To sell, lend, rent, lease, give, advertise, publish or exhibit in a physical or electronic medium.
"Family or household member." As defined in section 2709.1(f) (relating to stalking).
"Intellectual disability." Regardless of the age of the individual, significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication; self-care; home living; social and interpersonal skills; use of community resources'; self-direction; functional academic skills; work; health; and safety.
"Nudity." As defined in section 5903(e) (relating to obscene and other sexual materials and performances).
"Sexual conduct." Any of the following:
(1) Intentional touching by the complainant or actor, either directly or through clothing, of the complainant's or actor's intimate parts. Sexual contact of the actor with himself must be in view of the complainant whom the actor knows to be present.
(2) Sexual intercourse as defined in section 3101 (relating to definitions), masturbation, sadism, masochism, bestiality, fellatio, cunnilingus or lewd exhibition of the genitals.
"Simulation." Conduct engaged in that is depicted in a manner that would cause a reasonable viewer to believe was sexual conduct, even if sexual conduct did not occur.
"Transmit." To cause or make an electronic or actual communication from one place or electronic communication device to another person, place or electronic communication device.
(Nov. 27, 2019, P.L.691, No.100, eff. 60 days; July 11, 2022, P.L.772, No.75, eff. 60 days)

2022 Amendment. Act 75 amended subsec. (e). Section 2 of Act 75 provided that the addition of subsec. (e)(2) shall apply to offenses committed on or after the effective date of section 2.
2019 Amendment. Act 100 added section 3133.
Cross References. Section 3133 is referred to in section 6702 of Title 23 (Domestic Relations).

SUBCHAPTER C
LOSS OF PROPERTY RIGHTS

Sec.
3141. General rule.
3142. Process and seizure (Repealed).
3143. Custody of property (Repealed).
3144. Disposal of property(Repealed).

Enactment. Subchapter C was added November 29, 2006, P.L.1567, No.178, effective January 1, 2007.
Special Provisions in Appendix. See the preamble to Act 178 of 2006 in the appendix to this title for special provisions relating to legislative intent.

§ 3141. General rule.
A person:
(1) convicted under section 3121 (relating to rape), 3122.1 (relating to statutory sexual assault), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault) or 3126 (relating to indecent assault); or
(2) required to register with the Pennsylvania State Police under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders);
may be required to forfeit property rights in any property or assets used to implement or facilitate commission of the crime or crimes of which the person has been convicted. The forfeiture shall be conducted in accordance with 42 Pa.C.S. §§ 5803 (relating to asset forfeiture), 5805 (relating to forfeiture procedure), 5806 (relating to motion for return of property), 5807 (relating to restrictions on use), 5807.1 (relating to prohibition on adoptive seizures) and 5808 (relating to exceptions).
(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 29, 2017, P.L.247, No.13, eff. July 1, 2017; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 3141.
Cross References. Section 3141 is referred to in section 5803 of Title 42 (Judiciary and Judicial Procedure).

§ 3142. Process and seizure (Repealed).

2017 Repeal. Section 3142 was repealed June 29, 2017, P.L.247, No.13, effective July 1, 2017.
§ 3143. Custody of property (Repealed).

2017 Repeal. Section 3143 was repealed June 29, 2017, P.L.247, No.13, effective July 1, 2017.
§ 3144. Disposal of property (Repealed).

2017 Repeal. Section 3144 was repealed June 29, 2017, P.L.247, No.13, effective July 1, 2017.

CHAPTER 32
ABORTION

Sec.
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3219. State Board of Medicine; State Board of Osteopathic Medicine.
3220. Construction.

Enactment. Chapter 32 was added June 11, 1982, P.L.476, No.138, effective in 180 days.

§ 3201. Short title of chapter.

This chapter shall be known and may be cited as the "Abortion Control Act."

§ 3202. Legislative intent.

(a) Rights and interests.—It is the intention of the General Assembly of the Commonwealth of Pennsylvania to protect hereby the life and health of the woman subject to abortion and to protect the life and health of the child subject to abortion. It is the further intention of the General Assembly to foster the development of standards of professional conduct in a critical area of medical practice, to provide for development of statistical data and to protect the right of the minor woman voluntarily to decide to submit to abortion or to carry her child to term. The General Assembly finds as fact that the rights and interests furthered by this chapter are not secure in the context in which abortion is presently performed.

(b) Conclusions.—Reliable and convincing evidence has compelled the General Assembly to conclude and the General Assembly does hereby solemnly declare and find that:

(1) Many women now seek or are encouraged to undergo abortions without full knowledge of the development of the unborn child or of alternatives to abortion.

(2) The gestational age at which viability of an unborn child occurs has been lowering substantially and steadily as advances in neonatal medical care continue to be made.

(3) A significant number of late-term abortions result in live births, or in delivery of children who could survive if measures were taken to bring about breathing. Some physicians have been allowing these children to die or have been failing to induce breathing.

(4) Because the Commonwealth places a supreme value upon protecting human life, it is necessary that those physicians which it permits to practice medicine be held to precise standards of care in cases where their actions do or may result in the death of an unborn child.

(5) A reasonable waiting period, as contained in this chapter, is critical to the assurance that a woman elect to undergo an abortion procedure only after having the fullest opportunity to give her informed consent thereto.

(c) Construction.—In every relevant civil or criminal proceeding in which it is possible to do so without violating the Federal Constitution, the common and statutory law of Pennsylvania shall be construed so as to extend to the unborn the equal protection of the laws and to further the public policy of this Commonwealth encouraging childbirth over abortion.

(d) Right of conscience.—It is the further public policy of the Commonwealth of Pennsylvania to respect and protect the right of conscience of all persons who refuse to obtain, receive, subsidize, accept or provide abortions including those persons who are engaged in the delivery of medical services and medical care whether acting individually, corporately or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability or financial burden upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions in refusing to obtain, receive, subsidize, accept or provide abortions.

§ 3203. Definitions.

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

"Abortion." The use of any means to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child except that, for the purposes of this chapter, abortion shall not mean the use of an intrauterine device or birth control pill to inhibit or prevent ovulation, fertilization or the implantation of a fertilized ovum within the uterus.

"Born alive." When used with regard to a human being, means that the human being was completely expelled or extracted from her or his mother and after such separation breathed or showed evidence of any of the following: beating of the heart, pulsation of the umbilical cord, definite movement of voluntary muscles or any brain-wave activity.

"Complication." Includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration and retained products. The department may further define complication.

"Conscience." A sincerely held set of moral convictions arising from belief in and relation to a deity or which, though not so derived, obtains from a place in the life of its possessor parallel to that filled by a deity among adherents to religious faiths.

"Department." The Department of Health of the Commonwealth of Pennsylvania.

"Facility" or **"medical facility."** Any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center or other institution or location wherein medical care is provided to any person.

"Fertilization" and "conception." Each term shall mean the fusion of a human spermatozoon with a human ovum.

"First trimester." The first 12 weeks of gestation.

"Gestational age." The age of the unborn child as calculated from the first day of the last menstrual period of the pregnant woman.

"Hospital." An institution licensed pursuant to the provisions of the law of this Commonwealth.

"In vitro fertilization." The purposeful fertilization of a human ovum outside the body of a living human female.

"Medical emergency." That condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

"Medical personnel." Any nurse, nurse's aide, medical school student, professional or any other person who furnishes, or assists in the furnishing of, medical care.

"Physician." Any person licensed to practice medicine in this Commonwealth. The term includes medical doctors and doctors of osteopathy.

"Pregnancy" and "pregnant." Each term shall mean that female reproductive condition of having a developing fetus in the body and commences with fertilization.
"Probable gestational age of the unborn child." What, in the judgment of the attending physician, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.
"Unborn child" and "fetus." Each term shall mean an individual organism of the species homo sapiens from fertilization until live birth.
"Viability." That stage of fetal development when, in the judgment of the physician based on the particular facts of the case before him and in light of the most advanced medical technology and information available to him, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his or her mother, with or without artificial support.
(Dec. 18, 1984, P.L.1057, No.207, eff. imd.; Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

1989 Amendment. Act 64 amended the defs. of "fertilization," "pregnancy" and "unborn child" and added the def. of "gestational age."
1988 Amendment. Act 31 amended the def. of "medical emergency" and added the def. of "physician."
Cross References. Section 3203 is referred to in section 2602 of this title; section 3301 of Title 40 (Insurance).

§ 3204. Medical consultation and judgment.
(a) Abortion prohibited; exceptions.—No abortion shall be performed except by a physician after either:
(1) he determines that, in his best clinical judgment, the abortion is necessary; or
(2) he receives what he reasonably believes to be a written statement signed by another physician, hereinafter called the "referring physician," certifying that in this referring physician's best clinical judgment the abortion is necessary.
(b) Requirements.—Except in a medical emergency where there is insufficient time before the abortion is performed, the woman upon whom the abortion is to be performed shall have a private medical consultation either with the physician who is to perform the abortion or with the referring physician. The consultation will be in a place, at a time and of a duration reasonably sufficient to enable the physician to determine whether, based on his best clinical judgment, the abortion is necessary.
(c) Factors.—In determining in accordance with subsection (a) or (b) whether an abortion is necessary, a physician's best clinical judgment may be exercised in the light of all factors (physical, emotional, psychological, familial and the woman's age) relevant to the well-being of the woman. No abortion which is sought solely because of the sex of the unborn child shall be deemed a necessary abortion.
(d) Penalty.—Any person who intentionally, knowingly or recklessly violates the provisions of this section commits a felony of the third degree, and any physician who violates the provisions of this section is guilty of "unprofessional conduct" and his license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

1989 Amendment. Act 64 amended subsecs. (c) and (d).
Cross References. Section 3204 is referred to in section 3217 of this title.

§ 3205. Informed consent.
(a) General rule.—No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:
(1) At least 24 hours prior to the abortion, the physician who is to perform the abortion or the referring physician has orally informed the woman of:
(i) The nature of the proposed procedure or treatment and of those risks and alternatives to the procedure or treatment that a reasonable patient would consider material to the decision of whether or not to undergo the abortion.
(ii) The probable gestational age of the unborn child at the time the abortion is to be performed.
(iii) The medical risks associated with carrying her child to term.
(2) At least 24 hours prior to the abortion, the physician who is to perform the abortion or the referring physician, or a qualified physician assistant, health care practitioner, technician or social worker to whom the responsibility has been delegated by either physician, has informed the pregnant woman that:
(i) The department publishes printed materials which describe the unborn child and list agencies which offer alternatives to abortion and that she has a right to review the printed materials and that a copy will be provided to her free of charge if she chooses to review it.
(ii) Medical assistance benefits may be available for prenatal care, childbirth and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials published by the department.
(iii) The father of the unborn child is liable to assist in the support of her child, even in instances where he has offered to pay for the abortion. In the case of rape, this information may be omitted.
(3) A copy of the printed materials has been provided to the pregnant woman if she chooses to view these materials.
(4) The pregnant woman certifies in writing, prior to the abortion, that the information required to be provided under paragraphs (1), (2) and (3) has been provided.
(b) Emergency.—Where a medical emergency compels the performance of an abortion, the physician shall inform the woman, prior to the abortion if possible, of the medical indications supporting his judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of major bodily function.
(c) Penalty.—Any physician who violates the provisions of this section is guilty of "unprofessional conduct" and his license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. Any physician who performs or induces an abortion without first obtaining the certification required by subsection (a)(4) or with knowledge or reason to know that the informed consent of the woman has not been obtained shall for the first offense be guilty of a summary offense and for each subsequent offense be guilty of a misdemeanor of the third degree. No physician shall be guilty of violating this section for failure to furnish the information required by subsection (a) if he or she can demonstrate, by a preponderance

of the evidence, that he or she reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the patient.

(d) Limitation on civil liability.—Any physician who complies with the provisions of this section may not be held civilly liable to his patient for failure to obtain informed consent to the abortion within the meaning of that term as defined by the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

1989 Amendment. Act 64 amended subsecs. (a) and (c).

References in Text. The act of October 15, 1975, P.L.390, No.111, known as the Health Care Services Malpractice Act, referred to in subsec. (d), was repealed by the act of March 20, 2002, P.L.154, No.13, known as the Medical Care Availability and Reduction of Error (MCARE) Act.

Cross References. Section 3205 is referred to in sections 3216, 3217 of this title.

§ 3206. Parental consent.

(a) General rule.—Except in the case of a medical emergency, or except as provided in this section, if a pregnant woman is less than 18 years of age and not emancipated, or if she has been adjudged an incapacitated person under 20 Pa.C.S. § 5511 (relating to petition and hearing; independent evaluation), a physician shall not perform an abortion upon her unless, in the case of a woman who is less than 18 years of age, he first obtains the informed consent both of the pregnant woman and of one of her parents; or, in the case of a woman who is an incapacitated person, he first obtains the informed consent of her guardian. In deciding whether to grant such consent, a pregnant woman's parent or guardian shall consider only their child's or ward's best interests. In the case of a pregnancy that is the result of incest where the father is a party to the incestuous act, the pregnant woman need only obtain the consent of her mother.

(b) Unavailability of parent or guardian.—If both parents have died or are otherwise unavailable to the physician within a reasonable time and in a reasonable manner, consent of the pregnant woman's guardian or guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent having custody shall be sufficient. If neither any parent nor a legal guardian is available to the physician within a reasonable time and in a reasonable manner, consent of any adult person standing in loco parentis shall be sufficient.

(c) Petition to court for consent.—If both of the parents or guardians of the pregnant woman refuse to consent to the performance of an abortion or if she elects not to seek the consent of either of her parents or of her guardian, the court of common pleas of the judicial district in which the applicant resides or in which the abortion is sought shall, upon petition or motion, after an appropriate hearing, authorize a physician to perform the abortion if the court determines that the pregnant woman is mature and capable of giving informed consent to the proposed abortion, and has, in fact, given such consent.

(d) Court order.—If the court determines that the pregnant woman is not mature and capable of giving informed consent or if the pregnant woman does not claim to be mature and capable of giving informed consent, the court shall determine whether the performance of an abortion upon her would be in her best interests. If the court determines that the performance of an abortion would be in the best interests of the woman, it shall authorize a physician to perform the abortion.

(e) Representation in proceedings.—The pregnant woman may participate in proceedings in the court on her own behalf and the court may appoint a guardian ad litem to assist her. The court shall, however, advise her that she has a right to court appointed counsel, and shall provide her with such

counsel unless she wishes to appear with private counsel or has knowingly and intelligently waived representation by counsel.

(f) Proceedings.—

(1) Court proceedings under this section shall be confidential and shall be given such precedence over other pending matters as will ensure that the court may reach a decision promptly and without delay in order to serve the best interests of the pregnant woman. In no case shall the court of common pleas fail to rule within three business days of the date of application. A court of common pleas which conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting its decision and shall, upon the initial filing of the minor's petition for judicial authorization of an abortion, order a sealed record of the petition, pleadings, submissions, transcripts, exhibits, orders, evidence and any other written material to be maintained which shall include its own findings and conclusions.

(2) The application to the court of common pleas shall be accompanied by a non-notarized verification stating that the information therein is true and correct to the best of the applicant's knowledge, and the application shall set forth the following facts:

(i) The initials of the pregnant woman.

(ii) The age of the pregnant woman.

(iii) The names and addresses of each parent, guardian or, if the minor's parents are deceased and no guardian has been appointed, any other person standing in loco parentis to the minor.

(iv) That the pregnant woman has been fully informed of the risks and consequences of the abortion.

(v) Whether the pregnant woman is of sound mind and has sufficient intellectual capacity to consent to the abortion.

(vi) A prayer for relief asking the court to either grant the pregnant woman full capacity for the purpose of personal consent to the abortion, or to give judicial consent to the abortion under subsection (d) based upon a finding that the abortion is in the best interest of the pregnant woman.

(vii) That the pregnant woman is aware that any false statements made in the application are punishable by law.

(viii) The signature of the pregnant woman. Where necessary to serve the interest of justice, the orphans' court division, or, in Philadelphia, the family court division, shall refer the pregnant woman to the appropriate personnel for assistance in preparing the application.

(3) The name of the pregnant woman shall not be entered on any docket which is subject to public inspection. All persons shall be excluded from hearings under this section except the applicant and such other persons whose presence is specifically requested by the applicant or her guardian.

(4) At the hearing, the court shall hear evidence relating to the emotional development, maturity, intellect and understanding of the pregnant woman, the fact and duration of her pregnancy, the nature, possible consequences and alternatives to the abortion and any other evidence that the court may find useful in determining whether the pregnant woman should be granted full capacity for the purpose of consenting to the abortion or whether the abortion is in the best interest of the pregnant woman. The court shall also notify the pregnant woman at the hearing that it must rule on her application within three business days of the date of its filing and that, should the court fail to rule in favor of her application within the allotted time, she has the right to appeal to the Superior Court.

(g) Coercion prohibited.—Except in a medical emergency, no parent, guardian or other person standing in loco parentis shall coerce a minor or incapacitated woman to undergo an abortion. Any minor or incapacitated woman who is threatened with such coercion may apply to a court of common pleas for relief. The court shall provide the minor or incapacitated woman with counsel, give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.

Should a minor be denied the financial support of her parents by reason of her refusal to undergo abortion, she shall be considered emancipated for purposes of eligibility for assistance benefits.

(h) Regulation of proceedings.—No filing fees shall be required of any woman availing herself of the procedures provided by this section. An expedited confidential appeal shall be available to any pregnant woman whom the court fails to grant an order authorizing an abortion within the time specified in this section. Any court to which an appeal is taken under this section shall give prompt and confidential attention thereto and shall rule thereon within five business days of the filing of the appeal. The Supreme Court of Pennsylvania may issue such rules as may further assure that the process provided in this section is conducted in such a manner as will ensure confidentiality and sufficient precedence over other pending matters to ensure promptness of disposition.

(i) Penalty.—Any person who performs an abortion upon a woman who is an unemancipated minor or incapacitated person to whom this section applies either with knowledge that she is a minor or incapacitated person to whom this section applies, or with reckless disregard or negligence as to whether she is a minor or incapacitated person to whom this section applies, and who intentionally, knowingly or recklessly fails to conform to any requirement of this section is guilty of "unprofessional conduct" and his license for the practice of medicine and surgery shall be suspended in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts, for a period of at least three months. Failure to comply with the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of exemplary damages or damages for emotional distress even if unaccompanied by physical complications in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days; Apr. 16, 1992, P.L.108, No.24, eff. 60 days)

1992 Amendment. Act 24 amended subsecs. (a), (g) and (i).
1989 Amendment. Act 64 amended subsec. (f)(1).
1988 Amendment. Act 31 amended subsecs. (a), (e), (f), (g), (h) and (i).
Cross References. Section 3206 is referred to in section 3215 of this title.

§ 3207. Abortion facilities.

(a) Regulations.—The department shall have power to make rules and regulations pursuant to this chapter, with respect to performance of abortions and with respect to facilities in which abortions are performed, so as to protect the health and safety of women having abortions and of premature infants aborted alive. These rules and regulations shall include, but not be limited to, procedures, staff, equipment and laboratory testing requirements for all facilities offering abortion services.

(b) Reports.—Within 30 days after the effective date of this chapter, every facility at which abortions are performed shall file, and update immediately upon any change, a report with the department, containing the following information:

(1) Name and address of the facility.

(2) Name and address of any parent, subsidiary or affiliated organizations, corporations or associations.

(3) Name and address of any parent, subsidiary or affiliated organizations, corporations or associations having contemporaneous commonality of ownership, beneficial interest, directorship or officership with any other facility.
The information contained in those reports which are filed pursuant to this subsection by facilities which receive State-appropriated funds during the 12-calendar-month period immediately preceding a request to inspect or copy such reports shall be deemed public information. Reports filed by facilities which do not receive State-appropriated funds shall only be available to law enforcement officials, the State Board of Medicine and the State Board of Osteopathic Medicine for use in the performance of their official duties. Any facility failing to comply with the provisions of this subsection shall be assessed by the department a fine of $500 for each day it is in violation hereof.
(Mar. 25, 1988, P.L.262, No.31, eff. 30 days)

1988 Amendment. Act 31 amended subsec. (b).
Cross References. Section 3207 is referred to in section 3213 of this title.

§ 3208. Printed information.
(a) General rule.—The department shall cause to be published in English, Spanish and Vietnamese, within 60 days after this chapter becomes law, and shall update on an annual basis, the following easily comprehensible printed materials:
(1) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer and a description of the manner, including telephone numbers, in which they might be contacted, or, at the option of the department, printed materials including a toll-free, 24-hour a day telephone number which may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer. The materials shall provide information on the availability of medical assistance benefits for prenatal care, childbirth and neonatal care, and state that it is unlawful for any individual to coerce a woman to undergo abortion, that any physician who performs an abortion upon a woman without obtaining her informed consent or without according her a private medical consultation may be liable to her for damages in a civil action at law, that the father of a child is liable to assist in the support of that child, even in instances where the father has offered to pay for an abortion and that the law permits adoptive parents to pay costs of prenatal care, childbirth and neonatal care.
(2) Materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from fertilization to full term, including pictures representing the development of unborn children at two-week gestational increments, and any relevant information on the possibility of the unborn child's survival; provided that any such pictures or drawings must contain the dimensions of the fetus and must be realistic and appropriate for the woman's stage of pregnancy. The materials shall be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure, the possible detrimental psychological effects of abortion and the medical risks commonly

associated with each such procedure and the medical risks commonly associated with carrying a child to term.
(b) Format.—The materials shall be printed in a typeface large enough to be clearly legible.
(c) Free distribution.—The materials required under this section shall be available at no cost from the department upon request and in appropriate number to any person, facility or hospital.
(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. imd.)

1989 Amendment. Act 64 amended subsec. (a). See sections 7, 8 and 9 of Act 64 in the appendix to this title for special provisions relating to publication of forms and materials, applicability of reporting and distribution requirements and effective date.

§ 3208.1. Commonwealth interference prohibited.

The Commonwealth shall not interfere with the use of medically appropriate methods of contraception or the manner in which medically appropriate methods of contraception are provided.
(Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

1989 Amendment. Act 64 added section 3208.1.

§ 3209. Spousal notice.

(a) Spousal notice required.—In order to further the Commonwealth's interest in promoting the integrity of the marital relationship and to protect a spouse's interests in having children within marriage and in protecting the prenatal life of that spouse's child, no physician shall perform an abortion on a married woman, except as provided in subsections (b) and (c), unless he or she has received a signed statement, which need not be notarized, from the woman upon whom the abortion is to be performed, that she has notified her spouse that she is about to undergo an abortion. The statement shall bear a notice that any false statement made therein is punishable by law.
(b) Exceptions.—The statement certifying that the notice required by subsection (a) has been given need not be furnished where the woman provides the physician a signed statement certifying at least one of the following:
(1) Her spouse is not the father of the child.
(2) Her spouse, after diligent effort, could not be located.
(3) The pregnancy is a result of spousal sexual assault as described in section 3128 (relating to spousal sexual assault), which has been reported to a law enforcement agency having the requisite jurisdiction.
(4) The woman has reason to believe that the furnishing of notice to her spouse is likely to result in the infliction of bodily injury upon her by her spouse or by another individual.
Such statement need not be notarized, but shall bear a notice that any false statements made therein are punishable by law.
(c) Medical emergency.—The requirements of subsection (a) shall not apply in case of a medical emergency.
(d) Forms.—The department shall cause to be published forms which may be utilized for purposes of providing the signed statements required by subsections (a) and (b). The department shall distribute an adequate supply of such forms to all abortion facilities in this Commonwealth.
(e) Penalty; civil action.—Any physician who violates the provisions of this section is guilty of "unprofessional conduct," and his or her license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20,

1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. In addition, any physician who knowingly violates the provisions of this section shall be civilly liable to the spouse who is the father of the aborted child for any damages caused thereby and for punitive damages in the amount of $5,000, and the court shall award a prevailing plaintiff a reasonable attorney fee as part of costs.
(Nov. 17, 1989, P.L.592, No.64)

1989 Amendment. Act 64 added section 3209. See sections 7, 8 and 9 of Act 64 in the appendix to this title for special provisions relating to publication of forms and materials, applicability of reporting and distribution requirements and effective date.
Prior Provisions. Former section 3209, which related to abortion after first trimester, was added June 11, 1982 (P.L.476, No.138), and repealed March 25, 1988 (P.L.262, No.31), effective in 30 days.
References in Text. Section 3128, referred to in subsec. (b), is repealed.

§ 3210. Determination of gestational age.
(a) Requirement.—Except in the case of a medical emergency which prevents compliance with this section, no abortion shall be performed or induced unless the referring physician or the physician performing or inducing it has first made a determination of the probable gestational age of the unborn child. In making such determination, the physician shall make such inquiries of the patient and perform or cause to be performed such medical examinations and tests as a prudent physician would consider necessary to make or perform in making an accurate diagnosis with respect to gestational age. The physician who performs or induces the abortion shall report the type of inquiries made and the type of examinations and tests utilized to determine the gestational age of the unborn child and the basis for the diagnosis with respect to gestational age on forms provided by the department.
(b) Penalty.—Failure of any physician to conform to any requirement of this section constitutes "unprofessional conduct" within the meaning of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. Upon a finding by the State Board of Medicine or the State Board of Osteopathic Medicine that any physician has failed to conform to any requirement of this section, the board shall not fail to suspend that physician's license for a period of at least three months. Intentional, knowing or reckless falsification of any report required under this section is a misdemeanor of the third degree.
(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

Cross References. Section 3210 is referred to in sections 3211, 3214 of this title.

§ 3211. Abortion on unborn child of 24 or more weeks gestational age.
(a) Prohibition.—Except as provided in subsection (b), no person shall perform or induce an abortion upon another person when the gestational age of the unborn child is 24 or more weeks.
(b) Exceptions.—
(1) It shall not be a violation of subsection (a) if an abortion is performed by a physician and that physician reasonably believes that it is necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman. No abortion shall be deemed authorized under this paragraph if performed on the basis of a claim or a diagnosis that the woman will engage in conduct which would result in her death or in substantial and irreversible impairment of a major bodily function.

(2) It shall not be a violation of subsection (a) if the abortion is performed by a physician and that physician reasonably believes, after making a determination of the gestational age of the unborn child in compliance with section 3210 (relating to determination of gestational age), that the unborn child is less than 24 weeks gestational age.

(c) Abortion regulated.—Except in the case of a medical emergency which, in the reasonable medical judgment of the physician performing the abortion, prevents compliance with a particular requirement of this subsection, no abortion which is authorized under subsection (b)(1) shall be performed unless each of the following conditions is met:

(1) The physician performing the abortion certifies in writing that, based upon his medical examination of the pregnant woman and his medical judgment, the abortion is necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman.

(2) Such physician's judgment with respect to the necessity for the abortion has been concurred in by one other licensed physician who certifies in writing that, based upon his or her separate personal medical examination of the pregnant woman and his or her medical judgment, the abortion is necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman.

(3) The abortion is performed in a hospital.

(4) The physician terminates the pregnancy in a manner which provides the best opportunity for the unborn child to survive, unless the physician determines, in his or her good faith medical judgment, that termination of the pregnancy in that manner poses a significantly greater risk either of the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman than would other available methods.

(5) The physician performing the abortion arranges for the attendance, in the same room in which the abortion is to be completed, of a second physician who shall take control of the child immediately after complete extraction from the mother and shall provide immediate medical care for the child, taking all reasonable steps necessary to preserve the child's life and health.

(d) Penalty.—Any person who violates subsection (a) commits a felony of the third degree. Any person who violates subsection (c) commits a misdemeanor of the second degree for the first offense and a misdemeanor of the first degree for subsequent offenses.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

Cross References. Section 3211 is referred to in section 3214 of this title.

§ 3212. Infanticide.

(a) Status of fetus.—The law of this Commonwealth shall not be construed to imply that any human being born alive in the course of or as a result of an abortion or pregnancy termination, no matter what may be that human being's chance of survival, is not a person under the Constitution and laws of this Commonwealth.

(b) Care required.—All physicians and licensed medical personnel attending a child who is born alive during the course of an abortion or premature delivery, or after being carried to term, shall provide such child that type and degree of care and treatment which, in the good faith judgment of the physician, is commonly and customarily provided to any other person under similar conditions and circumstances. Any individual who intentionally, knowingly or recklessly violates the provisions of this subsection commits a felony of the third degree.

(c) Obligation of physician.—Whenever the physician or any other person is prevented by lack of parental or guardian consent from fulfilling his obligations under subsection (b), he shall nonetheless fulfill said obligations and immediately notify the juvenile court of the facts of the case. The juvenile court shall immediately institute an inquiry and, if it finds that the lack of parental or guardian consent is preventing treatment required under subsection (b), it shall immediately grant injunctive relief to require such treatment.
(Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

1989 Amendment. Act 64 amended subsec. (b).

§ 3213. Prohibited acts.
(a) Payment for abortion.—Except in the case of a pregnancy which is not yet clinically diagnosable, any person who intends to perform or induce abortion shall, before accepting payment therefor, make or obtain a determination that the woman is pregnant. Any person who intentionally or knowingly accepts such a payment without first making or obtaining such a determination commits a misdemeanor of the second degree. Any person who makes such a determination erroneously either knowing that it is erroneous or with reckless disregard or negligence as to whether it is erroneous, and who either:
(1) thereupon or thereafter intentionally relies upon that determination in soliciting or obtaining any such payment; or
(2) intentionally conveys that determination to any person or persons with knowledge that, or with reckless disregard as to whether, that determination will be relied upon in any solicitation or obtaining of any such payment;
commits a misdemeanor of the second degree.
(b) Referral fee.—The payment or receipt of a referral fee in connection with the performance of an abortion is a misdemeanor of the first degree. For purposes of this section, "referral fee" means the transfer of anything of value between a physician who performs an abortion or an operator or employee of a clinic at which an abortion is performed and the person who advised the woman receiving the abortion to use the services of that physician or clinic.
(c) Regulations.—The department shall issue regulations to assure that prior to the performance of any abortion, including abortions performed in the first trimester of pregnancy, the maternal Rh status shall be determined and that anti-Rh sensitization prophylaxis shall be provided to each patient at risk of sensitization unless the patient refuses to accept the treatment. Except when there exists a medical emergency or, in the judgment of the physician, there exists no possibility of Rh sensitization, the intentional, knowing, or reckless failure to conform to the regulations issued pursuant to this subsection constitutes "unprofessional conduct" and his license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts.
(d) Participation in abortion.—Except for a facility devoted exclusively to the performance of abortions, no medical personnel or medical facility, nor any employee, agent or student thereof, shall be required against his or its conscience to aid, abet or facilitate performance of an abortion or dispensing of an abortifacient and failure or refusal to do so shall not be a basis for any civil, criminal, administrative or disciplinary action, penalty or proceeding, nor may it be the basis for refusing to hire or admit anyone. Nothing herein shall be construed to limit the provisions of the act of October 27,

1955 (P.L.744, No.222), known as the "Pennsylvania Human Relations Act." Any person who knowingly violates the provisions of this subsection shall be civilly liable to the person thereby injured and, in addition, shall be liable to that person for punitive damages in the amount of $5,000.

(e) In vitro fertilization.—All persons conducting, or experimenting in, in vitro fertilization shall file quarterly reports with the department, which shall be available for public inspection and copying, containing the following information:

(1) Names of all persons conducting or assisting in the fertilization or experimentation process.

(2) Locations where the fertilization or experimentation is conducted.

(3) Name and address of any person, facility, agency or organization sponsoring the fertilization or experimentation except that names of any persons who are donors or recipients of sperm or eggs shall not be disclosed.

(4) Number of eggs fertilized.

(5) Number of fertilized eggs destroyed or discarded.

(6) Number of women implanted with a fertilized egg.

Any person required under this subsection to file a report, keep records or supply information, who willfully fails to file such report, keep records or supply such information or who submits a false report shall be assessed a fine by the department in the amount of $50 for each day in which that person is in violation hereof.

(f) Notice.—

(1) Except for a facility devoted exclusively to the performance of abortions, every facility performing abortions shall prominently post a notice, not less than eight and one-half inches by eleven inches in size, entitled "Right of Conscience," for the exclusive purpose of informing medical personnel, employees, agents and students of such facilities of their rights under subsection (d) and under section 5.2 of the Pennsylvania Human Relations Act. The facility shall post the notice required by this subsection in a location or locations where notices to employees, medical personnel and students are normally posted or, if notices are not normally posted, in a location or locations where the notice required by this subsection is likely to be seen by medical personnel, employees or students of the facility. The department shall prescribe a model notice which may be used by any facility, and any facility which utilizes the model notice or substantially similar language shall be deemed in compliance with this subsection.

(2) The department shall have the authority to assess a civil penalty of up to $5,000 against any facility for each violation of this subsection, giving due consideration to the appropriateness of the penalty with respect to the size of the facility, the gravity of the violation, the good faith of the facility and the history of previous violations. Civil penalties due under this subsection shall be paid to the department for deposit in the State Treasury and may be collected by the department in the appropriate court of common pleas. The department shall send a copy of its model notice to every facility which files a report under section 3207(b) (relating to abortion facilities). Failure to receive a notice shall not be a defense to any civil action brought pursuant to this subsection.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days)

1988 Amendment. Act 31 amended subsec. (c) and added subsec. (f).

§ 3214. Reporting.

(a) General rule.—For the purpose of promotion of maternal health and life by adding to the sum of medical and public health knowledge through the compilation of relevant data, and to promote the Commonwealth's interest in protection of the unborn child, a report of each abortion performed shall

be made to the department on forms prescribed by it. The report forms shall not identify the individual patient by name and shall include the following information:
(1) Identification of the physician who performed the abortion, the concurring physician as required by section 3211(c)(2) (relating to abortion on unborn child of 24 or more weeks gestational age), the second physician as required by section 3211(c)(5) and the facility where the abortion was performed and of the referring physician, agency or service, if any.
(2) The county and state in which the woman resides.
(3) The woman's age.
(4) The number of prior pregnancies and prior abortions of the woman.
(5) The gestational age of the unborn child at the time of the abortion.
(6) The type of procedure performed or prescribed and the date of the abortion.
(7) Pre-existing medical conditions of the woman which would complicate pregnancy, if any, and, if known, any medical complication which resulted from the abortion itself.
(8) The basis for the medical judgment of the physician who performed the abortion that the abortion was necessary to prevent either the death of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the woman, where an abortion has been performed pursuant to section 3211(b)(1).
(9) The weight of the aborted child for any abortion performed pursuant to section 3211(b)(1).
(10) Basis for any medical judgment that a medical emergency existed which excused the physician from compliance with any provision of this chapter.
(11) The information required to be reported under section 3210(a) (relating to determination of gestational age).
(12) Whether the abortion was performed upon a married woman and, if so, whether notice to her spouse was given. If no notice to her spouse was given, the report shall also indicate the reason for failure to provide notice.
(b) Completion of report.—The reports shall be completed by the hospital or other licensed facility, signed by the physician who performed the abortion and transmitted to the department within 15 days after each reporting month.
(c) Pathological examinations.—When there is an abortion performed during the first trimester of pregnancy, the tissue that is removed shall be subjected to a gross or microscopic examination, as needed, by the physician or a qualified person designated by the physician to determine if a pregnancy existed and was terminated. If the examination indicates no fetal remains, that information shall immediately be made known to the physician and sent to the department within 15 days of the analysis. When there is an abortion performed after the first trimester of pregnancy where the physician has certified the unborn child is not viable, the dead unborn child and all tissue removed at the time of the abortion shall be submitted for tissue analysis to a board eligible or certified pathologist. If the report reveals evidence of viability or live birth, the pathologist shall report such findings to the department within 15 days and a copy of the report shall also be sent to the physician performing the abortion. Intentional, knowing, reckless or negligent failure of the physician to submit such an unborn child or such tissue remains to such a pathologist for such a purpose, or intentional, knowing or reckless failure of the pathologist to report any evidence of live birth or viability to the department in the manner and within the time prescribed is a misdemeanor of the third degree.
(d) Form.—The department shall prescribe a form on which pathologists may report any evidence of absence of pregnancy, live birth or viability.
(e) Statistical reports; public availability of reports.—

(1) The department shall prepare a comprehensive annual statistical report for the General Assembly based upon the data gathered under subsections (a) and (h). Such report shall not lead to the disclosure of the identity of any person filing a report or about whom a report is filed, and shall be available for public inspection and copying.
(2) Reports filed pursuant to subsection (a) or (h) shall not be deemed public records within the meaning of that term as defined by the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, and shall remain confidential, except that disclosure may be made to law enforcement officials upon an order of a court of common pleas after application showing good cause therefor. The court may condition disclosure of the information upon any appropriate safeguards it may impose.
(3) Original copies of all reports filed under subsections (a), (f) and (h) shall be available to the State Board of Medicine and the State Board of Osteopathic Medicine for use in the performance of their official duties.
(4) Any person who willfully discloses any information obtained from reports filed pursuant to subsection (a) or (h), other than that disclosure authorized under paragraph (1), (2) or (3) hereof or as otherwise authorized by law, shall commit a misdemeanor of the third degree.
(f) Report by facility.—Every facility in which an abortion is performed within this Commonwealth during any quarter year shall file with the department a report showing the total number of abortions performed within the hospital or other facility during that quarter year. This report shall also show the total abortions performed in each trimester of pregnancy. Any report shall be available for public inspection and copying only if the facility receives State-appropriated funds within the 12-calendar-month period immediately preceding the filing of the report. These reports shall be submitted on a form prescribed by the department which will enable a facility to indicate whether or not it is receiving State-appropriated funds. If the facility indicates on the form that it is not receiving State-appropriated funds, the department shall regard its report as confidential unless it receives other evidence which causes it to conclude that the facility receives State-appropriated funds.
(g) Report of maternal death.—After 30 days' public notice, the department shall henceforth require that all reports of maternal deaths occurring within the Commonwealth arising from pregnancy, childbirth or intentional abortion in every case state the cause of death, the duration of the woman's pregnancy when her death occurred and whether or not the woman was under the care of a physician during her pregnancy prior to her death and shall issue such regulations as are necessary to assure that such information is reported, conducting its own investigation if necessary in order to ascertain such data. A woman shall be deemed to have been under the care of a physician prior to her death for the purpose of this chapter when she had either been examined or treated by a physician, not including any examination or treatment in connection with emergency care for complications of her pregnancy or complications of her abortion, preceding the woman's death at any time which is both 21 or more days after the time she became pregnant and within 60 days prior to her death. Known incidents of maternal mortality of nonresident women arising from induced abortion performed in this Commonwealth shall be included as incidents of maternal mortality arising from induced abortions. Incidents of maternal mortality arising from continued pregnancy or childbirth and occurring after induced abortion has been attempted but not completed, including deaths occurring after induced abortion has been attempted but not completed as the result of ectopic pregnancy, shall be included as incidents of maternal mortality arising from induced abortion. The department shall annually compile a statistical report for the General Assembly based upon the data gathered under this subsection, and all such statistical reports shall be available for public inspection and copying.

