

14-469

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b>	
(1) Agency Department of Public Welfare		2001 MAY 21 PM 3:41 STATUTORY REVIEW COMMISSION	
(2) I.D. Number (Governor's Office Use)		IRRC Number: 2201	
(3) Short Title Protective Service Regulations			
(4) PA Code Cite Title 55 Pa. Code, Chapter 3490 (relating to Protective Services)	(5) Agency Contacts & Telephone Numbers Primary Contact: Cathy Utz 705-2912 Secondary Contact: Lee Miller 787-3984		
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  It is the purpose of the Protective Services Regulations to assure the safety of children; encourage more complete reporting of suspected child abuse; to involve local law enforcement agencies in responding to child abuse; and to establish protective services in each county for the purpose of investigating reports of suspected abuse and neglect swiftly and competently, providing for protection of children from further abuse and providing rehabilitative services for children and parents. It is the purpose of this regulation to provide access to the Statewide Central Register by law enforcement officials; establish an investigative team to investigate reports of suspected child abuse; allow county agency staff to testify at hearings before the minor judiciary; refer all reports of suspected serious physical injury to a law enforcement official and prohibit persons convicted of a felony drug offense with the past five years from working with children or becoming foster parents.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  The legal base of this chapter is the following statutory provision: (1) Article VII and IX of the Public Welfare Code (62 P.S. §§ 701 – 774 and 901 – 922). (2) Chapter 63 of 42 Pa. C.S. (relating to the Juvenile Act). (3) Section 2168 of the County Code (16 P.S. § 2168). (4) Section 405 of the County Institution District Law (62 P.S. § 2305). (5) The CPSL, Chapter 63 of 23 Pa. C.S. §§ 6301-6385 (relating to the Child Protective Services Law).			

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulations are mandated by the CPSL, Section 6348 (relating to regulations) which reads:

§ 6348. Regulations

The Department shall adopt regulations necessary to implement this chapter.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The compelling public interest is the need to protect children from abuse by their parents and others entrusted with their care. In 1999 in Pennsylvania over 5,000 children were abused by their parents or other individuals responsible for their care.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The consequences of non-action are that more children will be abused and more children will die as a result of abuse. It has only been within the last 35 years that society has begun to pay attention to the needs of abused and neglected children. We must continue to strengthen services and programs to protect children. In a society of ever increasing domestic violence and drug and alcohol abuse, we must protect not only this generation of children from abuse but future generations of children because violence begets violence where victim becomes predator not only against children but also against adults. Empirical data documents that the majority of violent adult offenders were abused as children. These regulations amend existing regulations.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Abused and neglected children in need of child protective services or general protective services and their families will benefit from these regulations. The regulation provide for much more involvement by law enforcement officials and closer working relationships between law enforcement officials and county agency staff. Unfounded reports of suspected child abuse will be maintained at both the state and local level and will be available to law enforcement officials when investigating certain crimes. The district attorney and county administrator are required to establish an investigate team to jointly investigate reports of suspected child abuse. The team will be composed, at a minimum, of a law enforcement official, a health professional and a county children and youth worker. Reports of serious physical injury allegedly perpetrated by a family member, including parents, will now be reported to law enforcement officials for possible criminal investigation and prosecution. Persons convicted of a drug felony offense within five years prior to applying for a job in a child care service or to become a foster or an adoptive parent will be barred from employment or becoming a foster or adoptive parent. Persons applying to become a Big Brother or Big Sister will also benefit, since they are exempt from paying the \$10.00 fee to determine whether they were a perpetrator of an indicated or founded report of child abuse.

### **Regulatory Analysis Form**

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No one will be adversely affected by these regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The persons, businesses and organizations that will be affected by this regulation are: county children and youth agencies; law enforcement officials; district attorneys, district justices; judges of the Philadelphia Municipal Court and Pittsburgh Magistrates Court, staff of the Department of Public Welfare; members of a county's Multidisciplinary Team; child care personnel; prospective adoptive and foster parents.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

These regulations are the direct result of Act 127 of 1998 which amended the CPSL. Input for the development of these regulations was provided by: the Pennsylvania Children and Youth Administrators, Inc.; the Family Council of the Delaware Valley; the Pennsylvania Council of Children's Services.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

**COSTS:** We estimate it will cost a \$1 million to establish the investigative teams as required by the CPSL and these regulations. Please see Question 20 for details.

**SAVINGS:** We estimate it will save volunteers applying to become a Big Brother or Big Sister \$33,000 a year.

### **Regulatory Analysis Form**

- (18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The County Code and County Institution District Law mandates counties to establish programs to protect children from abuse and neglect from their parents. The Public Welfare Code provides that the counties and state share in the costs of these programs. The costs to the counties to implement the provisions of Act 127 of 1998 are shown in the table in Question 20.

- (19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The County Code and Institution Law mandates counties to establish programs to protect children from abuse and neglect from their parents. It further requires the counties and state share in the costs of these programs. The costs to the State to implement the provisions of Act 157 of 1998 are shown in the table in Question 20.

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### Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.  
(amounts are in thousands)

	Current FY* 2000-01	FY +1 2001-02	FY +2 2002-03	FY +3 2003-04	FY +4 2004-05	FY +5 2005-06
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community	36	40	44	48	53	58
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
<b>COSTS:</b>						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	\$167	\$175	\$181	\$187	\$194	\$201
State Government	666	690	714	739	765	792
Federal Government	205	212	220	227	235	243
Total Costs	\$1,038	\$1,077	\$1,115	\$1,153	\$1,194	\$1,236
<b>REVENUE LOSSES:</b>						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	36	40	44	48	53	58
Total Revenue Losses	\$36	\$40	\$44	\$48	\$53	\$58

(20a) Explain how the cost estimates listed above were derived.

