

## Summary of Pennsylvania Law, Regulations and Bulletins

### The Juvenile Act, 42 Pa. C.S. § 6301 - 6365

**Purpose:** The Juvenile Act was first enacted in 1972 and provides for the protection of children from child maltreatment by authorizing state intervention while at the same time balancing parental rights with the state's compelling interest to intervene by recognizing the importance of family unity. The Act identified five key purposes:

- Preserve the unity of the family whenever possible or to provide another permanent family, when the unity of the family cannot be maintained;
- Provide for the care, protection, safety and wholesome mental and physical development of children coming within its provisions;
- Provide for children committing delinquent acts, programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable children to become responsible and productive members of the community;
- Achieve these purposes in a family environment whenever possible, separating the child from parents only when necessary for his/her welfare, safety or health, or in the interests of public safety; and
- Provide a means through which the Act's provisions are executed and enforced, and in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced.

### Significant Provisions:

The Juvenile Act provides details regarding the proceedings in which a child is alleged to be dependent including but not limited to:

- Defines Child and Dependent Child;
- Establishes the court's jurisdiction and authority over the child's parent, guardian or custodian;
- Mandates the appointment of a guardian *ad litem* for a child in all dependency cases;
- Identifies how, when and where a child can be taken into custody;
- Details the required contents of a petition for Dependency and Aggravated Circumstances;
- Describes the Informal, Adjudication, Disposition and Permanency hearings and those matters that must be determined at each of these hearings; and
- Identifies considerations for reasonable efforts determinations.

## **Child Protective Services Law (CPSL), 23 Pa. C.S. §§ 6301 - 6385**

**Purpose:** The Child Protective Services Law (CPSL) was first enacted in 1975 to provide for prompt and complete reporting of child abuse. In the act's findings it states that "abused children are in urgent need of an effective child protective service to prevent them from suffering further injury and impairment." The Act identifies several purposes including:

- Encourage more complete reporting of suspected child abuse;
- Involve law enforcement agencies in responding to child abuse;
- Establish in each county protective services for the purpose of:
  - Investigating the reports swiftly and competently;
  - Providing protection for children from further abuse;
  - Providing rehabilitative services for children and parents;
  - To ensure the child's well-being, and
  - 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.
- Ensure that each county children and youth agency establish a program of protective services with procedures to:
  - Assess risk of harm to a child;
  - Respond adequately to meet the needs of the family and the child who is at risk; and
  - Prioritize the response and services to children most at risk.

### **Significant Provisions:**

The CPSL provisions are designed to ensure accomplishments of the above purposes and include but are not limited to:

- Definitions of key terms including founded report, indicated report and child abuse;
- Responsibilities for reporting suspected child abuse;
- Powers and duties of the Department of Human Services including establishing a statewide central registry of abuse reports and statewide toll-free number;
- Prompt provision of child protective services in instances of child abuse in every county;
- Provision of General Protective Services in cases involving less severe forms of neglect;
- Protecting well-being of children maintained outside of home;
- Provision for the investigation of suspected student abuse; and
- Background checks of prospective school employees and child care employees.

## **Pennsylvania Adoption Act, 23 Pa. C.S. Part III**

**Purpose:** Pennsylvania Adoption Act provides for who and how an individual can be adopted in Pennsylvania.

### **Significant Provisions:**

The Adoption Act governs both termination of parental rights and adoption procedures which are generally heard in the Orphan's Court with the exception of Philadelphia and Allegheny Counties where the juvenile court retains jurisdiction for termination of parental rights. Additional provisions include but are not limited to:

- Grounds and procedures for the voluntary termination of parental rights;
- Grounds and procedures for the involuntary termination of parental rights;
- Home studies and pre-placement reports;
- Pennsylvania Adoption Cooperation Exchange and its responsibilities; and
- Adoption procedures and access to records.

## **Protection from Abuse Act, 23 Pa. C.S § 610/611**

Where the Juvenile Act and CPSL involve state action specifically to protect children, the Protection from Abuse Act permits a family or household member to obtain a court order to protect a child or family or other household member who is the victim of abuse. Under this Act, the court has wide-ranging powers of relief, to include ordering the abusive family member out of the house for up to one year. A petitioner need only show by preponderance of the evidence that the child was abused.

## **Pennsylvania Adoption Opportunities Act of 1974**

The purpose of this law is to promote placement of children who are physically and/or mentally handicapped, emotionally disturbed or difficult to place by virtue of their age, sibling relationship, or ethnicity. Under this law, adopting families may apply for financial assistance on behalf of children with special needs.

## **Newborn Protection Act (“Safe Haven”), of 2002, 42 Pa C.S. § 6401, et. seq.**

This Act permits a parent to leave a newborn at a hospital without fear of criminal prosecution when the child has not been a victim of suspected child abuse.

## Act 105 of 2014, 18 Pa C.S. §3001 - 3054(d)

This is Pennsylvania's comprehensive anti-trafficking law. It amends Pennsylvania's Crimes Code, Title 18, and the Civil Code, Title 42, by revising laws on human trafficking in part to more clearly define sex and labor trafficking. By defining sex trafficking and sexual servitude in the Crimes Code, prosecutors have new important tools for charging traffickers.

Act 105 of 2014 addresses purchasers by imposing criminal liability on those who purchase sex from someone they know to be a sex trafficking victim. It also defines sex trafficking of a minor as a Megan's law offense, requiring convicted sex traffickers of minors to register as sex offenders.