(h) Report of complications.—Every physician who is called upon to provide medical care or treatment to a woman who is in need of medical care because of a complication or complications resulting, in the good faith judgment of the physician, from having undergone an abortion or attempted abortion shall prepare a report thereof and file the report with the department within 30 days of the date of his first examination of the woman, which report shall be on forms prescribed by the department, which forms shall contain the following information, as received, and such other information except the name of the patient as the department may from time to time require:

(1) Age of patient.
(2) Number of pregnancies patient may have had prior to the abortion.
(3) Number and type of abortions patient may have had prior to this abortion.
(4) Name and address of the facility where the abortion was performed.
(5) Gestational age of the unborn child at the time of the abortion, if known.
(6) Type of abortion performed, if known.
(7) Nature of complication or complications.
(8) Medical treatment given.
(9) The nature and extent, if known, of any permanent condition caused by the complication.

(i) Penalties.—

(1) Any person required under this section to file a report, keep any records or supply any information, who willfully fails to file such report, keep such records or supply such information at the time or times required by law or regulation is guilty of "unprofessional conduct" and his license for the practice of medicine and surgery shall be subject to suspension or revocation in accordance with procedures provided under the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts.

(2) Any person who willfully delivers or discloses to the department any report, record or information known by him to be false commits a misdemeanor of the first degree.

(3) In addition to the above penalties, any person, organization or facility who willfully violates any of the provisions of this section requiring reporting shall upon conviction thereof:

(i) For the first time, have its license suspended for a period of six months.
(ii) For the second time, have its license suspended for a period of one year.
(iii) For the third time, have its license revoked.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. imd.)

1989 Amendment. Act 64 amended subsec. (a). See sections 7, 8 and 9 of Act 64 in the appendix to this title for special provisions relating to publication of forms and materials, applicability of reporting and distribution requirements and effective date.

1988 Amendment. Act 31 amended subsecs. (a), (e), (f), (h) and (i).

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (e)(2), was repealed by the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Cross References. Section 3214 is referred to in section 3220 of this title.

§ 3215. Publicly owned facilities; public officials and public funds.

(a) Limitations.—No hospital, clinic or other health facility owned or operated by the Commonwealth, a county, a city or other governmental entity (except the government of the United States, another state or a foreign nation) shall:

(1) Provide, induce, perform or permit its facilities to be used for the provision, inducement or performance of any abortion except where necessary to avert the death of the woman or where necessary to terminate pregnancies initiated by acts of rape or incest if reported in accordance with requirements set forth in subsection (c).
(2) Lease or sell or permit the subleasing of its facilities or property to any physician or health facility for use in the provision, inducement or performance of abortion, except abortion necessary to avert the death of the woman or to terminate pregnancies initiated by acts of rape or incest if reported in accordance with requirements set forth in subsection (c).
(3) Enter into any contract with any physician or health facility under the terms of which such physician or health facility agrees to provide, induce or perform abortions, except abortion necessary to avert the death of the woman or to terminate pregnancies initiated by acts of rape or incest if reported in accordance with requirements set forth in subsection (c).
(b) Permitted treatment.—Nothing in subsection (a) shall be construed to preclude any hospital, clinic or other health facility from providing treatment for post-abortion complications.
(c) Public funds.—No Commonwealth funds and no Federal funds which are appropriated by the Commonwealth shall be expended by any State or local government agency for the performance of abortion, except:
(1) When abortion is necessary to avert the death of the mother on certification by a physician. When such physician will perform the abortion or has a pecuniary or proprietary interest in the abortion there shall be a separate certification from a physician who has no such interest.
(2) When abortion is performed in the case of pregnancy caused by rape which, prior to the performance of the abortion, has been reported, together with the identity of the offender, if known, to a law enforcement agency having the requisite jurisdiction and has been personally reported by the victim.
(3) When abortion is performed in the case of pregnancy caused by incest which, prior to the performance of the abortion, has been personally reported by the victim to a law enforcement agency having the requisite jurisdiction, or, in the case of a minor, to the county child protective service agency and the other party to the incestuous act has been named in such report.
(d) Health plans.—No health plan for employees, funded with any Commonwealth funds, shall include coverage for abortion, except under the same conditions and requirements as provided in subsection (c). The prohibition contained herein shall not apply to health plans for which abortion coverage has been expressly bargained for in any collective bargaining agreement presently in effect, but shall be construed to preclude such coverage with respect to any future agreement.
(e) Insurance policies.—All insurers who make available health care and disability insurance policies in this Commonwealth shall make available such policies which contain an express exclusion of coverage for abortion services not necessary to avert the death of the woman or to terminate pregnancies caused by rape or incest.
(f) Public officers; ordering abortions.—Except in the case of a medical emergency, no court, judge, executive officer, administrative agency or public employee of the Commonwealth or of any local governmental body shall have power to issue any order requiring an abortion without the express voluntary consent of the woman upon whom the abortion is to be performed or shall coerce any person to have an abortion.
(g) Public officers; limiting benefits prohibited.—No court, judge, executive officer, administrative agency or public employee of the Commonwealth or of any local governmental body shall withhold, reduce or suspend or threaten to withhold, reduce or suspend any benefits to which a person would otherwise be entitled on the ground that such person chooses not to have an abortion.

(h) Penalty.—Whoever orders an abortion in violation of subsection (f) or withholds, reduces or suspends any benefits or threatens to withhold, reduce or suspend any benefits in violation of subsection (g) commits a misdemeanor of the first degree.

(i) Public funds for legal services.—No Federal or State funds which are appropriated by the Commonwealth for the provision of legal services by private agencies, and no public funds generated by collection of interest on lawyer's trust accounts, as authorized by statute previously or subsequently enacted, may be used, directly or indirectly, to:

(1) Advocate the freedom to choose abortion or the prohibition of abortion.

(2) Provide legal assistance with respect to any proceeding or litigation which seeks to procure or prevent any abortion or to procure or prevent public funding for any abortion.

(3) Provide legal assistance with respect to any proceeding or litigation which seeks to compel or prevent the performance or assistance in the performance of any abortion, or the provision of facilities for the performance of any abortion.

Nothing in this subsection shall be construed to require or prevent the expenditure of funds pursuant to a court order awarding fees for attorney's services under the Civil Rights Attorney's Fees Awards Act of 1976 (Public law 94-559, 90 Stat. 2641), nor shall this subsection be construed to prevent the use of public funds to provide court appointed counsel in any proceeding authorized under section 3206 (relating to parental consent).

(j) Required statements.—No Commonwealth agency shall make any payment from Federal or State funds appropriated by the Commonwealth for the performance of any abortion pursuant to subsection (c)(2) or (3) unless the Commonwealth agency first:

(1) receives from the physician or facility seeking payment a statement signed by the physician performing the abortion stating that, prior to performing the abortion, he obtained a non-notarized, signed statement from the pregnant woman stating that she was a victim of rape or incest, as the case may be, and that she reported the crime, including the identity of the offender, if known, to a law enforcement agency having the requisite jurisdiction or, in the case of incest where a pregnant minor is the victim, to the county child protective service agency and stating the name of the law enforcement agency or child protective service agency to which the report was made and the date such report was made;

(2) receives from the physician or facility seeking payment, the signed statement of the pregnant woman which is described in paragraph (1). The statement shall bear the notice that any false statements made therein are punishable by law and shall state that the pregnant woman is aware that false reports to law enforcement authorities are punishable by law; and

(3) verifies with the law enforcement agency or child protective service agency named in the statement of the pregnant woman whether a report of rape or incest was filed with the agency in accordance with the statement.

The Commonwealth agency shall report any evidence of false statements, of false reports to law enforcement authorities or of fraud in the procurement or attempted procurement of any payment from Federal or State funds appropriated by the Commonwealth pursuant to this section to the district attorney of appropriate jurisdiction and, where appropriate, to the Attorney General.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

1989 Amendment. Act 64 amended subsec. (b).

1988 Amendment. Act 31 amended subsecs. (c) and (e) and added subsecs. (i) and (j).

Cross References. Section 3215 is referred to in section 3302 of Title 40 (Insurance).

§ 3216. Fetal experimentation.

(a) Unborn or live child.—Any person who knowingly performs any type of nontherapeutic experimentation or nontherapeutic medical procedure (except an abortion as defined in this chapter) upon any unborn child, or upon any child born alive during the course of an abortion, commits a felony of the third degree. "Nontherapeutic" means that which is not intended to preserve the life or health of the child upon whom it is performed.

(b) Dead child.—The following standards govern the procurement and use of any fetal tissue or organ which is used in animal or human transplantation, research or experimentation:

(1) No fetal tissue or organs may be procured or used without the written consent of the mother. No consideration of any kind for such consent may be offered or given. Further, if the tissue or organs are being derived from abortion, such consent shall be valid only if obtained after the decision to abort has been made.

(2) No person who provides the information required by section 3205 (relating to informed consent) shall employ the possibility of the use of aborted fetal tissue or organs as an inducement to a pregnant woman to undergo abortion except that payment for reasonable expenses occasioned by the actual retrieval, storage, preparation and transportation of the tissues is permitted.

(3) No remuneration, compensation or other consideration may be paid to any person or organization in connection with the procurement of fetal tissue or organs.

(4) All persons who participate in the procurement, use or transplantation of fetal tissue or organs, including the recipients of such tissue or organs, shall be informed as to whether the particular tissue or organ involved was procured as a result of either:

(i) stillbirth;

(ii) miscarriage;

(iii) ectopic pregnancy;

(iv) abortion; or

(v) any other means.

(5) No person who consents to the procurement or use of any fetal tissue or organ may designate the recipient of that tissue or organ, nor shall any other person or organization act to fulfill that designation.

(6) The department may assess a civil penalty upon any person who procures, sells or uses any fetal tissue or organs in violation of this section or the regulations issued thereunder. Such civil penalties may not exceed $5,000 for each separate violation. In assessing such penalties, the department shall give due consideration to the gravity of the violation, the good faith of the violator and the history of previous violations. Civil penalties due under this paragraph shall be paid to the department for deposit in the State Treasury and may be enforced by the department in the Commonwealth Court.

(c) Construction of section.—Nothing in this section shall be construed to condone or prohibit the performance of diagnostic tests while the unborn child is in utero or the performance of pathological examinations on an aborted child. Nor shall anything in this section be construed to condone or prohibit the performance of in vitro fertilization and accompanying embryo transfer.

(Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

§ 3217. Civil penalties.

Any physician who knowingly violates any of the provisions of section 3204 (relating to medical consultation and judgment) or 3205 (relating to informed consent) shall, in addition to any other penalty prescribed in this chapter, be civilly liable to his patient for any damages caused thereby and,

in addition, shall be liable to his patient for punitive damages in the amount of $5,000, and the court shall award a prevailing plaintiff a reasonable attorney fee as part of costs.
(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

§ 3218. Criminal penalties.
(a) Application of chapter.—Notwithstanding any other provision of this chapter, no criminal penalty shall apply to a woman who violates any provision of this chapter solely in order to perform or induce or attempt to perform or induce an abortion upon herself. Nor shall any woman who undergoes an abortion be found guilty of having committed an offense, liability for which is defined under section 306 (relating to liability for conduct of another; complicity) or Chapter 9 (relating to inchoate crimes), by reason of having undergone such abortion.
(b) False statement, etc.—A person commits a misdemeanor of the second degree if, with intent to mislead a public servant in performing his official function under this chapter, such person:
(1) makes any written false statement which he does not believe to be true; or
(2) submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity.
(c) Statements "under penalty".—A person commits a misdemeanor of the third degree if such person makes a written false statement which such person does not believe to be true on a statement submitted as required under this chapter, bearing notice to the effect that false statements made therein are punishable.
(d) Perjury provisions applicable.—Section 4902(c) through (f) (relating to perjury) apply to subsections (b) and (c).
(Mar. 25, 1988, P.L.262, No.31, eff. 30 days; Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

1989 Amendment. Act 64 amended subsec. (a).

§ 3219. State Board of Medicine; State Board of Osteopathic Medicine.
(a) Enforcement.—It shall be the duty of the State Board of Medicine and the State Board of Osteopathic Medicine to vigorously enforce those provisions of this chapter, violation of which constitutes "unprofessional conduct" within the meaning of the act of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic Medical Practice Act, the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, or their successor acts. Each board shall have the power to conduct, and its responsibilities shall include, systematic review of all reports filed under this chapter.
(b) Penalties.—Except as otherwise herein provided, upon a finding of "unprofessional conduct" under the provisions of this chapter, the board shall, for the first such offense, prescribe such penalties as it deems appropriate; for the second such offense, suspend the license of the physician for at least 90 days; and, for the third such offense, revoke the license of the physician.
(c) Reports.—The board shall prepare and submit an annual report of its enforcement efforts under this chapter to the General Assembly, which shall contain the following items:
(1) number of violations investigated, by section of this chapter;
(2) number of physicians complained against;
(3) number of physicians investigated;
(4) penalties imposed; and
(5) such other information as any committee of the General Assembly shall require.
Such reports shall be available for public inspection and copying.

(Mar. 25, 1988, P.L.262, No.31, eff. 30 days)

§ 3220. Construction.

(a) Referral to coroner.—The provisions of section 503(3) of the act of June 29, 1953 (P.L.304, No.66), known as the "Vital Statistics Law of 1953," shall not be construed to require referral to the coroner of cases of abortions performed in compliance with this chapter.

(b) Other laws unaffected.—Apart from the provisions of subsection (a) and section 3214 (relating to reporting) nothing in this chapter shall have the effect of modifying or repealing any part of the "Vital Statistics Law of 1953" or section 5.2 of the act of October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania Human Relations Act."

(c) Required statement.—When any provision of this chapter requires the furnishing or obtaining of a nonnotarized statement or verification, the furnishing or acceptance of a notarized statement or verification shall not be deemed a violation of that provision.

(Nov. 17, 1989, P.L.592, No.64, eff. 60 days)

ARTICLE D
OFFENSES AGAINST THE FAMILY

CHAPTER 43
OFFENSES AGAINST THE FAMILY

Subchapter
A. Definition of Offenses Generally
B. Nonsupport (Repealed)

Enactment. Chapter 43 was added December 6, 1972, P.L.1482, No.334, effective in six months.

SUBCHAPTER A
DEFINITION OF OFFENSES GENERALLY

Sec.
4301. Bigamy.
4302. Incest.
4303. Concealing death of child.
4304. Endangering welfare of children.
4305. Dealing in infant children.
4306. Newborn protection.

Cross References. Subchapter A is referred to in section 2101 of Title 5 (Athletics and Sports).

§ 4301. Bigamy.
(a) Bigamy.—A married person is guilty of bigamy, a misdemeanor of the second degree, if he contracts or purports to contract another marriage, unless at the time of the subsequent marriage:
(1) the actor believes that the prior spouse is dead;
(2) the actor and the prior spouse have been living apart for two consecutive years throughout which the prior spouse was not known by the actor to be alive; or
(3) a court has entered a judgment purporting to terminate or annul any prior disqualifying marriage, and the actor does not know that judgment to be invalid.
(b) Other party to bigamous marriage.—A person is guilty of bigamy if he contracts or purports to contract marriage with another knowing that the other is thereby committing bigamy.

§ 4302. Incest.
(a) General rule.—Except as provided under subsection (b), a person is guilty of incest, a felony of the second degree, if that person knowingly marries or cohabits or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood.
(b) Incest of a minor.—A person is guilty of incest of a minor, a felony of the second degree, if that person knowingly marries, cohabits with or has sexual intercourse with a complainant who is an ancestor or descendant, a brother or sister of the whole or half blood or an uncle, aunt, nephew or niece of the whole blood and:

(1) is under the age of 13 years; or
(2) is 13 to 18 years of age and the person is four or more years older than the complainant.
(c) Relationships.—The relationships referred to in this section include blood relationships without regard to legitimacy, and relationship of parent and child by adoption.
(Nov. 17, 1989, P.L.592, No.64, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 20, 2011, P.L.446, No.111, eff. 60 days)

Cross References. Section 4302 is referred to in sections 3104, 5702, 6318, 9158 of this title; sections 4321, 5329, 6303, 6344, 6702 of Title 23 (Domestic Relations); sections 5551, 5552, 5920, 5985.1, 5993, 6358, 6402, 6403, 9718.1, 9799.14, 9799.24, 9799.55, 9799.58, 9802 of Title 42 (Judiciary and Judicial Procedure); section 2303 of Title 44 (Law and Justice); sections 4503, 4601, 6137.1, 6139 of Title 61 (Prisons and Parole); section 3113 of Title 63 (Professions and Occupations (State Licensed)).

§ 4303. Concealing death of child.
(a) Offense defined.—A person is guilty of a misdemeanor of the first degree if he or she endeavors privately, either alone or by the procurement of others, to conceal the death of his or her child, so that it may not come to light, whether it was born dead or alive or whether it was murdered or not.
(b) Procedure.—If the same indictment or information charges any person with the murder of his or her child, as well as with the offense of the concealment of the death, the jury may acquit or convict him or her of both offenses, or find him or her guilty of one and acquit him or her of the other.
(Oct. 4, 1978, P.L.909, No.173, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days)

1995 Amendment. Section 18 of Act 10, 1st Sp.Sess., provided that the amendment of section 4303 shall apply to offenses committed on or after the effective date of Act 10.
Cross References. Section 4303 is referred to in section 2106 of Title 20 (Decedents, Estates and Fiduciaries); sections 5329, 6344 of Title 23 (Domestic Relations); section 1515 of Title 42 (Judiciary and Judicial Procedure).

§ 4304. Endangering welfare of children.
(a) Offense defined.—
(1) A parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.
(2) A person commits an offense if the person, in an official capacity, prevents or interferes with the making of a report of suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).
(3) As used in this subsection, the term "person supervising the welfare of a child" means a person other than a parent or guardian that provides care, education, training or control of a child.
(b) Grading.—
(1) Except as provided under paragraph (2), the following apply:
(i) An offense under this section constitutes a misdemeanor of the first degree.
(ii) If the actor engaged in a course of conduct of endangering the welfare of a child, the offense constitutes a felony of the third degree.
(iii) If, in the commission of the offense under subsection (a)(1), the actor created a substantial risk of death or serious bodily injury, the offense constitutes a felony of the third degree.

(iv) If the actor's conduct under subsection (a)(1) created a substantial risk of death or serious bodily injury and was part of a course of conduct, the offense constitutes a felony of the second degree.
(2) The grading of an offense under this section shall be increased one grade if, at the time of the commission of the offense, the child was under six years of age.
(c) Counseling.—A court shall consider ordering an individual convicted of an offense under this section to undergo counseling.
(Dec. 19, 1988, P.L.1275, No.158, eff. 60 days; July 6, 1995, P.L.251, No.31, eff. 60 days; Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; June 29, 2017, P.L.246, No.12, eff. 60 days)

2017 Amendment. Act 12 amended subsec. (b) and added subsec. (c).
2006 Amendment. Act 179 amended subsec. (a).
Cross References. Section 4304 is referred to in sections 3104, 6318 of this title; section 2106 of Title 20 (Decedents, Estates and Fiduciaries); sections 5329, 6340, 6344 of Title 23 (Domestic Relations); sections 5552, 5920, 5985.1, 5993, 62A03, 9718.1 of Title 42 (Judiciary and Judicial Procedure); section 3113 of Title 63 (Professions and Occupations (State Licensed)).

§ 4305. Dealing in infant children.
A person is guilty of a misdemeanor of the first degree if he deals in humanity, by trading, bartering, buying, selling, or dealing in infant children.

Cross References. Section 4305 is referred to in section 5708 of this title; sections 2533, 5329, 6344 of Title 23 (Domestic Relations).

§ 4306. Newborn protection.
(a) General rule.—A parent of a newborn shall not be criminally liable for any violation of this title solely for leaving a newborn in the care of a hospital, a health care provider at an urgent care center under 23 Pa.C.S. Ch. 65 (relating to newborn protection), a police officer at a police station pursuant to 23 Pa.C.S. Ch. 65 or an emergency services provider on the grounds of an entity employing the emergency services provider or otherwise providing access to the emergency services provider pursuant to 23 Pa.C.S. Ch. 65 if the following criteria are met:
(1) The parent expresses, either orally or through conduct, the intent to have the hospital, the health care provider at the urgent care center, police officer or emergency services provider accept the newborn pursuant to 23 Pa.C.S. Ch. 65.
(2) The newborn is not a victim of child abuse or criminal conduct.
(a.1) Incubator.—A parent of a newborn shall not be criminally liable for any violation of this title solely for leaving a newborn in an incubator if the newborn is not a victim of child abuse or criminal conduct and the incubator is located:
(1) at a hospital;
(2) at a police station pursuant to 23 Pa.C.S. Ch. 65;
(3) on the grounds of an entity employing the emergency services provider or otherwise providing access to the emergency services provider pursuant to 23 Pa.C.S. Ch. 65; or
(4) at an urgent care center.
(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
"Child abuse." As defined in 23 Pa.C.S. § 6303(b.1) (relating to definitions).

"Emergency services provider." An emergency medical responder, emergency medical technician, advanced emergency medical technician or a paramedic as defined in 35 Pa.C.S. § 8103 (relating to definitions).
"Health care provider." As defined in 23 Pa.C.S. § 6502 (relating to definitions).
"Newborn." As defined in 23 Pa.C.S. § 6502.
"Police department." A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.
"Police officer." A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.
"Police station." The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.
"Urgent care center." As defined in section 2 of the act of November 2, 2016 (P.L.976, No.122), known as the Safe Emergency Prescribing Act.
(Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; July 2, 2014, P.L.843, No.91, eff. 60 days; Dec. 22, 2017, P.L.1219, No.68; Oct. 31, 2024, P.L.1124, No.134, eff. 60 days)

2017 Amendment. Section 7(2) of Act 68 provided that the addition of subsec. (a.1) shall take effect 120 days after the publication in the Pennsylvania Bulletin of the promulgation of final regulations under 23 Pa.C.S. § 6504.3(c).
Cross References. Section 4306 is referred to in sections 6503, 6504.2, 6504.4 of Title 23 (Domestic Relations).

SUBCHAPTER B
NONSUPPORT
(Repealed)

1985 Repeal. Subchapter B (§§ 4321 - 4324) was added December 6, 1972 (P.L.1482, No.334), and repealed October 30, 1985 (P.L.264, No.66), effective in 90 days. The subject matter is now contained in Chapter 43 of Title 23 (Domestic Relations).

CHAPTER 97
SENTENCING

Subchapter
A. General Provisions
B. Sentencing Authority
C. Sentencing Alternatives
D. Informational Basis of Sentence
E. Imposition of Sentence
F. Further Judicial Action
G. Appellate Review of Sentence
H. Registration of Sexual Offenders
I. Continued Registration of Sexual Offenders

Enactment. Chapter 97 was transferred from Chapter 13 of Title 18 (Crimes and Offenses) October 5, 1980, P.L.693, No.142, effective in 60 days.
Prior Provisions. The number and heading of former Chapter 13 of Title 18 were added December 6, 1972, P.L.1482, No.334, effective in six months. Unless otherwise noted, the remaining provisions of former Chapter 13 of Title 18 were added December 30, 1974, P.L.1052, No.345, effective in 90 days.
Cross References. Chapter 97 is referred to in section 2153 of this title.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
9701. Short title of chapter.
9702. Definitions.
9703. Scope of chapter.

§ 9701. Short title of chapter.
This chapter shall be known and may be cited as the "Sentencing Code."

§ 9702. Definitions.
As used in this chapter "court" and "judge" include (when exercising criminal or quasi-criminal jurisdiction pursuant to section 1515 (relating to jurisdiction and venue)) a magisterial district judge.
(Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

§ 9703. Scope of chapter.
Except as otherwise specifically provided in this chapter, in all cases the sentence to be imposed shall be determined by the court as authorized by law.
(Mar. 8, 1982, P.L.169, No.54, eff. 90 days)

1982 Amendment. Act 54 added section 9703.

SUBCHAPTER B
SENTENCING AUTHORITY

Sec.
9711. Sentencing procedure for murder of the first degree.
9711.1. Sentencing for certain murders of infant persons.
9712. Sentences for offenses committed with firearms.
9712.1. Sentences for certain drug offenses committed with firearms.
9713. Sentences for offenses committed on public transportation.
9714. Sentences for second and subsequent offenses.
9715. Life imprisonment for homicide.
9716. Two or more mandatory minimum sentences applicable.
9717. Sentences for offenses against elderly persons.
9718. Sentences for offenses against infant persons.
9718.1. Sexual offender treatment.
9718.2. Sentences for sexual offenders.
9718.3. Sentence for failure to comply with registration of sexual offenders (Expired).
9718.4. Sentence for failure to comply with registration of sexual offenders.
9718.5. Mandatory period of probation for certain sexual offenders.
9719. Sentences for offenses committed while impersonating a law enforcement officer.
9719.1. Sentences for offenses committed against law enforcement officer.
9720. Sentencing for criminal mischief.
9720.1. Restitution for identity theft (Repealed).
9720.2. Sentencing for trafficking of persons.
9720.3. Sentencing for certain paroled offenders.
9720.4. Sentencing for offenses committed in association with a criminal gang.
9720.5. Sentencing for offenses involving sexual abuse of children.
9720.6. Sentencing for arson offenses.
9720.7. Sentencing for burglary.
9720.8. Sentencing for offenses involving domestic violence in the presence of a minor.

§ 9711. Sentencing procedure for murder of the first degree.
(a) Procedure in jury trials.—
(1) After a verdict of murder of the first degree is recorded and before the jury is discharged, the court shall conduct a separate sentencing hearing in which the jury shall determine whether the defendant shall be sentenced to death or life imprisonment.
(2) In the sentencing hearing, evidence concerning the victim and the impact that the death of the victim has had on the family of the victim is admissible. Additionally, evidence may be presented as to any other matter that the court deems relevant and admissible on the question of the sentence to be imposed. Evidence shall include matters relating to any of the aggravating or mitigating circumstances specified in subsections (d) and (e), and information concerning the victim and the impact that the death of the victim has had on the family of the victim. Evidence of aggravating circumstances shall be limited to those circumstances specified in subsection (d).

(3) After the presentation of evidence, the court shall permit counsel to present argument for or against the sentence of death. The court shall then instruct the jury in accordance with subsection (c).
(4) Failure of the jury to unanimously agree upon a sentence shall not impeach or in any way affect the guilty verdict previously recorded.

(b) Procedure in nonjury trials and guilty pleas.—If the defendant has waived a jury trial or pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose unless waived by the defendant with the consent of the Commonwealth, in which case the trial judge shall hear the evidence and determine the penalty in the same manner as would a jury as provided in subsection (a).

(c) Instructions to jury.—

(1) Before the jury retires to consider the sentencing verdict, the court shall instruct the jury on the following matters:
(i) The aggravating circumstances specified in subsection (d) as to which there is some evidence.
(ii) The mitigating circumstances specified in subsection (e) as to which there is some evidence.
(iii) Aggravating circumstances must be proved by the Commonwealth beyond a reasonable doubt; mitigating circumstances must be proved by the defendant by a preponderance of the evidence.
(iv) The verdict must be a sentence of death if the jury unanimously finds at least one aggravating circumstance specified in subsection (d) and no mitigating circumstance or if the jury unanimously finds one or more aggravating circumstances which outweigh any mitigating circumstances. The verdict must be a sentence of life imprisonment in all other cases.
(v) The court may, in its discretion, discharge the jury if it is of the opinion that further deliberation will not result in a unanimous agreement as to the sentence, in which case the court shall sentence the defendant to life imprisonment.
(2) The court shall instruct the jury that if it finds at least one aggravating circumstance and at least one mitigating circumstance, it shall consider, in weighing the aggravating and mitigating circumstances, any evidence presented about the victim and about the impact of the murder on the victim's family. The court shall also instruct the jury on any other matter that may be just and proper under the circumstances.

(d) Aggravating circumstances.—Aggravating circumstances shall be limited to the following:
(1) The victim was a firefighter, peace officer, public servant concerned in official detention, as defined in 18 Pa.C.S. § 5121 (relating to escape), judge of any court in the unified judicial system, the Attorney General of Pennsylvania, a deputy attorney general, district attorney, assistant district attorney, member of the General Assembly, Governor, Lieutenant Governor, Auditor General, State Treasurer, State law enforcement official, local law enforcement official, Federal law enforcement official or person employed to assist or assisting any law enforcement official in the performance of his duties, who was killed in the performance of his duties or as a result of his official position.
(2) The defendant paid or was paid by another person or had contracted to pay or be paid by another person or had conspired to pay or be paid by another person for the killing of the victim.
(3) The victim was being held by the defendant for ransom or reward, or as a shield or hostage.
(4) The death of the victim occurred while defendant was engaged in the hijacking of an aircraft.
(5) The victim was a prosecution witness to a murder or other felony committed by the defendant and was killed for the purpose of preventing his testimony against the defendant in any grand jury or criminal proceeding involving such offenses.
(6) The defendant committed a killing while in the perpetration of a felony.
(7) In the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense.

(8) The offense was committed by means of torture.
(9) The defendant has a significant history of felony convictions involving the use or threat of violence to the person.
(10) The defendant has been convicted of another Federal or State offense, committed either before or at the time of the offense at issue, for which a sentence of life imprisonment or death was imposable or the defendant was undergoing a sentence of life imprisonment for any reason at the time of the commission of the offense.
(11) The defendant has been convicted of another murder committed in any jurisdiction and committed either before or at the time of the offense at issue.
(12) The defendant has been convicted of voluntary manslaughter, as defined in 18 Pa.C.S. § 2503 (relating to voluntary manslaughter), or a substantially equivalent crime in any other jurisdiction, committed either before or at the time of the offense at issue.
(13) The defendant committed the killing or was an accomplice in the killing, as defined in 18 Pa.C.S. § 306(c) (relating to liability for conduct of another; complicity), while in the perpetration of a felony under the provisions of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, and punishable under the provisions of 18 Pa.C.S. § 7508 (relating to drug trafficking sentencing and penalties).
(14) At the time of the killing, the victim was or had been involved, associated or in competition with the defendant in the sale, manufacture, distribution or delivery of any controlled substance or counterfeit controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act or similar law of any other state, the District of Columbia or the United States, and the defendant committed the killing or was an accomplice to the killing as defined in 18 Pa.C.S. § 306(c), and the killing resulted from or was related to that association, involvement or competition to promote the defendant's activities in selling, manufacturing, distributing or delivering controlled substances or counterfeit controlled substances.
(15) At the time of the killing, the victim was or had been a nongovernmental informant or had otherwise provided any investigative, law enforcement or police agency with information concerning criminal activity and the defendant committed the killing or was an accomplice to the killing as defined in 18 Pa.C.S. § 306(c), and the killing was in retaliation for the victim's activities as a nongovernmental informant or in providing information concerning criminal activity to an investigative, law enforcement or police agency.
(16) The victim was a child under 12 years of age.
(17) At the time of the killing, the victim was in her third trimester of pregnancy or the defendant had knowledge of the victim's pregnancy.
(18) At the time of the killing the defendant was subject to a court order restricting in any way the defendant's behavior toward the victim pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or any other order of a court of common pleas or of the minor judiciary designed in whole or in part to protect the victim from the defendant.
(e) Mitigating circumstances.—Mitigating circumstances shall include the following:
(1) The defendant has no significant history of prior criminal convictions.
(2) The defendant was under the influence of extreme mental or emotional disturbance.
(3) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.
(4) The age of the defendant at the time of the crime.

(5) The defendant acted under extreme duress, although not such duress as to constitute a defense to prosecution under 18 Pa.C.S. § 309 (relating to duress), or acted under the substantial domination of another person.
(6) The victim was a participant in the defendant's homicidal conduct or consented to the homicidal acts.
(7) The defendant's participation in the homicidal act was relatively minor.
(8) Any other evidence of mitigation concerning the character and record of the defendant and the circumstances of his offense.

(f) Sentencing verdict by the jury.—
(1) After hearing all the evidence and receiving the instructions from the court, the jury shall deliberate and render a sentencing verdict. In rendering the verdict, if the sentence is death, the jury shall set forth in such form as designated by the court the findings upon which the sentence is based.
(2) Based upon these findings, the jury shall set forth in writing whether the sentence is death or life imprisonment.

(g) Recording sentencing verdict.—Whenever the jury shall agree upon a sentencing verdict, it shall be received and recorded by the court. The court shall thereafter impose upon the defendant the sentence fixed by the jury.

(h) Review of death sentence.—
(1) A sentence of death shall be subject to automatic review by the Supreme Court of Pennsylvania pursuant to its rules.
(2) In addition to its authority to correct errors at trial, the Supreme Court shall either affirm the sentence of death or vacate the sentence of death and remand for further proceedings as provided in paragraph (4).
(3) The Supreme Court shall affirm the sentence of death unless it determines that:
(i) the sentence of death was the product of passion, prejudice or any other arbitrary factor; or
(ii) the evidence fails to support the finding of at least one aggravating circumstance specified in subsection (d).
(4) If the Supreme Court determines that the death penalty must be vacated because none of the aggravating circumstances are supported by sufficient evidence, then it shall remand for the imposition of a life imprisonment sentence. If the Supreme Court determines that the death penalty must be vacated for any other reason, it shall remand for a new sentencing hearing pursuant to subsections (a) through (g).

(i) Record of death sentence to Governor.—Where a sentence of death is upheld by the Supreme Court, the prothonotary of the Supreme Court shall transmit to the Governor a full and complete record of the trial, sentencing hearing, imposition of sentence, opinion and order by the Supreme Court within 30 days of one of the following, whichever occurs first:
(1) the expiration of the time period for filing a petition for writ of certiorari or extension thereof where neither has been filed;
(2) the denial of a petition for writ of certiorari; or
(3) the disposition of the appeal by the United States Supreme Court, if that court grants the petition for writ of certiorari.
Notice of this transmission shall contemporaneously be provided to the Secretary of Corrections.

(j) Issuance of warrant.—(Repealed).

(k) Terms of confinement.—(Repealed).

(l) Witnesses to execution.—(Repealed).

(m) Certification of superintendent.—(Repealed).