**COSTS:**

**A. Regulated Community:**

Applicants to become a Big Brother or Big Sister are exempt from paying the \$10.00 to ChildLine to verify whether or not their name is on file at ChildLine as the perpetrator or child abuse. In the four months between March 1, 1999, when the exemption became effective and June 30, 1999, ChildLine received and screened 1,100 requests from persons wanting to become a Big Brother or a Big Sister. This means that ChildLine may receive approximately 3,300 requests a year. This will result in annual savings to Big Brother and Big Sister volunteers of \$33,000.

**B. Local Government:**

Please see below.

**C. State Government:**

Please see below.

The costs to establish an investigative team in each county are based on the assumption that for every 750 reports of suspected child abuse that were made in 1998, a county would have to hire one additional caseworker. Based on this assumption, it was determined that 29 full-time equivalent caseworkers would be hired statewide and one full-time supervisor would be hired by Philadelphia because of the number of reports they receive. A cost of living increase of 3.5 percent per year was used for FY 2000-01 to 2004-05.

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### Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

(amounts are in thousands)

Program	FY -3 1997-1998	FY -2 1998-1999	FY -1 1999-2000	Current FY 2000-2001
County Child Welfare				
State	\$398,740	\$403,619	\$431,245	\$470,212
Federal	\$407,718	\$510,005	\$598,477	\$644,526
Total	\$806,458	\$913,624	\$1,029,722	\$1,114,738

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

A major emphasis of these regulations is involve the law enforcement community in the investigation of reports of suspected child abuse and protect to children through the intervention of the criminal system and the social service system. This has the potential to reduce the number of children entering placement which is more costly than in-home services.

The benefits are also measured in terms of reducing human suffering for this generation of children and future generations of parents and children which cannot be measured in dollars and cents. We know that our prisons are filled with persons who were abused as children; we know that many individuals turn to drugs and alcohol as a result of being abused and we know that the majority of children who were victims of abuse go on to victimize others. If we protect today's children, we save untold suffering for children and families and millions of dollars in the future.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The CPSL mandates that the Department promulgate regulations. Other alternatives, e.g., Departmental bulletins and guidelines, are not binding and there is no way to enforce them. If we are going to improve protection to abused and neglected children, we must promulgate regulations in order to have the authority to enforce the duties placed on the county agencies.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no other regulations to consider. There are the only regulations that implement the CPSL to protect abused and neglected children.

### Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The issue of competitive advantage or disadvantage with other states is not applicable to these regulations. The regulations are required by statute and are promulgated to protect abused children in need of protective services and those children in need of general protective services.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes. A) The regulations amend Title 55 Pa. Code, Chapter 3490 (relating to protective services).

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

There will be no public hearings. Input and review of the draft regulations occurred during the developmental stage of amending these regulations. Also, except for three proposed regulations, the proposed regulations mirror the statutory language. These three areas are as follows: 3490.4 (relating to the definitions), specifically the definition of imminent risk; 3490.94 (c) (relating to the identify of the person who made a report of child abuse or cooperated in a subsequent investigation; and 3490.122(h) (relating to responsibilities of the applicant, prospective operator or legal entity of a child care service).

### **Regulatory Analysis Form**

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

There will be additional paper work as a result of the proposed regulation that each county establish an investigative team. The county agency will enter the discussion and decisions of the team into the case record of the child. The paperwork should be minimal.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are no provisions in these regulations to meet the special needs of those affected by these regulations. These requirements are found in other laws and regulations which address the operation of the affected agencies and programs.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulations become effective upon publication in the Pennsylvania Bulletin as final rulemaking.

(31) Provide the schedule for continual review of the regulation.

The CPSL requires the Department to submit an annual report to the Governor and General Assembly on the implementation of the law and with any recommendations from the Secretary of the Department to amend the CPSL.



**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**  
(Pursuant to Commonwealth Documents Law)

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2001 MAY 21 PM 3:41  
REVIEW COMMISSION

#2201

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Copy below is hereby approved as to  
form and legality. Attorney General

(Deputy Attorney General)

MAY 16 2001

Date of Approval

☐ Check if applicable  
Copy not approved. Objections  
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Copy below is hereby certified to be a true and correct copy  
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Department of Public Welfare

(Agency)

LEGAL COUNSEL:

DOCUMENT/FISCAL NOTE NO.

DATE OF ADOPTION:

BY:

Feather O. Houston

TITLE: Secretary

(Executive Officer, Chairman or Secretary)

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(Chief Counsel, Independent Agency)  
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eral approval or objection within 30  
days after submission.

### NOTICE OF PROPOSED RULEMAKING

1. DEPARTMENT OF PUBLIC WELFARE
2. OFFICE OF CHILDREN, YOUTH AND FAMILIES
3. [55 Pa. Code Chapter 3490]
4. Protective Services

## ***PREAMBLE***

### ***Statutory Authority***

The amendments are proposed in Annex A under the authority of Articles VII and IX of the Public Welfare Code (62 P.S. §§ 701-774 and 901-922); 42 Pa.C.S. §§ 6301-6365 (relating to the Juvenile Act); section 2168 of the County Code (16 P.S. § 2168); section 405 of the County Institution District Law (62 P.S. § 2305); and Chapter 63 of 23 Pa.C.S. §§ 6301-6385 (relating to the Child Protective Services Law (CPSL)).

### ***Purpose of Regulations***

It is the purpose of Chapter 3490 (relating to protective services) to:

- Encourage more complete reporting of suspected child abuse; to involve law enforcement agencies, as permitted by this chapter, in responding to child abuse; and to establish protective services in each county for the purpose of investigating reports swiftly and competently.
- Protect children from further abuse and provide 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 whenever appropriate.
- Ensure that each county children and youth agency establishes a program of general protective services for children; to assess the risk of harm to a child and respond adequately to meet the needs of families and children who may be at risk; and to prioritize the response and services to children most at risk.
- Provide for investigation of reports of suspected abuse of students by school employees and to screen applicants for employment in schools to determine whether or not the applicant has a prior history of abusing children.
- Establish a training and certification program for all county children and youth agency staff who provide direct services to children who are in need of protective services and for persons who supervise direct service workers.

