

Recent Changes to Pennsylvania's Child Abuse Laws

As of January 1, 2015, Pennsylvania* significantly broadened the scope of its child abuse statutes by enacting 23 pieces of legislation which change how Pennsylvania responds to child abuse. These changes significantly impact the reporting, investigation, assessment, prosecution and judicial handling of child abuse and neglect cases. Many of these changes will directly impact church staff and volunteers who have contact with children.

Redefining “Child Abuse”

Child abuse, according to the Child Protective Services Law, means intentionally, knowingly or recklessly doing any of the following:

- Causing bodily injury to a child through any recent act or failure to act.
- 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.
- 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.
- Causing sexual abuse or exploitation of a child through any act or failure to act.
- Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.
- Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.
- Causing serious physical neglect of a child.
- Causing the death of the child through any act or failure to act.

The prior version of the Pennsylvania statute required a showing of “serious bodily injury” but that is no longer the case. An act or failure to act that presents a risk of serious harm to a child is also considered to be child abuse.

Mandatory Reporting

Clergy, staff, and volunteers who regularly accept responsibility for a child are “Mandatory Reporters.” A Mandatory Reporter must make a report when in the course of employment or volunteering, he or she comes to have “reasonable cause” to suspect that a child is victim of child abuse. The necessary suspicion need not be based on first-hand knowledge and the Mandatory Reporter need not be able to definitively identify who perpetrated the abuse. The Mandatory Reporter need not make an effort to discover additional facts prior to reporting.

* This summary relates only to Pennsylvania law. Congregations in other jurisdictions should consult the laws of their state.

The key factor in determining if a volunteer is a Mandatory Reporter is whether the person accepts responsibility for a child as part of a “regularly-scheduled program, activity or service.” A volunteer who teaches Sunday school weekly or accompanies the youth group on all of its mission trips would be included, while one who assists with a one-time or occasional activity would not.

Reports must be made directly by the person who suspects that abuse has occurred. It is no longer sufficient to report solely to a supervisor, although supervisors should be informed. Certainly, if a reportable event occurs on church premises or in connection with any church activity the Rector (or leader in charge of the congregation) should be informed.

Reports may be made electronically at www.compass.state.pa.us/cwis/public/home or by calling 1-800-932-0313. If a report is made by telephone, the reporter must file an electronic or written report within 48 hours of making the oral report.

Mandatory Reporters are protected from criminal and civil liability if the report was made in good faith. (The statute assumes that a report is made in good faith.) Penalties for “willful” failure to report range from a second degree misdemeanor to a second degree felony. The degree of the penalty varies according to the severity of the abuse, whether the reporter had direct knowledge of it, and whether the failure is a first or subsequent offense.

Background Checks and Clearances

The statute also broadened mandatory background check and clearance requirements previously applicable only to employees to include adult volunteers working with children. For purposes of this requirement, an adult is anyone 16 years of age or older.

Employees and adult volunteers who are responsible for the welfare of a child or who have direct contact with children, defined as “the care, supervision, guidance or control of children or routine interaction with children” are required to submit:

- Pennsylvania State Police Criminal History Record Information
- Child Abuse History Clearance
- Federal Criminal History (F.B.I.) Background Check (with submission of fingerprints).

FBI checks are not required for volunteers if they have been residents of Pennsylvania for the prior 10 years.

These clearances must be updated every 36 months. There is a phase-in provision allowing until July 1, 2015 to make volunteer clearances current and until December 31, 2015 to bring employee certifications current.

Training

The Diocese continues to mandate that all individuals having contact with children as part of their ministry complete the one hour on-line “Ministry Safe” – Sexual Abuse Awareness Training and that the training be renewed every three years. For information on the “Ministry Safe” program please contact The Rev. Don Bushyager at the Diocesan Office, 412 281-6131 ext. 151 or bushyager@pitanglican.org.

A three hour training program approved by the Department of State is required of all individuals who are Mandated Reporters AND who are applying for a professional license or certification issued by a licensing board of the Commonwealth.

Clergy Privilege

Pennsylvania statutes exempt clergy from being compelled to disclose information obtained from any person “secretly and in confidence.” See diocesan publication “Suggested Guidelines: Pastoral Counseling & Rite of Reconciliation” for further discussion.

Resources

General: <http://keepkidssafe.pa.gov/>

Clearances and Reporting: <https://www.compass.state.pa.us/cwis/public/home>

Diocesan publication: “Policies Regarding Allegations and Incidents of Sexual Misconduct and Child Abuse by Clergy, Employees and Volunteers in the Anglican Diocese of Pittsburgh” (now being revised).