(n) Postmortem examination.—(Repealed).
(o) Costs of execution and examination.—(Repealed).
(Mar. 26, 1974, P.L.213, No.46, eff. imd.; Dec. 30, 1974, P.L.1052, No.345, eff. 90 days; Sept. 13, 1978, P.L.756, No.141, eff. imd.; Oct. 5, 1980, P.L.693, No.142, eff. 60 days; July 7, 1986, P.L.400, No.87, eff. 60 days; Dec. 21, 1988, P.L.1862, No.179, eff. imd.; Dec. 22, 1989, P.L.727, No.99, eff. imd.; Mar. 15, 1995, 1st Sp.Sess., P.L.966, No.4, eff. imd.; Oct. 11, 1995, 1st Sp.Sess., P.L.1064, No.22, eff. 60 days; Nov. 17, 1995, 1st Sp.Sess., P.L.1117, No.31, eff. 60 days; Apr. 25, 1997, P.L.84, No.6, eff. 60 days; June 25, 1997, P.L.293, No.28, eff. imd.; June 18, 1998, P.L.622, No.80, eff. 60 days; Oct. 12, 1999, P.L.420, No.38, eff. 60 days)

1999 Amendment. Act 38 amended subsec. (i).
1998 Repeal. Act 80 repealed subsecs. (j), (k), (l), (m), (n) and (o).
1997 Amendments. Act 6 added subsec. (d)(18) and Act 28 amended subsec. (h).
1995 Amendments. Act 4, 1st Sp.Sess., amended subsecs. (d) and (i) and added subsecs. (j), (k), (l), (m), (n) and (o), Act 22, 1st Sp.Sess., amended subsecs. (a)(2), (b) and (c)(2) and Act 31, 1st Sp.Sess., added subsec. (d)(17). Section 4 of Act 4, 1st Sp.Sess., provided that Act 4 shall apply to cases in which the Governor has, as of the effective date of Act 4, not yet received the transcript of the record. Section 2 of Act 22, 1st Sp.Sess., provided that the amendment of subsecs. (a)(2), (b) and (c)(2) shall apply to sentences imposed for offenses which take place on or after the effective date of Act 22.
1980 Amendment. Act 142 amended subsecs. (d)(1) and (e)(5).
1978 Amendment. Act 141 added present section 9711 (as section 1311 of Title 18) and repealed former section 1311 relating to the same subject matter.
Cross References. Section 9711 is referred to in sections 722, 9543.1, 9577, 9738 of this title; section 1102 of Title 18 (Crimes and Offenses); section 4302 of Title 61 (Prisons and Parole).

§ 9711.1. Sentencing for certain murders of infant persons.
(a) Sentence enhancement.—The Pennsylvania Commission on Sentencing, pursuant to section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under 18 Pa.C.S. § 2502(c) (relating to murder) when the victim was less than 13 years of age at the time of the commission of the offense.
(b) Applicability.—The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall determine, by preponderance of the evidence, if this section is applicable.
(c) Consecutive sentence.—A sentence imposed upon a person to whom this section applies shall be served consecutively to any other sentence the person is serving and to any other sentence being then imposed by the court.
(Oct. 25, 2012, P.L.1655, No.204, eff. 60 days)

2012 Amendment. Act 204 added section 9711.1.

§ 9712. Sentences for offenses committed with firearms.
(a) Mandatory sentence.—Except as provided under section 9716 (relating to two or more mandatory minimum sentences applicable), any person who is convicted in any court of this Commonwealth of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses), shall, if the person visibly possessed a firearm or a replica of a firearm, whether or not the firearm or replica was loaded or functional, that placed the victim in reasonable

fear of death or serious bodily injury, during the commission of the offense, be sentenced to a minimum sentence of at least five years of total confinement notwithstanding any other provision of this title or other statute to the contrary. Such persons shall not be eligible for parole, probation, work release or furlough.

(b) Proof at sentencing.—Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(c) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Firearm." Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or the expansion of gas therein.

"Replica of a firearm." An item that can reasonably be perceived to be a firearm.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; June 13, 1995, 1st Sp.Sess., P.L.1024, No.17, eff. 120 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days)

1995 Amendments. Act 17, 1st Sp.Sess., amended subsecs. (a) and (e) and Act 21, 1st Sp.Sess., amended subsec. (a). See the preamble to Act 17, 1st Sp.Sess., in the appendix to this title for special provisions relating to legislative purpose. Section 6 of Act 21, 1st Sp.Sess., provided that the amendment of subsec. (a) shall apply to all offenses committed on or after the effective date of Act 21.

Cross References. Section 9712 is referred to in sections 9712.1, 9715 of this title; sections 505, 2702.1 of Title 18 (Crimes and Offenses); section 6137 of Title 61 (Prisons and Parole).

§ 9712.1. Sentences for certain drug offenses committed with firearms.

(a) Mandatory sentence.—Any person who is convicted of a violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, when at the time of the offense the person or the person's accomplice is in physical possession or control of a firearm, whether visible, concealed about the person or the person's accomplice or within the actor's or accomplice's reach or in close proximity to the controlled substance, shall likewise be sentenced to a minimum sentence of at least five years of total confinement.

(b) Limitation on aggregate sentences.—Where a defendant is subject to a mandatory minimum sentence under 18 Pa.C.S. § 7508(a) (relating to drug trafficking sentencing and penalties) and is also subject to an additional penalty under subsection (a) and where the court elects to aggregate these penalties, the combined minimum sentence may not exceed the statutory maximum sentence of imprisonment allowable under The Controlled Substance, Drug, Device and Cosmetic Act.
(c) Proof at sentencing.—Provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.
(d) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
(e) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.
(f) Definition.—As used in this section, the term "firearm" shall have the same meaning as that given to it in section 9712 (relating to sentences for offenses committed with firearms).
(Dec. 1, 2004, P.L.1747, No.225, eff. 60 days)

2004 Amendment. Act 225 added section 9712.1. See section 2 of Act 225 in the appendix to this title for special provisions relating to public information campaign.
Cross References. Section 9712.1 is referred to in sections 4503, 4601, 6137.1 of Title 61 (Prisons and Parole).

§ 9713. Sentences for offenses committed on public transportation.
(a) Mandatory sentence.—Except as provided under section 9716 (relating to two or more mandatory minimum sentences applicable), any person who is convicted in any court of this Commonwealth of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses), shall be sentenced to a minimum sentence of at least five years of total confinement if the crime occurs in or near public transportation as defined in subsection (b), notwithstanding any other provision of this title or other statute to the contrary.
(b) Site of commission of crime.—For the purposes of subsection (a), a crime shall be deemed to have occurred in or near public transportation if it is committed in whole or in part in a vehicle, station, terminal, waiting area or other facility used by a person, firm, corporation, municipality, municipal authority or port authority in rendering passenger transportation services to the public or a segment of the public or if it is committed in whole or in part on steps, passageways or other areas leading to or from or in the immediate vicinity of such a public transportation vehicle, station, terminal, waiting area or other facility.

(c) Proof at sentencing.—Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.

(d) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(e) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days)

1995 Amendment. Act 21, 1st Sp.Sess., amended subsec. (a). Section 6 of Act 21, 1st Sp.Sess., provided that the amendment of subsec. (a) shall apply to all offenses committed on or after the effective date of Act 21.

1982 Amendment. Act 54 added section 9713.

Cross References. Section 9713 is referred to in section 9715 of this title.

§ 9714. Sentences for second and subsequent offenses.

(a) Mandatory sentence.—

(1) Any person who is convicted in any court of this Commonwealth of a crime of violence shall, if at the time of the commission of the current offense the person had previously been convicted of a crime of violence, be sentenced to a minimum sentence of at least ten years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Upon a second conviction for a crime of violence, the court shall give the person oral and written notice of the penalties under this section for a third conviction for a crime of violence. Failure to provide such notice shall not render the offender ineligible to be sentenced under paragraph (2).

(2) Where the person had at the time of the commission of the current offense previously been convicted of two or more such crimes of violence arising from separate criminal transactions, the person shall be sentenced to a minimum sentence of at least 25 years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Proof that the offender received notice of or otherwise knew or should have known of the penalties under this paragraph shall not be required. Upon conviction for a third or subsequent crime of violence the court may, if it determines that 25 years of total confinement is insufficient to protect the public safety, sentence the offender to life imprisonment without parole.

(a.1) Mandatory maximum.—An offender sentenced to a mandatory minimum sentence under this section shall be sentenced to a maximum sentence equal to twice the mandatory minimum sentence,

notwithstanding 18 Pa.C.S. § 1103 (relating to sentence of imprisonment for felony) or any other provision of this title or other statute to the contrary.

(b) Presumption of high risk dangerous offender.—(Deleted by amendment).

(c) High risk dangerous offender.—(Deleted by amendment).

(d) Proof at sentencing.—Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, by a preponderance of the evidence, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.

(e) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsections (a) and (a.1) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(f) Appeal by Commonwealth.—If a sentencing court shall refuse to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for the imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(g) Definition.—As used in this section, the term "crime of violence" means murder of the third degree, voluntary manslaughter, manslaughter of a law enforcement officer as defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer), murder of the third degree involving an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to murder of unborn child), aggravated assault of an unborn child as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), assault of law enforcement officer as defined in 18 Pa.C.S. § 2702.1(a)(1) (relating to assault of law enforcement officer), use of weapons of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2) (relating to terrorism), strangulation when the offense is graded as a felony as defined in 18 Pa.C.S. § 2718 (relating to strangulation), trafficking of persons when the offense is graded as a felony of the first degree as provided in 18 Pa.C.S. § 3011 (relating to trafficking in individuals), rape, involuntary deviate sexual intercourse, aggravated indecent assault, incest, sexual assault, arson endangering persons or aggravated arson as defined in 18 Pa.C.S. § 3301(a) or (a.1) (relating to arson and related offenses), ecoterrorism as classified in 18 Pa.C.S. § 3311(b)(3) (relating to ecoterrorism), kidnapping, burglary as defined in 18 Pa.C.S. § 3502(a)(1) (relating to burglary), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery of a motor vehicle, drug delivery resulting in death as

defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death), or criminal attempt, criminal conspiracy or criminal solicitation to commit murder or any of the offenses listed above, or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.
(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; June 15, 1982, P.L.512, No.141, eff. imd.; Dec. 11, 1986, P.L.1521, No.165, eff. 60 days; Oct. 11, 1995, 1st Sp.Sess., P.L.1058, No.21, eff. 60 days; May 10, 2000, P.L.74, No.18, eff. 60 days; Dec. 20, 2000, P.L.811, No.113, eff. 60 days; July 7, 2011, P.L.220, No.40, eff. 60 days; July 5, 2012, P.L.1050, No.122, eff. 60 days; Oct. 25, 2012, P.L.1655, No.204, eff. 60 days; Feb. 25, 2014, P.L.33, No.16, eff. 60 days; June 5, 2020, P.L.246, No.32, eff. 60 days; Nov. 3, 2022, P.L.1634, No.99, eff. 60 days)

2022 Amendment. Act 99 amended subsec. (g).
2000 Amendments. Act 18 amended subsec. (g) and Act 113 amended subsec. (a) and deleted subsecs. (b) and (c). Section 5(1) of Act 18 provided that Act 18 shall apply to proceedings initiated on or after the effective date of Act 18.
1995 Amendment. Section 6 of Act 21, 1st Sp.Sess., provided that the amendment of subsec. (a) shall apply to all offenses committed on or after the effective date of Act 21.
Cross References. Section 9714 is referred to in sections 5750, 9543.1, 9712, 9713, 9715, 9720.4, 9774.1, 9799.24, 9799.58 of this title; section 1103 of Title 18 (Crimes and Offenses); sections 3903, 4103, 4503, 6101, 6135, 6137, 6137.1, 7301 of Title 61 (Prisons and Parole); section 3113 of Title 63 (Professions and Occupations (State Licensed)).

§ 9715. Life imprisonment for homicide.
(a) Mandatory life imprisonment.—Notwithstanding the provisions of section 9712 (relating to sentences for offenses committed with firearms), 9713 (relating to sentences for offenses committed on public transportation) or 9714 (relating to sentences for second and subsequent offenses), any person convicted of murder of the third degree in this Commonwealth who has previously been convicted at any time of murder or voluntary manslaughter in this Commonwealth or of the same or substantially equivalent crime in any other jurisdiction shall be sentenced to life imprisonment, notwithstanding any other provision of this title or other statute to the contrary.
(b) Proof at sentencing.—Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, by a preponderance of the evidence, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.
(c) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or

to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days; June 15, 1982, P.L.512, No.141, eff. imd.)

1982 Amendments. Act 54 added section 9715 and Act 141 amended subsec. (b). Section 4 of Act 54 provided that the mandatory sentences provided in section 9715 shall be applicable to offenses committed after the effective date of Act 54.

§ 9716. Two or more mandatory minimum sentences applicable.

Where two or more sections requiring mandatory minimum sentences are applicable, the court shall be bound by that section requiring the greater penalty.

(Mar. 8, 1982, P.L.169, No.54, eff. 90 days)

1982 Amendment. Act 54 added section 9716.

Cross References. Section 9716 is referred to in sections 9712, 9713 of this title.

§ 9717. Sentences for offenses against elderly persons.

(a) Mandatory sentence.—A person under 60 years of age convicted of the following offenses when the victim is over 60 years of age and not a police officer shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated assault) - not less than two years.

18 Pa.C.S. § 3121 (relating to rape) - not less than five years.

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse) - not less than five years.

18 Pa.C.S. § 3922 (relating to theft by deception) - not less than 12 months, but the imposition of the minimum sentence shall be discretionary with the court where the court finds justifiable cause and that finding is written in the opinion.

(b) Eligibility for parole.—Parole shall not be granted until the minimum term of imprisonment has been served.

(Dec. 30, 1982, P.L.1472, No.334, eff. 60 days)

1982 Amendment. Act 334 added section 9717.

§ 9718. Sentences for offenses against infant persons.

(a) Mandatory sentence.—

(1) A person convicted of the following offenses when the victim is less than 16 years of age shall be sentenced to a mandatory term of imprisonment as follows:

18 Pa.C.S. § 2702(a)(1) and (4) (relating to aggravated assault) - not less than two years.

18 Pa.C.S. § 3121(a)(1), (2), (3), (4) and (5) (relating to rape) - not less than ten years.

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse) - not less than ten years.

18 Pa.C.S. § 3125(a)(1) through (6) (relating to aggravated indecent assault) - not less than five years.
(2) A person convicted of the following offenses when the victim is less than 13 years of age shall be sentenced to a mandatory term of imprisonment as follows:
18 Pa.C.S. § 2502(c) (relating to murder) - not less than 15 years.
18 Pa.C.S. § 2702(a)(1) - not less than five years.
(3) A person convicted of the following offenses shall be sentenced to a mandatory term of imprisonment as follows:
18 Pa.C.S. § 3121(c) and (d) - not less than ten years.
18 Pa.C.S. § 3125(a)(7) - not less than five years.
18 Pa.C.S. § 3125(b) - not less than ten years.
(b) Eligibility for parole.—Parole shall not be granted until the minimum term of imprisonment has been served.
(c) Application of mandatory minimum penalty.—With the exception of prior convictions, any provision of this section that requires imposition of a mandatory minimum sentence shall constitute an element enhancing the underlying offense. Any enhancing element must be proven beyond a reasonable doubt at trial on the underlying offense and must be submitted to the fact-finder for deliberation together with the underlying offense. If the fact-finder finds the defendant guilty of the underlying offense, the fact-finder shall also decide whether any enhancing element has been proven.
(c.1) Notice.—Notice to the defendant of the applicability of this section shall be required prior to conviction.
(d) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place the offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
(e) Appeal by Commonwealth.—If the fact-finder has found any enhancing element and a sentencing court imposes a sentence below the mandatory minimum sentence, the Commonwealth shall have the right to appellate review of the sentence. If the appellate court finds that the mandatory sentencing provision was applicable, the court shall vacate the sentence and remand the case for resentencing in accordance with that provision.
(Dec. 30, 1982, P.L.1472, No.334, eff. 60 days; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Nov. 30, 2004, P.L.1703, No.217, eff. imd.; June 18, 2014, P.L.741, No.56, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2006 Amendment. See the preamble for Act 178 in the appendix to this title for special provisions relating to legislative intent.
2004 Amendment. Section 6 of Act 217 provided that subsec. (a)(3) shall apply to individuals sentenced on or after the effective date of section 6.

§ 9718.1. Sexual offender treatment.
(a) General rule.—A person, including an offender designated as a "sexually violent predator" as defined in section 9799.12 (relating to definitions) or 9799.53 (relating to definitions), shall attend and participate in a Department of Corrections program of counseling or therapy designed for incarcerated sex offenders if the person is incarcerated in a State institution for any of the following provisions under 18 Pa.C.S. (relating to crimes and offenses):

(1) Any of the offenses enumerated in Chapter 31 (relating to sexual offenses) if the offense involved a minor under 18 years of age.
(1.1) Any of the offenses enumerated under Chapter 30 (relating to human trafficking) if the victim is a minor under 18 years of age and the offense involved sexual servitude.
(2) Section 4304(a)(1) (relating to endangering welfare of children) if the offense involved sexual contact with the victim.
(3) Section 6301(a)(1)(i) (relating to corruption of minors) if the offense involved sexual contact with the victim.
(3.1) Section 6301(a)(1)(ii).
(4) Open lewdness, as defined in section 5901 (relating to open lewdness), if the offense involved a minor under 18 years of age.
(5) Prostitution, as defined in section 5902(b.1) (relating to prostitution and related offenses).
(6) Obscene and other sexual materials and performances, as defined in section 5903 (relating to obscene and other sexual materials and performances), if the offense involved a minor under 18 years of age.
(7) Sexual abuse of children, as defined in section 6312 (relating to sexual abuse of children).
(8) Section 6318 (relating to unlawful contact with minor).
(9) Section 6320 (relating to sexual exploitation of children).
(10) Section 4302(b) (relating to incest).
(11) An attempt, solicitation or conspiracy to commit any of the offenses listed in this subsection.
(b) Eligibility for parole.—For an offender required to participate in the program under subsection (a), all of the following apply:
(1) The offender shall not be eligible for parole unless the offender has:
(i) served the minimum term of imprisonment;
(ii) participated in the program under subsection (a); and
(iii) agreed to comply with any special conditions of parole imposed for therapy or counseling for sex offenders, including sexually violent predators.
(2) Notwithstanding paragraph (1)(iii), an offender who is a sexually violent predator is subject to section 9799.36 (relating to counseling of sexually violent predators).
(c) Department.—The department shall develop and provide the program of counseling or therapy for offenders as provided in subsection (a). The department shall have the sole discretion with respect to counseling or therapy program contents and administration, including the scheduling of an offender's attendance and participation.
(d) No right of action created.—Notwithstanding any other provision of law to the contrary, this section shall not be construed to confer any legal right upon any individual, including an individual required to participate in the department's programs of counseling or therapy for incarcerated offenders, seeking to:
(1) participate and attend the program provided in subsection (a) at a time of the individual's own choosing;
(2) modify the contents of the program provided in subsection (a);
(3) be paroled; or
(4) file any other cause of action in any court regarding the program provided in subsection (a).
(Dec. 20, 2000, P.L.721, No.98, eff. imd.; Nov. 20, 2002, P.L.1104, No.134, eff. 60 days; Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.223, No.45, eff. 60 days)

2021 Amendment. Act 45 amended subsec. (a).
2011 Amendment. Act 111 amended subsecs. (a) intro. par. and (b)(2).
2000 Amendment. Act 98 added section 9718.1. See the preamble and section 3 of Act 98 in the appendix to this title for special provisions relating to legislative intent and applicability.

§ 9718.2. Sentences for sexual offenders.
(a) Mandatory sentence.—
(1) Any person who is convicted in any court of this Commonwealth of an offense set forth in section 9799.14 (relating to sexual offenses and tier system) shall, if at the time of the commission of the current offense the person had previously been convicted of an offense set forth in section 9799.14 or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction, be sentenced to a minimum sentence of at least 25 years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Upon such conviction, the court shall give the person oral and written notice of the penalties under paragraph (2) for a third conviction. Failure to provide such notice shall not render the offender ineligible to be sentenced under paragraph (2).
(2) Where the person had at the time of the commission of the current offense previously been convicted of two or more offenses arising from separate criminal transactions set forth in section 9799.14 or equivalent crimes under the laws of this Commonwealth in effect at the time of the commission of the offense or equivalent crimes in another jurisdiction, the person shall be sentenced to a term of life imprisonment, notwithstanding any other provision of this title or other statute to the contrary. Proof that the offender received notice of or otherwise knew or should have known of the penalties under this paragraph shall not be required.
(b) Mandatory maximum.—An offender sentenced to a mandatory minimum sentence under this section shall be sentenced to a maximum sentence equal to twice the mandatory minimum sentence, notwithstanding 18 Pa.C.S. § 1103 (relating to sentence of imprisonment for felony) or any other provision of this title or other statute to the contrary.
(c) Proof of sentencing.—The provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The court shall then determine, by a preponderance of the evidence, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.
(d) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsections (a) and (b) or to place the offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section.

Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
(e) Appeal by Commonwealth.—If a sentencing court shall refuse to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for the imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.
(Nov. 29, 2006, P.L.1567, No.178, eff. Jan. 1, 2007; Dec. 20, 2011, P.L.446, No.111)

2011 Amendment. Act 111 amended the section heading and subsecs. (a) and (d), effective in 60 days as to the heading and one year as to subsecs. (a) and (d).
2006 Amendment. Act 178 added section 9718.2. See the preamble for Act 178 in the appendix to this title for special provisions relating to legislative intent.

§ 9718.3. Sentence for failure to comply with registration of sexual offenders (Expired).

2012 Expiration. Section 9718.3 expired December 20, 2012. See Act 111 of 2011.

§ 9718.4. Sentence for failure to comply with registration of sexual offenders.
(a) Mandatory sentence.—Mandatory sentencing shall be as follows:
(1) Sentencing upon conviction for a first offense shall be as follows:
(i) Not less than two years for an individual who:
(A) is subject to section 9799.13 (relating to applicability) and must register for a period of 15 years under section 9799.15 (relating to period of registration) or a similar provision from another jurisdiction; and
(B) violated 18 Pa.C.S. § 4915.1(a)(1) or (2) (relating to failure to comply with registration requirements).
(ii) Not less than three years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 15 years under section 9799.15 or a similar provision from another jurisdiction; and
(B) violated 18 Pa.C.S. § 4915.1(a)(3).
(iii) Not less than three years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction; and
(B) violated 18 Pa.C.S. § 4915.1(a)(1) or (2).
(iv) Not less than five years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction; and
(B) violated 18 Pa.C.S. § 4915.1(a)(3).
(2) Sentencing upon conviction for a second or subsequent offense shall be as follows:
(i) Not less than five years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under section 9799.15 or a similar provision from another jurisdiction; and
(B) violated 18 Pa.C.S. § 4915.1(a)(1) or (2).
(ii) Not less than seven years for an individual who:

(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under section 9799.15 or a similar provision from another jurisdiction; and
(B) violated 18 Pa.C.S. § 4915.1(a)(3).
(a.1) Transients and mandatory sentence.—Mandatory sentencing shall be as follows:
(1) Sentencing upon conviction for a first offense shall be as follows:
(i) Not less than two years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 15 years under section 9799.15 or a similar provision from another jurisdiction and is a transient; and
(B) violated 18 Pa.C.S. § 4915.1(a.1)(1) or (2).
(ii) Not less than three years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 15 years under section 9799.15 or a similar provision from another jurisdiction and is transient; and
(B) violated 18 Pa.C.S. § 4915.1(a.1)(3).
(iii) Not less than three years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is transient; and
(B) violated 18 Pa.C.S. § 4915.1(a.1)(1) or (2).
(iv) Not less than five years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is a transient; and
(B) violated 18 Pa.C.S. § 4915.1(a.1)(3).
(2) Sentencing upon conviction for a second or subsequent offense shall be as follows:
(i) Not less than five years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is transient; and
(B) violated 18 Pa.C.S. § 4915.1(a.1)(1) or (2).
(ii) Not less than seven years for an individual who:
(A) is subject to section 9799.13 and must register for a period of 15 or 25 years or life under section 9799.15 or a similar provision from another jurisdiction and is a transient; and
(B) violated 18 Pa.C.S. § 4915.1(a.1)(3).
(b) Proof at sentencing.—The provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider any evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present any necessary additional evidence and shall determine by a preponderance of the evidence if this section is applicable.
(c) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
(d) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for

imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.
(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2011 Amendment. Act 111 added section 9718.4.

§ 9718.5. Mandatory period of probation for certain sexual offenders.
(a) Mandatory probation supervision after release from confinement.—A person who is convicted in a court of this Commonwealth of an offense under section 9799.14(d) (relating to sexual offenses and tier system) shall be sentenced to a mandatory period of probation of three years consecutive to and in addition to any other lawful sentence issued by the court.
(b) Imposition.—The court may impose the term of probation required under subsection (a) in addition to the maximum sentence permitted for the offense for which the defendant was convicted.
(c) Authority of court in sentencing.—There shall be no authority in a court to impose on an offender to which this section is applicable a lesser period of probation than provided for under subsection (a). Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory period of probation provided under this section.
(d) Direct supervision.—Nothing under this section shall limit the court's authority to direct supervision by the Department of Corrections by special order as provided under 61 Pa.C.S. § 6172(a) (relating to probation services).
(Feb. 21, 2018, P.L.27, No.10, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d).
2018 Amendment. Act 10 added section 9718.5.
Cross References. Section 9718.5 is referred to in section 6137.2 of Title 61 (Prisons and Parole).

§ 9719. Sentences for offenses committed while impersonating a law enforcement officer.
(a) Mandatory sentence.—A person convicted of murder of the third degree, voluntary manslaughter, rape, involuntary deviate sexual intercourse, aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) (relating to aggravated assault), robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery) or kidnapping or who is convicted of attempt to commit any of these crimes shall, if the person was impersonating a law enforcement officer during the commission of the offense, be sentenced to a minimum sentence of at least three years of total confinement notwithstanding any other provision of this title or other statute to the contrary.
(b) Proof at sentencing.—Provisions of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court shall consider evidence presented at trial and shall afford the Commonwealth and the defendant an opportunity to present necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.
(c) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing

guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
(d) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.
(e) Definition.—As used in this section, the term "law enforcement officer" means a law enforcement officer or employee of the United States, a state, a political subdivision of a state or the District of Columbia.
(Apr. 13, 1988, P.L.336, No.47, eff. 60 days)

1988 Amendment. Act 47 added section 9719.

§ 9719.1. Sentences for offenses committed against law enforcement officer.
(a) Mandatory sentence.—A person convicted of the following offense shall be sentenced to a mandatory term of imprisonment as follows:
18 Pa.C.S. § 2702.1(a)(1) (relating to assault of law enforcement officer) - not less than 20 years.
(b) Authority of court in sentencing.—There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
(c) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.
(d) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Law enforcement officer." The term shall have the same meaning as the term "peace officer" is given under 18 Pa.C.S. § 501 (relating to definitions).
(Oct. 17, 2008, P.L.1628, No.131, eff. 60 days; Nov. 3, 2022, P.L.1634, No.99, eff. 60 days)

2022 Amendment. Act 99 amended subsec. (a).
2008 Amendment. Act 131 added section 9719.1.

§ 9720. Sentencing for criminal mischief.
(a) Sentencing.—A person convicted of an offense under 18 Pa.C.S. §§ 3304(a)(4) (relating to criminal mischief) and 3307(a.1) (relating to institutional vandalism), and who in the opinion of the sentencing court would benefit, shall be sentenced to a term of supervised community service, including repairing or restoring damaged property, in accordance with the following:
(1) If the damage to the property is less than $200, the term of community service shall not be less than 50 days nor more than 74 days.

(2) If the damage to the property is at least $200 but less than $1,000, the term of community service shall not be less than 75 days nor more than 99 days.
(3) If the damage to the property is $1,000 or more, the term of community service shall not be less than 100 days nor more than 200 days.
(b) Satisfactory completion of community service program.— Satisfactory completion of the community service program under subsection (a) shall result in a dismissal of charges and expungement of the record of the person sentenced under subsection (a). The court shall follow procedures similar to those established for the Accelerated Rehabilitative Disposition Program.
(Apr. 21, 1994, P.L.131, No.17, eff. 60 days)

1994 Amendment. Act 17 added section 9720. See the preamble to Act 17 of 1994 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 9720.1. Restitution for identity theft (Repealed).

2009 Repeal. Section 9720.1 was repealed September 18, 2009, P.L.391, No.42, effective in 60 days.
§ 9720.2. Sentencing for trafficking of persons.
Notwithstanding any other provision of law, a person who commits a violation of 18 Pa.C.S. § 3011 (relating to trafficking in individuals) or 3012 (relating to involuntary servitude) while violating:
(1) 18 Pa.C.S. § 2901 (relating to kidnapping);
(2) 18 Pa.C.S. § 3121 (relating to rape); or
(3) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
shall be sentenced up to a maximum term of life imprisonment.
(Nov. 9, 2006, P.L.1340, No.139, eff. 60 days; July 2, 2014, P.L.945, No.105, eff. 60 days)

§ 9720.3. Sentencing for certain paroled offenders.
A person unlawfully present in the United States who is convicted in a court of this Commonwealth of an offense committed subsequent to being paroled under 61 Pa.C.S. § 6143 (relating to early parole of inmates subject to Federal removal order) may be imprisoned for a term up to twice the term of sentence otherwise authorized, fined an amount equal to twice the fine otherwise authorized or both.
(July 5, 2012, P.L.1050, No.122, eff. 60 days)

2012 Amendment. Act 122 added section 9720.3.
Cross References. Section 9720.3 is referred to in section 6143 of Title 61 (Prisons and Parole).

§ 9720.4. Sentencing for offenses committed in association with a criminal gang.
(a) Sentencing enhancement.—In addition to any minimum term of imprisonment authorized or established by law for the offense, the Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for a crime of violence, as defined in section 9714(g) (relating to sentences for second and subsequent offenses) or a violation of section 13(a)(30) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, if the offense was knowingly committed at the direction of or for the purpose of benefiting, promoting or furthering the interests of a criminal gang.
(b) Definition.—As used in this section, the term "criminal gang" has the meaning given in 18 Pa.C.S. § 5131(e) (relating to recruiting criminal gang members).

(Oct. 25, 2012, P.L.1628, No.200, eff. 60 days)

2012 Amendment. Act 200 added section 9720.4.

§ 9720.5. Sentencing for offenses involving sexual abuse of children.
(a) General rule.—The Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under 18 Pa.C.S. § 6312 (relating to sexual abuse of children), specifying variations from the range of sentences applicable based on such aggravating circumstances as the age of the child or a determination of prepubescence, the number of images possessed by the defendant, if the child depicted is known to the defendant and the nature and character of the abuse depicted in the images.
(b) Other circumstances.—When a person commits an offense to which the grading provisions under 18 Pa.C.S. § 6312(d.1)(3) apply, the Pennsylvania Commission on Sentencing shall, in accordance with section 2154, provide for a sentence enhancement within its guidelines if indecent contact with the child as defined in 18 Pa.C.S. § 3101 (relating to definitions) is depicted and the child depicted is under 10 years of age or prepubescent.
(Dec. 18, 2013, P.L.1163, No.105, eff. Jan. 1, 2014; June 30, 2021, P.L.249, No.53, eff. 60 days)

§ 9720.6. Sentencing for arson offenses.
The Pennsylvania Commission on Sentencing shall provide for a sentencing enhancement for arson offenses if any of the following factors are present:
(1) bodily injury results to a firefighter, police officer or other person actively engaged in fighting the fire;
(2) serious bodily injury results to a civilian;
(3) more than three people were present inside the property at the time of the offense;
(4) the fire caused more than $1,000,000 in property damage; or
(5) the actor used, attempted to use or possessed an explosive or incendiary device as defined in 18 Pa.C.S. § 5515(a) (relating to prohibiting of paramilitary training).
(Feb. 25, 2014, P.L.33, No.16, eff. 60 days)

2014 Amendment. Act 16 added section 9720.6.

§ 9720.7. Sentencing for burglary.
The Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under 18 Pa.C.S. § 3502(a)(1)(i)(relating to burglary).
(Nov. 4, 2016, P.L.1194, No.158, eff. 60 days)

2016 Amendment. Act 158 added section 9720.7.

§ 9720.8. Sentencing for offenses involving domestic violence in the presence of a minor.
(a) Sentencing enhancement.—The Pennsylvania Commission on Sentencing, in accordance with section 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentence enhancement within its guidelines for an offense under 18 Pa.C.S. § 2701 (relating to simple assault) or 2702 (relating to aggravated assault), specifying variations from the range of sentences applicable

based on such aggravating circumstances as the assault was committed against a family or household member and the defendant knew the crime was witnessed, either through sight or sound, by a minor who is also a family or household member of the defendant or the victim.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Family or household member." The term shall have the same meaning as "family or household members" under 23 Pa.C.S. § 6102 (relating to definitions).

(Oct. 24, 2018, P.L.1145, No.157, eff. 60 days)

2018 Amendment. Act 157 added section 9720.8.

SUBCHAPTER H

REGISTRATION OF SEXUAL OFFENDERS

Sec.

9791. Legislative findings and declaration of policy (Expired).
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9799.40. Duties of Pennsylvania Commission on Sentencing.
9799.41. Expiration.
9799.42. Standing for Pennsylvania State Police.

Enactment. Subchapter H was added October 24, 1995, 1st Sp.Sess., P.L.1079, No.24, effective in 180 days, unless otherwise noted.
Reenactment. Subchapter H was reenacted and amended May 10, 2000, P.L.74, No.18, effective in 60 days.
Special Provisions in Appendix. See section 21 of Act 29 of 2018 in the appendix to this title for special provisions relating to applicability.
Cross References. Subchapter H is referred to in sections 5920, 6302, 9774.1, 9799.55, 9799.63, 9799.67, 9802 of this title; sections 3130, 3141, 4915.1, 4915.2 of Title 18 (Crimes and Offenses); sections 2511, 6303, 6338.1, 6707 of Title 23 (Domestic Relations); section 2303 of Title 44 (Law and Justice); sections 3903, 4103, 4503, 4601, 6137, 6137.1, 6138, 6139, 6143 of Title 61 (Prisons and Parole).

§ 9791. Legislative findings and declaration of policy (Expired).

2012 Expiration. Section 9791 expired December 20, 2012. See Act 111 of 2011.

§ 9792. Definitions (Expired).

2012 Expiration. Section 9792 expired December 20, 2012. See Act 111 of 2011.

2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9793. Registration of certain offenders for ten years (Deleted by amendment).

2000 Amendment. Section 9793 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9794. Designation of sexually violent predators (Deleted by amendment).

2000 Amendment. Section 9794 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9795. Registration of offenders (Deleted by amendment).

2000 Amendment. Section 9795 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9795.1. Registration (Expired).

2012 Expiration. Section 9795.1 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9795.2. Registration procedures and applicability (Expired).

2012 Expiration. Section 9795.2 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9795.3. Sentencing court information (Expired).

2012 Expiration. Section 9795.3 expired December 20, 2012. See Act 111 of 2011.

§ 9795.4. Assessments (Expired).

2012 Expiration. Section 9795.4 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9795.5. Exemption from certain notifications (Expired).

2012 Expiration. Section 9795.5 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9796. Verification of residence (Expired).

2012 Expiration. Section 9796 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9797. Victim notification (Expired).

2012 Expiration. Section 9797 expired December 20, 2012. See Act 111 of 2011.

§ 9798. Other notification (Expired).

2012 Expiration. Section 9798 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9798.1. Information made available on the Internet and electronic notification (Expired).

2012 Expiration. Section 9798.1 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9798.2. Administration (Expired).

2012 Expiration. Section 9798.2 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9798.3. Global positioning system technology (Expired).

2012 Expiration. Section 9798.3 expired December 20, 2012. See Act 111 of 2011.

§ 9799. Immunity for good faith conduct (Expired).

2012 Expiration. Section 9799 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.1. Duties of Pennsylvania State Police (Expired).

2012 Expiration. Section 9799.1 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.2. Duties of Pennsylvania Board of Probation and Parole (Expired).

2012 Expiration. Section 9799.2 expired December 20, 2012. See Act 111 of 2011.

§ 9799.3. Board (Expired).

2012 Expiration. Section 9799.3 expired December 20, 2012. See Act 111 of 2011.

§ 9799.4. Counseling of sexually violent predators (Expired).