*Need for Regulation*

These amendments are needed to implement the act of December 15, 1998 (P.L. 963, No. 127) (Act 127), and to clarify and amend existing regulations.

*Requirements*

a. Section 3490.2 (relating to purposes) adopts the statutory requirement of the CPSL at section 6302 (relating to findings and purpose of chapter) that when the unity of the family cannot be maintained as a result of abuse, neglect or the need for protective services that the county agency is required to find another alternative permanent family for the child. This is consistent with the language in 42 Pa.C.S. §§ 6301-6365 (relating to the Juvenile Act) which was amended as a result of Act 126 of 1998. The Juvenile Act and CPSL were amended to be consistent with the provisions of the federal Adoption and Safe Families Act, which focuses on safety, permanency and timeliness as paramount for all children.

b. Section 3490.4 (relating to definitions) was amended to include a definition of imminent risk. The Department originally trained county agency staff on imminent risk and defined imminent risk as substantial evidence that a child would be a victim of serious physical injury or sexual abuse or exploitation except for happenstance, intervention of a third party, or actions by the alleged victim. In E.D. v. Department of Public Welfare, 719 A.2d 384(1998), the Commonwealth Court held that the standard that the child would have suffered serious physical injury was too high a standard to maintain an indicated report and ordered the report expunged. This prompted the Office of Children, Youth and Families to review its definition of imminent risk. In 1998, the county agencies indicated only 314 reports of imminent risk. A report of imminent risk provides the county children and youth agencies (county agencies) with an opportunity to intervene in a family where there is an indication that a child may be abused in the future. The small number of reports of imminent risk demonstrates missed opportunities to protect children when there is a very high risk of physical injury or sexual abuse or exploitation. Therefore, the Department is proposing to define imminent risk as: "Imminent Risk – The exposure of a child to the substantial probability of serious physical injury or sexual abuse or exploitation which but for happenstance, intervention of a third party, or actions by the child does not occur."

c. Section 3490.34 (relating to pending complaint file and file of unfounded reports awaiting expunction) adopts the statutory requirement of the CPSL at section 6337 (relating to disposition of unfounded reports) that ChildLine maintain reports of suspected child abuse that were determined unfounded by the county agency for one year after the date the report was received by ChildLine. The report will be expunged from the pending complaint file, as soon as possible, but no later than 120-calendar days after the one-year period following the date the report was received at ChildLine. Prior to Act 127, ChildLine

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was required to expunge unfounded reports within 120-calendar days of receiving the report. Reports that are ordered to be expunged as the result of the appeal process will be expunged immediately after the time limit for the next level in the appeal process has passed.

This section and section 3490.37(a) (relating to release of information: Statewide Central Register, pending complaint file and file of unfounded reports) were further amended to be consistent with the Act 127 amendment at section 6335(b) (relating to information in pending complaint file and file of unfounded reports), which gives law enforcement officials (LEOs) access to these reports when investigating certain crimes. They did not have access to unfounded reports previously. This will give LEOs access to information that could assist them in investigating identified crimes, missing child reports, or child abuse. This will also assist county agencies in assessing the risk to a child when the county agency receives a subsequent report of suspected child abuse.

d. Sections 3490.58 and 3490.173 (relating to notifications; and notification by the county agency) adopt the statutory requirement of the CPSL at section 6341(f) (relating to review of grant of request) that a county agency advise subjects of reports of suspected child abuse that unfounded reports of suspected child abuse will be expunged no later than 120-calendar days following the expiration of one year from the date the report was received at ChildLine.

These sections and section 3490.70 (relating to expunction and amendment of report by the county agency) further adopt the statutory requirement of the CPSL that the information regarding subjects of unfounded reports of suspected child abuse, including those determined unfounded through an appeal proceeding, who receive services will be expunged no later than 120-calendar days following the expiration of one year after the termination or completion of services provided or arranged by the county agency. The information related to the provision of services other than the unfounded report will be maintained pursuant to 55 Pa. Code, Chapter 3130 (relating to administration of county children and youth programs). When reports are determined to be unfounded as a result of an appeal proceeding, and the family has not been accepted for services, the report will be expunged upon notification from ChildLine. Prior to Act 127 there was no statutory requirement regarding the expunction of unfounded reports of suspected child abuse when the family was accepted for services.

e. Section 3490.60 (relating to services available through the county agency) adopts the statutory requirement of the CPSL at section 6365(b) (relating to prevention, investigation and treatment of child abuse). The county agency is required to make available a multidisciplinary team (MDT) for the prevention, investigation and treatment of child abuse. The county agency shall convene the multidisciplinary team at any time, but not less than annually, to review substantiated cases of child abuse, including responses by the county agency and other agencies providing services to the child. This is to be a

systemic review to determine how the county agency is meeting its mandate to investigate reports of suspected abuse and the need for general protective services and provide services to protect children from further abuse and neglect.

The MDT is also required, where appropriate, to assist on a case-by-case basis in the development of a family service plan for the child.

