

# Reform of the Pennsylvania Child Protective Services Laws

Filling the Gaps in Mandatory  
Reporting Requirements of  
Suspected Child Abuse

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Dauphin County Bar Association CLE

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## CLE Presenters

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## CLE Overview

This CLE examines shortfalls in state child abuse reporting laws to present proposals that increase accountability of mandated reporters and extend protection of children.

Using the recent Penn State tragedy as a case study, we'll explore how essential reforms can improve our state mandatory reporting requirements to protect potential victims of child abuse in Pennsylvania.

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## CLE Learning Objectives

1. You will learn who is a "mandated reporter" of suspected child abuse in our state.
2. You will understand reporting requirements under sections 6311, 6313, & 6319 of CPSL.
3. You will examine statutory gaps that led to tragic events in failing to report suspected child abuse on the Penn State Campus.
4. You will analyze three proposed reforms that address these statutory shortfalls in the CPSL.

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## Suspected Child Abuse

- Every 10 seconds, someone makes a report of child abuse in the U.S.
- In 2009, over 3.3 million child abuse reports and allegations were made involving 6 million children.
- In 2008, the estimated cost of child abuse and neglect in the U.S. totaled \$124 billion.
- More important, the U.S. HHS reports that nearly 80% of 21 year olds who were victims of child abuse are diagnosed with one or more psychological disorders.
- According to one government researcher, over 90% of juvenile sex abuse victims know their perpetrator in some way.

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## Review of Child Abuse Reports

- All 50 States, D.C. and the U.S. Territories have mandatory child abuse and neglect reporting laws requiring certain professionals and institutions to report suspected abuse to a child protection authorities.
- Under PA law, the agency responsible for receiving, documenting & investigating child abuse reports is DPW.
- DPW does not receive all reports of suspected child abuse, as evidenced by PSU tragedy.

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### What happened at PSU?

- After a Grand Jury Report, 40 counts of child sex abuse were filed against former PSU football coach Jerry Sandusky.
- According to his own grand jury testimony, the late Joe Paterno received an eyewitness account of Sandusky's sexual contact with a young boy in March 2002.
- Grand jury concluded that PSU officials should have reported allegations of child sex abuse to DPW under 23 Pa. C.S. §6311.

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### Penn State Games: A Case Study in Mandatory Reporting Gaps

- Who is on the team of mandatory reporters under current state child protection laws?
- How did players in the Penn State scandal drop the ball in reporting Sandusky's suspected child abuse on their field?
- Why does the current reporting scheme fail to catch those who fumble in reporting suspected child abuse?
- Where can we pick up yardage in protecting potential victims of child abuse in our state?

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### Who's on the team? §6311 Persons required to report suspected child abuse

- A person who, in the course of employment, occupation or practice of a profession, comes into contact with children shall report or cause a report to be made...
- when the person has reasonable cause to suspect, on the basis of medical, professional or other training and experience...
- that a child under the care, supervision, guidance or training of that person or of an agency, institution, organization or other entity with which that person is affiliated is a victim...

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### How did “players” at PSU drop the ball? §6319 Penalties for failure to report

- A person or official required by this chapter to report a case of suspected child abuse...
- who willfully fails to do so commits a misdemeanor of the third degree...

Grand jury found that PSU officials failed to comply with reporting obligations and made materially false statements under oath in 2011.

1. Tim Curley, former PSU Athletic Director
2. Gary Schultz, former PSU Senior V President

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### Why does the law fail to catch players who fumble in reporting suspected abuse?

Anticipated defenses:

1. "Well, I told my boss."
2. "They're not our student."
3. "That's not what I heard."

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### "Well, I told my boss."

- 23 Pa. C.S. § 6311 (c). Current law states that a mandated reporter, set forth in 23 Pa. C.S. § 6311 (b), "shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge."
- Language of subsection (c) fails to hold institutional administrators accountable for reports of suspected child abuse by requiring *only* notice to the person in charge of the institution or the designated agent.
- **REFORM:** Clarify statutory reporting requirement of "not relieve the mandated report of the obligation."

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### "They're not our student."

- Present law 23 Pa. C.S. § 6311 (a), requires subjects of reports to be "a child under the care, supervision, guidance or training of that person or of an agency, institution, organization or other entity with which that person is affiliated is a victim of child abuse."
- Statutory language is burdensome as it requires officials to examine the *relationship* of a child to an institution before reporting suspected abuse, rather than first reporting allegations of child abuse.
- **REFORM:** Broaden current statutory coverage from "a child" to "any child."

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### "That's not what I heard."

- Current law has no "closing of reporting loop."
- This statutory loophole facilitate inadequate, inaccurate, and/or insufficient disclosure of reports of suspected child abuse, rather than accurate, responsible, and consistent reports.
- **REFORM:** Add requirements that mandated reporter notify "person next in charge" and that DPW notify "person in charge or next in charge" regardless of reporting source.

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### SUMMARY: Gain yardage to protect all children

Reform of Mandatory Reporting Requirements:

1. Clarify 23 Pa. C.S. § 6311 (c) so mandated reporters comply with statutory reporting obligations to avoid passing the buck with "I told my boss" defense.
2. Broaden 23 Pa. C.S. § 6311 (a) for full coverage of "any child," rather than a narrow class of children to avoid "That's not our child" defense.
3. Add subsection to 23 Pa. C.S. § 6311 that compels mandated reporters to tell "person next in charge" when applicable and the requires DPW to notify the person in charge to prevent "That's not what I heard" defense.

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## Conclusion

- Child Abuse Hotline: Toll-Free: (800) 932-0313
- Attend public hearings in General Assembly
- Contact Advocacy Groups to reform CPSL

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