2012 Expiration. Section 9799.4 expired December 20, 2012. See Act 111 of 2011.

§ 9799.5. Exemption from notification (Deleted by amendment).

2000 Amendment. Section 9799.5 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9799.6. Applicability (Deleted by amendment).

2000 Amendment. Section 9799.6 was deleted by amendment May 10, 2000, P.L.74, No.18, effective in 60 days.

§ 9799.7. Exemption from notification for certain licensees and their employees (Expired).

2012 Expiration. Section 9799.7 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.8. Annual performance audit (Expired).

2012 Expiration. Section 9799.8 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.9. Photographs and fingerprinting (Expired).

2012 Expiration. Section 9799.9 expired December 20, 2012. See Act 111 of 2011.
2013 Unconstitutionality. Act 152 of 2004 was declared unconstitutional. Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013). The unconstitutionality took effect March 17, 2014.

§ 9799.10. Purposes of subchapter.
This subchapter shall be interpreted and construed to effectuate the following purposes:
(1) To bring the Commonwealth into substantial compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587).
(2) To require individuals convicted or adjudicated delinquent of certain sexual offenses to register with the Pennsylvania State Police and to otherwise comply with this subchapter if those individuals reside within this Commonwealth, intend to reside within this Commonwealth, attend an

educational institution within this Commonwealth or are employed or conduct volunteer work within this Commonwealth.
(3) To require individuals convicted or adjudicated delinquent of certain sexual offenses who fail to maintain a residence and are therefore homeless but can still be found within the borders of this Commonwealth to register with the Pennsylvania State Police.
(4) To require individuals who are subject to the criminal justice system of this Commonwealth as inmates, supervised with respect to probation or parole or registrants due to committing a sexually violent offense on or after December 20, 2012, for which the individual was convicted, to register with the Pennsylvania State Police and to otherwise comply with this subchapter. To the extent practicable and consistent with the requirements of the Adam Walsh Child Protection and Safety Act of 2006, this subchapter shall be construed to maintain existing procedures regarding registration of sexual offenders who are subject to the criminal justice system of this Commonwealth.
(5) To provide a mechanism for members of the general public to obtain information about certain sexual offenders from a public Internet website and to include on that Internet website a feature which will allow a member of the public to enter a zip code or a geographic radius and determine whether a sexual offender resides within that zip code or radius.
(6) To provide a mechanism for law enforcement entities within this Commonwealth to obtain information about certain sexual offenders and to allow law enforcement entities outside this Commonwealth, including those within the Federal Government, to obtain current information about certain sexual offenders.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.10 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.10 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended par. (4) and Act 29 reenacted par. (4). Section 20(1) of Act 10 provided that the amendment of section 9799.10 shall apply to an individual who commits an offense on or after December 20, 2012.
2012 Amendment. Act 91 amended pars. (2) and (3).
2011 Amendment. Act 111 added section 9799.10.

§ 9799.11. Legislative findings, declaration of policy and scope.
(a) Legislative findings.—The General Assembly finds as follows:
(1) In 1995 the General Assembly enacted the act of October 24, 1995 (1st Sp.Sess. P.L.1079, No.24), commonly referred to as Megan's Law. Through this enactment, the General Assembly intended to comply with legislation enacted by Congress requiring that states provide for the registration of sexual offenders. The Federal statute, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Public Law 103-322, 42 U.S.C. 14071 et seq.), has been superseded by the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587).
(2) This Commonwealth's laws regarding registration of sexual offenders need to be strengthened. The Adam Walsh Child Protection and Safety Act of 2006 provides a mechanism for the

Commonwealth to increase its regulation of sexual offenders in a manner which is nonpunitive but offers an increased measure of protection to the citizens of this Commonwealth.
(3) If the public is provided adequate notice and information about sexual offenders, the community can develop constructive plans to prepare for the presence of sexual offenders in the community. This allows communities to meet with law enforcement to prepare and obtain information about the rights and responsibilities of the community and to provide education and counseling to residents, particularly children.
(4) Sexual offenders pose a high risk of committing additional sexual offenses and protection of the public from this type of offender is a paramount governmental interest.
(5) Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.
(6) Release of information about sexual offenders to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.
(7) Knowledge of whether a person is a sexual offender could be a significant factor in protecting oneself and one's family members, or those in care of a group or community organization, from recidivist acts by such offenders.
(8) The technology afforded by the Internet and other modern electronic communication methods makes this information readily accessible to parents, minors and private entities, enabling them to undertake appropriate remedial precautions to prevent or avoid placing potential victims at risk.
(b) Declaration of policy.—The General Assembly declares as follows:
(1) It is the intention of the General Assembly to substantially comply with the Adam Walsh Child Protection and Safety Act of 2006 and to further protect the safety and general welfare of the citizens of this Commonwealth by providing for increased regulation of sexual offenders, specifically as that regulation relates to registration of sexual offenders and community notification about sexual offenders.
(2) It is the policy of the Commonwealth to require the exchange of relevant information about sexual offenders among public agencies and officials and to authorize the release of necessary and relevant information about sexual offenders to members of the general public as a means of assuring public protection and shall not be construed as punitive.
(3) It is the intention of the General Assembly to address the Pennsylvania Supreme Court's decision in Commonwealth v. Neiman, No.74 MAP 2011 (Pa. 2013), by amending this subchapter in the act of March 14, 2014 (P.L.41, No.19).
(4) It is the intention of the General Assembly to address the Pennsylvania Supreme Court's decision in Commonwealth v. Muniz, 164 A.3d 1189 (Pa. 2017) and the Pennsylvania Superior Court's decision in Commonwealth v. Butler (2017 WL 4914155).
(c) Scope.—This subchapter shall apply to individuals who committed a sexually violent offense on or after December 20, 2012, for which the individual was convicted.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.11 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.11 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended the section heading and added subsecs. (b)(4) and (c) and Act 29 reenacted the section heading and subsecs. (b)(4) and (c). Section 20(1) of Act 10 provided that the amendment of section 9799.11 shall apply to an individual who commits an offense on or after December 20, 2012.
2014 Amendment. Act 19 amended subsec. (b).
2011 Amendment. Act 111 added section 9799.11.
References in Text. The citation, Commonwealth v. Butler, (2017 WL 4914155), referred to in subsec. (b)(4), was incorrectly cited as Commonwealth v. Butler (2017 WL 3882445) in Acts 10 and 29 of 2018. The parallel citation is Commonwealth v. Butler, 173 A.3d 1212 (Pa. Super. 2017).

§ 9799.12. Definitions.
The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Approved registration site." A site in this Commonwealth approved by the Pennsylvania State Police at which individuals subject to this subchapter may comply with this subchapter.
"Board." The State Sexual Offenders Assessment Board.
"Common interest community." Includes a cooperative, a condominium and a planned community where an individual by virtue of an ownership interest in any portion of real estate is or may become obligated by covenant, easement or agreement imposed upon the owner's interest to pay any amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the individual.
"Convicted." Includes conviction by entry of plea of guilty or nolo contendere, conviction after trial or court martial and a finding of not guilty due to insanity or of guilty but mentally ill.
"Employed." Includes a vocation or employment that is full time or part time for a period of time exceeding four days during a seven-day period or for an aggregate period of time exceeding 14 days during any calendar year, whether self-employed, volunteered, financially compensated, pursuant to a contract or for the purpose of governmental or educational benefit.
"Foreign country." Includes Canada, the United Kingdom, Australia, New Zealand and a foreign country where the United States Department of State in the Country Reports on Human Rights Practices has concluded that an independent judiciary enforced the right to a fair trial in that country during the calendar year in which the individual's conviction occurred.
"IAFIS." The Integrated Automated Fingerprint Identification System.
"Integrated Automated Fingerprint Identification System." The national fingerprint and criminal history system maintained by the Federal Bureau of Investigation providing automated fingerprint search capabilities, latent searching capability, electronic image storage and electronic exchange of fingerprints and responses.
"Jurisdiction." A state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the United States Virgin Islands and a federally recognized Indian tribe as provided in section 127 of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 42 U.S.C. § 16927).
"Juvenile offender." One of the following:
(1) An individual who was 14 years of age or older at the time the individual committed an offense which, if committed by an adult, would be classified as an offense under 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse) or 3125 (relating to aggravated

indecent assault) or an attempt, solicitation or conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123 or 3125 and either:
(i) is adjudicated delinquent for such offense on or after the effective date of this section; or
(ii) has been adjudicated delinquent for such offense and on the effective date of this section is subject to the jurisdiction of the court on the basis of that adjudication of delinquency, including commitment to an institution or facility set forth in section 6352(a)(3) (relating to disposition of delinquent child).
(2) An individual who, on or after the effective date of this paragraph, was 14 years of age or older at the time the individual committed an offense similar to an offense under 18 Pa.C.S. § 3121, 3123 or 3125 or an attempt, solicitation or conspiracy to commit an offense similar to an offense under 18 Pa.C.S. § 3121, 3123 or 3125 under the laws of the United States, another jurisdiction or a foreign country and was adjudicated delinquent for such an offense; or who was previously adjudicated delinquent for such an offense and, on the effective date of this paragraph, is subject to the jurisdiction of the court on the basis of that adjudication of delinquency.
(3) An individual who, on or after the effective date of this paragraph, was required to register in a sexual offender registry in another jurisdiction or foreign country based upon an adjudication of delinquency.
The term does not include a sexually violent delinquent child.

"Mental abnormality." A congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

"Military offense." An offense specified by the United States Secretary of Defense under 10 U.S.C. § 951 (relating to establishment; organization; administration).

"Minor." Any individual under 18 years of age.

"Municipality." A city, borough, incorporated town or township.

"NCIC." The National Crime Information Center.

"Penetration." Includes any penetration, however slight, of the genitals or anus or mouth of another person with a part of the person's body or a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

"Predatory." An act directed at a stranger or at a person with whom a relationship has been initiated, established, maintained or promoted, in whole or in part, in order to facilitate or support victimization.

"Registry." The Statewide Registry of Sexual Offenders established in section 9799.16(a) (relating to registry).

"Residence." A location where an individual resides or is domiciled or intends to be domiciled for 30 consecutive days or more during a calendar year. The term includes a residence which is mobile, including a houseboat, mobile home, trailer or recreational vehicle.

"Sexual offender." An individual who has committed a sexually violent offense. The term includes a sexually violent predator.

"Sexually violent delinquent child." As defined in section 6402 (relating to definitions) if the determination as a sexually violent delinquent child is based on an act of sexual violence, as defined in section 6402, committed on or after December 20, 2012, for which the child was adjudicated delinquent and determined to be in need of commitment for involuntary treatment as specified in Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons).

"Sexually violent offense." An offense specified in section 9799.14 (relating to sexual offenses and tier system) as a Tier I, Tier II or Tier III sexual offense committed on or after December 20, 2012, for which the individual was convicted.
"Sexually violent predator." An individual who committed a sexually violent offense under the laws of this Commonwealth or an attempt, conspiracy or solicitation to commit a sexually violent offense under the laws of this Commonwealth on or after December 20, 2012, who is determined to be a sexually violent predator under section 9799.24 (relating to assessments) due to a mental abnormality or personality disorder that makes the individual likely to engage in predatory sexually violent offenses. The term includes an individual determined to be a sexually violent predator or similar designation where the determination occurred in another jurisdiction, a foreign country or by court martial following a judicial or administrative determination pursuant to a process similar to that under section 9799.24 where the determination or designation is based on the commitment of a sexually violent offense on or after December 20, 2012, for which the individual was convicted.
(1) (Deleted by amendment).
(2) (Deleted by amendment).
(3) (Deleted by amendment).
"Student." An individual who is enrolled in or attends a public or private educational institution within this Commonwealth on a full-time or part-time basis, including a secondary school, trade or professional institution or institution of higher education. The term does not include an individual enrolled in an educational institution exclusively through the Internet or via correspondence courses.
"Temporary lodging." The specific location, including street address, where a sexual offender is staying when away from the sexual offender's residence for seven or more days.
"Tier I sexual offense." An offense specified in section 9799.14(b) (relating to sexual offenses and tier system).
"Tier II sexual offense." An offense specified in section 9799.14(c) (relating to sexual offenses and tier system).
"Tier III sexual offense." An offense specified in section 9799.14(d) (relating to sexual offenses and tier system).
"Transient." A sexual offender who does not have a residence but nevertheless resides in this Commonwealth in a temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; May 8, 2024, P.L.360, No.16, eff. imd.)

2024 Amendment. Act 16 amended the def. of "sexually violent predator."
2021 Unconstitutionality. Section 9799.12 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.12 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended the defs. of "sexual offender," "sexually violent delinquent child," "sexually violent offense," "sexually violent predator" and "transient" and Act 29 reenacted the defs. of "sexual offender," "sexually violent delinquent child," "sexually violent offense," "sexually violent predator" and "transient." Section 20(1) of Act 10 provided that the amendment of section 9799.12 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendment. Act 138 amended the defs. of "juvenile offender" and "sexually violent predator," retroactive to September 2, 2014, as to the def. of "sexually violent predator."
2012 Amendment. Act 91 amended the defs. of "approved registration site," "convicted," "juvenile offender" and "sexually violent predator."
2011 Amendment. Act 111 added section 9799.12.
Cross References. Section 9799.12 is referred to in sections 9718.1, 9799.19 of this title; section 4915.1 of Title 18 (Crimes and Offenses); sections 6303, 6338.1 of Title 23 (Domestic Relations).

§ 9799.13. Applicability.
The following individuals shall register with the Pennsylvania State Police as provided in sections 9799.15 (relating to period of registration), 9799.19 (relating to initial registration) and 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police) and otherwise comply with the provisions of this subchapter:
(1) A sexual offender who has a residence within this Commonwealth or is a transient.
(1.1) A sexual offender who is convicted in this Commonwealth and who does not have a residence in this Commonwealth and:
(i) is employed in this Commonwealth; or
(ii) is a student in this Commonwealth.
(1.2) A sexual offender who does not have a residence within this Commonwealth or is not a transient in this Commonwealth and:
(i) is employed in this Commonwealth; or
(ii) is a student in this Commonwealth.
(2) A sexual offender who is an inmate in a State or county correctional institution of this Commonwealth, including a community corrections center or a community contract facility, is being supervised by the Department of Corrections or county probation or parole, is subject to a sentence of intermediate punishment or restrictive conditions of probation or has supervision transferred pursuant to the Interstate Compact for Adult Supervision in accordance with section 9799.19(g).
(2.1) A sexual offender who is an inmate in a Federal correctional institution or is supervised by Federal probation authorities and who:
(i) has a residence within this Commonwealth or is a transient;
(ii) is employed within this Commonwealth; or
(iii) is a student within this Commonwealth.
(3) (Deleted by amendment).
(3.1) (Deleted by amendment).
(3.2) (Deleted by amendment).
(4) (Deleted by amendment).
(5) (Deleted by amendment).
(6) (Deleted by amendment).
(7) A sexual offender required to register in a sexual offender registry in another jurisdiction or in a foreign country based upon a conviction for a sexually violent offense or under a sexual offender statute in the jurisdiction where the individual is convicted and:
(i) has a residence in this Commonwealth or is a transient;
(ii) is employed within this Commonwealth; or
(iii) is a student within this Commonwealth.
(7.1) An individual who, as a result of committing an offense set forth in section 9799.14(b)(23) (relating to sexual offenses and tier system) on or after December 20, 2012, for which the individual

was convicted, is required to register in a sexual offender registry in another jurisdiction or foreign country and:
(i) has a residence in this Commonwealth or is a transient;
(ii) is employed within this Commonwealth; or
(iii) is a student within this Commonwealth.
(7.2) A sexual offender who is convicted in another jurisdiction or foreign country, or is incarcerated or under supervision as a result of a conviction in another jurisdiction or foreign country and:
(i) has a residence in this Commonwealth or is a transient;
(ii) is employed within this Commonwealth; or
(iii) is a student within this Commonwealth.
(8) An individual who, on or after December 20, 2012, is a juvenile offender who was adjudicated delinquent within this Commonwealth or was adjudicated delinquent in another jurisdiction or a foreign country and:
(i) has a residence within this Commonwealth;
(ii) is employed within this Commonwealth; or
(iii) is a student within this Commonwealth.
(8.1) An individual who is a juvenile offender who is adjudicated delinquent in this Commonwealth on or after December 20, 2012, but who does not have a residence within this Commonwealth, is not a transient, is not employed in this Commonwealth or is not a student within this Commonwealth must register with the Pennsylvania State Police in accordance with section 9799.19 prior to leaving this Commonwealth.
(8.2) An individual who between January 23, 2005, and December 19, 2012, established a residence or was a transient in this Commonwealth, was employed within this Commonwealth, or was a student in this Commonwealth, and who was required to register in a sexual offender registry as a result of an adjudication of delinquency for an offense which occurred in a foreign country or another jurisdiction and that required the individual to register in that foreign country or other jurisdiction.
(9) An individual who is a sexually violent delinquent child.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended par. (2).
2021 Unconstitutionality. Section 9799.13 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.13 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended section 9799.13 and Act 29 reenacted and amended section 9799.13. Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.13. Section 20(1) of Act 10 provided that the amendment of section 9799.13 shall apply to an individual who commits an offense on or after December 20, 2012.
2014 Amendment. Act 19 amended par. (3) and added pars. (3.1), (3.2) and (8.2), retroactive to December 20, 2012.

References in Text. Section 16 of Act 111 of 2011 provided that any reference in any act or part of an act to section 9795.1, referred to in par. (4), shall be deemed a reference to section 9799.15 as if fully set forth in that act or part of that act.
Cross References. Section 9799.13 is referred to in sections 9718.4, 9799.15, 9799.16, 9799.18, 9799.19, 9799.21, 9799.22, 9799.25, 9799.32, 9799.34, 9799.36, 9799.39 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.14. Sexual offenses and tier system.
(a) Tier system established.—Sexual offenses shall be classified in a three-tiered system composed of Tier I sexual offenses, Tier II sexual offenses and Tier III sexual offenses.
(b) Tier I sexual offenses.—The following offenses, or an attempt, conspiracy or solicitation to commit any of the following offenses, shall be classified as Tier I sexual offenses:
(1) 18 Pa.C.S. § 2902(b) (relating to unlawful restraint).
(2) 18 Pa.C.S. § 2903(b) (relating to false imprisonment).
(3) 18 Pa.C.S. § 2904 (relating to interference with custody of children), except in cases where the defendant is the child's parent, guardian or other lawful custodian.
(4) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).
(4.1) 18 Pa.C.S. § 3011(a)(1) and (2) (relating to trafficking in individuals).
(4.2) 18 Pa.C.S. § 3013 (relating to patronizing a victim of sexual servitude).
(5) 18 Pa.C.S. § 3124.2(a) and (a.4)(1) (relating to institutional sexual assault).
(6) 18 Pa.C.S. § 3126(a)(1) (relating to indecent assault).
(7) (Reserved).
(8) 18 Pa.C.S. § 6301(a)(1)(ii) (relating to corruption of minors).
(9) 18 Pa.C.S. § 6312(d) (relating to sexual abuse of children).
(10) 18 Pa.C.S. § 7507.1. (relating to invasion of privacy).
(11) 18 U.S.C. § 1801 (relating to video voyeurism).
(12) 18 U.S.C. § 2252(a)(4) (relating to certain activities relating to material involving the sexual exploitation of minors).
(13) 18 U.S.C. § 2252A (relating to certain activities relating to material constituting or containing child pornography).
(14) 18 U.S.C. § 2252B (relating to misleading domain names on the Internet).
(15) 18 U.S.C. § 2252C (relating to misleading words or digital images on the Internet).
(16) 18 U.S.C. § 2422(a) (relating to coercion and enticement).
(17) 18 U.S.C. § 2423(b) (relating to transportation of minors).
(18) 18 U.S.C. § 2423(c).
(19) 18 U.S.C. § 2424 (relating to filing factual statement about alien individual).
(20) 18 U.S.C. § 2425 (relating to use of interstate facilities to transmit information about a minor).
(21) A comparable military offense or similar offense under the laws of another jurisdiction or foreign country or under a former law of this Commonwealth.
(22) (Deleted by amendment).
(23) A conviction for a sexual offense in another jurisdiction or foreign country that is not set forth in this section, but nevertheless requires registration under a sexual offender statute in the jurisdiction or foreign country.
(c) Tier II sexual offenses.—The following offenses, or an attempt, conspiracy or solicitation to commit any of the following offenses, shall be classified as Tier II sexual offenses:
(1) 18 Pa.C.S. § 3011(b).

(1.1) 18 Pa.C.S. § 3122.1(a)(2) (relating to statutory sexual assault).
(1.2) 18 Pa.C.S. § 3124.2(a.2) and (a.3).
(1.3) 18 Pa.C.S. § 3126(a)(2), (3), (4), (5), (6) or (8).
(1.4) 18 Pa.C.S. § 3012 (relating to involuntary servitude) as it relates to sexual servitude.
(1.5) 18 Pa.C.S. § 3124.3 (relating to sexual assault by sports official, volunteer or employee of nonprofit association).
(2) 18 Pa.C.S. § 5902(b.1) (relating to prostitution and related offenses).
(3) 18 Pa.C.S. § 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6) (relating to obscene and other sexual materials and performances).
(4) 18 Pa.C.S. § 6312(b) and (c).
(5) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
(6) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
(7) 18 U.S.C. § 1591 (relating to sex trafficking of children by force, fraud, or coercion).
(8) 18 U.S.C. § 2243 (relating to sexual abuse of a minor or ward).
(9) 18 U.S.C. § 2244 (relating to abusive sexual contact) where the victim is 13 years of age or older but under 18 years of age.
(10) 18 U.S.C. § 2251 (relating to sexual exploitation of children).
(11) 18 U.S.C. § 2251A (relating to selling or buying of children).
(12) 18 U.S.C. § 2252(a)(1), (2) or (3).
(13) 18 U.S.C. § 2260 (relating to production of sexually explicit depictions of a minor for importation into the United States).
(14) 18 U.S.C. § 2421 (relating to transportation generally).
(15) 18 U.S.C. § 2422(b).
(16) 18 U.S.C. § 2423(a).
(17) A comparable military offense or similar offense under the laws of another jurisdiction or foreign country or under a former law of this Commonwealth.
(18) (Deleted by amendment).

(d) Tier III sexual offenses.—The following offenses, or an attempt, conspiracy or solicitation to commit any of the following offenses, shall be classified as Tier III sexual offenses:
(1) 18 Pa.C.S. § 2901(a.1) (relating to kidnapping).
(2) 18 Pa.C.S. § 3121 (relating to rape).
(3) 18 Pa.C.S. § 3122.1(b) (relating to statutory sexual assault).
(4) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
(5) 18 Pa.C.S. § 3124.1 (relating to sexual assault).
(6) 18 Pa.C.S. § 3124.2(a.1) and (a.4)(2).
(7) 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
(8) 18 Pa.C.S. § 3126(a)(7).
(9) 18 Pa.C.S. § 4302(b) (relating to incest).
(10) 18 U.S.C. § 2241 (relating to aggravated sexual abuse).
(11) 18 U.S.C. § 2242 (relating to sexual abuse).
(12) 18 U.S.C. § 2244 where the victim is under 13 years of age.
(13) A comparable military offense or similar offense under the laws of another jurisdiction or country or under a former law of this Commonwealth.
(14) (Deleted by amendment).
(15) (Reserved).
(16) Two or more convictions of offenses listed as Tier I or Tier II sexual offenses.

(17) One conviction of a sexually violent offense and one conviction of a sexually violent offense as defined in section 9799.55 (relating to registration).
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; July 2, 2014, P.L.945, No.105, eff. 60 days; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; July 23, 2020, P.L.641, No.63, eff. 60 days; Nov. 3, 2022, P.L.2066, No.144, eff. 60 days; May 8, 2024, P.L.360, No.16, eff. imd.; June 30, 2025, P.L.75, No.22, eff. imd.)

2025 Amendment. Act 22 added subsec. (c)(1.5).
2024 Amendment. Act 16 amended subsecs. (b), (c) and (d).
2021 Unconstitutionality. Section 9799.14 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.14 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Section 20(1) of Act 10 provided that the amendment of section 9799.14 shall apply to an individual who commits an offense on or after December 20, 2012.
2011 Amendment. Act 111 added section 9799.14.
Cross References. Section 9799.14 is referred to in sections 9718.2, 9718.5, 9799.12, 9799.13, 9799.15 of this title; sections 9122.1, 9122.3 of Title 18 (Crimes and Offenses); sections 57A12, 57B02 of Title 53 (Municipalities Generally); section 2604.1 of Title 66 (Public Utilities).

§ 9799.15. Period of registration.
(a) Period of registration.—Subject to subsection (c), an individual specified in section 9799.13 (relating to applicability) shall register with the Pennsylvania State Police as follows:
(1) An individual convicted of a Tier I sexual offense, except an offense set forth in section 9799.14(b)(23) (relating to sexual offenses and tier system), shall register for a period of 15 years.
(2) An individual convicted of a Tier II sexual offense shall register for a period of 25 years.
(3) An individual convicted of a Tier III sexual offense shall register for the life of the individual.
(4) A juvenile offender who was adjudicated delinquent in this Commonwealth, or who was adjudicated delinquent in another jurisdiction or foreign country as a consequence of having committed an offense similar to an offense which would require the individual to register if the offense was committed in this Commonwealth, shall register for the life of the individual.
(4.1) A juvenile offender who is required to register in a sexual offender registry in another jurisdiction or foreign country as a consequence of having been adjudicated delinquent for an offense similar to an offense which, if committed in this Commonwealth, would not require the individual to register shall register for a period of time equal to that required of the individual in the other jurisdiction or foreign country.
(5) A sexually violent delinquent child shall register for the life of the individual.
(6) A sexually violent predator shall register for the life of the individual.
(7) An individual subject to registration under section 9799.13(7.1) shall register for the period of time equal to the time for which the individual was required to register in another jurisdiction or foreign country.
(a.1) Credit for time on registry.—(Deleted by amendment).
(a.2) Assessment by court after 25 years.—An individual required to register under subsection (a)(3), (5), (6) and (7) may be exempt from the requirement to register, the requirement to verify residence, employment and enrollment in an educational institution, the requirement to appear on

the publicly accessible Internet website maintained by the Pennsylvania State Police and all other requirements of this subchapter if:
(1) Subject to subsection (c), at least 25 years have elapsed prior to filing a petition with the sentencing court to be exempt from the requirements of this subchapter, during which time the petitioner has not been convicted in this Commonwealth or any other jurisdiction or foreign country of an offense punishable by imprisonment of more than one year, or the petitioner's release from custody following the petitioner's most recent conviction for an offense, whichever is later.
(2) Upon receipt of a petition filed under paragraph (1), the sentencing court shall enter an order directing that the petitioner be assessed by the board. Upon receipt from the court of an order for an assessment under this subsection, a member of the board designated by the administrative officer of the board shall conduct an assessment of the petitioner to determine if the relief sought, if granted, is likely to pose a threat to the safety of any other person. The board shall establish standards for evaluations and for evaluators conducting assessments.
(3) The order for an assessment under this subsection shall be sent to the administrative officer of the board within 10 days of the entry. No later than 90 days following receipt of the order, the board shall submit a written report containing the board's assessment to the sentencing court, the district attorney and the attorney for the petitioner.
(4) Within 120 days of filing the petition under paragraph (1), the sentencing court shall hold a hearing to determine whether to exempt the petitioner from the application of any or all of the requirements of this subchapter. The petitioner and the district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed to represent the petitioner if the petitioner cannot afford one.
(5) The sentencing court shall exempt the petitioner from application of any or all of the requirements of this subchapter, at the discretion of the court, only upon a finding of clear and convincing evidence that exempting the sexual offender from a particular requirement or all of the requirements of this subchapter is not likely to pose a threat to the safety of any other person.
(6) A court granting relief under this subsection shall notify the Pennsylvania State Police in writing within 10 days from the date the relief is granted. If a memorandum of understanding has been entered into under section 9799.26 (relating to victim notification) with respect to relief granted to the petitioner, the Pennsylvania State Police shall transmit the information about the relief to the Office of Victim Advocate as soon as is practicable. The Office of Victim Advocate shall notify the victim of the relief, in accordance with the memorandum of understanding, as described in section 9799.26.
(7) The petitioner and the Commonwealth shall have the right to appellate review of the actions of the sentencing court under this subsection. An appeal by the Commonwealth shall stay the order of the sentencing court.
(8) The petitioner may file an additional petition with the sentencing court no sooner than five years from the date of the final determination of a court regarding the petition and no sooner than every five years thereafter.
(9) If the petitioner is exempt from any provisions of this subchapter and the petitioner is subsequently convicted under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements), relief granted under this subsection shall be void and the petitioner shall automatically and immediately again be subject to the provisions of this subchapter, as previously determined by this subchapter.

(a.3) Agency cooperation.—All State, county and local agencies, offices and entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing access to records and information as requested by the board in connection with the court-ordered assessment under subsection (a.2).

(b) Commencement of registration.—The following apply:

(1) The period of registration set forth in subsection (a) shall commence as follows:

(i) For an individual who committed a sexually violent offense in this Commonwealth, the period of registration shall commence upon:

(A) release from incarceration in a State or county correctional facility, including release to a community correction center or community contract facility;

(B) parole or a sentence of probation; or

(C) a sentence of State or county intermediate punishment in which the person is not sentenced to a period of incarceration.

(ii) For an individual who is a juvenile offender, the period of registration shall commence upon:

(A) release from an institution or facility set forth in section 6352(a)(3) (relating to disposition of delinquent child), if the juvenile offender is, on or after December 20, 2012, subject to the jurisdiction of a court pursuant to a disposition entered under section 6352 and is under court-ordered placement in an institution or facility set forth in section 6352(a)(3); or

(B) disposition, if the juvenile offender is, on or after December 20, 2012, subject to the jurisdiction of a court pursuant to a disposition entered under section 6352 and is placed on probation or is otherwise subject to jurisdiction of a court pursuant to a disposition under section 6352 that did not involve out-of-home placement.

(iii) For a sexually violent delinquent child, the period of registration shall commence upon transfer to involuntary outpatient treatment pursuant to section 6404.1 (relating to transfer to involuntary outpatient treatment).

(iv) For an individual who committed a sexually violent offense in another jurisdiction or foreign country or a comparable military offense, the period of registration shall commence upon establishment of a residence or commencement of employment or enrollment as a student within this Commonwealth. This subparagraph shall apply to an individual convicted of a sexually violent offense in another jurisdiction or foreign country or comparable military offense and who is a transient.

(2) Notwithstanding the provisions of paragraph (1), an individual specified in section 9799.13 shall initially register with the Pennsylvania State Police as set forth in section 9799.19 (relating to initial registration).

(c) Period of registration tolled.—The following shall apply:

(1) The period of registration set forth in subsection (a) shall be tolled for the period of time in which the individual specified in section 9799.13 is:

(i) incarcerated in a Federal, State or county correctional institution, excluding a community contract facility or community corrections center;

(ii) subject to a sentence of intermediate punishment which is restrictive and where the individual is sentenced to a period of incarceration;

(iii) committed to an institution or facility set forth in section 6352(a)(3) that provides the individual with 24-hour-per-day supervision and care;

(iv) committed to and receiving involuntary inpatient treatment in the State-owned facility or unit set forth in Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons); or

(v) incarcerated in a Federal correctional institution, excluding a community contract facility or community corrections center.
(2) This subsection shall apply to an individual specified in section 9799.13 who is recommitted to a Federal, State or county correctional institution for a parole violation or who has been sentenced to an additional term of imprisonment. In addition, this subsection shall apply to an individual committed to or recommitted to a Federal correctional institution. In the case of recommitment to a State or county correctional institution, the Department of Corrections or the county correctional facility shall notify the Pennsylvania State Police of the admission of the individual.
(d) Sexually violent predators.—An individual convicted of a Tier I sexual offense, a Tier II sexual offense or a Tier III sexual offense who is determined to be a sexually violent predator under section 9799.24 (relating to assessments) shall register for the life of the individual.
(e) Periodic in-person appearance required.—Except as provided in subsection (f) and subject to subsections (g) and (h), an individual specified in section 9799.13 shall appear in person at an approved registration site to provide or verify the information set forth in section 9799.16(b) (relating to registry) and to be photographed as follows:
(1) An individual convicted of a Tier I sexual offense shall appear annually.
(2) An individual convicted of a Tier II sexual offense shall appear semiannually.
(3) An individual convicted of a Tier III sexual offense shall appear quarterly.
(4) An individual required to register pursuant to section 9799.13(7.1) shall appear annually.
(f) Sexually violent predators.—A sexually violent predator shall appear in person at an approved registration site to:
(1) provide or verify the information set forth in section 9799.16(b);
(2) be photographed quarterly; and
(3) state whether he is in compliance with section 9799.36 (relating to counseling of sexually violent predators).
(g) In-person appearance to update information.—In addition to the periodic in-person appearance required in subsections (e), (f) and (h), an individual specified in section 9799.13 shall appear in person at an approved registration site within three business days to provide current information relating to:
(1) A change in name, including an alias.
(2) A commencement of residence, change in residence, termination of residence or failure to maintain a residence, thus making the individual a transient.
(3) Commencement of employment, a change in the location or entity in which the individual is employed or a termination of employment.
(4) Initial enrollment as a student, a change in enrollment as a student or termination as a student.
(5) An addition and a change in telephone number, including a cell phone number, or a termination of telephone number, including a cell phone number.
(6) An addition, a change in and termination of a motor vehicle owned or operated, including watercraft or aircraft. In order to fulfill the requirements of this paragraph, the individual must provide any license plate numbers and registration numbers and other identifiers and an addition to or change in the address of the place the vehicle is stored.
(7) A commencement of temporary lodging, a change in temporary lodging or a termination of temporary lodging. In order to fulfill the requirements of this paragraph, the individual must provide the specific length of time and the dates during which the individual will be temporarily lodged.
(8) An addition, change in or termination of e-mail address, instant message address or any other designations used in Internet communications or postings.

(9) An addition, change in or termination of information related to occupational and professional licensing, including type of license held and license number.

(h) Transients, juvenile offenders and sexually violent delinquent children.—If the individual specified in section 9799.13 is a transient, a juvenile offender or a sexually violent delinquent child, the following apply:

(1) If the individual is a transient, the individual shall appear in person at an approved registration site to provide or to verify the information set forth in section 9799.16(b) and to be photographed monthly. The duty to appear in person monthly and to be photographed shall apply until a transient establishes a residence. In the event a transient establishes a residence, the requirement of periodic in-person appearances set forth in subsection (e) shall apply.

(2) If the individual is a juvenile offender who is not a transient, the individual shall appear at an approved registration site to provide or verify the information set forth in section 9799.16(b) and to be photographed quarterly.

(3) If the individual is a sexually violent delinquent child who is not a transient, the individual shall appear at an approved registration site to provide or verify the information set forth in section 9799.16(b) and to be photographed quarterly.

(i) International travel.—In addition to the periodic in-person appearance required in subsection (e), an individual specified in section 9799.13 shall appear in person at an approved registration site no less than 21 days in advance of traveling outside of the United States. The individual shall provide the following information:

(1) Dates of travel, including date of return to the United States.

(2) Destinations.

(3) Temporary lodging.

(j) In-person reporting by incarcerated or committed individuals.—The requirements of subsections (e), (f), (g) and (h) do not apply where the individual specified in section 9799.13 is:

(1) incarcerated in a correctional institution, excluding a community contract facility or community corrections center;

(2) subject to a sentence of intermediate punishment which is restrictive and where the individual is sentenced to a period of incarceration;

(3) committed to an institution or facility set forth in section 6352(a)(3) which provides the individual with 24-hour-per-day supervision and care; or

(4) committed to and receiving involuntary inpatient treatment in the State-owned facility or unit set forth in Chapter 64.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Mar. 14, 2014, P.L.41, No.19, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.15 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.15 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (b)(1)(i) and (iv), added subsec. (a.2) and deleted subsec. (a.1) and Act 29 reenacted and amended section 9799.15. Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.15. Section 20(1) of Act 10 provided that the amendment of section 9799.15 shall apply to an individual who commits an offense on or after December 20, 2012.