Prior to Act 127, the CPSL required the county agency to have an MDT but it did not define the role of the MDT. The amendments establish two roles for the MDT and that the county agency may convene the MDT at any time, but not less than annually. This amendment will involve other community agencies and professionals in the important role of assisting the county agency in protecting children. Child abuse is a community problem and services should be coordinated to prevent further abuse to a child.

f. Section 3490.60 (relating to services available through the county agency) further adopts the statutory requirement of the CPSL at section 6365(c) (relating to services for prevention, investigation and treatment of child abuse) that the county agency and the district attorney establish a team to investigate any case of child abuse involving crimes against children, which are set forth in section 3490.91(a)(9) and (10) (relating to persons to whom child abuse information shall be made available). The county agency administrator and district attorney are required to develop a protocol to be used in receiving and investigating these reports. The district attorney will convene an investigative team in accordance with the protocol. The investigative team will consist of those individuals and agencies responsible for investigating the abuse or for providing services to the child and will at a minimum include a health care provider, county caseworker and law enforcement official. This amendment will reduce the trauma to a child by having to participate in numerous interviews. Coordination with LEO will improve prosecution efforts and fortify efforts to assure the safety of the child.

g. Section 3490.91(a)(5) (relating to persons to whom child abuse information shall be made available) adopts the statutory requirement of the CPSL at section 6340(a)(5) (relating to release of information in confidential reports) that county agency staff may testify at hearings before a district justice, a judge of the Philadelphia Municipal Court or a judge of the Pittsburgh Magistrates Court when there is a criminal matter involving a charge of child abuse. Prior to Act 127, the confidentiality provisions of the CPSL prohibited county agency staff from testifying at the district justice level without a court order from a court of common pleas. The agency often has information that will aid law enforcement officials in prosecuting alleged perpetrators. The testimony may afford children the protection of the criminal justice system.

h. Section 3490.91(a)(9) (relating to persons to whom child abuse information shall be made available) adopts the statutory requirement of the CPSL at section

6340(a)(9) (relating to release of information in confidential reports) that LEOs have access to information in the county agency files when investigating serious physical injury or one or more of the criminal offenses set forth in section 6344(c) (relating to information relating to perspective child-care personnel) of the CPSL. LEOs also have access to child abuse information and general protective services information when investigating any crime involving a child regardless of the relationship of the perpetrator/caretaker to the child.

Under section 6340(a)(15) (relating to release of information in confidential reports) LEOs also have access to child abuse information and general protective services when a family moves from one residence or location to another.

The county agency must release any information in any records that may assist the LEO in the investigation. LEOs have access to general protective services information, as section 3490.39 (relating to confidentiality of reports) references "reports made pursuant to this chapter" and general protective services reports are now handled under the CPSL.

i. Section 3490.91(a)(10) (relating to persons to whom child abuse information shall be made available) adopts the statutory requirement of the CPSL at section 6340(a)(10) (relating to release of information in confidential reports) that county agencies must report suspected child abuse to the district attorney, the district attorney's designee or other law enforcement official, as set forth in the county protocols for investigative teams. Except for endangering the welfare of children, all reports of suspected child abuse that might be a criminal offense or the attempt; solicitation, or conspiracy to commit any of the offenses found in section 6344(c), must be reported to the district attorney, the district attorney's designee or other law enforcement official designated in the county protocol.

The regulations also require the county agency to report to the district attorney or designee or other law enforcement official, serious physical injury involving extensive and severe bruising, burns, broken bones, lacerations, internal bleeding, shaken baby syndrome or choking or an injury that significantly impairs a child's physical functioning, either temporarily or permanently regardless of the relationship of the alleged perpetrator to the child.

j. Section 3490.94 (relating to release of the identity of a person who made a report of child abuse or cooperated in a subsequent investigation) was amended by the addition of subsection (c) which states that the Department will not release the name of a person who made a report of suspected child abuse or cooperated in the investigation when the person does not respond to the Secretary's written notification asking whether or not the person believes that such release would be detrimental to his or her safety. When the Secretary receives a request to release the name of the person who made a

report of suspected child abuse or cooperated in the investigation, the Secretary writes to the person who made the report and asks whether or not he or she thinks that the release of his or her name would be detrimental to the person's safety. This aids the Secretary in making a decision on whether or not to release the name. The Department's policy is not to release the person's name when the person does not respond to the Secretary's written notification. This policy acknowledges that either the Secretary's letter or the person's response was not received. This amendment would regulate current Departmental practice.

k. Sections 3490.105a and 3490.191 (relating to request by a perpetrator to amend or expunge an indicated report of child abuse received by ChildLine after June 30, 1995; and request from a school employee to amend or expunge an indicated report of student abuse) adopts the statutory language at § 6341 (b) (relating to amendment or expunction of information) which requires the Secretary to notify all subjects when the Secretary grants a perpetrator's request to amend or expunge an indicated report of child abuse. The sections were amended further to require the Secretary to notify not only the perpetrator but also the county agency when the Secretary denies a perpetrator's request to amend or expunge an indicated report of child abuse. Since the county agency provides information to the Secretary to help make the decision, it is appropriate to notify the county agency of the decision.

The section also adopts the statutory language that requires the Secretary to notify the appropriate law enforcement officials when the Secretary grants the request to expunge the report. Sections 3490.106a and 3490.192 (relating to hearings and appeals proceedings for indicated reports received by ChildLine after June 30, 1995; and request for a hearing from a school employee for indicated reports of student abuse) was amended to adopt the statutory requirement of 6341(c) requiring the Secretary to notify the appropriate LEO of a request for a hearing.

l. Section 3490.122 (relating to responsibilities of an applicant, prospective operator or legal entity of a child care service) adopts the statutory requirement of the CPSL at section 6344(h) (relating to information relating to prospective child-care personnel) that volunteers for the Big Brothers and Big Sisters programs are exempt from paying the processing fee to the Department for a ChildLine clearance to verify whether or not the person's name is on file as a perpetrator of child abuse. The *Pennsylvania Child Abuse History Clearance* form may be downloaded from the Department of Public Welfare Website at <http://www.dpw.state.pa.us>.

m. Section 3490.122 (relating to responsibilities of an applicant, prospective operator or legal entity of a child care service) adopts the statutory requirement of the CPSL at section 6344(c)(3) (relating to information relating to prospective child-care personnel) that a child-care administrator may not hire 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 the request for verification. This will protect children from persons convicted of a felony drug related offense within the preceding five-year period.

This section was also amended to prohibit an administrator from hiring a person who was convicted of a Federal crime or crime of another state that is equivalent to one of the Pennsylvania crimes listed in Section 6344(c) (relating to information relating to prospective child-care personnel). This section was amended to include the requirements for submission of fingerprints to the Federal Bureau of Investigation when the applicant is not a resident of the Commonwealth of Pennsylvania.