- Trafficking of Minors: A person commits a felony of the first degree if the person recruits, entices, solicits, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude, or knowingly benefits financially, or receives anything of value from any act that facilitates any activity that results in a minor's being subject to sexual servitude.
- Sexual Servitude: Any sex act or performance involving a sex act for which anything of value is directly or indirectly given, promised to or received by any individual or which is performed or provided by any individual and is induced or obtained from a minor or any other individual by any means set forth in Section 3012(b) of the statute.
- Sexual Servitude of Minors: A person commits a felony of the second degree if the person engages in any sex act or performance with another individual knowing that the act or performance is a result of the individual being a victim of sex trafficking.

In addition to defining crimes, Act 105 of 2014 establishes provisions for victims of sex trafficking to be eligible for benefits and compensation under the Crime Victims Act of 1998. It also decrees that services to a minor victim of human trafficking by the commonwealth or by any institution or person established or licensed by the commonwealth shall be carried out in a manner that is in the best interest of the minor and appropriate to the particular situation.

## Pennsylvania Regulations

Regulations are rules for controlling governmental bodies' behavior. The regulations are issued by administrative agencies, such as the Department of Human Services. They bind each county in its administration and provision of services and describe implementation of legal requirements. They are the fundamental workings of the law that elaborate upon implementing the law on a daily basis. Regulations relating to child welfare practice include:

- 55 Pa. Code Chapter 3130 - Administration of County Children and Youth Social Service Programs:
  - Goal of Children and Youth Social Services;
  - Administrative, Program, Personnel Requirements;
  - Case Planning and Case Management;
  - Case Review of Children in Placement; and
  - Requirement for Foster Care Programs and Child Care Facilities Operated by a County Agency.
- 55 Pa. Code Chapter 3350 - Adoption Services:
  - General Provisions;
  - Procedures; and
  - Statement of Policy on Adoption Record Disclosure Procedures.
- 55 Pa. Code Chapter 3490 - Protective Services:
  - Child Protective Services;
  - Abuse of Students in School;
  - General Protective Services; and
  - General Requirements for Child Protective Services and General Protective Services.
- 55 Pa. Code Chapter 3700 - Foster Family Care Agency:
  - Program Requirements;
  - Health Care Requirements; and
  - Requirements for Foster Family Care Agencies Approval of Foster Families.

## Bulletins

Issued by administrative and regulatory agencies, such as the Department of Human Services, Bulletins implement legal requirements. They present statements of policy and guidelines, which are used, for the most part, until regulations are published as final rulemaking or explain regulatory requirements in more detail. Bulletins issued by DPW include but are not limited to the following:

- **Children, Youth, and Families Bulletin #3130-09-01, Implementation of the Indian Child Welfare Act of 1978 (ICWA):** Establishes policy requirements relative to the protection of Indian children as required in the Federal Indian Child Welfare Act of 1978
- **Children, Youth, and Families Bulletin #3490-08-05, Frequency and Tracking of Caseworker Visits to Children in Federally Defined Foster Care:** Informs all programs, both county and private, of visitation and reporting requirements related to mandated monthly caseworker visits, as well as details about the federal funding deadlines for submission of required data.
- **Children, Youth, and Families Bulletin #3490-08-03, Implementation of Act 179 of 2006 and Act 73 of 2007 Amending the Child Protective Services Law:** Explains and clarifies new background check of household members, age 14 and older for the initial approval of resource family applicants and other requirements related to Act 179, as well as Act 73 and clarifies how these amendments co-exist with the requirements of Act 160 of 2004.
- **Children, Youth, and Families Bulletin #3130-01-03, Child Placements with Emergency Caregivers:** Defines the procedural steps a county agency must follow if they are placing a child in a potential kinship home in an emergency situation.
- **Children, Youth, and Families Bulletin #00-03-03, Kinship Care Policy:** Defines Formal and Informal Kinship Care and establishes policies and procedures for county agencies to follow when considering kinship families as potential placement resources for children. Formal Kinship Care providers must be assessed and approved as foster parents.
- **Children Youth and Families Bulletin #3130-03-01, Permanent Legal Custodianship Policy:** Establishes a policy for using kinship homes as permanent homes for children when reunification with birth family and adoption have been ruled out.
- **Children Youth and Families Bulletin #3350-03-01, Statewide Adoption Network Policies & Procedures:** Authorizes and explains the services provided through SWAN to support permanency for children including child and family profiles, child preparation, child specific recruitment and post permanency services.

- **Children Youth and Families Bulletin #00-97-12, Priority Placement Request Procedures for the Interstate Compact on the Placement of Children (ICPC):** Provides guidelines for county agencies to follow to receive approval to place a child in a potential kinship home in another state. The ICPC takes precedence over the Children Youth and Families Bulletin #3130-03-01 Permanent Legal Custodianship Policy listed above.

### **Special Transmittals**

State agencies may also issue special transmittals to convey information to county and private children and youth social service agencies or other departments to convey information regarding recent enactment of laws that require immediate implementation, provide standardized forms or other communications. Some examples of subject matter of special transmittals include:

- Fostering Connections to Success and Increasing Adoptions Act of 2008;
- Pennsylvania Standardized Service Plan Forms;
- Random Moment Time Study Requirements Family Service Plan Documentation;
- and
- Enrollment of foster children in schools.