2014 Amendment. Act 19 added subsec. (a.1), retroactive to December 20, 2012.
2012 Amendment. Act 91 amended subsecs. (a)(1), (4) and (7), (c), (f), (g) and (h) and added subsecs. (a)(4.1) and (j).
2011 Amendment. Act 111 added section 9799.15. Section 16 of Act 111 provided that any reference in any act or part of an act to section 9795.1 shall be deemed a reference to section 9799.15 as if fully set forth in that act or part of that act.
Cross References. Section 9799.15 is referred to in sections 6404.2, 9718.4, 9799.13, 9799.16, 9799.17, 9799.18, 9799.19, 9799.21, 9799.22, 9799.23, 9799.25, 9799.26, 9799.28, 9799.42 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.16. Registry.
(a) Establishment.—There is established a Statewide registry of sexual offenders in order to carry out the provisions of this subchapter. The Pennsylvania State Police shall create and maintain the registry. The registry shall maintain a complete and systematic index of all records required regarding sexual offenders in order to comply with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587). The registry shall:
(1) Be composed of an electronic database and digitized records.
(2) Be able to communicate with the Sex Offender Registration and Notification Act Exchange Portal developed by the United States Department of Justice, the National Sex Offender Registry or any successor database which is maintained by the Department of Justice and the Dru Sjodin National Sex Offender Public Internet Website maintained by the Department of Justice.
(3) Be able to communicate with sexual offender registries established in other jurisdictions.
(4) Contain information about individuals required to register with the Pennsylvania State Police under Subchapter I (relating to continued registration of sexual offenders).
(b) Information provided by sexual offender.—An individual specified in section 9799.13 (relating to applicability) shall provide the following information which shall be included in the registry:
(1) Primary or given name, including an alias used by the individual, nickname, pseudonym, ethnic or tribal name, regardless of the context used and any designations or monikers used for self-identification in Internet communications or postings.
(2) Designation used by the individual for purposes of routing or self-identification in Internet communications or postings.
(3) Telephone number, including cell phone number, and any other designation used by the individual for purposes of routing or self-identification in telephonic communications.
(4) Valid Social Security number issued to the individual by the Federal Government and purported Social Security number.
(5) Address of each residence or intended residence, whether or not the residence or intended residence is located within this Commonwealth and the location at which the individual receives mail, including a post office box. If the individual fails to maintain a residence and is therefore a transient, the individual shall provide information for the registry as set forth in paragraph (6).
(6) If the individual is a transient, the individual shall provide information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park. In addition, the transient shall provide a list of places the transient eats, frequents and engages in leisure activities and any planned destinations, including those outside this Commonwealth. If the transient changes or adds to the places listed under this paragraph during a monthly period, the transient shall list these when registering as a transient during the next monthly

period. In addition, the transient shall provide the place the transient receives mail, including a post office box. If the transient has been designated as a sexually violent predator, the transient shall state whether he is in compliance with section 9799.36 (relating to counseling of sexually violent predators). The duty to provide the information set forth in this paragraph shall apply until the transient establishes a residence. In the event a transient establishes a residence, the requirements of section 9799.15(e) (relating to period of registration) shall apply.
(7) Temporary lodging. In order to fulfill the requirements of this paragraph, the individual must provide the specific length of time and the dates during which the individual will be temporarily lodged.
(8) A passport and documents establishing immigration status, which shall be copied in a digitized format for inclusion in the registry.
(9) Name and address where the individual is employed or will be employed. In order to fulfill the requirements of this paragraph, if the individual is not employed in a fixed workplace, the individual shall provide information regarding general travel routes and general areas where the individual works.
(10) Information relating to occupational and professional licensing, including type of license held and the license number.
(11) Name and address where the individual is a student or will be a student.
(12) Information relating to motor vehicles owned or operated by the individual, including watercraft and aircraft. In order to fulfill the requirements of this paragraph, the individual shall provide a description of each motor vehicle, watercraft or aircraft. The individual shall provide a license plate number, registration number or other identification number and the address of the place where a vehicle is stored. In addition, the individual shall provide the individual's license to operate a motor vehicle or other identification card issued by the Commonwealth, another jurisdiction or a foreign country so that the Pennsylvania State Police can fulfill its responsibilities under subsection (c)(7).
(13) Actual date of birth and purported date of birth.
(14) Form signed by the individual acknowledging the individual's obligations under this subchapter provided in accordance with section 9799.23 (relating to court notification and classification requirements).
(c) Criminal justice information.—The Pennsylvania State Police shall ensure that the following information is included in or electronically accessible by the registry:
(1) Physical description of the individual, including a general physical description and tattoos, scars and other identifying marks.
(2) Text of the statute defining the criminal offense for which the individual is registered.
(3) Criminal history record information of the individual, including:
(i) Dates of arrests and convictions.
(ii) Status of probation, parole or supervised release.
(iii) Whether the individual is in compliance with requirements regarding this subchapter or has absconded.
(iv) Existence of any outstanding warrants.
(4) Current photograph of the individual. In order to fulfill the requirements of this paragraph, in addition to the taking of photographs pursuant to section 9799.15(e), the Pennsylvania State Police shall ensure that additional photographs are taken as needed when there is a significant change in appearance of the individual, including the taking of a current photograph before the individual is released from a State or county correctional institution or an institution or facility set forth in section

6352(a)(3) (relating to disposition of delinquent child) or discharged from the State-owned facility or unit set forth in Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons) due to:
(i) the expiration of sentence, period of commitment or involuntary treatment;
(ii) parole or other supervised release, including release to a community corrections center or a community contract facility;
(iii) commencement of a sentence of intermediate punishment; or
(iv) any other form of supervised release.
(5) Set of fingerprints and palm prints of the individual. In order to fulfill the requirements of this paragraph, the palm prints shall be taken for the purpose of submission to the Federal Bureau of Investigation Central Database. The palm prints shall be submitted for entry into the database.
(6) DNA sample of the individual. In order to fulfill the requirements of this paragraph, the sample shall be taken for the purpose of analysis and entry into the Combined DNA Index System (CODIS). In addition, the sample shall be analyzed and submitted for entry into CODIS.
(7) Photocopy of valid driver's license or identification card issued to the individual by the Commonwealth, another jurisdiction or a foreign country.
(d) Cooperation.—There shall be cooperation between the Pennsylvania State Police, State and county correctional institutions, the Pennsylvania Parole Board, the county office of probation and parole, any court with jurisdiction over a sexual offender, the chief juvenile probation officer of the court, juvenile probation and parole and the Department of Human Services to ensure that the information set forth in subsections (b) and (c) is provided and placed in the registry.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d).
2021 Unconstitutionality. Section 9799.16 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.16 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended subsec. (a) and Act 29 reenacted subsec. (a)(4). Section 20(1) of Act 10 provided that the amendment of section 9799.16 shall apply to an individual who commits an offense on or after December 20, 2012.
2012 Amendment. Act 91 amended subsecs. (b)(5) and (6), (c) intro. par. and (d).
2011 Amendment. Act 111 added section 9799.16.
Cross References. Section 9799.16 is referred to in sections 9799.12, 9799.15, 9799.18, 9799.19, 9799.20, 9799.23, 9799.25 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.17. Termination of period of registration for juvenile offenders.
(a) Juvenile offender.—An individual who is a juvenile offender, with the exception of a juvenile offender whose period of registration is determined by section 9799.15(a)(4.1) (relating to period of registration), shall have the requirement to register terminated if all of the following apply:
(1) At least 25 years have elapsed since the individual was:
(i) adjudicated delinquent for an offense which, if committed by an adult, would be classified as an offense under 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse) or 3125 (relating to aggravated indecent assault) or an attempt, solicitation or conspiracy

to commit an offense under 18 Pa.C.S. § 3121, 3123 or 3125, excluding time spent under the supervision of the court, including commitment to an institution or facility set forth in section 6352(a)(3) (relating to deposition of delinquent child); or
(ii) adjudicated delinquent for an offense in another jurisdiction or foreign country which is similar to that which if committed by an adult in this Commonwealth would be classified as an offense under 18 Pa.C.S. § 3121, 3123 or 3125 or an attempt, solicitation or conspiracy to commit an offense under 18 Pa.C.S. § 3121, 3123 or 3125.
(2) For a period of 25 years prior to the filing of the petition, the individual has not been convicted of a subsequent sexually violent offense or a subsequent offense:
(i) graded as a misdemeanor of the second degree or higher; or
(ii) which is punishable by a term of imprisonment greater than one year.
(3) The individual successfully completed court-ordered supervision without revocation.
(4) The individual successfully completed a treatment program for sexual offenders recognized by the juvenile court in this Commonwealth or another jurisdiction or the United States Attorney General under section 115(b)(1) of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 42 U.S.C. § 16915(b)(1)).
(b) Procedure.—An individual who was adjudicated delinquent in this Commonwealth and who seeks to terminate the obligation to register pursuant to subsection (a) may petition the court of common pleas of the county in which the individual was adjudicated delinquent for termination. An individual who was adjudicated delinquent in another jurisdiction or foreign country may petition the court of common pleas in the county in which the individual has established a residence in this Commonwealth. The court shall:
(1) Within 120 days of the filing of the petition under this subsection, hold a hearing to determine whether to terminate the obligation to register. The petitioner and the district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed if the petitioner cannot afford one.
(2) Terminate the obligation to register only upon a finding of clear and convincing evidence that the petitioner has satisfied the criteria in subsection (a) and that allowing the petitioner to terminate the obligation to register is not likely to pose a threat to the safety of any other person. The burden of proof shall be on the petitioner.
(c) Notice.—A court granting relief under this section shall notify the Megan's Law Unit of the Pennsylvania State Police in writing within ten days from the date relief is granted.
(d) Right to appeal.—The petitioner and the Commonwealth shall have the right to appellate review of the actions of the court taken under this section. An appeal by the Commonwealth shall stay the order of the court.
(e) Prohibition.—This section shall not apply to an individual who:
(1) Has been designated as a sexually violent predator.
(2) Has been convicted of a sexually violent offense who is required to register for a period of 15 years or a period of 25 years.
(3) Has been convicted of a sexually violent offense who is required to register for a period of life.
(4) Is a sexually violent delinquent child.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.17 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).

2019 Unconstitutionality. Section 9799.17 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
Cross References. Section 9799.17 is referred to in section 9799.23 of this title; section 6338.1 of Title 23 (Domestic Relations).

§ 9799.18. Information sharing.
(a) General rule.—The Pennsylvania State Police shall, within three business days, make available information provided by an individual set forth in section 9799.13 (relating to applicability) under sections 9799.15(g) and (i) (relating to period of registration), 9799.16(b) (relating to registry) and 9799.19 (relating to initial registration) to:
(1) A jurisdiction in which the individual is required to register the individual's residence, employment or enrollment as a student.
(2) A jurisdiction in which the individual has terminated the individual's residence, employment or enrollment as a student.
(3) The United States Attorney General, the Department of Justice and the United States Marshals Service for inclusion in the National Sex Offender Registry, NCIC and any other database established by such Federal agencies.
(4) The district attorney of the county in which the individual:
(i) establishes a residence or terminates a residence, or is transient;
(ii) commences employment or terminates employment; or
(iii) enrolls as a student or terminates enrollment as a student.
(5) The chief law enforcement officer of the police department of the municipality in which the individual:
(i) establishes a residence or terminates a residence, or is transient;
(ii) commences employment or terminates employment; or
(iii) enrolls as a student or terminates enrollment as a student.
(6) The county office of probation and parole for the county in which the individual:
(i) establishes a residence or terminates a residence, or is transient;
(ii) commences employment or terminates employment; or
(iii) enrolls as a student or terminates enrollment as a student.
(b) When sexual offender fails to appear.—When another jurisdiction notifies this Commonwealth that a sexual offender has terminated his residence, employment or enrollment as a student in that jurisdiction and intends to establish a residence in this Commonwealth, commence employment in this Commonwealth or commence enrollment as a student in this Commonwealth and that sexual offender fails to appear in this Commonwealth to register, the Pennsylvania State Police shall notify the other jurisdiction that the sexual offender failed to appear.
(c) International residence.—The Pennsylvania State Police shall, within three business days, transfer information that a sexual offender intends to establish residence in another country to:
(1) A jurisdiction in which the sexual offender is required to register residence, employment or enrollment as a student.
(2) The United States Marshals Service.
(3) The Department of Justice for inclusion in the National Sex Offender Registry and NCIC.
(d) International travel.—The Pennsylvania State Police shall, within three business days, transfer information about international travel provided by the sexual offender under section 9799.15(i) to:
(1) A jurisdiction in which the sexual offender is required to register the sexual offender's residence, as a transient, employment or enrollment as a student.

(2) The United States Marshals Service.
(3) The Department of Justice for inclusion in the National Sex Offender Registry and NCIC.
(e) National Child Protection Act agencies.—The Pennsylvania State Police shall, within three business days, transfer such criminal history record information about a sexual offender in the registry necessary to enable an agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (Public Law 103-209, 42 U.S.C. 5119a) to conduct the background checks.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.18 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.18 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2012 Amendment. Act 91 amended subsecs. (a) intro. par., (4), (5) and (6) and (d)(1).
2011 Amendment. Act 111 added section 9799.18.
Cross References. Section 9799.18 is referred to in section 9799.32 of this title.

§ 9799.19. Initial registration.
(a) General rule.—An individual set forth in section 9799.13 (relating to applicability) shall initially register with the Pennsylvania State Police as set forth in this section.
(b) Initial registration if incarcerated within Commonwealth or by Federal Court on effective date of section.—(Deleted by amendment).
(b.1) Initial registration if sentenced to a county or State correctional facility on or after the effective date of section.—(Deleted by amendment).
(c) Initial registration if sentenced to county intermediate punishment on effective date of section.—(Deleted by amendment).
(d) Initial registration if sentenced to county intermediate punishment after effective date of section.—(Deleted by amendment).
(e) Initial registration if sentenced to county probation on or after effective date of section.—(Deleted by amendment).
(e.1) Initial registration for county or Federal probationers on the effective date of this section.—(Deleted by amendment).
(e.2) Initial registration for county or State parolees on the effective date of this section.—(Deleted by amendment).
(f) Initial registration if being supervised by Commonwealth under Interstate Compact for Adult Offender Supervision.—If an individual is in this Commonwealth and is being supervised by the Department of Corrections or the county office of probation and parole pursuant to the Interstate Compact for Adult Offender Supervision, the following apply:
(1) If the individual is being supervised under the compact for committing a sexually violent offense which requires registration in another jurisdiction or foreign country whether or not the sexual offense is designated as a sexually violent offense, the individual shall provide the information set forth in section 9799.16(b) (relating to registry) to the appropriate official of the Department of Corrections or the county office of probation and parole for inclusion in the registry. The appropriate official shall collect the information set forth in section 9799.16(b) and forward the information to the Pennsylvania State Police. The appropriate official shall, in addition, ensure that the information set forth in section 9799.16(c) is collected and forwarded to the Pennsylvania State

Police. If the individual fails to provide the information in section 9799.16(b), the appropriate official of the Department of Corrections or county office of probation and parole shall notify the Pennsylvania State Police.
(2) (Deleted by amendment).
(g) Supervision of individual convicted in Commonwealth who does not intend to reside in Commonwealth.—An individual who committed a sexually violent offense within this Commonwealth who seeks transfer of supervision to another jurisdiction pursuant to the Interstate Compact for Adult Offender Supervision shall not have supervision transferred to another jurisdiction prior to the individual's registration with the Pennsylvania State Police as set forth in this section.
(h) Initial registration of juvenile offender or sexually violent delinquent child.—
(1) If the individual is a juvenile offender who is adjudicated delinquent by a court on or after December 20, 2012, the following apply:
(i) The court shall require the individual to provide the information set forth in section 9799.16(b) to the chief juvenile probation officer of the court as follows:
(A) Except as set forth in clause (B), at the time of disposition under section 6352 (relating to disposition of delinquent child).
(B) At the time the individual is adjudicated delinquent under section 6341 (relating to adjudication) if:
(I) the adjudication of delinquency occurs in any county other than the individual's county of residence; and
(II) the court intends to transfer the individual's case for disposition to the individual's county of residence under section 6321(c) (relating to commencement of proceedings).
(ii) The chief juvenile probation officer shall collect the information in section 9799.16(b) and (c) and forward it to the Pennsylvania State Police for inclusion in the registry as directed by the Pennsylvania State Police. If the juvenile offender is, under section 6352(a)(3), subject to court-ordered placement in an institution or facility which provides the juvenile with 24-hour-per-day supervision and care, the institution or facility shall ensure the information provided by the juvenile offender pursuant to section 9799.16(b) is updated to reflect accurate information prior to release. The institution or facility may not release the juvenile offender until it receives verification from the Pennsylvania State Police that the information required under section 9799.16(b) and (c) has been entered in the registry.
(2) If, on December 20, 2012, the individual is a juvenile offender and is subject to the jurisdiction of the court pursuant to a disposition entered under section 6352 and is on probation or the individual is otherwise being supervised in the community, including placement in a foster family home or other residential setting which provides the individual with less than 24-hour-per-day supervision and care, the individual shall provide the information set forth in section 9799.16(b) to the chief juvenile probation officer of the court within 30 days of December 20, 2012. The chief juvenile probation officer shall collect the information set forth in section 9799.16(b) and (c) and forward it to the Pennsylvania State Police for inclusion in the registry, as directed by the Pennsylvania State Police.
(3) If the individual is, on December 20, 2012, already a juvenile offender and is subject to the jurisdiction of a court pursuant to a disposition entered under section 6352 and is, under section 6352, subject to court-ordered placement in an institution or facility which provides the juvenile with 24-hour-per-day supervision and care, the director of the institution or facility or a designee shall make the juvenile offender available for and facilitate the collection of the information set forth

in section 9799.16(b) and (c) as directed by the Pennsylvania State Police for inclusion in the registry. The Pennsylvania State Police may require the institution or facility to transport the juvenile offender to and from an approved registration site in order to fulfill the requirement of this paragraph. In order to fulfill the requirements of this paragraph, the chief juvenile probation officer of the court shall, within ten days of December 20, 2012, notify the director of the institution or facility and the Pennsylvania State Police that the juvenile offender is required to register under this subchapter. In addition, the institution or facility shall ensure that the information provided by the juvenile offender pursuant to section 9799.16(b) is updated to reflect accurate information prior to release. The juvenile offender may not be released until the institution or facility receives verification from the Pennsylvania State Police that the information required under section 9799.16(b) and (c) has been entered into the registry.

(4) If the individual is, on December 20, 2012, already a sexually violent delinquent child and receiving involuntary treatment in the State-owned facility or unit under Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons), the director of the facility or unit or a designee shall make the sexually violent delinquent child available for and facilitate the collection of the information set forth in section 9799.16(b) and (c) as directed by the Pennsylvania State Police for inclusion in the registry. The Pennsylvania State Police may require the facility or unit to transport the sexually violent delinquent child to and from an approved registration site in order to fulfill the requirement of this paragraph. In addition, the facility or unit shall ensure that the information provided by the sexually violent delinquent child pursuant to section 9799.16(b) is updated to reflect accurate information prior to release. The facility or unit may not transfer the sexually violent child to outpatient treatment until it has received verification from the Pennsylvania State Police that it has received the information set forth in section 9799.16(b) and (c).

(5) If the individual is, on or after December 20, 2012, determined by the court to be a sexually violent delinquent child and committed for involuntary treatment to the State-owned facility or unit under Chapter 64, the following apply:

(i) The court shall require the individual to provide the information set forth in section 9799.16(b) to the chief juvenile probation officer of the court at the time of commitment. The chief juvenile probation officer shall collect and forward the information to the Pennsylvania State Police for inclusion in the registry. The chief juvenile probation officer shall, at the time of commitment, also ensure that the information set forth in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police for inclusion in the registry. The Pennsylvania State Police may require the facility or unit to transport the sexually violent delinquent child to and from an approved registration site in order to fulfill the requirement of initial registration at the time of commitment.

(ii) The facility or unit shall ensure that the information provided by the sexually violent delinquent child pursuant to section 9799.16(b) is updated to reflect accurate information prior to transfer to involuntary outpatient treatment pursuant to section 6404.1 (relating to transfer to involuntary outpatient treatment) or discharge. The court may not transfer the sexually violent delinquent child to outpatient treatment or discharge the child from the facility or unit until it has received verification from the Pennsylvania State Police that the information required under section 9799.16(b) and (c) has been entered in the registry.

(i) Initial registration if convicted or adjudicated delinquent outside Commonwealth.—

(1) An individual subject to registration under section 9799.13(7), (7.1) or (7.2) shall appear in person at an approved registration site to provide the information set forth in section 9799.16(b) to the Pennsylvania State Police within three business days of establishing residence, commencing employment or commencing enrollment as a student within this Commonwealth. In addition, the

individual shall comply with the other provisions of this subchapter, including section 9799.15 (relating to period of registration). If the individual fails to establish a residence but nevertheless resides in this Commonwealth, the individual shall register as a transient. The Pennsylvania State Police shall ensure that the information set forth in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(2) If the individual is, on or after December 20, 2012, a juvenile offender as defined in paragraph (2) or (3) of the definition of "juvenile offender" in section 9799.12 (relating to definitions), the individual shall appear in person at an approved registration site to provide the information set forth in section 9799.16(b) to the Pennsylvania State Police within three business days of establishing residence, commencing employment or commencing enrollment as a student within this Commonwealth. In addition, the individual shall comply with the other provisions of this subchapter, including section 9799.15. If the individual fails to establish a residence but nevertheless resides in this Commonwealth, the individual shall register as a transient. The Pennsylvania State Police shall ensure that the information set forth in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(3) If the individual is convicted of a sexually violent offense and incarcerated in a Federal correctional institution or being supervised by Federal probation authorities, the individual shall appear in person at an approved registration site to provide the information set forth in section 9799.16(b) to the Pennsylvania State Police within three business days of establishing residence, commencing employment or commencing enrollment as a student in this Commonwealth. In addition, the individual shall comply with other provisions of this subchapter, including section 9799.15. If the individual fails to establish a residence but nevertheless resides in this Commonwealth, the individual shall register as a transient. The Pennsylvania State Police shall ensure that the information set forth in section 9799.16(c) with respect to the individual is collected and entered into the registry.

(j) Former law and registration.—(Deleted by amendment).

(k) Registration if incarcerated within Commonwealth or by Federal court.—The following apply to an individual who committed a sexually violent offense:

(1) If the individual is incarcerated in a Federal, State or county correctional facility, the individual shall provide the information specified in section 9799.16(b) to the appropriate official of the Federal, State or county correctional facility or the Department of Corrections for inclusion in the registry before being released due to:

(i) the expiration of sentence, in which case the information shall be collected no later than 10 days prior to the maximum expiration date;

(ii) parole;

(iii) State or county intermediate punishment where the sentence is restrictive and the individual is sentenced to a period of incarceration in a State or county correctional facility or a work release facility; or

(iv) special probation supervised by the Department of Corrections.

(2) For individuals described in paragraph (1), the appropriate official of the Federal, State or county correctional facility or the Department of Corrections shall collect and forward the information specified in section 9799.16(b) to the Pennsylvania State Police. The appropriate official shall, in addition, ensure that the information specified in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police. The information specified in section 9799.16(b) and (c) shall be included in the registry. With respect to individuals released under paragraph (1)(ii), (iii) or (iv), the State or county correctional facility shall not release the individual until the State or county

correctional facility receives verification from the Pennsylvania State Police that the Pennsylvania State Police has received the information specified in section 9799.16(b) and (c). Verification may take place by electronic means. With respect to individuals released under paragraph (1)(i), if the individual refuses to provide the information specified in section 9799.16(b), the State or county correctional facility shall notify the Pennsylvania State Police or the municipal police department with jurisdiction over the facility of the failure to provide the information and of the expected date, time and location of the release of the individual.

(l) Registration if sentenced to a State or county correctional facility.—If the individual committed a sexually violent offense and is sentenced to a period of incarceration in a State or county correctional facility, the individual shall provide the information specified in section 9799.16(b) as follows:

(1) At the time of sentencing, the court shall require the individual to immediately report to the office of probation and parole serving that county to register under this subchapter. The appropriate office of probation and parole shall collect the information specified in section 9799.16(b) from the individual and forward the information to the Pennsylvania State Police. The appropriate office of probation and parole shall, in addition, ensure the information specified in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police. The information specified in section 9799.16(b) and (c) shall be included in the registry.

(2) If the individual is incarcerated in a State or county correctional facility, the correctional facility shall notify the Pennsylvania State Police, not more than 30 days in advance of, but not later than 10 days prior to, the individual's release from the correctional facility. The following apply:

(i) The correctional facility shall ensure that the information specified in section 9799.16(b) and (c) for the individual has been submitted to the Pennsylvania State Police.

(ii) If the information has not been submitted to the Pennsylvania State Police, the correctional facility shall collect the information specified in section 9799.16(b) from the individual and forward the information to the Pennsylvania State Police.

(iii) The correctional facility shall also report any changes to the information specified in section 9799.16(b) and (c) on file with the Pennsylvania State Police.

(iv) In the case of parole, State intermediate punishment, State drug treatment programs or restrictive conditions of probation where the sentence is restrictive and the individual is sentenced to a period of incarceration in a State or county correctional facility or work release facility or special probation supervised by the Department of Corrections, the correctional facility may not release the individual until the correctional facility receives verification from the Pennsylvania State Police that the Pennsylvania State Police has received the information specified in section 9799.16(b) and (c). Verification by the Pennsylvania State Police may occur by electronic means.

(v) If the individual is scheduled to be released from a State or county correctional facility due to the expiration of sentence and the individual refuses to provide the information specified in section 9799.16(b), the State or county correctional facility shall notify the Pennsylvania State Police or the municipal police department with jurisdiction over the facility of the failure to provide the information and of the expected date, time and location of the release of the individual.

(m) Registration if sentenced to county intermediate punishment.—If the individual committed a sexually violent offense and is sentenced to county intermediate punishment which is restorative where the individual is not sentenced to incarceration or to a work release facility, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as

described in this subsection. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(n) Registration if sentenced to county intermediate punishment.—If the individual committed a sexually violent offense and is sentenced to county intermediate punishment, the following apply:

(1) If the individual is sentenced to county intermediate punishment which is restorative, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as specified in this paragraph. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(2) If the individual is sentenced to county intermediate punishment which is restrictive where the individual is not sentenced to incarceration or to a work release facility, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as described in this paragraph. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(o) Registration if sentenced to county probation.—If the individual committed a sexually violent offense and is sentenced to county probation, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of being sentenced. The appropriate official of the county office of probation and parole shall ensure that the individual has appeared at an approved registration site as described in this subsection. If the individual fails to appear, the appropriate official of the county office of probation and parole shall notify the Pennsylvania State Police. The Pennsylvania State Police shall ensure the information specified in section 9799.16(c) with respect to the individual is collected and entered in the registry.

(p) Registration for county or Federal probationers.—If the individual committed a sexually violent offense, the following apply:

(1) If the individual is serving a sentence of county probation, the appropriate office of probation and parole serving the county shall register the individual within 48 hours. The appropriate official of that office shall collect the information specified in section 9799.16(b) and forward that information to the Pennsylvania State Police. The Pennsylvania State Police shall ensure that the information specified in section 9799.16(c) is collected. The information specified in section 9799.16(b) and (c) shall be included in the registry. If the individual fails to comply, the appropriate official of that office shall notify the Pennsylvania State Police.

(2) If the individual is under the supervision of Federal probation authorities for a sexually violent offense, the individual shall provide the information specified in section 9799.16(b) by appearing at an approved registration site within 48 hours of sentencing.

(q) Registration for State or county parolees.—

(1) If the individual committed a sexually violent offense and is serving a sentence of county parole, the appropriate office of probation and parole serving the county shall register the individual within 48 hours. The appropriate official of that office shall collect the information specified in section 9799.16(b) and forward that information to the Pennsylvania State Police. The Pennsylvania State Police shall ensure that the information specified in section 9799.16(c) is collected. The information specified in section 9799.16(b) and (c) shall be included in the registry. If the individual fails to comply, the appropriate official of that office shall notify the Pennsylvania State Police.
(2) If the individual committed a sexually violent offense and is serving a sentence of State parole, the Department of Corrections shall register the individual within 48 hours. The appropriate official of the Department of Corrections shall collect the information specified in section 9799.16(b) from the individual and forward the information to the Pennsylvania State Police. The Pennsylvania State Police shall ensure that the information specified in section 9799.16(c) is collected. The information specified in section 9799.16(b) and (c) shall be included in the registry. If the individual fails to comply, the appropriate official of the Department of Corrections shall notify the Pennsylvania State Police.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (f), (k)(1) intro. par., (iv) and (2), (l)(2)(iv) and (q)(2).
2021 Unconstitutionality. Section 9799.19 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.19 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended subsecs. (f), (g) and (i)(3), added subsecs. (k), (l), (m), (n), (o), (p) and (q) and deleted subsecs. (b), (b.1), (c), (d), (e), (e.1), (e.2) and (j) and Act 29 reenacted and amended section 9799.19. Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.19. Section 20(1) of Act 10 provided that the amendment of section 9799.19 shall apply to an individual who commits an offense on or after December 20, 2012.
2012 Amendment. Act 91 amended subsecs. (b), (b.1) intro. par., (h), (i) and (j) and added subsecs. (e.1) and (e.2).
2011 Amendment. Act 111 added section 9799.19.
Cross References. Section 9799.19 is referred to in sections 9799.13, 9799.15, 9799.18, 9799.20, 9799.21, 9799.22, 9799.23, 9799.25, 9799.26, 9799.33, 9799.34 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.20. Duty to inform.
In order to implement the provisions of section 9799.19 (relating to initial registration), as appropriate, the Pennsylvania State Police, the court having jurisdiction over the sexual offender, the chief juvenile probation officer of the court and the appropriate official of the Department of Corrections, county office of probation and parole, the Department of Human Services or a State or county correctional institution shall:
(1) Inform the individual required to register of the individual's duties under this subchapter.
(2) Require the individual to read and sign a form stating that the duty to register has been explained and that the individual understands the registration requirement.

(3) Collect the information required under section 9799.16(b) and (c) (relating to registry) and forward the information to the Pennsylvania State Police for inclusion in the registry as set forth in this subchapter.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended the intro. par.
2021 Unconstitutionality. Section 9799.20 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.20 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2011 Amendment. Act 111 added section 9799.20.

§ 9799.21. Penalty.
(a) Registration.—An individual set forth in section 9799.13 (relating to applicability) may be subject to prosecution under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements) if the individual fails to:
(1) register with the Pennsylvania State Police as set forth in section 9799.15 (relating to period of registration), 9799.19 (relating to initial registration) or 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police);
(2) verify the information provided by the individual or be photographed as provided in sections 9799.15, 9799.19 and 9799.25; or
(3) provide accurate information when registering under sections 9799.15, 9799.19 and 9799.25.
(b) Counseling.—A sexually violent predator or sexually violent delinquent child may be subject to prosecution under 18 Pa.C.S. § 4915.1 if he fails to comply with section 9799.36 (relating to counseling of sexually violent predators).
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.21 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.21 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
Cross References. Section 9799.21 is referred to in section 9799.22 of this title.

§ 9799.22. Enforcement.
(a) Failure to comply.—When an individual set forth in section 9799.13 (relating to applicability) fails to comply with section 9799.19 (relating to initial registration), 9799.21 (relating to penalty) or 9799.36 (relating to counseling of sexually violent predators), the Pennsylvania State Police shall either:
(1) In cooperation with the district attorney, seek issuance of a warrant for the arrest of the individual and locate and arrest the individual for violating this section.
(2) Notify the municipal police department where the individual has a residence, is transient, is employed or is enrolled as a student. The municipal police shall, in cooperation with the district attorney, seek issuance of a warrant for the arrest of the individual and locate and arrest the individual for violating this section. In municipalities where no municipal police department exists, the Pennsylvania State Police shall proceed under paragraph (1).

(b) When individual cannot be found.—In the event the individual cannot be located, the following apply:
(1) The Pennsylvania State Police shall enter information on the Internet website of sexual offenders and in the registry indicating that the individual cannot be located.
(2) The Pennsylvania State Police shall provide information to the National Sex Offender Registry and NCIC to reflect that the individual cannot be located.
(3) The Pennsylvania State Police shall notify the United States Marshals Service.
(4) If a warrant is issued pursuant to this subsection, the police department executing the warrant shall provide information to the National Crime Information Center Wanted Person File to reflect that a warrant has been issued for the individual's arrest.
(c) Notice from another jurisdiction.—When another jurisdiction notifies the Pennsylvania State Police that a sexual offender has terminated residence, employment or enrollment as a student in that jurisdiction and intends to establish a residence in this Commonwealth, commence employment in this Commonwealth or commence enrollment as a student in this Commonwealth and that sexual offender fails to appear in this Commonwealth to register as provided in section 9799.15 (relating to period of registration), the Pennsylvania State Police shall notify the other jurisdiction that the sexual offender failed to appear. This subsection also applies to a transient who fails to appear.
(d) Duty to inform Pennsylvania State Police.—In order to implement this subchapter, the court with jurisdiction over the sexual offender, the chief juvenile probation officer of the court and the appropriate official of the Department of Corrections responsible for State parole supervision, the county office of probation and parole, the Department of Human Services or a State or county correctional institution shall inform the Pennsylvania State Police if the individual refuses to provide the information required by this subchapter so that the Pennsylvania State Police may comply with this section.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d). See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.
2021 Unconstitutionality. Section 9799.22 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.22 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
Cross References. Section 9799.22 is referred to in sections 9799.25, 9799.32 of this title.

§ 9799.23. Court notification and classification requirements.
(a) Notice to sexual offenders.—At the time of sentencing, of disposition under section 6352 (relating to disposition of delinquent child) in the case of a juvenile offender, of adjudication of delinquency under section 6341 (relating to adjudication) in the case of a juvenile offender if the individual was adjudicated delinquent in any county other than the individual's county of residence and section 9799.19(h)(1)(i)(B) (relating to initial registration) applies, or of commitment under section 6403 (relating to court-ordered involuntary treatment) in the case of a sexually violent delinquent child, the court shall inform the sexual offender of the provisions of this subchapter. The court shall:
(1) Specifically inform the sexual offender of the duty to register under this subchapter.
(2) Specifically inform the sexual offender of:

(i) the duty to register in accordance with sections 9799.15 (relating to period of registration), 9799.16(b) (relating to registry), 9799.19 and 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police); and
(ii) the duty to attend counseling in accordance with:
(A) section 9799.36 (relating to counseling of sexually violent predators) if applicable; or
(B) section 6404.2(g) (relating to duration of outpatient commitment and review) if applicable.
(3) Specifically inform the sexual offender of the duty to register with authorities in another jurisdiction within three business days of:
(i) Commencement of residence, change of residence, termination of residence or failure to maintain a residence, thus making the sexual offender a transient.
(ii) Commencement of employment, a change in the location or entity in which the sexual offender is employed or termination of employment.
(iii) Commencement of enrollment as a student, a change in enrollment as a student or termination of enrollment as a student.
(4) In accordance with section 9799.16(c), order that the fingerprints, palm prints, DNA sample and photograph of the sexual offender be provided to the Pennsylvania State Police upon sentencing.
(5) Require the sexual offender to read and sign a form stating that the duty to register under this subchapter has been explained. If the sexual offender is incapable of speaking, reading or writing the English language, the court shall certify the duty to register was explained to the sexual offender, and the sexual offender indicated an understanding of the duty.
(6) Specifically classify the individual as one of the following:
(i) An individual convicted of a Tier I offense.
(ii) An individual convicted of a Tier II offense.
(iii) An individual convicted of a Tier III offense.
(iv) A sexually violent predator.
(v) A juvenile offender.
(vi) A sexually violent delinquent child.
(b) Mandatory registration.—All sexual offenders must register in accordance with this subchapter. The following apply:
(1) Failure by the court to provide the information required in this section, to correctly inform a sexual offender of the sexual offender's obligations or to require a sexual offender to register shall not relieve the sexual offender from the requirements of this subchapter.
(2) Except as provided in sections 9799.15(a.2) and 9799.17 (relating to termination of period of registration for juvenile offenders), the court shall have no authority to relieve a sexual offender from the duty to register under this subchapter or to modify the requirements of this subchapter as they relate to the sexual offender.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Sept. 27, 2014, P.L.2482, No.138, eff. 60 days; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.23 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.23 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

2018 Amendments. Act 10 amended subsec. (b)(2) and Act 29 reenacted subsec. (b)(2). Section 20(1) of Act 10 provided that the amendment of section 9799.23 shall apply to an individual who commits an offense on or after December 20, 2012.
2014 Amendment. Act 138 amended subsec. (a).
2011 Amendment. Act 111 added section 9799.23.
Cross References. Section 9799.23 is referred to in sections 9799.16, 9799.40 of this title.