This section was also amended by adding subsection (h) to require the administrator of a child care service to make and keep a copy of the original verification certificate. The *Pennsylvania Child Abuse History Clearance* form has instructions to the administrator to keep a copy of the certificate on file. A regulation requiring an administrator to make and keep a copy is needed for monitoring and enforcement purposes.

n. Section 3490.123 (relating to responsibilities of prospective adoptive parents, prospective foster parents, foster family care agencies and adoption investigators) prohibits adoption agencies, foster care agencies and persons designated by the court under 23 Pa.C.S. §2535(a) (relating to adoption) from approving an applicant when 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 the request for verification. This will protect children from being placed in foster care with or adopted by persons who have been convicted of a felony drug related offense within the preceding five-year period.

#### *Affected Individuals and Organizations*

The amendments will affect children and youth and their families, as well as public and private children and youth agencies, law enforcement officials, persons seeking employment in a child-care service, prospective foster and adoptive applicants and volunteers for the Big Brothers and Big Sisters program.

#### *Accomplishments/Benefits*

All children deserve to grow up in safe, nurturing homes. Sadly, many are victims of child abuse and neglect. It is a problem that has devastating effects on children and families in our Commonwealth. While substantial progress has been made in addressing this problem, we continue to look for ways to protect children.



These proposed amendments address amendments to the CPSL as a result of Act 127 of 1998. Children will be afforded the protection of the law enforcement community by: maintaining unfounded reports for a year and giving law enforcement officials access to these reports; joint investigations of reports of suspected child abuse by the members of the investigative team; and reporting all reports of suspected serious physical injury to law enforcement officials. Changing the standard for when children are at imminent risk of serious physical injury or sexual abuse or exploitation from "would have occurred" to "is likely to occur" will allow the county agencies to intervene and deliver needed services to families before the child is actually abused.

In 1998, 75 percent of the reports of suspected child abuse were determined unfounded and expunged within 120-calendar days of the receipt of the report at ChildLine. In 80 percent of unfounded reports, the child is injured but the seriousness of the injury does not rise to the level of serious physical injury as defined by the statute and Departmental regulations. Access to this information was limited to county agency staff, employees of the Department, subjects of the reports and the Office of Attorney General when conducting an audit to insure that the expunction requirements of the CPSL and Departmental regulations are being fully and properly conducted. Act 127 and these regulations extend the time that these unfounded reports are maintained by one year. ChildLine will keep unfounded reports for a year after the date of the oral report to ChildLine under the provisions of the CPSL and these regulations. The county agencies will maintain unfounded reports that are accepted for services for a year after the case is closed for service. Act 127 and these regulations also give LEOs access to information in unfounded reports on file at ChildLine. This information could be very helpful to LEOs when investigating a crime or missing child report, especially when a family moves from one county to another and injures the child again. It alters information available to the LEO and allows the LEO to conduct a more thorough investigation.

The professional community that treats abused children and their families have come to realize that child abuse is a community problem. A solution is located in the total resources of the community; not solely the responsibility of the children and youth agency. After reaching this conclusion, the need for members of different professions to come together periodically to review reports of suspected child abuse and develop a coordinated treatment approach was the next logical step. County MDTs will develop policies and procedures on its role in the community, identify which cases it will review, who will be a member of the MDT and the frequency of meetings. This will be another tool for the community to use in preventing and treating child abuse.

Two noticeable shifts have occurred in the field of protective services over the past four decades. First, the extent and severity of child abuse has increased. The number of reports of suspected child abuse has increased from 568 in 1968, the first year following the enactment of Act 91, August 14, 1967 (known as the Child Abuse

Law) to 22,589 in 1998. The number of deaths, annually, from child abuse has increased from 19 in 1968, to 52 in 1998.

The sexual abuse of children has always been a sensitive subject. In 1967, the Child Abuse Law did not specifically identify sexual abuse as a type of abuse. The 1999 Annual Report on Child Abuse reflects that sexual abuse was involved in 42% of all substantiated reports.

When the Child Abuse Law was replaced by the Child Protective Services Law in 1975, the prevailing belief was that child abuse was a family problem and best served by the social services agencies in the community. It was the prevailing view that prosecuting parents for anything less than homicide, sexual abuse or exploitation or serious bodily injury was counterproductive to preserving the family unity and for getting the alleged perpetrator to cooperate in rehabilitative programs. Criminal prosecution was difficult due to the evidentiary problems of child witnesses.

However, with the passage of time, things have changed. Children are being severely abused and almost half of the reports that are substantiated are sexual abuse. Also, over time, the need for law enforcement involvement and closer working relationships between the county agencies and law enforcement officials has become apparent. Act 127 established the requirement that the county administrator and district attorney establish an investigative team and protocols on the roles and responsibilities of each agency in investigating reports of suspected child abuse that are referred to law enforcement officials. This will streamline the investigative process, allow the two agencies to share information and reduce the trauma to the child in having to repeat information to numerous people during the course of the investigation.

The General Assembly has shown a great deal of interest in assuring the health and safety of children not only when children are in their own homes but also when children are entrusted to the care of a person other than the child's parents. The CPSL was amended to prohibit child care workers and foster and adoptive parent applicants from being approved when they have been convicted of a felony drug offense within the five-year period preceding clearance.

### *Fiscal Impact*

- Public Sector

The fiscal impact of these proposed regulations will be minimal except for the requirement that the district attorney and county administrator establish an investigative team as required by section 3490.60 (relating to services available through the county agency).

The costs to establish an investigative team in each county are based on the assumption that for every 750 reports of suspected child abuse that were made in 1998, a county would have to hire one additional caseworker. Based on this assumption, it was determined that 29 full-time equivalent caseworkers would be hired statewide and one full-time supervisor would be hired by Philadelphia because of the number of reports they receive. A cost of living increase of 3.5 percent per year was used for FY 2000-01 to 2003-04.

