



WRITTEN COMMENTS REGARDING PROPOSED CHANGES TO THE CHILD PROTECTIVE SERVICES  
LAW

PRESENTED TO THE SENATE AGING AND YOUTH COMMITTEE  
AUGUST 16, 2021

BY

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My name is Brian Bornman. I am the Executive Director for the PA Children and Youth Administrators Association, an affiliate of the County Commissioners Association. Our association consists of all 67 county child welfare agencies and a number of associate members, primarily provider agencies. I have worked in the field of social work since 1988 in various roles, including those of child therapist, a child welfare caseworker, and legal counsel representing both parents and a county child welfare agency. I thank you for the opportunity to present to this body and appreciate the efforts being made here to address the critical issues impacting children and families in the Commonwealth.

Issues which may be addressed by legislative change to the CPSL

1. **Remove CPS and GPS expungement timeframes**- PCYA agrees with this recommendation. In the 2017-2018 legislative session, SB938 was passed which permitted counties to retain these reports. It is imperative that the state system be able to maintain them as well, so that services and information sharing can be consistent.

The concerns raised by DHS regarding the detrimental impacts to parents relative to expunged reports being re-referred puts counties in a very compromised position. Under the body of federal law through the third circuit, it is a violation of constitutional rights to intrude on the privacy of a family to investigate a referral that has already been investigated, this is exactly the position taken by DHS at present. If a referral is investigated and found to be unfounded, but is called in again after it is expunged, county child welfare agencies will be cited for a regulatory violation for not investigating the referral again, even if the agency knows it has been unfounded. The only way around this is if there is somehow documentation that the same referral was already investigated

and unfounded. There should never be a situation where counties are forced to violate federal law to comply with state law and this change will resolve that issue.

There are additional benefits by allowing DHS to retain these records. For instance, there is strong evidence supporting that past referrals to Child Welfare is a better indicator of future abuse than an indicated referral. A 2009 national study by Washington University, *Time to Leave Substantiation Behind: Findings From A National Probability Study*, asked the question: Do substantiated and unsubstantiated cases differ in rates of child abuse recidivism over 36 months? The answer is that the risk of recidivism is similar regardless of whether reports were substantiated or not. *Statistically, the risk for children in families with substantiated maltreatment claims was the same as families where maltreatment claims were initially unsubstantiated.*

Prior history can be critical in conducting a thorough investigation and assessment. If child welfare professionals don't have access to the information contained in prior reports they are being deprived of information that may be pertinent to their ability to make a comprehensive assessment. A useful analogy can be found in health care. In an ongoing relationship with a Primary Care Provider, the doctor needs to have full health information. Complaints of a headache to your doctor on a single visit will likely lead to the doctor advising to take a Tylenol; however, headaches every day for weeks will lead to the doctor considering other diagnoses. Without all those "false positive" calls, there wouldn't be adequate data to even start considering other possible health issues. If you swap a headache for homelessness and the doctor for child welfare, and it is clear that what may appear to be a singular event may, in fact, be much more involved and require services to stabilize the family. In both health care and child protection, complete information can be valuable to making an accurate assessment. This information is critical to be able to effectively protect the children of the Commonwealth.

Access to prior history helps caseworkers ensure their own safety. Caseworkers need to have full access to all parts of prior assessment and investigation files. Often in reviewing those files, critical information is discovered that will impact the caseworker's safety, such as a report of a past act of aggression against a child welfare worker or other professional.

Prior history can assist in locating missing children. When children are missing, sometimes they have run away and sometimes their parents have abducted them. No matter what the scenario, every second counts and every available scrap of information that was ever gathered about that child and family must be reviewed and assessed to help locate the missing child.

Lastly, prior history can help find a potential adoptive family for a child with few options. When children are in foster care and it appears that the family of origin will not be able to successfully reunify, the child welfare system begins to consider adoption as a possible outcome for the child. At that point, every possible lead must be explored to determine who might be a good adoptive family for the child. Accepted best practice is that child welfare workers should identify members of the child's family continuously throughout their encounters with that family. A core strategy to accomplish a permanent placement in these cases is record review. If there is only a portion of the past record available, the ability to achieve adoptions for kids who are missing a permanent

connection will be severely impaired. Using this information to build a village around families by strengthening their familial relationships also helps to enhance or develop the protective factors a parent encompasses. This could potentially negate the need for a placement.

2. **The definition of "child abuse"**-PCYA supports the proposed changes to the definition of child abuse relative to permitting a child to be on the grounds of a meth lab. It is believed that this was the intention originally and it is only the BHA interpretation of the 2014 changes that necessitates this.
3. **Reports that are founded after entry into ARD**- PCYA supports these changes for the reasons set forth by DHS.
4. **The fatality/near fatality review process**- PCYA supports this recommendation for the reasons set forth by DHS.
5. **Notification Protocol update**- PCYA supports this recommendation for the reasons set forth by DHS.
6. **Drug testing**- PCYA supports this change. With 70-80% of the referrals to child welfare agencies being due to substance abuse, it is critical that the county agencies be able to compel testing to ensure the safety of children. It is the antithesis of ensuring the safety of children if all it takes to avoid protective services is to refuse to provide a drug screen. This refusal leaves the agencies in a challenging position of either ignoring the situation for lack of evidence or filing a dependency petition without the supporting evidence to provide to the court.

I want to thank this body for holding this hearing to consider the proposed changes to the Child Protective Services Law. I think it is critically important for you, who are making the important decisions regarding the laws impacting child welfare, to hear from those who are doing the work, but also to hear from those receiving services from the system. I would encourage hearing testimony from youth in foster care and parents receiving services. Lastly, I want to thank all the professionals in Pennsylvania who have committed their lives to protecting and caring for the at-risk and abused children in the state

Thank you.

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