§ 9799.24. Assessments.
(a) Order for assessment.—After conviction but before sentencing, a court shall order an individual convicted of a sexually violent offense to be assessed by the board. The order for an assessment shall be sent to the executive director of the board within ten days of the date of conviction for the sexually violent offense.
(b) Assessment.—Upon receipt from the court of an order for an assessment, a member of the board as designated by the executive director of the board shall conduct an assessment of the individual to determine if the individual should be classified as a sexually violent predator. The board shall establish standards for evaluations and for evaluators conducting the assessments. An assessment shall include, but not be limited to, an examination of the following:
(1) Facts of the current offense, including:
(i) Whether the offense involved multiple victims.
(ii) Whether the individual exceeded the means necessary to achieve the offense.
(iii) The nature of the sexual contact with the victim.
(iv) Relationship of the individual to the victim.
(v) Age of the victim.
(vi) Whether the offense included a display of unusual cruelty by the individual during the commission of the crime.
(vii) The mental capacity of the victim.
(2) Prior offense history, including:
(i) The individual's prior criminal record.
(ii) Whether the individual completed any prior sentences.
(iii) Whether the individual participated in available programs for sexual offenders.
(3) Characteristics of the individual, including:
(i) Age.
(ii) Use of illegal drugs.
(iii) Any mental illness, mental disability or mental abnormality.
(iv) Behavioral characteristics that contribute to the individual's conduct.
(4) Factors that are supported in a sexual offender assessment field as criteria reasonably related to the risk of reoffense.
(c) Release of information.—All State, county and local agencies, offices and entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing copies of records and information as requested by the board in connection with the court-ordered assessment and the assessment requested by the Pennsylvania Parole Board or the assessment of a delinquent child under section 6358 (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board). For assessments of delinquent children conducted by the board pursuant to section 6358 from January 23, 2005, to December 19, 2012, all State, county and local agencies, offices and entities, including juvenile probation officers, are subject to the release of information requirements set forth in this subsection.

(d) Submission of report by board.—The board shall have 90 days from the date of conviction of the individual to submit a written report containing its assessment to the district attorney.
(d.1) Summary of offense.—The board shall prepare a description of the offense or offenses that trigger the application of this subchapter to include, but not be limited to:
(1) A concise narrative of the individual's conduct.
(2) Whether the victim was a minor.
(3) The manner of weapon or physical force used or threatened.
(4) If the offense involved unauthorized entry into a room or vehicle occupied by the victim.
(5) If the offense was part of a course or pattern of conduct involving multiple incidents or victims.
(6) Previous instances in which the individual was determined guilty of an offense subject to this subchapter or of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses).
(e) Hearing.—
(1) A hearing to determine whether the individual is a sexually violent predator shall be scheduled upon the praecipe filed by the district attorney. The district attorney upon filing a praecipe shall serve a copy of the praecipe upon defense counsel together with a copy of the report of the board.
(2) The individual and district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. In addition, the individual shall have the right to counsel and to have an attorney appointed to represent the individual if the individual cannot afford one. If the individual requests another expert assessment, the individual shall provide a copy of the expert assessment to the district attorney prior to the hearing.
(3) At the hearing prior to sentencing, the court shall determine whether the Commonwealth has proved by clear and convincing evidence that the individual is a sexually violent predator.
(4) A copy of the order containing the determination of the court shall be immediately submitted to the individual, the district attorney, the Pennsylvania Parole Board, the Department of Corrections, the board and the Pennsylvania State Police.
(f) Presentence investigation.—In all cases where the board has performed an assessment under this section, copies of the report shall be provided to the agency preparing the presentence investigation.
(g) Parole assessment.—The Pennsylvania Parole Board may request of the board that an assessment of a sexual offender be conducted and that a report be provided to the Pennsylvania Parole Board prior to considering a sexual offender for parole.
(h) Delinquent children.—The probation officer shall notify the board 90 days prior to the 20th birthday of the child of the status of the delinquent child who is committed to an institution or other facility pursuant to section 6352 (relating to disposition of delinquent child) after having been found delinquent for an act of sexual violence that if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest), together with the location of the facility where the child is committed. The board shall conduct an assessment of the child, which shall include the board's determination of whether or not the child is in need of commitment due to a mental abnormality as defined in section 6402 (relating to definitions) or a personality disorder, either of which results in serious difficulty in controlling sexually violent behavior, and provide a report to the court within the time frames set forth in section 6358(c). The probation officer shall assist the board in obtaining

access to the child and any records or information as requested by the board in connection with the assessment. The assessment shall be conducted under subsection (b).
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Mar. 14, 2014, P.L.41, No.19, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (a), (b) intro. par., (c), (e)(4) and (g).
2021 Unconstitutionality. Section 9799.24 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.24 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2011 Amendment. Act 111 added section 9799.24.
Cross References. Section 9799.24 is referred to in sections 9799.12, 9799.15 of this title; section 6303 of Title 23 (Domestic Relations).

§ 9799.25. Verification by sexual offenders and Pennsylvania State Police.
(a) Periodic verification.—Except for initial registration as provided in section 9799.19 (relating to initial registration) and in accordance with section 9799.15(a) (relating to period of registration), sexual offenders shall verify the information provided in section 9799.16(b) (relating to registry) and be photographed as follows:
(1) An individual convicted of a Tier I sexual offense shall appear in person at an approved registration site annually.
(2) An individual convicted of a Tier II sexual offense shall appear in person at an approved registration site semiannually.
(3) An individual convicted of a Tier III sexual offense shall appear in person at an approved registration site quarterly.
(4) An individual designated as a sexually violent predator shall appear in person at an approved registration site quarterly.
(5) A juvenile offender shall appear in person at an approved registration site quarterly.
(6) A sexually violent delinquent child shall appear in person at an approved registration site quarterly.
(7) A transient shall appear in person at an approved registration site monthly.
(8) An individual required to register under section 9799.13(7.1) (relating to applicability) shall annually appear in person at an approved registration site.
(a.1) Alternate requirements regarding verification.—The following apply to an individual required to appear in person under subsection (a)(2) or (3):
(1) If the individual has been in compliance with the requirements of this subchapter for the first three years of the individual's period of registration and, during the same three-year period, the individual has not been convicted in this Commonwealth or any other jurisdiction or foreign country of an offense punishable by imprisonment of more than one year, the individual shall appear at an approved registration site annually. The individual shall appear within 10 days before the date designated by the Pennsylvania State Police to verify information in section 9799.16(b) and be photographed.
(2) The other appearances required of the individual under this section may be completed by contacting the Pennsylvania State Police by telephone at a telephone number designated by the Pennsylvania State Police. The individual shall call the Pennsylvania State Police within three business days of the date designated by the Pennsylvania State Police.

(3) If the individual fails to comply with the provisions of this subsection and the individual is subsequently convicted under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements), any relief granted under this subsection shall be void, and the petitioner shall automatically and immediately again be subject to the provisions of this subchapter, as previously determined by this subchapter.

(a.2) Telephonic verification system.—The Pennsylvania State Police shall develop a mechanism to permit individuals to utilize the telephonic verification system established in this section. No individual may utilize the telephonic verification system until the Pennsylvania State Police publishes notice in the Pennsylvania Bulletin that the system is operational.

(b) Deadline.—The following apply:

(1) A sexual offender shall appear as required under subsection (a) within ten days before the date designated by the Pennsylvania State Police. Failure to appear within ten days may subject the sexual offender to prosecution under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements).

(2) In the case of a sexual offender who fails to appear in person or telephonically as required under this section, the Pennsylvania State Police shall notify the municipal police department where the sexual offender has a residence, is employed or is enrolled as a student. The municipal police shall locate the sexual offender and arrest the sexual offender for violating this section. A municipal police department may request assistance locating or arresting a sexual offender from the Pennsylvania State Police. In municipalities where no municipal police department exists, the Pennsylvania State Police shall locate the offender and arrest the sexual offender for violating this section.

(3) In the case of a sexual offender who fails to appear in person or telephonically as required under this section, the Pennsylvania State Police shall notify the United States Marshals Service in accordance with section 9799.22(b)(3) (relating to enforcement).

(c) Facilitation of verification.—The Pennsylvania State Police shall administer and facilitate the process of verification of information, including compliance with counseling in the case of sexually violent predators and sexually violent delinquent children, and photographing the sexual offender by:

(1) Sending a notice by first class United States mail to each sexual offender at the last reported location where the offender receives mail. The notice shall be sent not more than 30 days nor less than 15 days prior to the date a sexual offender is required to appear pursuant to subsection (a) or (a.1). The notice shall remind the sexual offender of the sexual offender's responsibilities under this subchapter, including counseling in the case of sexually violent predators and sexually violent delinquent children, and provide a list of approved registration sites and the telephone number to contact the Pennsylvania State Police under subsection (a.1).

(2) Providing verification and compliance forms as necessary at each approved registration site.

(d) Effect of notice.—Failure to send or receive notice of information under this section shall not relieve the sexual offender from the requirements of this subchapter.

(e) Natural disaster.—The occurrence of a natural disaster or other event requiring evacuation of residences shall not relieve the sexual offender of the duty to register or any other duty imposed by this subchapter.

(f) Residents in group-based homes.—

(1) A group-based home may not provide concurrent residence in the group-based home to more than five individuals in total who are required to register under this subchapter and Subchapter I (relating to continued registration of sexual offenders) as sexually violent predators.

(2) A group-based home that violates paragraph (1) shall be subject to a civil penalty in the amount of $2,500 for a first violation and in the amount of $5,000 for a second or subsequent violation.
(3) The Pennsylvania State Police or local law enforcement agency of jurisdiction shall investigate compliance with this subsection, and the Attorney General or district attorney may commence a civil action in the court of common pleas of the county in which a group-based home is located to impose and collect from the group-based home the penalty under paragraph (2).
(4) As used in this subsection, the term "group-based home" has the meaning given to it in 61 Pa.C.S. § 5007(c) (relating to certain offenders residing in group-based homes).
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (f)(4).
2021 Unconstitutionality. Section 9799.25 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.25 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended subsecs. (b)(2) and (3), (c)(1) and (f)(1) and added subsecs. (a.1) and (a.2) and Act 29 reenacted subsecs. (a.1), (a.2), (b)(2) and (3), (c)(1) and (f)(1). Section 20(1) of Act 10 provided that the amendment of section 9799.25 shall apply to an individual who commits an offense on or after December 20, 2012. Section 21 of Act 10 provided that the amendment of subsec. (f) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency. Section 22 of Act 29 provided that the reenactment of subsec. (f) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency.
2012 Amendment. Act 91 amended subsecs. (b)(1) and (c) intro. par. and (1).
2011 Amendment. Act 111 added section 9799.25.
Cross References. Section 9799.25 is referred to in sections 9799.13, 9799.21, 9799.23, 9799.32 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.26. Victim notification.
(a) Duty to inform victim.—
(1) If an individual is determined to be a sexually violent predator or a sexually violent delinquent child, the municipal police department or the Pennsylvania State Police, if no municipal police jurisdiction exists, shall give written notice to the victim when the sexually violent predator or the sexually violent delinquent child registers initially under section 9799.19 (relating to initial registration) or under section 9799.15(g)(2), (3) or (4) (relating to period of registration). The notice shall be given within 72 hours after the sexually violent predator or the sexually violent delinquent child registers or notifies the Pennsylvania State Police of current information under section 9799.15(g). The notice shall contain the following information about the sexually violent predator or sexually violent delinquent child:
(i) Name.
(ii) Residence. This subparagraph includes whether the sexually violent predator or sexually violent delinquent child is a transient, in which case the notice shall contain information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not

limited to, a homeless shelter or park. In addition, the notice shall contain a list of places the transient eats, frequents and engages in leisure activities.
(iii) The address of employment.
(iv) The address where the sexually violent predator or sexually violent delinquent child is enrolled as a student.
(2) A victim may terminate the duty to inform set forth in paragraph (1) by providing the local municipal police department or the Pennsylvania State Police, if no local municipal police department exists, with a written statement releasing that agency from the duty to comply with this section as it pertains to that victim.
(b) Individual not determined to be sexually violent predator or sexually violent delinquent child.—If an individual is not determined to be a sexually violent predator or a sexually violent delinquent child, the victim shall be notified in accordance with section 201 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.
(c) Electronic notification option.—In addition to subsections (a) and (b), the Pennsylvania State Police shall develop and implement a system that allows a victim to receive electronic notification instead of the notification in subsections (a) and (b) when a sexual offender provides current information to the Pennsylvania State Police under subsection (a).
(d) Alternate means of notifying victims.—
(1) The Pennsylvania State Police may enter into a memorandum of understanding with the Office of Victim Advocate to assist the Pennsylvania State Police in notifying victims and providing the information under subsection (a). In addition, the memorandum of understanding may also include the Office of Victim Advocate's notifying a victim of relief granted to a petitioner under section 9799.15(a.2). The memorandum of understanding must state the manner and method of notifying victims and the duties of the Pennsylvania State Police and the Office of Victim Advocate under this section and section 9799.15(a.2). A memorandum of understanding entered into under this subsection shall be valid for no more than 10 years. There shall be no limit to the number of memoranda of understanding which may be executed by the Pennsylvania State Police and the Office of Victim Advocate under this subsection.
(2) As used in this subsection, the term "Office of Victim Advocate" shall mean the office established under section 301 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.26 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.26 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended subsec. (a)(1) and added subsec. (d) and Act 29 reenacted subsecs. (a)(1) and (d). Section 20(1) of Act 10 provided that the amendment of section 9799.26 shall apply to an individual who commits an offense on or after December 20, 2012.
2012 Amendment. Act 91 amended subsec. (a)(1)(ii) and carried without amendment subsec. (a)(1)(i).
2011 Amendment. Act 111 added section 9799.26.
Cross References. Section 9799.26 is referred to in section 9799.15 of this title.

9799.27. Other notification.

(a) Notice.—Notwithstanding the provisions of Chapter 63 (relating to juvenile matters) and 18 Pa.C.S. Ch. 91 (relating to criminal history record information), the chief law enforcement officer of the police department of the municipality where a sexually violent predator or sexually violent delinquent child lives or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the chief law enforcement officer of the police department of the transient's last known habitat, shall be responsible for providing written notice as required under this section. The notice shall contain:

(1) The name of the individual.

(2) The address of the residence of the individual. If the individual is a transient, written notice under this paragraph shall consist of information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park, and a list of the places the transient eats, frequents and engages in leisure activities.

(3) The offense for which the individual was convicted, sentenced by a court, adjudicated delinquent or court martialed.

(4) A statement that the individual has been determined to be a sexually violent predator or sexually violent delinquent child, which determination has or has not been terminated as of a date certain.

(5) A photograph of the sexually violent predator or sexually violent delinquent child.

The notice shall not include any information that might reveal the victim's name, identity and residence.

(b) To whom written notice is provided.—The chief law enforcement officer shall provide written notice under subsection (a) to the following persons:

(1) Neighbors of the sexually violent predator or sexually violent delinquent child. As used in this paragraph:

(i) In the case of a sexually violent predator or sexually violent delinquent child being a transient, "neighbor" includes residents in the area of the transient's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(ii) Where the sexually violent predator lives in a common interest community, the term "neighbor" includes the unit owners' association and residents of the common interest community.

(2) The director of the county children and youth agency of the county where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the director of the county children and youth agency of the county of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(3) The superintendent of each school district and the equivalent official for each private and parochial school enrolling students up through grade 12 in the municipality where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the superintendent of each school district and the equivalent official for private and parochial schools enrolling students up through grade 12 in the municipality of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.

(4) The superintendent of each school district and the equivalent official for each private and parochial school located within a one-mile radius of where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually

violent delinquent child failing to establish a residence and being a transient, the superintendent of each school district and the equivalent official for each private and parochial school within a one-mile radius of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.
(5) The licensee of each certified day-care center and licensed preschool program and owner or operator of each registered family day-care home in the municipality where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the licensee of each certified day-care center and licensed preschool program and owner or operator of each registered family day-care home in the municipality of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.
(6) The president of each college, university and community college located within 1,000 feet of where the sexually violent predator or sexually violent delinquent child has a residence or, in the case of a sexually violent predator or sexually violent delinquent child failing to establish a residence and being a transient, the president of each college, university and community college located within 1,000 feet of the sexually violent predator's or sexually violent delinquent child's last known temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park.
(c) Notification time frames.—The municipal police department's chief law enforcement officer shall provide notice within the following time frames:
(1) To neighbors, notice shall be provided within five days after information of the sexually violent predator's or sexually violent delinquent child's release date and residence has been received by the chief law enforcement officer. Notwithstanding the provisions of subsections (a) and (b), verbal notification may be used if written notification would delay meeting the requirement of this paragraph.
(2) To the persons specified in subsection (b)(2), (3), (4), (5) and (6), notice shall be provided within seven days after the chief law enforcement officer receives information regarding the sexually violent predator's or sexually violent delinquent child's release date and residence.
(d) Public notice.—Information provided in accordance with subsection (a) shall be available to the general public upon request. The information may be provided by electronic means.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.27 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.27 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2012 Amendment. Act 91 amended subsecs. (a)(2) and (b) and carried without amendment subsec. (a) last sentence.
2011 Amendment. Act 111 added section 9799.27.
Cross References. Section 9799.27 is referred to in sections 9799.31, 9799.32 of this title.

§ 9799.28. Public Internet website.
(a) Information to be made available through Internet.—The Pennsylvania State Police shall, in the manner and form directed by the Governor:

(1) Develop and maintain a system for making information about individuals convicted of a sexually violent offense, sexually violent predators and sexually violent delinquent children publicly available by electronic means via an Internet website. In order to fulfill its duties under this section, the Pennsylvania State Police shall ensure that the Internet website:
(i) Contains a feature to permit a member of the public to obtain relevant information for an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child by a query of the Internet website based on search criteria including searches for any given zip code or geographic radius set by the user.
(ii) Contains a feature to allow a member of the public to receive electronic notification when an individual convicted of a sexually violent offense, sexually violent predator or sexually violent delinquent child provides information under section 9799.15(g)(2), (3) or (4) (relating to period of registration). This feature shall also allow a member of the public to receive electronic notification when the individual convicted of a sexually violent offense, sexually violent predator or sexually violent delinquent child moves into or out of a geographic area chosen by the user.
(iii) Includes in its design all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Internet Website. The Pennsylvania State Police shall ensure that the website is able to participate in the Dru Sjodin National Sex Offender Public Internet Website as the United States Attorney General may direct.
(iv) Is updated within three business days with the information required.
(2) Include on the Internet website the following:
(i) Instructions on how to seek correction of information that an individual contends is erroneous.
(ii) A warning that the information on the Internet website should not be used to unlawfully injure, harass or commit a crime against an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child and that any such action could result in criminal or civil penalties.
(3) Include on the Internet website an explanation of its limitations, including statements advising that:
(i) A positive identification of an individual convicted of a sexually violent offense, sexually violent predator or sexually violent delinquent child may be confirmed only by fingerprints.
(ii) Some information contained on the Internet website may be outdated or inaccurate.
(iii) The Internet website is not a comprehensive listing of every person who has ever committed a sexual offense in Pennsylvania.
(4) Strive to ensure that the information contained on the Internet website is accurate and that the data therein is revised and updated as provided in paragraph (1)(iv).
(5) Provide on the Internet website general information designed to inform and educate the public about sexual offenders and the operation of this subchapter as well as pertinent and appropriate information concerning crime prevention and personal safety, with appropriate links to other relevant Internet websites operated by the Commonwealth.
(b) Required information.—Notwithstanding Chapter 63 (relating to juvenile matters) and 18 Pa.C.S. Ch. 91 (relating to criminal history record information), the Internet website shall contain the following information regarding an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child:
(1) Name and aliases.
(2) Year of birth.
(3) Street address, municipality, county, State and zip code of residences and intended residences. In the case of an individual convicted of a sexually violent offense, a sexually violent predator or a

sexually violent delinquent child who fails to establish a residence and is therefore a transient, the Internet website shall contain information about the transient's temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park. In addition, the Internet website shall contain a list of places the transient eats, frequents and engages in leisure activities.
(4) Street address, municipality, county, State and zip code of any location at which an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is enrolled as a student.
(5) Street address, municipality, county, State and zip code of a fixed location where an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is employed. If an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is not employed at a fixed address, the information shall include general areas of work.
(6) Current facial photograph of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child. This paragraph requires, if available, the last eight facial photographs taken of the individual and the date each photograph was entered into the registry.
(7) Physical description of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child.
(8) License plate number and a description of a vehicle owned or operated by an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child.
(9) Offense for which an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is registered under this subchapter and other sexually violent offenses for which the individual was convicted.
(10) A statement whether an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is in compliance with registration.
(11) A statement whether the victim is a minor.
(12) Date on which the individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is made active within the registry and date when the individual most recently updated registration information.
(13) Indication as to whether the individual is a sexually violent predator, sexually violent delinquent child or convicted of a Tier I, Tier II or Tier III sexual offense.
(14) If applicable, indication that an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child is incarcerated or committed or is a transient.
(c) Prohibited information.—The public Internet website established under this section shall not contain:
(1) The identity of any victim.
(2) The Social Security number of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child.
(3) Any information relating to arrests of an individual convicted of a sexually violent offense, a sexually violent predator or a sexually violent delinquent child that did not result in conviction.
(4) Travel and immigration document numbers.
(d) (Reserved).
(e) Duration of posting.—The information listed in subsection (b) shall be made available on the Internet website unless an individual convicted of a sexually violent offense, a sexually violent

predator or a sexually violent delinquent child is deceased or is no longer required to register under this subchapter.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012)

2021 Unconstitutionality. Section 9799.28 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.28 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2012 Amendment. Act 91 amended subsecs. (a)(1)(i) and (ii), (b)(3), (4), (5), (6) and (9) and (e) and added subsec. (b)(12), (13) and (14).
2011 Amendment. Act 111 added section 9799.28. See section 17(1)(i) of Act 111 in the appendix to this title for special provisions relating to applicability.

§ 9799.29. Administration.
The Governor shall direct the Pennsylvania State Police, the board, the Department of Corrections, the Department of Transportation and any other agency of the Commonwealth that the Governor deems necessary to collaboratively design, develop and implement an integrated and secure system of communication, storage and retrieval of information to assure the timely, accurate and efficient administration of this subchapter.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Unconstitutionality. Section 9799.29 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.29 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.30. Global positioning system technology.
The Pennsylvania Parole Board, the Department of Corrections, the agents of the Department of Corrections and county probation authorities may impose supervision conditions that include tracking through global positioning system technology.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.
2021 Unconstitutionality. Section 9799.30 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.30 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.31. Immunity for good faith conduct.
The following entities shall be immune from liability for good faith conduct under this subchapter:
(1) Agents and employees of the Pennsylvania State Police and local law enforcement agencies.
(2) District attorneys and their agents and employees.
(3) Superintendents, administrators, teachers, employees and volunteers engaged in the supervision of children of any public, private or parochial school.
(4) Directors and employees of county children and youth agencies.

(5) Presidents or similar officers of universities and colleges, including community colleges.
(6) The Pennsylvania Parole Board and its agents and employees.
(7) County probation and parole offices and their agents and employees.
(8) Licensees of certified day-care centers and directors of licensed preschool programs and owners and operators of registered family day-care homes and their agents and employees.
(9) The Department of Corrections and its agents and employees.
(10) County correctional facilities and their agents and employees.
(11) The board and its members, agents and employees.
(12) Juvenile probation offices and their agents and employees.
(13) The Department of Human Services and its agents and employees.
(14) Institutions or facilities set forth in section 6352(a)(3) (relating to disposition of delinquent child) and their agents and employees.
(15) The unit owners' association of a common interest community and its agents and employees as it relates to distributing information regarding section 9799.27(b)(1) (relating to other notification).
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended par. (6). See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.
2021 Unconstitutionality. Section 9799.31 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.31 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended par. (13) and Act 29 reenacted par (13). Section 20(1) of Act 10 provided that the amendment of section 9799.31 shall apply to an individual who commits an offense on or after December 20, 2012.
2011 Amendment. Act 111 added section 9799.31.

§ 9799.32. Pennsylvania State Police and Department of Corrections.
The Pennsylvania State Police have the following duties:
(1) To create and maintain the Statewide registry of sexual offenders in conformity with the provisions of this subchapter.
(2) In consultation with the Department of Corrections, the Office of Attorney General, the Juvenile Court Judges' Commission, the Administrative Office of Pennsylvania Courts and the chairman and minority chairman of the Judiciary Committee of the Senate and the chairman and minority chairman of the Judiciary Committee of the House of Representatives, to promulgate guidelines necessary for the general administration of this subchapter. These guidelines shall establish procedures to allow an individual subject to the requirements of this subchapter, including a transient, to fulfill these requirements at approved registration sites throughout this Commonwealth. The Pennsylvania State Police shall publish a list of approved registration sites in the Pennsylvania Bulletin and provide a list of approved registration sites in any notice sent to individuals required to register under this subchapter. An approved registration site shall be capable of submitting fingerprints, palm prints, DNA samples and any other information required electronically to the Pennsylvania State Police. The Pennsylvania State Police shall require that approved registration sites submit fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in such form as the Pennsylvania State Police shall

require. Approved registration sites shall not be limited to sites managed by the Pennsylvania State Police and shall include sites managed by local law enforcement agencies that meet the criteria for approved registration sites set forth in this paragraph.
(3) To write guidelines regarding neighbor notification under section 9799.27(b)(1) (relating to other notification).
(4) Within three business days, to transfer information as set forth in section 9799.18 (relating to information sharing).
(5) To enforce the provisions of this subchapter as set forth in section 9799.22 (relating to enforcement).
(6) To facilitate verification of information from individuals under section 9799.13 (relating to applicability) as provided in section 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police).
(7) In consultation with the Department of Education and the Department of Corrections, to promulgate guidelines directing licensed day-care centers, licensed preschool programs, schools, universities and colleges, including community colleges, on the proper use and administration of information received under section 9799.27.
(8) In consultation with the Department of Corrections, to promulgate guidelines directing State and county correctional facilities and State and county probation and parole offices regarding the completion of information, including the taking of photographs, required by sexual offenders under this subchapter.
(9) In consultation with the Administrative Office of Pennsylvania Courts, the Department of Human Services and the Juvenile Court Judges' Commission, to promulgate guidelines regarding the completion of information required by juvenile offenders and sexually violent delinquent children under this subchapter.
(10) To develop the telephonic verification system established under section 9799.25.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. imd.; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended the section heading and pars. (2), (7), (8) and (9).
2021 Unconstitutionality. Section 9799.32 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.32 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended par. (6) and added par. (10) and Act 29 reenacted pars. (6) and (10). Section 20(1) of Act 10 provided that the amendment of section 9799.32 shall apply to an individual who commits an offense on or after December 20, 2012.
2012 Amendment. Act 91 amended par. (3).
2011 Amendment. Act 111 added section 9799.32.

§ 9799.33. Duties of Department of Corrections and probation and parole officials.
(a) Duties.—The Department of Corrections, the county office of probation and parole and the chief juvenile probation officer of the court shall:
(1) Perform their respective duties set forth for the Department of Corrections, the county office of probation and parole and the chief juvenile probation officer of the court in accordance with section 9799.19 (relating to initial registration).

(2) On a form prescribed by the Pennsylvania State Police, notify the Pennsylvania State Police each time a sexual offender is arrested, recommitted to a State or county correctional institution for a parole violation or incarcerated.
(b) Notification form.—The Department of Corrections shall create a notification form which will inform county prison and probation and parole personnel how to inform sexual offenders of their duties under this subchapter. In addition, the Department of Corrections shall apply for Federal funding as provided in the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587) to support and enhance programming using global satellite positioning system technology.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Unconstitutionality. Section 9799.33 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.33 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.34. Duties of facilities housing sexual offenders.
The Department of Corrections, a county correctional facility, an institution or facility set forth in section 6352(a)(3) (relating to disposition of delinquent child) and the separate, State-owned facility or unit established under Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons) shall have the following duties:
(1) To perform their respective duties in accordance with section 9799.19 (relating to initial registration). This paragraph includes taking a current photograph of the individual specified in section 9799.13 (relating to applicability) before the individual is released from confinement or commitment or is discharged.
(2) On a form prescribed by the Pennsylvania State Police, to notify the Pennsylvania State Police each time a sexual offender is incarcerated, committed or released, including supervised release. In the case of a juvenile offender or sexually violent delinquent child, the facility shall notify the Pennsylvania State Police each time the individual is committed, released or transferred to another facility or institution. This paragraph shall include a community corrections center or community contract facility.
(3) To assist sexual offenders registering under this subchapter.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.34 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.34 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended par. (1) and Act 29 reenacted the intro. par. and par. (1). Section 20(1) of Act 10 provided that the amendment of section 9799.34 shall apply to an individual who commits an offense on or after December 20, 2012.
2012 Amendment. Act 91 amended par. (2).
2011 Amendment. Act 111 added section 9799.34.

§ 9799.35. Board.
(a) Composition.—The board shall be composed of psychiatrists, psychologists and criminal justice experts, each of whom is an expert in the field of the behavior and treatment of sexual offenders.
(b) Appointment.—The Governor shall appoint the board members.
(c) Term of office.—Members of the board shall serve four-year terms.
(d) Compensation.—The members of the board shall be compensated at a rate of $350 per assessment and receive reimbursement for their actual and necessary expenses while performing the business of the board. The chairman shall receive $500 additional compensation annually.
(e) Staff.—The board shall employ an executive director and other staff as necessary to carry out the board's duties under this chapter. The executive director shall direct the operations, management and administration of the board and organize and oversee the work of the staff. Legal counsel for the board shall be provided in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act. Upon request by the board, the Department of Corrections shall make available facilities, administrative support and other assistance to the board. (Dec. 20, 2011, P.L.446, No.111, eff. one year; June 30, 2021, P.L.260, No.59, eff. imd.)

2025 Repeal. Section 48(13) of Act 45 provided that subsec. (d) was repealed insofar as it is inconsistent with the addition of section 1799.11-E of the act of April 9, 1929, P.L.343, No.176, known as The Fiscal Code.
2021 Amendment. Act 59 amended subsec. (e).
2021 Unconstitutionality. Section 9799.35 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.35 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2011 Amendment. Act 111 added section 9799.35.

§ 9799.36. Counseling of sexually violent predators.
(a) General rule.—A sexually violent predator who is not incarcerated shall be required to attend at least monthly counseling sessions in a program approved by the board and be financially responsible for all fees assessed from the counseling sessions. The board shall monitor the compliance of the sexually violent predator. If the sexually violent predator can prove to the satisfaction of the court that the sexually violent predator cannot afford to pay for the counseling sessions, the sexually violent predator shall nonetheless attend the counseling sessions, and the parole office shall pay the requisite fees.
(b) Designation in another jurisdiction.—If an individual specified in section 9799.13 (relating to applicability) has been designated as a sexually violent predator in another jurisdiction and was required to undergo counseling, the individual shall be subject to the provisions of this section.
(c) Penalty.—A sexually violent predator who knowingly fails to attend counseling sessions as provided in this section may be subject to prosecution under 18 Pa.C.S. § 4915.1 (relating to failure to comply with registration requirements).
(d) Notification.—A provider of counseling services under subsection (a) shall notify the district attorney of the county and the chief law enforcement officer, as defined in section 8951 (relating to definitions), of the municipality in the county and municipality where the provider is located that the provider is counseling sexually violent predators. Notifications under this subsection must be submitted in writing by January 15 of each year and shall include the address of the provider.

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.880, No.91, eff. Dec. 20, 2012; July 10, 2015, P.L.122, No.20, eff. 60 days; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.36 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.36 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended subsec. (b) and Act 29 reenacted subsec. (b). Section 20(1) of Act 10 provided that the amendment of section 9799.36 shall apply to an individual who commits an offense on or after December 20, 2012.
2015 Amendment. Act 20 added subsec. (d).
2012 Amendment. Act 91 amended subsec. (a).
2011 Amendment. Act 111 added section 9799.36.
Cross References. Section 9799.36 is referred to in sections 9718.1, 9799.15, 9799.16, 9799.21, 9799.22, 9799.23 of this title; section 4915.1 of Title 18 (Crimes and Offenses).

§ 9799.37. Exemption from notification for certain licensees and their employees.
Nothing in this subchapter shall be construed as imposing a duty upon a person licensed under the act of February 19, 1980 (P.L.15, No.9), known as the Real Estate Licensing and Registration Act, or an employee of the person, to disclose any information regarding an individual required to be included in the registry pursuant to this subchapter.
(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2021 Unconstitutionality. Section 9799.37 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.37 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2011 Amendment. Act 111 added section 9799.37.

§ 9799.38. Annual performance audit.
(a) Duties of the Attorney General.—The Attorney General has the following duties:
(1) To conduct a performance audit annually to determine compliance with the requirements of this subchapter and Subchapter I (relating to continued registration of sexual offenders) and any guidelines promulgated under this subchapter and Subchapter I. The audit shall, at a minimum, include a review of the practices, procedures and records of the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts and any other State or local agency the Attorney General deems necessary in order to conduct a thorough and accurate performance audit.
(2) To prepare an annual report of its findings and any action that it recommends be taken by the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, other State or local agencies and the General Assembly to ensure compliance with this subchapter and Subchapter I. The first report shall be released to the general public no fewer than 18 months after December 20, 2012.
(3) To provide a copy of its report to the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, State or local agencies referenced in

the report, the chairman and the minority chairman of the Judiciary Committee of the Senate and the chairman and the minority chairman of the Judiciary Committee of the House of Representatives no fewer than 30 days prior to its release to the general public.
(b) Cooperation required.—Notwithstanding any other provision of law to the contrary, the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, the Pennsylvania Commission on Sentencing and any other State or local agency requested to do so shall fully cooperate with the Attorney General and assist the Office of Attorney General in satisfying the requirements of this section. For purposes of this subsection, full cooperation shall include, at a minimum, complete access to unredacted records, files, reports and data systems.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Unconstitutionality. Section 9799.38 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.38 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended subsec. (a)(1) and (2) and Act 29 reenacted and amended subsec. (a)(1) and (2). Act 29 overlooked the amendment by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.38. Section 20(1) of Act 10 provided that the amendment of section 9799.38 shall apply to an individual who commits an offense on or after December 20, 2012.

§ 9799.39. Photographs and fingerprinting.
An individual subject to registration under section 9799.13 (relating to applicability) shall submit to fingerprinting and photographing as required by this subchapter. Fingerprinting as required by this subchapter shall, at a minimum, require submission of a full set of fingerprints and palm prints. Photographing as required by this subchapter shall, at a minimum, require submission to photographs of the face and any scars, marks, tattoos or other unique features of the individual. Fingerprints and photographs obtained under this subchapter may be maintained for use under this subchapter and for general law enforcement purposes.
(Dec. 20, 2011, P.L.446, No.111, eff. one year; Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2021 Unconstitutionality. Section 9799.39 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.39 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2018 Amendments. Act 10 amended section 9799.39 and Act 29 reenacted section 9799.39. Section 20(1) of Act 10 provided that the amendment of section 9799.39 shall apply to an individual who commits an offense on or after December 20, 2012.

§ 9799.40. Duties of Pennsylvania Commission on Sentencing.
The Pennsylvania Commission on Sentencing shall establish procedures to enable courts to classify sexual offenders as provided in section 9799.23 (relating to court notification and classification requirements).

(Dec. 20, 2011, P.L.446, No.111, eff. one year)

2021 Unconstitutionality. Section 9799.40 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.40 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).
2011 Amendment. Act 111 added section 9799.40.

§ 9799.41. Expiration.
The following provisions shall expire December 20, 2012:
Section 9718.3 (relating to sentence for failure to comply with registration of sexual offenders).
Section 9791 (relating to legislative findings and declaration of policy).
Section 9792 (relating to definitions).
Section 9795.1 (relating to registration).
Section 9795.2 (relating to registration procedures and applicability).
Section 9795.3 (relating to sentencing court information).
Section 9795.4 (relating to assessments).
Section 9795.5 (relating to exemption from certain notifications).
Section 9796 (relating to verification of residence).
Section 9797 (relating to victim notification).
Section 9798 (relating to other notification).
Section 9798.1 (relating to information made available on the Internet and electronic notification).
Section 9798.2 (relating to administration).
Section 9798.3 (relating to global positioning system technology).
Section 9799 (relating to immunity for good faith conduct).
Section 9799.1 (relating to duties of Pennsylvania State Police).
Section 9799.2 (relating to duties of Pennsylvania Board of Probation and Parole).
Section 9799.3 (relating to board).
Section 9799.4 (relating to counseling of sexually violent predators).
Section 9799.7 (relating to exemption from notification for certain licensees and their employees).
Section 9799.8 (relating to annual performance audit).
Section 9799.9 (relating to photographs and fingerprinting).
(Dec. 20, 2011, P.L.446, No.111, eff. imd.; July 5, 2012, P.L.880, No.91, eff. imd.)