Year	2000-01	2001-02	2002-03	2003-04	2004-05
Federal	\$205	\$212	\$220	\$227	\$235
State	\$666	\$690	\$714	\$739	\$765
Counties	\$167	\$175	\$181	\$187	\$194
Total	\$1,038	\$1,077	\$1,115	\$1,153	\$1,194

(The figures are in thousands)

- Private Sector

There will be no increase in costs to the private sector.

- General Public

Section 3490.122 (relating to responsibilities of an applicant, prospective operator or legal entity of a child care service) adopts the statutory requirement of the CPSL at section 6344(h) (relating to information relating to prospective child-care personnel) that volunteers for the Big Brothers and Big Sisters programs are exempt from paying the processing fee to the Department for a ChildLine clearance to verify whether or not the person's name is on file as a perpetrator of child abuse. In the four months between March 1, 1999, when the exemption became effective and June 30, 1999, ChildLine received and screened 1,100 requests from persons wanting to become a Big Brother or a Big Sister. This means that ChildLine may receive approximately 3,300 requests a year. This will result in annual savings to Big Brothers and Big Sisters volunteers of \$33,000.

#### *Paperwork Requirements*

LEOs may now receive a copy of unfounded reports awaiting expunction from ChildLine. ChildLine will have to make and send a copy to the LEO; thus, resulting in a minimal increase in paperwork for ChildLine.

County agencies are now required to report certain suspected serious physical injuries to a LEO when a parent is the alleged perpetrator. This will result in a minimal increase in paperwork for the county agencies.

#### *Effective Dates*

These amendments will take effect upon publication in the Pennsylvania Bulletin as final rulemaking.

#### *Sunset Date*

No sunset date has been established for these regulations. The Secretary of Public Welfare is required by the law, and these regulations, to submit an annual report to the Governor and the General Assembly on the implementation of the law. The report must include recommendations to amend the law; thus, DPW is continuously evaluating the effectiveness of the law and the need for amendments.

#### *Public Comment Period*

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the Department of Public Welfare, Ms. Cathy Utz, P.O. Box 2675, Harrisburg, PA 17105-2675, or fax to (717) 705-0364 within 30-calendar days after the date of publication in the *Pennsylvania Bulletin*. All comments received within 30-calendar days will be reviewed and considered in the preparation of the final-form regulations. Comments received after the 30-calendar day comment period will be considered for any subsequent revisions of these amendments.

#### *Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on MAY 21, 2001, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the chairpersons of the House Committee on Aging and Youth and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed amendments, the Department has provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10-calendar days of the close of the Committees' comment period. The notification shall specify the regulatory review criteria, which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication, of the amendments of objections raised by the Department, the General Assembly and the Governor.

Feather O. Houstoun  
Secretary of Public Welfare

\* \* \* \* \*

## INTRODUCTION

### § 3490.2. Purposes.

The purposes of this subchapter are to:

\* \* \* \* \*

- (7) Provide another alternative permanent family when the unity of the family cannot be maintained.

### § 3490.4 Definitions.

\* \* \* \* \*

Imminent Risk – The exposure of a child to the substantial probability of serious physical injury or sexual abuse or exploitation which but for happenstance, intervention of a third party or actions by the child does not occur.

### § 3490.34. Pending complaint file and file of unfounded reports awaiting expunction.

\* \* \* \* \*

(d) [Unfounded reports] Reports determined unfounded by the county agency shall be [expunged at ChildLine within 120-calendar days after the date of the initial report to ChildLine] maintained at ChildLine for 1 year after the date the report was received by ChildLine. ChildLine shall expunge the report, as soon as possible, but no later than 120-calendar days after the one-year period following the date the report was received at ChildLine.

(e) Reports determined unfounded through the appeal process will be expunged immediately after the expiration of the appeal period for the next level of appeal.

[(e)](f) Reports which are unfounded awaiting expunction may not be released from the [pending complaint] file of unfounded reports awaiting expunction except to a subject of a report upon written request, law enforcement officials, employees of the Department under this subchapter and employees of the Office of Attorney General under section 6345 of the CPSL (relating to audits by Attorney General).

### § 3490.37. Release of information: Statewide Central Register, pending complaint file and file of unfounded reports.

- (a) A request for information from the Statewide Central Register, pending

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complaint file or file of unfounded reports by persons permitted access to this information, other than the county agency, or a law enforcement official shall be in writing and signed by the person requesting the information.

**§ 3490.58. Notifications.**

(b) Within 72 hours of interviewing the subject, the county agency shall notify the subject in writing of:

\* \* \* \*

(5) The fact that the report, if determined unfounded, will be expunged from the pending complaint file: [within] no later than 120 calendar days following the expiration of 1 year from the date the report was received at ChildLine.

\* \* \* \* \*

(d) Except for the subject child, the county agency shall notify all subjects in writing of one of the following when the county agency determines that the report is unfounded:

(1) That the information will be kept on file at the county agency and clearly identified as an unfounded report of suspected child abuse when the family has been accepted for services. That the information regarding the unfounded report of suspected child abuse will be expunged no later than 120-calendar days following the expiration of 1 year after the termination or completion of services provided or arranged by the county agency. That the information related to the provision of services other than the unfounded report shall be retained pursuant to 3130.43 (relating to family case records).

(2) The report is unfounded and because the family has not been accepted for services that all information will be expunged at the county agency upon notification from ChildLine and that the report will be expunged from the pending complaint file within 120-calendar days following expiration of 1 year of receipt of the report at ChildLine.

**§ 3490.60. Services available through the county agency.**

(a) In addition to those services required in Chapter 3130 (relating to administration of county children and youth social service programs) the county agency shall provide, arrange or otherwise make available the following services for the prevention and treatment of child abuse:

(1) Emergency medical services which include appropriate emergency medical care for examination, evaluation and treatment of children suspected of being abused.