2021 Unconstitutionality. Section 9799.41 was declared unconstitutional as applied by the Pennsylvania Supreme Court. Commonwealth v. Santana, 266 A.3d 528 (Pa. 2021).
2019 Unconstitutionality. Section 9799.41 was declared unconstitutional as applied by the Pennsylvania Superior Court. Commonwealth v. Lippincott, 208 A.3d 143 (Pa. 2019).

§ 9799.42. Standing for Pennsylvania State Police.
Except for petitions filed under section 9799.15(a.2) (relating to period of registration), the Pennsylvania State Police shall have standing to appear and contest a filing in a court of this Commonwealth which seeks to challenge in any way the obligation of an individual required to register with the Pennsylvania State Police under this subchapter.
(Feb. 21, 2018, P.L.27, No.10, eff. imd.; June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendments. Act 10 added section 9799.42 and Act 29 reenacted section 9799.42. Section 20(1) of Act 10 provided that the addition of section 9799.42 shall apply to an individual who commits an offense on or after December 20, 2012.

SUBCHAPTER I
CONTINUED REGISTRATION OF SEXUAL OFFENDERS

Sec.

9799.51. Legislative findings and declaration of policy.
9799.52. Scope.
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9799.55. Registration.
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9799.67. Duties of Pennsylvania State Police.
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9799.69. Board.
9799.70. Counseling of sexually violent predators.
9799.71. Exemption from notification for certain licensees and their employees.
9799.72. Annual performance audit.
9799.73. Photographs and fingerprinting.
9799.74. Standing for Pennsylvania State Police.
9799.75. Construction of subchapter.

Enactment. Subchapter I was added February 21, 2018, P.L.27, No.10, effective immediately.
Subchapter Heading. The heading of Subchapter I was reenacted June 12, 2018, P.L.140, No.29, effective immediately.
Special Provisions in Appendix. See section 20(2) of Act 10 of 2018 in the appendix to this title for special provisions relating to applicability.
See section 21 of Act 29 of 2018 in the appendix to this title for special provisions relating to applicability.
Cross References. Subchapter I is referred to in sections 5920, 9774.1, 9799.16, 9799.25, 9799.38 of this title; sections 3130, 3141, 4915.2, 9122.1 of Title 18 (Crimes and Offenses); sections 2511, 6338.1, 6707 of Title 23 (Domestic Relations); sections 3903, 4103, 4503, 6137.1, 6138, 6139 of Title 61 (Prisons and Parole).

§ 9799.51. Legislative findings and declaration of policy.

(a) Legislative findings.—It is hereby determined and declared as a matter of legislative finding:

(1) If the public is provided adequate notice and information about sexually violent predators and offenders as well as those sexually violent predators and offenders who do not have a fixed place of habitation or abode, the community can develop constructive plans to prepare itself for the release of sexually violent predators and offenders. This allows communities to meet with law enforcement to prepare and obtain information about the rights and responsibilities of the community and to provide education and counseling to their children.

(2) These sexually violent predators and offenders pose a high risk of engaging in further offenses even after being released from incarceration or commitments, and protection of the public from this type of offender is a paramount governmental interest.

(3) The penal and mental health components of our justice system are largely hidden from public view, and lack of information from either may result in failure of both systems to meet this paramount concern of public safety.

(4) Overly restrictive confidentiality and liability laws governing the release of information about sexually violent predators and offenders have reduced the willingness to release information that could be appropriately released under the public disclosure laws and have increased risks to public safety.

(5) Persons found to have committed a sexual offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.

(6) Release of information about sexually violent predators and offenders to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

(b) Declaration of policy.—It is hereby declared to be the intention of the General Assembly to:

(1) Protect the safety and general welfare of the people of this Commonwealth by providing for registration, community notification and access to information regarding sexually violent predators and offenders who are about to be released from custody and will live in or near their neighborhood.

(2) Require the exchange of relevant information about sexually violent predators and offenders among public agencies and officials and to authorize the release of necessary and relevant information about sexually violent predators and offenders to members of the general public, including information available through the publicly accessible Internet website of the Pennsylvania State Police, as a means of assuring public protection and shall not be construed as punitive.

(3) Address the Superior Court's opinion in the case of Commonwealth v. Wilgus, 975 A.2d 1183 (2009), by requiring sexually violent predators and offenders without a fixed place of habitation or abode to register under this subchapter.

(4) Address the Pennsylvania Supreme Court's decision in Commonwealth v. Muniz, No. 47 MAP 2016 (Pa. 2016), and the Pennsylvania Superior Court's decision in Commonwealth v. Butler, 173 A.3d 1212 (Pa. Super. 2017).

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.51.

References in Text. The citation, Commonwealth v. Butler, 173 A.3d 1212 (Pa. Super. 2017), referred to in subsec. (b)(4), was incorrectly cited as Commonwealth v. Butler (2017 WL 3882445) in

Acts 10 and 29 of 2018. The 2018 Pamphlet Law Volume contains the correct Westlaw citation, (2017 4914155).

§ 9799.52. Scope.

This subchapter shall apply to individuals who were:

(1) convicted of a sexually violent offense committed on or after April 22, 1996, but before December 20, 2012, whose period of registration with the Pennsylvania State Police, as described in section 9799.55 (relating to registration), has not expired; or

(2) required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.52.

§ 9799.53. Definitions.

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

"Active notification." Notification in accordance with section 9799.62 (relating to other notification) or a process whereby law enforcement, pursuant to the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, notifies persons in the community in which the individual resides, including a person identified in section 9799.62(b), of the residence, employment or school location of the individual.

"Approved registration site." A site in this Commonwealth approved by the Pennsylvania State Police as required by section 9799.67(2) (relating to duties of Pennsylvania State Police):

(1) at which individuals subject to this subchapter may register, verify information or be fingerprinted or photographed as required by this subchapter;

(2) which is capable of submitting fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in the form as the Pennsylvania State Police shall require; and

(3) which is capable of submitting photographs utilizing the Commonwealth Photo Imaging Network or in another manner and in the form as the Pennsylvania State Police shall require.

"Board." The State Sexual Offenders Assessment Board.

"Common interest community." Includes a cooperative, a condominium and a planned community where an individual by virtue of an ownership interest in a portion of real estate is or may become obligated by covenant, easement or agreement imposed upon the owner's interest to pay an amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the individual.

"Commonwealth Photo Imaging Network." The computer network administered by the Commonwealth and used to record and store digital photographs of an individual's face and scars, marks, tattoos or other unique features of the individual.

"Employed." Includes a vocation or employment that is full time or part time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during a calendar year,

whether financially compensated, volunteered, under a contract or for the purpose of government or educational benefit.

"Integrated Automated Fingerprint Identification System." The national fingerprint and criminal history system maintained by the Federal Bureau of Investigation providing automated fingerprint search capabilities, latent searching capability, electronic image storage and electronic exchange of fingerprints and responses.

"Mental abnormality." A congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

"Minor." As used in section 9799.55 (relating to registration), an individual under 18 years of age unless the age of the victim who is considered a minor is otherwise defined in section 9799.55.

"Municipality." A city, borough, incorporated town or township.

"Offender." Subject to section 9799.75 (relating to construction of subchapter), an individual required to register under section 9799.55(a), (b)(1) or (2) (relating to registration).

"Passive notification." Notification in accordance with section 9799.63 (relating to information made available on Internet and electronic notification) or a process whereby persons, under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, are able to access information pertaining to an individual as a result of the individual having been convicted or sentenced by a court for an offense similar to an offense listed in section 9799.55 (relating to registration).

"Penetration." Includes any penetration, however slight, of the genitals, anus or mouth of another person with a part of the person's body or a foreign object for a purpose other than good faith medical, hygienic or law enforcement procedures.

"Predatory." An act directed at a stranger or at a person with whom a relationship has been initiated, established, maintained or promoted, in whole or in part, in order to facilitate or support victimization.

"Residence." With respect to an individual required to register under this subchapter, any of the following:

(1) A location where an individual resides or is domiciled or intends to be domiciled for 30 consecutive days or more during a calendar year.

(2) In the case of an individual who fails to establish a residence as specified in paragraph (1), a temporary habitat or other temporary place of abode or dwelling, including, but not limited to, a homeless shelter or park, where the individual is lodged.

"Sexually violent offense." The following criminal offenses:

(1) Except as provided in paragraph (2):

(i) a criminal offense specified in section 9799.55 (relating to registration) committed on or after April 22, 1996, but before December 20, 2012, for which the individual was convicted; or

(ii) a criminal offense for which an individual was required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired.

(2) The following criminal offenses committed on or after January 26, 2005, but before December 20, 2012, for which the individual was convicted:

(i) 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).

(ii) 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

"Sexually violent predator." Subject to section 9799.75 (relating to construction of subchapter), a person who has been convicted of a sexually violent offense and who is determined to be a sexually violent predator under section 9799.58 (relating to assessments) due to a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses or who has ever been determined by a court to have a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses under a former sexual offender registration law of this Commonwealth. The term includes an individual determined to be a sexually violent predator where the determination occurred in the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or by court martial.
"Student." A person who is enrolled on a full-time or part-time basis in a public or private educational institution, including a secondary school, trade or professional institution or institution of higher education.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.53. Act 29 overlooked the addition of section 9799.53 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.53.
Cross References. Section 9799.53 is referred to in sections 9718.1, 9799.56, 9799.57, 9799.60, 9799.61, 9799.62, 9799.63, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.54. Applicability.
(a) Registration.—The following individuals shall register with the Pennsylvania State Police as provided in this subchapter:
(1) An individual who committed a sexually violent offense within this Commonwealth and whose period of registration with the Pennsylvania State Police, as specified in section 9799.55 (relating to registration), as of February 21, 2018, has not expired. The individual shall register for the period of time under section 9799.55 less any credit for time spent registered with the Pennsylvania State Police prior to February 21, 2018.
(2) An individual who committed a sexually violent offense within this Commonwealth and who has failed to register with the Pennsylvania State Police. In such a case, the individual shall register for the period of time under section 9799.55.
(3) An individual who committed a sexually violent offense within this Commonwealth and is an inmate in a State or county correctional facility of this Commonwealth, including a community corrections center or a community contract facility, is being supervised by the Department of Corrections or county probation or parole, is subject to a sentence of intermediate punishment or has supervision transferred under the Interstate Compact for Adult Supervision in accordance with section 9799.62(e) (relating to other notification). The individual shall register for the period of time under section 9799.55, except that the period required in section 9799.55 shall be tolled for any period of time the individual is recommitted for a parole violation or sentenced to a term of imprisonment.
(4) An individual who was convicted of an offense similar to an offense set forth in section 9799.55 under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or under a former law of this Commonwealth or who was court martialed for a similar offense and who, as of February 21, 2018, has not completed registration requirements. The period of registration shall be as set forth in

section 9799.56(b)(4) (relating to registration procedures and applicability) less any credit for time spent on a sexual offender registry of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or with the Pennsylvania State Police prior to February 21, 2018.
(b) Initial registration.—Individuals required to register under this section shall have 90 days from February 21, 2018, to initially register with the Pennsylvania State Police. The individual shall appear at an approved registration site to be photographed, fingerprinted and to verify information. The Pennsylvania State Police shall send a notice by first class United States mail to the individual's last reported residence in order to inform the individual of the requirements of this subchapter. The notice shall specifically inform the individual of the duties specified in section 9799.57 (relating to sentencing court information). The notice shall be sent no later than 30 days from February 21, 2018. The notice shall also provide a list of approved registration sites. Neither failure on the part of the Pennsylvania State Police to send nor failure of an individual to receive notice or information under this paragraph shall relieve the individual of the requirements of this subchapter.
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a)(3).
2018 Amendment. Act 29 reenacted and amended section 9799.54. Act 29 overlooked the addition of section 9799.54 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.54.
Cross References. Section 9799.54 is referred to in sections 9799.55, 9799.56, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.55. Registration.
(a) Ten-year registration.—Except as provided under subsection (a.1) or (b), the following individuals shall be required to register with the Pennsylvania State Police for a period of 10 years:
(1) (i) (A) Individuals convicted within this Commonwealth of any of the following offenses committed on or after April 22, 1996, but before December 20, 2012:
18 Pa.C.S. § 2901 (relating to kidnapping) where the victim is a minor.
18 Pa.C.S. § 3126 (relating to indecent assault) where the offense is graded as a misdemeanor of the first degree or higher.
18 Pa.C.S. § 4302 (relating to incest) where the victim is 12 years of age or older but under 18 years of age.
18 Pa.C.S. § 5902(b) or (b.1) (relating to prostitution and related offenses) where the actor promotes the prostitution of a minor.
18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances) where the victim is a minor.
18 Pa.C.S. § 6312 (relating to sexual abuse of children).
18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
(B) Individuals convicted within this Commonwealth of an offense set forth in clause (A) who were required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired.
(ii) Individuals convicted within this Commonwealth of any of the following offenses committed on or after January 26, 2005, but before December 20, 2012:

18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle or structure).
18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
(2) Individuals convicted of an attempt, conspiracy or solicitation to commit any of the offenses under paragraph (1)(i) or (ii) or subsection (b)(2).
(3) Individuals who currently have a residence in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraphs (1)(i) or (ii) and (2) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or under a former law of this Commonwealth.
(a.1) Exception to 10-year registration.—Except as provided under subsection (b), an individual considered to be an offender under section 9799.56(b) (relating to registration procedures and applicability) shall be required to register with the Pennsylvania State Police for a period less than life, the duration of which is to be determined under sections 9799.54 (relating to applicability) and 9799.56(b).
(b) Lifetime registration.—The following individuals shall be subject to lifetime registration:
(1) An individual with two or more convictions of any of the offenses set forth in subsection (a).
(2) Individuals convicted:
(i) (A) in this Commonwealth of the following offenses, if committed on or after April 22, 1996, but before December 20, 2012:
18 Pa.C.S. § 3121 (relating to rape);
18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);
18 Pa.C.S. § 3124.1 (relating to sexual assault);
18 Pa.C.S. § 3125 (relating to aggravated indecent assault); or
18 Pa.C.S. § 4302 when the victim is under 12 years of age; or
(B) in this Commonwealth of offenses set forth in clause (A) who were required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth on or after April 22, 1996, but before December 20, 2012, whose period of registration has not expired; or
(ii) of offenses similar to the crimes cited in subparagraph (i) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or under a former law of this Commonwealth, if committed, or for which registration with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth was required, on or after April 22, 1996, but before December 20, 2012, who currently reside in this Commonwealth.
(3) Sexually violent predators.
(4) An individual who is considered to be a sexually violent predator under section 9799.56(b) or who is otherwise required to register for life under section 9799.56(b), if the sexual offense which is the basis for the consideration or requirement for which the individual was convicted was committed, or for which registration with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth was required, on or after April 22, 1996, but before December 20, 2012.
(c) Natural disaster.—The occurrence of a natural disaster or other event requiring evacuation of residences shall not relieve an individual of the duty to register or any other duty imposed by this subchapter.
(d) Residents in group-based homes.—

(1) A group-based home may not provide concurrent residence in the group-based home to more than five individuals in total who are required to register under Subchapter H (relating to registration of sexual offenders) and this subchapter as sexually violent predators.
(2) A group-based home that violates paragraph (1) shall be subject to a civil penalty in the amount of $2,500 for a first violation and in the amount of $5,000 for a second or subsequent violation.
(3) The Pennsylvania State Police or local law enforcement agency of jurisdiction shall investigate compliance with this subsection, and the Attorney General or district attorney may commence a civil action in the court of common pleas of the county in which a group-based home is located to impose and collect from the group-based home the penalty under paragraph (2).
(4) As used in this subsection, the term "group-based home" has the meaning given to it in 61 Pa.C.S. § 5007(c) (relating to certain offenders residing in group-based homes).
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (d)(4).
2018 Amendment. Act 29 reenacted section 9799.55. Section 21 of Act 10 of 2018 provided that the addition of subsec. (d) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency. Section 22 of Act 29 provided that the reenactment of subsec. (d) shall apply to all group-based homes and their residents, regardless of when the group-based homes began to provide housing or the residents began their residency.
Cross References. Section 9799.55 is referred to in sections 9799.14, 9799.52, 9799.53, 9799.54, 9799.56, 9799.58, 9799.59, 9799.60, 9799.67, 9799.70, 9799.73 of this title; sections 4915.2, 9122.1, 9122.3 of Title 18 (Crimes and Offenses); section 6303 of Title 23 (Domestic Relations).

§ 9799.56. Registration procedures and applicability.
(a) Registration.—
(1) (i) Offenders and sexually violent predators shall be required to register with the Pennsylvania State Police as specified in section 9799.54 (relating to applicability).
(ii) Offenders and sexually violent predators shall be required to register with the Pennsylvania State Police upon release from incarceration, upon parole from a State or county correctional facility or upon the commencement of a sentence of intermediate punishment or probation.
(iii) For purposes of registration, offenders and sexually violent predators shall provide the Pennsylvania State Police with all current or intended residences, all information concerning current or intended employment and all information concerning current or intended enrollment as a student.
(2) Offenders and sexually violent predators shall inform the Pennsylvania State Police within three business days of:
(i) A change of residence or establishment of an additional residence or residences. In the case of an individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions), the individual shall inform the Pennsylvania State Police of the following:
(A) the location of a temporary habitat or other temporary place of abode or dwelling, including a homeless shelter or park, where the individual is lodged;
(B) a list of places the individual eats, frequents and engages in leisure activities and any planned destinations, including those outside this Commonwealth; and
(C) the place the individual receives mail, including a post office box.

The duty to provide the information specified in this subparagraph shall apply until the individual establishes a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53. If the individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 changes or adds to the places listed in this subparagraph during a 30-day period, the individual shall list these when reregistering during the next 30-day period.
(ii) A change of employer or employment location for a period of time that will exceed 14 days or for an aggregate period of time that will exceed 30 days during a calendar year, or termination of employment.
(iii) A change of institution or location at which the person is enrolled as a student, or termination of enrollment.
(iv) Becoming employed or enrolled as a student if the person has not previously provided that information to the Pennsylvania State Police.
(2.1) Registration with a new law enforcement agency shall occur no later than three business days after establishing residence in another state.
(3) The registration period required in section 9799.55(a) and (a.1) (relating to registration) shall be tolled when an offender is recommitted for a parole violation or sentenced to an additional term of imprisonment. In such cases, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police of the admission of the offender.
(4) This paragraph shall apply to all offenders and sexually violent predators:
(i) Where the offender or sexually violent predator was granted parole by the Pennsylvania Parole Board or the court or is sentenced to probation or intermediate punishment, probation with restrictions or is placed in the State drug treatment program, the board or county office of probation and parole shall collect registration information from the offender or sexually violent predator and forward that registration information to the Pennsylvania State Police. The Department of Corrections or county correctional facility shall not release the offender or sexually violent predator until it receives verification from the Pennsylvania State Police that the Pennsylvania State Police have received the registration information. Verification by the Pennsylvania State Police may occur by electronic means, including e-mail or facsimile transmission. Where the offender or sexually violent predator is scheduled to be released from a State or county correctional facility because of the expiration of the maximum term of incarceration, the Department of Corrections or county correctional facility shall collect the information from the offender or sexually violent predator no later than 10 days prior to the maximum expiration date. The registration information shall be forwarded to the Pennsylvania State Police.
(ii) Where the offender or sexually violent predator scheduled to be released from a State or county correctional facility due to the maximum expiration date refuses to provide the registration information, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police or police department with jurisdiction over the facility of the failure to provide registration information and of the expected date, time and location of the release of the offender or sexually violent predator.
(b) Individuals convicted or sentenced by a court or adjudicated delinquent in jurisdictions outside this Commonwealth or sentenced by court martial.—
(1) (Reserved).
(2) (Reserved).
(3) (Reserved).
(4) An individual who has a residence, is employed or is a student in this Commonwealth and who has been convicted of or sentenced by a court or court martialed for a sexually violent offense or a

similar offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or who was required to register under a sexual offender statute in the jurisdiction where convicted, sentenced or court martialed, shall register at an approved registration site within three business days of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:

(i) If the individual has been classified as a sexually violent predator as defined in section 9799.53 or determined under the laws of the other jurisdiction or by reason of court martial to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime registration based solely on the offense for which the individual was convicted, sentenced or court martialed, the individual shall, notwithstanding section 9799.53, be considered a sexually violent predator and subject to lifetime registration under section 9799.55(b). The individual shall also be subject to the provisions of this section and sections 9799.60 (relating to verification of residence), 9799.62 (relating to other notification) and 9799.63(c)(1) (relating to information made available on Internet and electronic notification), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction or by reason of court martial.

(ii) Except as provided in subparagraphs (i) and (iv), if the individual has been convicted or sentenced by a court or court martialed for an offense listed in section 9799.55(b) or an equivalent offense, the individual shall, notwithstanding section 9799.53, be considered an offender and be subject to lifetime registration under section 9799.55(b). The individual shall also be subject to the provisions of this section and sections 9799.60 and 9799.63(c)(2).

(iii) Except as provided in subparagraphs (i), (ii), (iv) and (v), if the individual has been convicted or sentenced by a court or court martialed for an offense listed in section 9799.55(a) or an equivalent offense, the individual shall be, notwithstanding section 9799.53, considered an offender and subject to registration under this subchapter. The individual shall also be subject to the provisions of this section and sections 9799.60 and 9799.63(c)(2). The individual shall be subject to this subchapter for a period of 10 years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements.

(iv) Except as provided in subparagraph (i) and notwithstanding subparagraph (v), if the individual is subject to active notification in the other jurisdiction or subject to active notification by reason of court martial, the individual shall, notwithstanding section 9799.53, be considered an offender and subject to this section and sections 9799.60, 9799.62 and 9799.63(c)(1). If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9799.55(b) or an equivalent offense, the individual shall be subject to this subchapter for the individual's lifetime. If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9799.55(a) or an equivalent offense, the individual shall be subject to this subchapter for a period of 10 years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements. Otherwise, the individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.

(v) Except as provided in subparagraphs (i), (ii), (iii) and (iv), if the individual is subject to passive notification in the other jurisdiction or subject to passive notification by reason of court martial, the individual shall, notwithstanding section 9799.53, be considered an offender and subject to this section and sections 9799.60 and 9799.63(c)(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.
(5) Notwithstanding the provisions of Chapter 63 (relating to juvenile matters) and except as provided in paragraph (4), an individual who has a residence, is employed or is a student in this Commonwealth and who is required to register as a sex offender under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation as a result of a juvenile adjudication shall register at an approved registration site within three business days of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:
(i) If the individual has been classified as a sexually violent predator as defined in section 9799.53 or determined under the laws of the other jurisdiction to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime registration based solely on the offense for which the individual was adjudicated, the individual shall, notwithstanding section 9799.53, be considered a sexually violent predator and subject to lifetime registration under section 9799.55(b). The individual shall also be subject to the provisions of this section and sections 9799.60 and 9799.63(c)(1), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction.
(ii) Except as provided in subparagraph (i), if the individual is subject to active notification in the other jurisdiction, the individual shall, notwithstanding section 9799.53, be considered an offender and subject to registration under this subchapter. The individual shall also be subject to the provisions of this section and sections 9799.60, 9799.62 and 9799.63(c)(1). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior compliance with registration requirements.
(iii) Except as provided in subparagraphs (i) and (ii), if the individual is subject to passive notification in the other jurisdiction, the individual shall, notwithstanding section 9799.53, be considered an offender and be subject to this section and sections 9799.60 and 9799.63(c)(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior registration compliance.
(c) Registration information to local police.—
(1) The Pennsylvania State Police shall provide the information obtained under this section and sections 9799.57 (relating to sentencing court information) and 9799.60 to the chief law enforcement officers of the police departments of the municipalities in which the individual will establish a residence or be employed or enrolled as a student. In addition, the Pennsylvania State Police shall provide this officer with the address at which the individual will establish a residence or be employed or enrolled as a student following the individual's release from incarceration, parole or probation.
(2) The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities notified under paragraph (1) when an individual fails to

comply with the registration requirements of this section or section 9799.60 and request, as appropriate, that these police departments assist in locating and apprehending the individual.
(3) The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities notified under paragraph (1) when they are in receipt of information indicating that the individual will no longer have a residence or be employed or be enrolled as a student in the municipality.
(d) Penalty.—An individual subject to registration under this subchapter who fails to register with the Pennsylvania State Police as required by this section may be subject to prosecution under 18 Pa.C.S. § 4915.2 (relating to failure to comply with 42 Pa.C.S. Ch. 97 Subch. I registration requirements).
(e) Registration sites.—An individual subject to section 9799.55 shall register and submit to fingerprinting and photographing as required by this subchapter at approved registration sites.
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a)(4)(i).
2018 Amendment. Act 29 reenacted section 9799.56.
Cross References. Section 9799.56 is referred to in sections 9799.54, 9799.55, 9799.61, 9799.62, 9799.63, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.57. Sentencing court information.
The sentencing court shall inform offenders and sexually violent predators convicted on or after February 21, 2018, at the time of sentencing of the provisions of this subchapter. The court shall:
(1) Specifically inform the offender or sexually violent predator of the duty to register and provide the information required for each registration, including verification as required in section 9799.60(a) (relating to verification of residence).
(2) Specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police within three business days if the offender or sexually violent predator changes residence or establishes an additional residence or residences, changes employer or employment location for a period of time that will exceed 14 days or for an aggregate period of time that will exceed 30 days during a calendar year or terminates employment or changes institution or location at which the person is enrolled as a student or terminates enrollment. In order to fulfill the requirements of this paragraph, the sentencing court shall specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police of:
(i) the location of a temporary habitat or other temporary place of abode or dwelling, including a homeless shelter or park, where the individual is lodged;
(ii) the places the individual eats, frequents and engages in leisure activities and any planned destinations, including those outside this Commonwealth; and
(iii) the place the individual receives mail, including a post office box,
if the individual fails to establish a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53 (relating to definitions).
(2.1) Specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police within three business days of becoming employed or enrolled as a student if the person has not previously provided that information to the Pennsylvania State Police.
(3) Specifically inform the offender or sexually violent predator of the duty to register with a new law enforcement agency if the offender or sexually violent predator moves to another state no later than three business days after establishing residence in another state.

(4) Order the fingerprints and photograph of the offender or sexually violent predator to be provided to the Pennsylvania State Police upon sentencing.
(5) Specifically inform the offender or sexually violent predator of the duty to register with the appropriate authorities in a state in which the offender or sexually violent predator is employed, carries on a vocation or is a student if the state requires the registration.
(6) Require the offender or sexually violent predator to read and sign a form stating that the duty to register under this subchapter has been explained. Where the offender or sexually violent predator is incapable of reading, the court shall certify the duty to register was explained to the offender or sexually violent predator and the offender or sexually violent predator indicated an understanding of the duty.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.57. Act 29 overlooked the addition of section 9799.57 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.57.
Cross References. Section 9799.57 is referred to in sections 9799.54, 9799.56 of this title.

§ 9799.58. Assessments.
(a) Order for assessment.—After conviction but before sentencing, a court shall order an individual convicted of an offense specified in section 9799.55 (relating to registration) to be assessed by the board. The order for an assessment shall be sent to the administrative officer of the board within 10 days of the date of conviction.
(b) Assessment.—Upon receipt from the court of an order for an assessment, a member of the board as designated by the administrative officer of the board shall conduct an assessment of the individual to determine if the individual should be classified as a sexually violent predator. The board shall establish standards for evaluations and for evaluators conducting the assessments. An assessment shall include, but not be limited to, an examination of the following:
(1) Facts of the current offense, including:
(i) Whether the offense involved multiple victims.
(ii) Whether the individual exceeded the means necessary to achieve the offense.
(iii) The nature of the sexual contact with the victim.
(iv) Relationship of the individual to the victim.
(v) Age of the victim.
(vi) Whether the offense included a display of unusual cruelty by the individual during the commission of the crime.
(vii) The mental capacity of the victim.
(2) Prior offense history, including:
(i) The individual's prior criminal record.
(ii) Whether the individual completed any prior sentences.
(iii) Whether the individual participated in available programs for sexual offenders.
(3) Characteristics of the individual, including:
(i) Age of the individual.
(ii) Use of illegal drugs by the individual.
(iii) A mental illness, mental disability or mental abnormality.
(iv) Behavioral characteristics that contribute to the individual's conduct.

(4) Factors that are supported in a sexual offender assessment field as criteria reasonably related to the risk of reoffense.

(c) Release of information.—All State, county and local agencies, offices or entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing access to records and information as requested by the board in connection with the court-ordered assessment and the assessment requested by the Pennsylvania Parole Board or the assessment of a delinquent child under section 6358 (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board).

(d) Submission of report by board.—The board shall have 90 days from the date of conviction of the individual to submit a written report containing its assessment to the district attorney.

(d.1) Summary of offense.—The board shall prepare a description of the offense or offenses which trigger the application of this subchapter to include, but not be limited to:

(1) A concise narrative of the offender's conduct.

(2) Whether the victim was a minor.

(3) The manner of weapon or physical force used or threatened.

(4) If the offense involved unauthorized entry into a room or vehicle occupied by the victim.

(5) If the offense was part of a course or pattern of conduct involving multiple incidents or victims.

(6) Previous instances in which the offender was determined guilty of an offense subject to this subchapter or of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses).

(e) Hearing.—

(1) A hearing to determine whether the individual is a sexually violent predator shall be scheduled upon the praecipe filed by the district attorney. The district attorney upon filing a praecipe shall serve a copy of the same upon defense counsel together with a copy of the report of the board.

(2) The individual and district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. In addition, the individual shall have the right to counsel and to have a lawyer appointed to represent the individual if he or she cannot afford one. If the individual requests another expert assessment, the individual shall provide a copy of the expert assessment to the district attorney prior to the hearing.

(3) At the hearing prior to sentencing, the court shall determine whether the Commonwealth has proved by clear and convincing evidence that the individual is a sexually violent predator.

(4) A copy of the order containing the determination of the court shall be immediately submitted to the individual, the district attorney, the Pennsylvania Parole Board, the Department of Corrections, the board and the Pennsylvania State Police.

(f) Presentence investigation.—In all cases where the board has performed an assessment under this section, copies of the report shall be provided to the agency preparing the presentence investigation.

(g) Parole assessment.—The Pennsylvania Parole Board may request of the board an assessment of an offender or sexually violent predator be conducted and provide a report to the Pennsylvania Parole Board prior to considering an offender or sexually violent predator for parole.

(h) Delinquent children.—Except where section 6358(b.1) is applicable, the probation officer shall notify the board 90 days prior to the 20th birthday of the child of the status of the delinquent child who is committed to an institution or other facility under section 6352 (relating to disposition of delinquent child) after having been found delinquent for an act of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to

involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest), together with the location of the facility where the child is committed. The board shall conduct an assessment of the child, which shall include the board's determination of whether or not the child is in need of commitment due to a mental abnormality as defined in section 6402 (relating to definitions) or a personality disorder, either of which results in serious difficulty in controlling sexually violent behavior, and provide a report to the court within the time frames under section 6358(c). The probation officer shall assist the board in obtaining access to the child and records or information as requested by the board in connection with the assessment. The assessment shall be conducted under subsection (b).

(i) Other assessments.—Upon receipt from the court of an order for an assessment under section 9799.59 (relating to exemption from certain notifications), a member of the board as designated by the administrative officer of the board shall conduct an assessment of the individual to determine if the relief sought, if granted, is likely to pose a threat to the safety of any other person. The board shall establish standards for evaluations and for evaluators conducting these assessments.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (c), (e)(4) and (g).

2018 Amendment. Act 29 reenacted section 9799.58.

Cross References. Section 9799.58 is referred to in sections 9799.53, 9799.61 of this title; section 6303 of Title 23 (Domestic Relations).

§ 9799.59. Exemption from certain notifications.

(a) General rule.—An individual required to register under section 9799.55(a.1) and (b) (relating to registration) may be exempt from the requirement to register, the requirement to verify residence, employment and enrollment in an educational institution, the requirement to appear on the publicly accessible Internet website maintained by the Pennsylvania State Police and all other requirements of this subchapter if:

(1) At least 25 years have elapsed prior to filing a petition with the sentencing court to be exempt from the requirements of this subchapter, during which time the petitioner has not been convicted in this Commonwealth or any other jurisdiction or foreign country of an offense punishable by imprisonment of more than one year, or the petitioner's release from custody following the petitioner's most recent conviction for an offense, whichever is later.

(2) Upon receipt of a petition filed under paragraph (1), the sentencing court shall enter an order directing that the petitioner be assessed by the board. Upon receipt from the court of an order for an assessment under this section, a member of the board designated by the administrative officer of the board shall conduct an assessment of the petitioner to determine if the relief sought, if granted, is likely to pose a threat to the safety of any other persons. The board shall establish standards for evaluations and for evaluators conducting assessments.

(3) The order for an assessment under this section shall be sent to the administrative officer of the board within 10 days of the entry. No later than 90 days following receipt of the order, the board shall submit a written report containing the board's assessment to the sentencing court, the district attorney and the attorney for the sexual offender.

(4) Within 120 days of filing the petition under paragraph (1), the sentencing court shall hold a hearing to determine whether to exempt the petitioner from the application of any or all of the requirements of this subchapter. The petitioner and the district attorney shall be given notice of the

hearing and an opportunity to be heard, the right to call witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed to represent the petitioner if the petitioner cannot afford one.
(5) The sentencing court shall exempt the petitioner from application of any or all of the requirements of this subchapter, at the discretion of the court, only upon a finding of clear and convincing evidence that exempting the petitioner from a particular requirement or all of the requirements of this subchapter is not likely to pose a threat to the safety of any other person.
(6) A court granting relief under this section shall notify the Pennsylvania State Police in writing within 10 days from the date relief is granted.
(7) The petitioner and the Commonwealth shall have the right to appellate review of the actions of the sentencing court under this section. An appeal by the Commonwealth shall stay the order of the sentencing court. A court granting relief under this section shall notify the Pennsylvania State Police in writing within 10 days from the date the relief is granted. If a memorandum of understanding has been entered into under section 9799.61 (relating to victim notification) with respect to relief granted to the petitioner, the Pennsylvania State Police shall transmit the information about the relief to the Office of Victim Advocate as soon as is practicable. The Office of Victim Advocate shall notify the victim of the relief, in accordance with the memorandum of understanding, as specified in section 9799.61.
(8) The petitioner may file an additional petition with the sentencing court no sooner than five years from the date of the final determination of a court regarding the petition and every five years thereafter.
(9) If a petitioner is exempt from any provisions of this subchapter and the petitioner is subsequently convicted under 18 Pa.C.S. § 4915.2 (relating to failure to comply with 42 Pa.C.S. Ch. 97 Subch. I registration requirements), relief granted under this section shall be void, and the petitioner shall automatically and immediately again be subject to the provisions of this subchapter, as previously determined by this subchapter.
(b) Agency cooperation.—All State, county and local agencies, offices and entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing access to records and information as requested by the board in connection with the court-ordered assessment under subsection (a).
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.59.
Cross References. Section 9799.59 is referred to in sections 9799.58, 9799.61, 9799.63, 9799.74 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.60. Verification of residence.
(a) Quarterly verification by sexually violent predators.—The Pennsylvania State Police shall verify the residence and compliance with counseling as provided for in section 9799.70 (relating to counseling of sexually violent predators) of sexually violent predators every 90 days through the use of a nonforwardable verification form to the last reported residence. For the period of registration required by section 9799.55 (relating to registration), a sexually violent predator shall appear quarterly within 10 days of the dates designated by the Pennsylvania State Police each calendar year at an approved registration site to complete a verification form and to be photographed.
(a.1) Facilitation of quarterly verification.—The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (a) by:

(1) sending a notice by first class United States mail to all registered sexually violent predators at their last reported residence addresses. This notice shall be sent not more than 30 days nor less than 15 days prior to each of the quarterly verification periods specified in subsection (a) and shall remind sexually violent predators of their quarterly verification requirement and provide them with a list of approved registration sites; and
(2) providing verification and compliance forms as necessary to each approved registration site not less than 10 days before each of the quarterly verification periods.
(b) Annual verification by offenders.—The Pennsylvania State Police shall verify the residence of offenders. For the period of registration required by section 9799.55, an offender shall appear within 10 days before each annual anniversary date of the offender's initial registration under section 9799.55 at an approved registration site to complete a verification form and to be photographed.
(b.1) Facilitation of annual verification.—The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (b) by:
(1) sending a notice by first class United States mail to all registered offenders at their last reported residence addresses. This notice shall be sent not more than 30 days nor less than 15 days prior to each offender's annual anniversary date and shall remind the offender of the annual verification requirement and provide the offender with a list of approved registration sites; and
(2) providing verification and compliance forms as necessary to each approved registration site.
(b.2) Monthly verification by individuals with temporary habitats located within this Commonwealth.—The Pennsylvania State Police shall verify the residence of individuals required to register under this subchapter who have a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions) every 30 days through the use of a nonforwardable verification form to the last reported location where the individual receives mail. The individual shall appear every 30 days at an approved registration site to complete a verification form and to be photographed. The individual shall appear within three business days of the date designated by the Pennsylvania State Police.
(b.3) Facilitation of monthly verification.—The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (b.2) by:
(1) sending a notice by first class United States mail to an individual required to register under this subchapter who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 at the last reported location where the individual receives mail. This notice shall be sent not more than 10 days nor less than five days prior to each of the monthly verification periods and shall remind the individual of the monthly verification requirement and provide a list of approved registration sites; and
(2) providing verification and compliance forms as necessary to each approved registration site.
(c) Notification of law enforcement agencies of change of residence.—A change of residence of an offender or sexually violent predator required to register under this subchapter reported to the Pennsylvania State Police shall be immediately reported by the Pennsylvania State Police to the appropriate law enforcement agency having jurisdiction of the offender's or the sexually violent predator's new place of residence. The Pennsylvania State Police shall, if the offender or sexually violent predator changes residence to another state, notify the law enforcement agency with which the offender or sexually violent predator must register in the new state.
(d) Failure to provide verification.—Where an offender or sexually violent predator fails to provide verification of residence defined in paragraph (1) of the definition of "residence" in section 9799.53 within the 10-day period or three business days in the case of an offender or sexually violent predator who has a residence as defined in paragraph (2) of the definition of "residence" in section

9799.53, as specified in this section, the Pennsylvania State Police shall immediately notify the municipal police department of the offender's or the sexually violent predator's last verified residence. The local municipal police shall locate the offender or sexually violent predator and arrest the individual for violating this section. The Pennsylvania State Police shall assume responsibility for locating and arresting the offender or sexually violent predator in jurisdictions where no municipal police jurisdiction exists. The Pennsylvania State Police shall assist a municipal police department requesting assistance with locating and arresting an offender or sexually violent predator who fails to verify the offender's or sexually violent predator's residence.