(2) Self-help groups to encourage self-treatment of present and potential abusers.

(3) Multidisciplinary teams composed of professionals from a variety of

disciplines who are consultants to the county agency in its case management responsibilities as required by Chapter 3130 who perform one of the following functions:

- (i) Pool their knowledge and skills to assist the county agency in diagnosing child abuse.
- (ii) Provide or recommend comprehensive coordinated treatment.
- (iii) Periodically assess the relevance of the treatment and the progress of the family.
- (iv) Participate in the state or local child fatality review team authorized under paragraph 6340 (a)(4) (relating to release of information in confidential reports) and subsection 6343(b) (relating to performance audit) of the CPSL, convened by a professional, an organization and the county agency for the purpose of investigating a child fatality or the development and promotion of strategies to prevent child fatality.

(b) The county agency shall make available a multidisciplinary team for the prevention, investigation and treatment of child abuse and shall convene the multidisciplinary team at any time, but not less than annually:

(1) To review founded and indicated 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) Investigative team. -- The county agency and the district attorney shall develop a protocol for the convening of investigative teams for any case of child abuse involving crimes against children, which are set forth in section 3490.91(a)(9) and (10) (relating to release of information in confidential reports). The county 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 reports and interviews to minimize the trauma to the child. The district attorney shall convene an investigative team in accordance with the protocol. The 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.

#### **§ 3490.70. Expunction and amendment of report by the county agency.**

(a) The county agency shall amend or expunge a record of child abuse upon notification from ChildLine. The county agency shall expunge all information in its possession in unfounded, founded and indicated reports of child abuse upon notification from ChildLine. The county agency shall notify those to whom it gave information to take similar action.



(b) When the report has been unfounded and the family has been accepted for services, the information shall be kept on file at the county agency and clearly identified as an unfounded report of suspected child abuse. The information regarding the unfounded report will be expunged no later than 120-calendar days following the expiration of 1 year after the termination or completion of services provided or arranged by the county agency. The information related to the provision of services other than the unfounded report shall be retained pursuant to 3130.43 (relating to family case records).

### CONFIDENTIALITY

#### **§ 3490.91. Persons to whom child abuse information shall be made available.**

(a) Reports, report summaries and other accompanying information obtained under the CPSL and this chapter in the possession of the Department and a county agency are confidential. Except for the subject of a report, persons who receive information under this section shall be advised that they are subject to the confidentiality provisions of the CPSL and this chapter, that they are required to insure the confidentiality and security of the information and that they are liable for civil and criminal penalties for releasing information to persons who are not permitted access to this information. This material shall only be released under the CPSL and this chapter and be made available only to the following:

\* \* \* \* \*

(5) A court of competent jurisdiction [under a court order], including a district justice, 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 3490.4 (relating to definitions) or a court of common pleas upon written request from a judge in connection with any matter involving custody of a child. Disclosure through testimony shall be subject to the restriction of section 3490.94(a) (relating to release of the identity of a person who made a report of child abuse or cooperated in a subsequent investigation).

\* \* \* \* \*

(9) Law enforcement officials of any jurisdiction, inside or outside of this Commonwealth if the information is relevant in the course of investigating cases of:

(i) Homicide, or other criminal offense set forth in section 6344(c) of the CPSL (relating to information relating to prospective child care personnel), sexual abuse or exploitation, [or] serious bodily injury or serious physical injury perpetrated by persons whether or not related to the victim.

(ii) Suspected child abuse perpetrated by persons who are not family members.

(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.

(10) [Law enforcement officials who] The district attorney or his designee or other law enforcement official, as set forth in the county protocols for investigative teams required in section 3490.60 (relating to services available through the county agency), shall immediately receive reports of suspected child abuse from the county agency, when the initial report or initial review by the county agency gives evidence that the alleged child abuse is one of the following:

(i) [Homicide.] A criminal offense set forth in section 6344(c) (relating to information relating to prospective child-care personnel), not including an offense under section 4304 (relating to endangering welfare of children) or an equivalent crime under Federal Law or the law of another state, sexual abuse or exploitation, or serious bodily injury perpetrated by persons whether or not related to the child.

(ii) Child abuse perpetrated by persons who are not family members.

(iii) Serious physical injury involving extensive and severe bruising, burns, broken bones, lacerations, internal bleeding, shaken baby syndrome, or choking, or an injury that significantly impairs a child's physical functioning, either temporarily or permanently.

\* \* \* \* \*

(18) 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 pursuant to section 3490.401 (relating to intercounty transfer of cases).

**§ 3490.94. Release of the identity of a person who made a report of suspected child abuse or cooperated in a subsequent investigation.**

\* \* \* \* \*

c) If the person does not respond to the Secretary's written notification, the Department will not release the person's name.

**§ 3490.105a. Request by a perpetrator to amend or expunge an indicated report of child abuse received by ChildLine after June 30, 1995.**

\* \* \* \* \*

(b) The Secretary will decide within 30-calendar days whether or not to grant the request. The Secretary will notify the perpetrator, the county agency and other subjects in writing as follows:

(1) [Except the subject child,] The perpetrator, the county agency, all other subjects of the report and the appropriate law enforcement officials when the decision is to grant the request.

(2) [Only the] The perpetrator and county agency when the decision is to deny the request.

**§ 3490.106. Hearings and appeals proceedings for reports received by ChildLine prior to July 1, 1995.**

\* \* \* \* \*

(h) Parties to a hearing held under this section have [30] 15-calendar days from the date of the final order of the Bureau of Hearings and Appeals to request the Secretary to reconsider the decision or 30-calendar days to appeal the final order to the Commonwealth Court.