(e) Penalty.—An individual subject to registration under section 9799.55(a) or (b) who fails to verify the individual's residence or to be photographed as required by this section may be subject to prosecution under 18 Pa.C.S. § 4915.2 (relating to failure to comply with 42 Pa.C.S. Ch. 97 Subch. I registration requirements).

(f) Effect of notice.—Neither failure on the part of the Pennsylvania State Police to send nor failure of a sexually violent predator or offender to receive notice or information under subsection (a.1), (b.1) or (b.3) shall relieve that predator or offender from the requirements of this subchapter. (June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.60.

Cross References. Section 9799.60 is referred to in sections 9799.56, 9799.57, 9799.67 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.61. Victim notification.

(a) Duty to inform victim.—

(1) Where the individual is determined to be a sexually violent predator by a court under section 9799.58 (relating to assessments), the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists shall give written notice to the sexually violent predator's victim when the sexually violent predator registers initially and when the sexually violent predator notifies the Pennsylvania State Police of a change of residence. In the case of a sexually violent predator who has a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53 (relating to definitions), notice shall be given within 72 hours after the sexually violent predator registers or notifies the Pennsylvania State Police of a change of address. The notice shall contain the sexually violent predator's name and the address or addresses where the individual has a residence. In the case of a sexually violent predator who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53, the notice shall contain the sexually violent predator's name and the information specified in section 9799.56(a)(2)(i)(A) and (B) (relating to registration procedures and applicability). The notice shall be given to the victim within 72 hours after the sexually violent predator registers or notifies the Pennsylvania State Police of a change of residence.

(2) A victim may terminate the duty to inform described in paragraph (1) by providing the local municipal police department or the Pennsylvania State Police where no local municipal police department exists with a written statement releasing that agency from the duty to comply with this section as it pertains to that victim.

(b) Where an individual is not determined to be a sexually violent predator.—Where an individual is not determined to be a sexually violent predator by a court under section 9799.58, the victim shall be notified in accordance with section 201 of the act of November 24, 1998 (P.L.882,

No.111), known as the Crime Victims Act. This subsection includes the circumstance of an offender having a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53.

(c) Alternate means of notifying victims.—

(1) The Pennsylvania State Police may enter into a memorandum of understanding with the Office of Victim Advocate to assist the Pennsylvania State Police in notifying victims and providing the information under subsection (a). In addition, the memorandum of understanding may also include the Office of Victim Advocate's notifying a victim of relief granted to a petitioner under section 9799.59 (relating to exemption from certain notifications). The memorandum of understanding must set forth the manner and method of notifying victims and the duties of the Pennsylvania State Police and the Office of Victim Advocate under this section and section 9799.59(a). A memorandum of understanding entered into under this subsection shall be valid for no more than 10 years. There shall be no limit to the number of memoranda of understanding which may be executed by the Pennsylvania State Police and the Office of Victim Advocate under this subsection.

(2) As used in this subsection, the term "Office of Victim Advocate" shall mean the office established under section 301 of the Crime Victims Act.

(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.61.

Cross References. Section 9799.61 is referred to in section 9799.59 of this title.

§ 9799.62. Other notification.

(a) Notice by municipality's chief law enforcement officer.—Notwithstanding any of the provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information), the chief law enforcement officer of the full-time or part-time police department of the municipality where a sexually violent predator lives shall be responsible for providing written notice as required under this section.

(1) The notice shall contain:

(i) The name of the convicted sexually violent predator.

(ii) The address or addresses at which the sexually violent predator has a residence. If, however, the sexually violent predator has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions), the notice shall be limited to that provided for under section 9799.56(a)(2)(i)(C) (relating to registration procedures and applicability).

(iii) The offense for which the sexually violent predator was convicted, sentenced by a court, adjudicated delinquent or court martialed.

(iv) A statement that the individual has been determined by court order to be a sexually violent predator, which determination has or has not been terminated as of a date certain.

(v) A photograph of the sexually violent predator, if available.

(2) The notice shall not include information that might reveal the victim's name, identity and residence.

(b) To whom written notice is provided.—The chief law enforcement officer shall provide written notice, under subsection (a), to the following persons:

(1) Neighbors of the sexually violent predator. As used in this paragraph, where the sexually violent predator lives in a common interest community, the term "neighbor" includes the unit owners' association and residents of the common interest community.

(2) The director of the county children and youth service agency of the county where the sexually violent predator has a residence.

(3) The superintendent of each school district and the equivalent official for private and parochial schools enrolling students up through grade 12 in the municipality where the sexually violent predator has a residence.
(3.1) The superintendent of each school district and the equivalent official for each private and parochial school located within a one-mile radius of where the sexually violent predator has a residence.
(4) The licensee of each certified day-care center and licensed preschool program and owner/operator of each registered family day-care home in the municipality where the sexually violent predator has a residence.
(5) The president of each college, university and community college located within 1,000 feet of a sexually violent predator's residence.
(c) Urgency of notification.—The municipal police department's chief law enforcement officer shall provide notice within the following time frames:
(1) To neighbors, notice shall be provided within five days after information of the sexually violent predator's release date and residence has been received by the chief law enforcement officer. Notwithstanding the provisions of subsections (a) and (b), verbal notification may be used if written notification would delay meeting this time requirement.
(2) To the persons specified in subsection (b)(2), (3), (4) and (5), notice shall be provided within seven days after the chief law enforcement officer receives information regarding the sexually violent predator's release date and residence.
(d) Public notice.—All information provided in accordance with subsection (a) shall be available, upon request, to the general public. The information may be provided by electronic means.
(e) Interstate transfers.—The duties of police departments under this section shall also apply to individuals who are transferred to this Commonwealth under the Interstate Compact for the Supervision of Adult Offenders or the Interstate Compact for Juveniles.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.62.
Cross References. Section 9799.62 is referred to in sections 9799.53, 9799.54, 9799.56, 9799.66, 9799.67 of this title.

§ 9799.63. Information made available on Internet and electronic notification.
(a) Legislative findings.—It is hereby declared to be the finding of the General Assembly that public safety will be enhanced by making information about sexually violent predators, lifetime registrants and other sex offenders available to the public through the Internet and electronic notification. Knowledge of whether a person is a sexually violent predator, lifetime registrant or other sex offender could be a significant factor in protecting oneself and one's family members, or those in care of a group or community organization, from recidivist acts by sexually violent predators, lifetime registrants and other sex offenders. The technology afforded by the Internet and electronic notification would make this information readily accessible to parents and private entities, enabling them to undertake appropriate remedial precautions to prevent or avoid placing potential victims at risk. Public access to information about sexually violent predators, lifetime registrants and other sex offenders is intended solely as a means of public protection and shall not be construed as punitive.

(b) Internet posting of sexually violent predators, lifetime registrants, other offenders and electronic notification.—The Commissioner of the Pennsylvania State Police shall, in the manner and form directed by the Governor:
(1) Develop and maintain a system for making the information described in subsection (c) publicly available by electronic means so that the public may, without limitation, obtain access to the information via an Internet website to view an individual record or the records of all sexually violent predators, lifetime registrants and other offenders who are registered with the Pennsylvania State Police. The publicly accessible Internet website created under this subchapter and the information required to be posted under this subchapter shall be included on the publicly accessible Internet website created and maintained by the Pennsylvania State Police under Subchapter H (relating to registration of sexual offenders).
(2) Ensure that the Internet website contains warnings that a person who uses the information contained on the Internet website to threaten, intimidate or harass another or who otherwise misuses that information may be criminally prosecuted.
(3) Ensure that the Internet website contains:
(i) An explanation of its limitations, including statements advising that a positive identification of a sexually violent predator, lifetime registrant or other offender whose record has been made available may be confirmed only by fingerprints.
(ii) A statement that some information contained on the Internet website may be outdated or inaccurate.
(iii) A statement that the Internet website is not a comprehensive listing of every person who has ever committed a sex offense in Pennsylvania.
(4) Strive to ensure that:
(i) the information contained on the Internet website is accurate;
(ii) the data on the Internet website is revised and updated as appropriate in a timely and efficient manner; and
(iii) instructions are included on how to seek correction of information which a person contends is erroneous.
(5) Provide on the Internet website general information designed to inform and educate the public about sex offenders and sexually violent predators and the operation of this subchapter as well as pertinent and appropriate information concerning crime prevention and personal safety, with appropriate links to other relevant Internet websites operated by the Commonwealth.
(6) Identify when the victim is a minor with a special designation. The identity of a victim of a sex offense shall not be published or posted on the Internet website.
(7) Notwithstanding 18 Pa.C.S. Ch. 91 (relating to criminal history record information), develop, implement and maintain a process which allows members of the public to receive electronic notification when an individual required to register under this subchapter moves into or out of a user-designated location.
(c) Information permitted to be disclosed regarding individuals.—Notwithstanding 18 Pa.C.S. Ch. 91, the Internet website shall contain the following information on each individual:
(1) For sexually violent predators, the following information shall be posted on the Internet website:
(i) name and all known aliases;
(ii) year of birth;
(iii) in the case of an individual who has a residence as defined in paragraph (1) of the definition of "residence" in section 9799.53 (relating to definitions), the street address, municipality, county and

zip code of all residences, including, where applicable, the name of the prison or other place of confinement;
(iv) the street address, municipality, county, zip code and name of an institution or location at which the person is enrolled as a student;
(v) the municipality, county and zip code of an employment location;
(vi) a photograph of the individual, which shall be updated not less than annually;
(vii) a physical description of the offender, including sex, height, weight, eye color, hair color and race;
(viii) identifying marks, including scars, birthmarks and tattoos;
(ix) the license plate number and description of a vehicle owned or registered to the offender;
(x) whether the offender is currently compliant with registration requirements;
(xi) whether the victim is a minor;
(xii) a description of the offense or offenses which triggered the application of this subchapter;
(xiii) the date of the offense and conviction, if available; and
(xiv) in the case of an individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53, the information listed in section 9799.56(a)(2)(i)(C) (relating to registration procedures and applicability), including, where applicable, the name of the prison or other place of confinement.
(2) For all other lifetime registrants and offenders subject to registration, the information specified in paragraph (1) shall be posted on the Internet website.
(d) Duration of Internet posting.—
(1) The information listed in subsection (c) about a sexually violent predator shall be made available on the Internet for the lifetime of the sexually violent predator.
(2) The information listed in subsection (c) about an offender who is subject to lifetime registration shall be made available on the Internet for the lifetime of the offender unless the offender is granted relief under section 9799.59 (relating to exemption from certain notifications).
(3) The information listed in subsection (c) about any other offender subject to registration shall be made available on the Internet for the entire period during which the offender is required to register, including an extension of this period under section 9799.56(a)(3).
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.63.
Cross References. Section 9799.63 is referred to in sections 9799.53, 9799.56 of this title.

§ 9799.64. Administration.
The Governor shall direct the Pennsylvania State Police, the Pennsylvania Parole Board, the board, the Department of Corrections, the Department of Transportation and any other agency of this Commonwealth the Governor deems necessary to collaboratively design, develop and implement an integrated and secure system of communication, storage and retrieval of information to assure the timely, accurate and efficient administration of this subchapter.
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 9799.65. Global positioning system technology.
The Pennsylvania Parole Board, the Department of Corrections and county probation authorities may impose supervision conditions that include offender tracking through global positioning system technology.

(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 9799.66. Immunity for good faith conduct.

The following entities shall be immune from liability for good faith conduct under this subchapter:
(1) The Pennsylvania State Police and local law enforcement agencies and employees of law enforcement agencies.
(2) District attorneys and their agents and employees.
(3) Superintendents, administrators, teachers, employees and volunteers engaged in the supervision of children of a public, private or parochial school.
(4) Directors and employees of county children and youth agencies.
(5) Presidents or similar officers of universities and colleges, including community colleges.
(6) The Pennsylvania Parole Board and its agents and employees.
(7) County probation and parole offices and their agents and employees.
(8) Licensees of certified day-care centers and directors of licensed preschool programs and owners/operators of registered family day-care homes, and their agents and employees.
(9) The Pennsylvania Department of Corrections and its agents and employees.
(10) County correctional facilities and their agents and employees.
(11) Members of the Sexual Offenders Assessment Board and its agents and employees.
(12) The unit owners' association of a common interest community and its agents and employees as it relates to distributing information regarding sexually violent predators obtained under section 9799.62(b)(1) (relating to other notification).
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended par. (6).
2018 Amendment. Act 29 reenacted section 9799.66.

§ 9799.67. Duties of Pennsylvania State Police.

The Pennsylvania State Police shall:
(1) Create and maintain a State registry of offenders and sexually violent predators required to register under this subchapter. The registry shall be incorporated as part of the registry established under Subchapter H (relating to registration of sexual offenders).
(2) In consultation with the Department of Corrections, the Office of Attorney General and the chairperson and the minority chairperson of the Judiciary Committee of the Senate and the chairperson and the minority chairperson of the Judiciary Committee of the House of Representatives, promulgate guidelines necessary for the general administration of this subchapter. These guidelines shall establish procedures to allow an individual subject to the requirements of sections 9799.55 (relating to registration) and 9799.60 (relating to verification of residence) to fulfill these requirements at approved registration sites throughout this Commonwealth. This paragraph includes the duty to establish procedures to allow an individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions) to fulfill the requirements regarding registration at approved registration sites throughout this Commonwealth. The Pennsylvania State Police shall publish a list of approved registration sites in the Pennsylvania Bulletin and provide a list of approved registration sites in any notices sent to individuals required to register under section 9799.55. An approved registration site shall be capable of submitting fingerprints, photographs and other information required electronically to the Pennsylvania State Police. The Pennsylvania State Police shall require that approved registration sites submit

fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in the form as the Pennsylvania State Police shall require. The Pennsylvania State Police shall require that approved registration sites submit photographs utilizing the Commonwealth Photo Imaging Network or in another manner and in the form as the Pennsylvania State Police shall require. Approved registration sites shall not be limited to sites managed by the Pennsylvania State Police and shall include sites managed by local law enforcement agencies that meet the criteria for approved registration sites specified in this paragraph.
(3) Write regulations regarding neighbor notification of the current residence of sexually violent predators.
(4) Notify, within five business days of receiving the offender's or the sexually violent predator's registration, the chief law enforcement officers of the police departments having primary jurisdiction of the municipalities in which an offender or sexually violent predator has a residence, is employed or enrolled as a student of the fact that the offender or sexually violent predator has been registered with the Pennsylvania State Police under sections 9799.56 (relating to registration procedures and applicability) and 9799.60.
(5) In consultation with the Department of Education and the Department of Corrections, promulgate guidelines directing licensed day-care centers, licensed preschool programs, schools, universities and colleges, including community colleges, on the proper use and administration of information received under section 9799.62 (relating to other notification).
(6) Immediately transfer the information received from the Department of Corrections under section 9799.68(2) and (3) (relating to duties of Department of Corrections) and the fingerprints of a sexually violent predator to the Federal Bureau of Investigation.
(7) Notify individuals of the requirements under this subchapter, as specified in section 9799.54 (relating to applicability).
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended pars. (2), (5) and (6).
2018 Amendment. Act 29 reenacted section 9799.67.
Cross References. Section 9799.67 is referred to in section 9799.53 of this title.

§ 9799.68. Duties of Department of Corrections.
The Department of Corrections shall:
(1) Create a notification form which will inform State and county prison and probation and parole personnel how to inform offenders and sexually violent predators required to register under this subchapter of their duty under the law.
(2) In cooperation with other Commonwealth agencies, obtain the following information regarding offenders and sexually violent predators:
(i) Name, including aliases.
(ii) Identifying factors.
(iii) Anticipated future residence.
(iv) Offense history.
(v) Documentation of treatment received for the mental abnormality or personality disorder.
(vi) Photograph of the offender or sexually violent predator.
(3) Immediately transmit the information in paragraph (2) to the Pennsylvania State Police for immediate entry into the State registry of offenders and sexually violent predators and the criminal

history record of the individual as provided in 18 Pa.C.S. Ch. 91 (relating to criminal history record information).
(4) Apply for Federal funding as provided in the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587) to support and enhance programming using satellite global positioning system technology.
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

Cross References. Section 9799.68 is referred to in section 9799.67 of this title.

§ 9799.69. Board.
(a) Composition.—The State Sexual Offenders Assessment Board shall be composed of psychiatrists, psychologists and criminal justice experts, each of whom is an expert in the field of the behavior and treatment of sexual offenders.
(b) Appointment.—The Governor shall appoint the board members.
(c) Term of office.—Members of the board shall serve four-year terms.
(d) Compensation.—The members of the board shall be compensated at a rate of $350 per assessment and receive reimbursement for their actual and necessary expenses while performing the business of the board. The chairman shall receive $500 additional compensation per annum.
(e) Staff.—The board shall employ an executive director and other staff as necessary to carry out the board's duties under this chapter. The executive director shall direct the operations, management and administration of the board and organize and oversee the work of the staff. Legal counsel for the board shall be provided in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act. Upon request by the board, the Department of Corrections shall make available facilities, administrative support and other assistance to the board.
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2025 Repeal. Section 48(13) of Act 45 provided that subsec. (d) was repealed insofar as it is inconsistent with the addition of section 1799.11-E of the act of April 9, 1929, P.L.343, No.176, known as The Fiscal Code.
2021 Amendment. Act 59 amended subsec. (e).
2018 Amendment. Act 29 reenacted section 9799.69.

§ 9799.70. Counseling of sexually violent predators.
(a) Counseling required.—For the period of registration required by section 9799.55(b) (relating to registration), a sexually violent predator shall be required to attend at least monthly counseling sessions in a program approved by the board and be financially responsible for all fees assessed from the counseling sessions. The board shall monitor the compliance of the sexually violent predator. If the sexually violent predator can prove to the satisfaction of the court that the person cannot afford to pay for the counseling sessions, that person shall still attend the counseling sessions and the parole office shall pay the requisite fees.
(b) Notice.—A provider of counseling sessions under subsection (a) shall notify the district attorney of the county and the chief law enforcement officer as defined in section 8951 (relating to definitions) of the municipality where the provider is located that the provider is counseling sexually violent predators. Notice under this subsection must be submitted in writing no later than January 15 of each year and shall include the address of the provider.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.70. Act 29 overlooked the addition of section 9799.70 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.70.
Cross References. Section 9799.70 is referred to in section 9799.60 of this title; section 4915.2 of Title 18 (Crimes and Offenses).

§ 9799.71. Exemption from notification for certain licensees and their employees.
Nothing in this subchapter shall be construed as imposing a duty upon a person or an employee of a person licensed under the act of February 19, 1980 (P.L.15, No.9), known as the Real Estate Licensing and Registration Act, to disclose information regarding:
(1) a sexually violent predator; or
(2) an individual who is transferred to this Commonwealth under the Interstate Compact for the Supervision of Adult Offenders or the Interstate Compact for Juveniles.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.71.

§ 9799.72. Annual performance audit.
(a) Duties of Attorney General.—The Attorney General shall:
(1) Conduct a performance audit annually to determine compliance with the requirements of this subchapter and guidelines promulgated under this subchapter. The audit shall, at a minimum, include a review of the practices, procedures and records of the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts and any other State or local agency the Attorney General deems necessary in order to conduct a thorough and accurate performance audit.
(2) Prepare an annual report of its findings and actions it recommends be taken by the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, other State or local agencies and the General Assembly to ensure compliance with this subchapter. The first report shall be released to the general public electronically on the Attorney General's publicly accessible Internet website not less than 18 months after February 21, 2018.
(3) Provide a copy of its report to the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, State or local agencies referenced therein, the chairperson and the minority chairperson of the Judiciary Committee of the Senate and the chairperson and the minority chairperson of the Judiciary Committee of the House of Representatives no less than 30 days prior to the report's release to the general public.
(b) Cooperation required.—Notwithstanding any other provision of law to the contrary, the Pennsylvania State Police, the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, the Pennsylvania Commission on Sentencing and any other State or local agency requested to do so shall fully cooperate with the Attorney General and assist the office in satisfying the requirements of this section. For purposes of this subsection, full cooperation shall include, at a minimum, complete access to unredacted records, files, reports and data systems.
(June 12, 2018, P.L.140, No.29, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 9799.73. Photographs and fingerprinting.
An individual subject to section 9799.55 (relating to registration) shall submit to fingerprinting and photographing as required by this subchapter at approved registration sites. Fingerprinting as required by this subchapter shall, at a minimum, require submission of a full set of fingerprints. Photographing as required by this subchapter shall, at a minimum, require submission to photographs of the face and scars, marks, tattoos or other unique features of the individual. Fingerprints and photographs obtained under this subchapter may be maintained for use under this subchapter and for general law enforcement purposes.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.73.

§ 9799.74. Standing for Pennsylvania State Police.
Except for petitions filed under section 9799.59(a) (relating to exemptions from certain notifications), the Pennsylvania State Police shall have standing to appear and contest a filing in a court of this Commonwealth which seeks to challenge in any way the obligation of an individual required to register with the Pennsylvania State Police under this subchapter.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted section 9799.74.

§ 9799.75. Construction of subchapter.
(a) Registration.—Nothing in this subchapter shall be construed to relieve an individual from the obligation to register with the Pennsylvania State Police under this subchapter if the individual:
(1) committed a sexually violent offense within this Commonwealth or committed an offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation which is similar or equivalent to a sexually violent offense, or who was court martialed for a similar or equivalent offense, whether or not the offense is designated as a sexually violent offense; and
(2) was required to register with the Pennsylvania State Police under a former sexual offender registration law of this Commonwealth that was enacted before December 20, 2012, or would have been required to register with the Pennsylvania State Police under the act of November 24, 2004 (P.L.1243, No.152), entitled "An act amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, defining the offense of failure to comply with registration of sexual offenders requirements; imposing penalties; further providing for six months limitation and for two year limitation; providing for limitation and application for asbestos claim; further providing for deficiency judgments, for definitions, for registration, for registration procedures and applicability and for assessments; providing for exemption from certain notifications; further providing for verification of residence and for other notification; providing for information made available on the Internet and for certain administration; further providing for immunity for good faith conduct, for duties of Pennsylvania State Police and for exemption from notification for certain licensees and their employees; and providing for annual performance audit and for photographs and fingerprinting," but for the decision by the Pennsylvania Supreme Court in Commonwealth v. Neiman, 84 A.3d 603 (Pa. 2013).
(b) Reregistration.—Nothing in this subchapter shall be construed to require an individual who had previously registered with the Pennsylvania State Police for a sexually violent offense prior to

July 9, 2000, to reregister under this subchapter if the individual's registration requirements were satisfied.
(June 12, 2018, P.L.140, No.29, eff. imd.)

2018 Amendment. Act 29 reenacted and amended section 9799.75. Act 29 overlooked the addition of section 9799.75 by Act 10, but the amendments do not conflict in substance and have both been given effect in setting forth the text of section 9799.75.
Cross References. Section 9799.75 is referred to in section 9799.53 of this title.

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The Pennsylvania Bar Institute has published numerous CLE books on criminal law and procedure dating back to the early 1980s. The Annual Criminal Law Symposium (1-34, 1984-2017) annuals changed their name to Criminal Law Symposium [year] beginning in 2018, and Criminal Law Update (2006-). Other series include Sentencing, Post Conviction Relief Act: Practice and Procedure. Research of these titles can be found in the catalogs of the Allegheny County Law Library collection now within the Carnegie Library of Pittsburgh, Jenkins Law Library of Philadelphia, and the State Library of Pennsylvania.

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Chapter 3. Criminal Cases
Chapter 4. Domestic Relation Crimes
Chapter 5. Education Advocacy
Chapter 6. Services
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National Scan of Trauma-Informed Practices in Criminal Courts
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VII. Neighborhood Groups & Associations
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Chapter XIII: Teen Dating Abuse
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Chapter XV: Domestic Violence Lethality Factors
Chapter XVI: Animal Abuse

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§ 15.2502H.1. Death Penalty, Process of Decision, and Verdict Slip-Where the Parties Stipulate to the Finding of a Mitigating Circumstance

§ 15.2503A. Voluntary Manslaughter-Murder in Issue
§ 15.2503B. Voluntary Manslaughter-Murder Not in Issue
§ 15.2504. Involuntary Manslaughter
§ 15.2505A. Aiding or Soliciting Suicide-Felony
§ 15.2505B. Aiding or Soliciting Suicide-Misdemeanor
§ 15.2506. Drug Delivery Resulting in Death
§ 15.2507. Criminal Homicide of Law Enforcement Officer
§ 15.2701B. Simple Assault-Bodily Injury Attempted
§ 15.2701B. Simple Assault-Bodily Injury Caused
§ 15.2701C. Simple Assault-Bodily Injury Caused Negligently with Deadly Weapon
§ 15.2701D. Simple Assault-Physical Menace
§ 15.2701E. Simple Assault-Hypodermic Needle
§ 15.2701F. Simple Assault-Fight or Scuffle Upon Mutual Consent
§ 15.2701G. Simple Assault-Child Victim
§ 15.2702A. Aggravated Assault-Attempted Serious Bodily Injury
§ 15.2702B. Aggravated Assault-Causing Serious Bodily Injury
§ 15.2702C. Aggravated Assault-Attempt to Cause Serious Bodily Injury to an Enumerated Person
§ 15.2702C.1. Aggravated Assault-Attempt to Cause Bodily Injury to an Enumerated Person
§ 15.2702D. Aggravated Assault-Causing Serious Bodily Injury to an Enumerated Person
§ 15.2702D.1. Aggravated Assault-Causing Bodily Injury to an Enumerated Person
§ 15.2702E. Aggravated Assault-Attempted Bodily Injury with a Deadly Weapon
§ 15.2702F. Aggravated Assault-Causing Bodily Injury with a Deadly Weapon
§ 15.2702G. Aggravated Assault-Attempted Bodily Injury to School Personnel
§ 15.2702H. Aggravated Assault-Causing Bodily Injury to School Personnel
§ 15.2702I. Aggravated Assault-Attempt to Put Enumerated Officials in Fear
§ 15.2702J. Aggravated Assault-Use of Tear Gas, Etc.
§ 15.2702K. Aggravated Assault-Attempt to Cause Bodily Injury to a Victim Under the Age of Six
§ 15.2702L. Aggravated Assault-Causing Bodily Injury to a Victim Under the Age of Six
§ 15.2706. Terroristic Threats
§ 15.2709. Harassment
§ 15.2709.1. Stalking
§ 15.2710. Ethnic Intimidation
§ 15.2713. Neglect of Care-Dependent Person
§ 15.2715. Threat to Use Weapons of Mass Destruction
§ 15.2716. Weapons of Mass Destruction
§ 15.2717. Terrorism
§ 15.2718. Strangulation
§ 15.2901. Kidnapping
§ 15.2902A. Unlawful Restraint-Risk of Injury
§ 15.2902B. Unlawful Restraint-Involuntary Servitude
§ 15.2903. False Imprisonment
§ 15.2904. Interfering with Custody of a Child-Consolidated Instruction
§ 15.2905. Interfering with Custody of a Committed Person
§ 15.2906A. Criminal Coercion-Second-Degree Misdemeanor
§ 15.2906B. Defense to Criminal Coercion
§ 15.2907. Disposition of Ransom

§ 15.2909. Concealing Whereabouts of Child
§ 15.2910. Luring a Child into a Motor Vehicle or a Structure
Sexual Offenses-Introductory Note
§ 15.3001. Trafficking of Persons
§ 15.3002. Human Trafficking Offenses: Definitions Related to Instructions 15.3011, 15.3016, and 15.3018
§ 15.3011. Trafficking in Individuals
§ 15.3012. Involuntary Servitude
§ 15.3013. Patronizing Victim of Sexual Servitude
§ 15.3014. Unlawful Conduct Regarding Documents
§ 15.3015. Nonpayment of Wages
§ 15.3016. Obstruction of Justice Where Human Trafficking Offenses Are Involved
§ 15.3018. Defenses to Human Trafficking
§ 15.3104. Rape Shield Evidence
§ 15.3121A. Rape by Forcible Compulsion or by Threat of Forcible Compulsion
§ 15.3121B. Rape of Unconscious, Unaware, or Mentally Disabled Person
§ 15.3121C. Rape by Causing Impairment
§ 15.3121D. Rape of a Child
§ 15.3121E. Rape of Child with Serious Bodily Injury
§ 15.3122.1. Statutory Sexual Assault
§ 15.3123A. Involuntary Deviate Sexual Intercourse by Forcible Compulsion or by Threat of Forcible Compulsion
§ 15.3123B. Involuntary Deviate Sexual Intercourse with an Unconscious, Unaware, or Mentally Disabled Person
§ 15.3123C. Involuntary Deviate Sexual Intercourse by Causing Impairment
§ 15.3123D. Involuntary Deviate Sexual Intercourse with a Child Over 12 and Under 16
§ 15.3123E. Involuntary Deviate Sexual Intercourse with a Child
§ 15.3123F. Involuntary Deviate Sexual Intercourse with a Child Causing Serious Bodily Injury
§ 15.3124.1. Sexual Assault
§ 15.3124.2. Institutional Sexual Assault
§ 15.3124.2A. Institutional Sexual Assault of a Minor/Student
§ 15.3124.3. Sexual Assault by Sports Official, Volunteer, or Employee of Nonprofit Association
§ 15.3124.4A. Institutional Sexual Assault of a Person by a Peace Officer
§ 15.3124.4B. Institutional Sexual Assault of a Person by a Caretaker
§ 15.3125A. Aggravated Indecent Assault-Lack of Consent
§ 15.3125B. Aggravated Indecent Assault-Forcible Compulsion and Victim's Mental State
§ 15.3125C. Aggravated Indecent Assault of a Child
§ 15.3125D. Aggravated Indecent Assault on Child Under 16, Defendant at Least Four Years Older
§ 15.3126A. Indecent Assault-Lack of Consent
§ 15.3126B. Indecent Assault-Forcible Compulsion; Victim Mental State
§ 15.3126C. Indecent Assault of a Child
§ 15.3126D. Indecent Assault on Child Under 16, Defendant at Least Four Years Older
§ 15.3127. Indecent Exposure
§ 15.3130. Conduct Relating to Sex Offenders
§ 15.3131. Unlawful Dissemination of Intimate Image
§ 15.3204. Abortion: Best Clinical Judgment

§ 15.3211. Abortion: After 24 Weeks Gestational Age
§ 15.3212. Abortion-Infanticide
§ 15.3213. Abortion-Payment for Abortion
§ 15.3214. Abortion-Reporting Requirement Violations
§ 15.3215. Abortion-Unlawful Order

Subchapter D-Offenses against the Family
§ 15.4301A. Bigamy
§ 15.4301B. Bigamy-Defense
§ 15.4301C. Bigamy-Other Party to a Bigamous Marriage
§ 15.4302. Incest
§ 15.4302.1. Incest of a Minor
§ 15.4303. Concealing Death of Child
§ 15.4304A. Endangering Welfare of a Child
§ 15.4304B. Endangering Welfare of a Child-Course of Conduct
§ 15.4305. Dealing in Infant Children

Subchapter G. Certain Miscellaneous Offenses
§ 15.6312.A. Sexual Abuse Of Children-Photographing, Videotaping, Depicting On Computer, Or Filming Sexual Acts
§ 15.6312.B. Sexual Abuse Of Children-Dissemination Of Photographs, Videotapes, Computer Depictions, And Films
§ 15.6312C. Sexual Abuse of Children-Possession of Child Pornography
§ 15.6312D. Sexual Abuse of Children-Defense of Educational, Scientific, Governmental, or Judicial Purpose
§ 15.6318. Unlawful Contact with a Minor
§ 15.6319. Failure to Report Child Abuse
§ 15.6320. Sexual Exploitation of Children

CHAPTER 9. ONLINE RESOURCES

A. Aequitas Resources:

i. Intimate Partner Violence Resources and Training Materials
ii. Human Trafficking Resources and Training Materials
iii. Sexual Violence Resources and Training Materials
iv. Stalking Resources and Training Materials

B. PCAR Sexual Violence Legal Assistance Project

CHAPTER 10: APPENDIX

Non-Pennsylvania Related Select Bibliography of Secondary Sources

Much had been written on domestic violence throughout the country. The following select bibliography covers general secondary sources including encyclopedias, American Law Reports, Treatises, Practice Books, and Legal Periodicals.

1. ENCYCLOPEDIAS

American Jurisprudence 2d
Abduction and Kidnapping
III. Abduction or Kidnapping by Parent or Person in Loco Parentis
Research References
§ 35. Parental Rights, Custody, and Kidnapping
§ 36. Uniform Child Custody Jurisdiction and Enforcement Act
§ 37. Federal Parental Kidnapping Prevention Act
§ 38. International Aspects

Domestic Abuse and Violence
Summary
I. In General §§ 1-7
II. Persons Within Scope of Statutes; Protected Persons. §§ 8-10
III. Authority and Jurisdiction of Courts to Grant Relief; Process; Venue. §§ 11-14
IV. Scope of Relief. §§ 15-19
V. Proceedings; Hearing and Determination by Court. §§ 20-30
VI. Orders, in General. §§ 31-36
VII. Appeal from and Review of Orders of Protection. §§ 37-41
Research References
VIII. Violation of Order. §§ 42-60
IX. Criminal Liability for Abuse; Offenses; Prosecution. §§ 61-62
X. Duties of Police Officers; Actions Against Officers for Failure to Protect Victims. §§ 63.

Corpus Juris Secundum
Domestic Abuse and Violence
Summary
I. In General. §§ 1—6
Research References
II. Protected Persons. §§ 7—10
III. Authority and Jurisdiction to Grant Relief; Scope of Relief. §§ 11—23
IV. Actions, Trial, and Determination. §§ 24—31
V. Orders. §§ 32—26
VI. Review. §§ 37—39
Research References
VII. Violation of Order. §§ 40—48

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Chapter 1. Introduction.
Topic IV. Tort Claims for Marital Misconduct
Chapter 2. The Allocation of Custodial and Decisionmaking Responsibility for Children
Topic 1. Scope, Objectives, Definitions, and Parties.
§ 2.03(7). Definitions

4. TREATISES

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