**§ 3490.106a. Hearings and appeals proceedings for indicated reports received by ChildLine after June 30, 1995.**

\* \* \* \* \*

(f) Hearings will be scheduled and final administrative action taken in accordance with the time limits specified in 55 Pa. Code §§ 275.4(b) and (e)(1), (3) and (5) (relating to procedures). In addition to any other notifications required by these sections, the appropriate law enforcement officials will be given notice of the hearing.

(g) The burden of proof in hearings held under this section is on the appropriate county agency.

(h) Parties to a hearing held under this section 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 or 30-calendar days to appeal the final order to the Commonwealth Court.

**§ 3490.108. Cooperation of county agencies and law enforcement agencies.**

Consistent with the provisions of this chapter, the county agencies and law enforcement agencies shall cooperate and coordinate, to the fullest extent possible, their efforts to respond to and investigate reports of suspected child abuse.

**VERIFICATION OF THE EXISTENCE OF CHILD ABUSE  
AND STUDENT ABUSE RECORDS  
FOR CHILD CARE SERVICES**

**§ 3490.122. Responsibilities of an applicant, prospective operator or legal entity of a child care service.**

(a) An applicant or prospective operator of a child care service shall submit a request for verification on forms provided by the Department. The request for verification shall include a check or money order for the fee charged by the Department, payable to the Department of Public Welfare, which will not exceed \$10. No fee will be charged to an individual who makes the request in order to apply to become a volunteer with an affiliate of Big Brothers of America or Big Sisters of America. Prospective Workfare program participants are exempt from payment of the fee. To obtain a form for the clearance statement, an applicant may call the ChildLine verification unit at (717) 783-6211 and request a Pennsylvania Child Abuse History Clearance Form or it can be downloaded from the Department of Public Welfare Website at <http://www.dpw.state.pa.us>.

\*\*\*\*\*

(d) An administrator, or other person responsible for hiring decisions, may not hire or contract with an applicant, nor may a prospective operator be issued a certificate of compliance or registration if the applicant's criminal history record information dictates that the applicant or prospective operator has been convicted of a crime as specified in section 6344 of the CPSL (relating to information relating to prospective child-care personnel), an equivalent crime under Federal law or an equivalent out-of-State crime as determined by the Department.

\*\*\*\*\*

(f) An applicant or prospective operator of a child care service located in this Commonwealth who is not a resident of this Commonwealth [is required] shall submit a full set of fingerprints to ChildLine on Federal Bureau of Investigation forms provided by ChildLine. ChildLine shall submit the fingerprints to the Federal Bureau of Investigation to obtain a report of criminal history record from the Federal Bureau of Investigation [according to procedures established by the Department and on forms provided by ChildLine]. ChildLine shall serve as the intermediary for the purposes of this subsection.

(g) In no case shall an administrator hire 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 the request for verification.

(h) The administrator shall make and maintain a copy of the original Pennsylvania Child Abuse History Clearance verifying whether or not the name of the

applicant is on file at ChildLine. If the applicant is hired, the copy shall be placed in the employee's personnel record.

**§ 3490.123. Responsibilities of prospective adoptive parents, prospective foster parents, foster family care agencies and adoption investigators.**

\* \* \* \* \*

(d) A prospective adoptive parent or prospective foster parent may not be approved by a foster family care agency, an adoption agency, or a person designated by the court under 23 Pa.C.S. § 2535(a) (relating to investigation) when any of the following circumstances exist:

\* \* \* \* \*

(4) The parent 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 the request for verification.

**COUNTY RESPONSIBILITIES**

**§ 3490.173. Notification by the county agency.**

(b) Within 72 hours of the initial interview, the county agency shall notify the subject in writing of the following:

\* \* \* \* \*

(5) The fact that unfounded reports are expunged within 120-calendar days after the expiration of 1 year of the receipt of the report by ChildLine.

**GENERAL REQUIREMENTS FOR STUDENT ABUSE**

**§ 3490.191. Request from a school employe to amend or expunge an indicated report of student abuse.**

(a) The school employe responsible for the student abuse may request the Secretary to amend or expunge an indicated report for a school employe on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this chapter. The written request shall be postmarked within 45-calendar days of the

mailing date of the letter from [the Statewide Central Register notifying the employe of the indicated status] ChildLine under §§ 3490.40 and 3490.40a (relating to notifications regarding indicated reports; and notifications regarding founded reports).

(b) The Secretary will decide whether to grant or deny a request made under subsection (a) within 30-calendar days from the date the request is received. The Secretary will notify the school employe responsible for the student abuse, all subjects of the report and the appropriate county agency [of the decision by first-class mail.] in writing as follows:

(1) The school employe responsible for the student abuse, the county agency, all other subjects of the report, and the appropriate law enforcement officials when the decision is to grant the request.

(2) The school employe responsible for the student abuse and the county agency when the decision is to deny the request.

(c) The notification from the Secretary will be sent by first-class mail.

**§ 3490.192. Request for a hearing from a school employe for indicated reports of student abuse.**

\* \* \* \* \*

(f) Hearing will be scheduled and final administrative action taken in accordance with the time limits specified in § 275.4(b) and (e)(1), (3), and (5) relating to procedures). In addition to any other notifications required by these sections, the appropriate law enforcement officials will be given notice of the hearing.

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

IRRC Copy  
14th Floor Harris Room  
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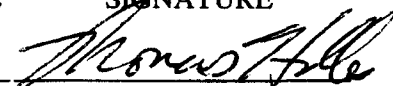


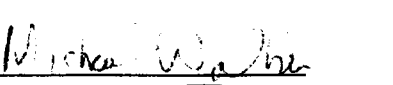

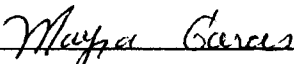
I.D. NUMBER: 14-469  
SUBJECT: Protective Services  
AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions b. Without Revisions

RECEIVED  
2001 MAY 21 PM 3:41  
REGULATORY REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
5/21		Children + Youth HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES
5/21		SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
5/21		
5/21		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
5/21		LEGISLATIVE REFERENCE BUREAU

May 17, 2001