

Child Protection Legislative Amendments
Definitions Only

Act	Definition	Practical Implication
Act 33 of 2014 Added §6303(a) of Title 23 Effective 12/31/14	<u>"Adult." An individual 18 years of age or older.</u>	Includes persons age 18 or older.
Act 108 Added to §6303(a) of Title 23 Effective 12/31/14	<u>"Bodily injury." Impairment of physical condition or substantial pain.</u>	<p>Lowens the threshold from 'severe pain' to 'substantial pain' including situations where a child in unable to sit down, use a limb, has difficulty sleeping or standing. It would be pain that lasts for some time and/or is intense at some point, and what reasonable individuals would recognize as painful (recognizing that some battered children deny they have felt pain, even when seriously injured).</p> <p>It is important to recognize that one cannot ask children to assess their level of pain (which we often did with severe). Substantial pain should not be relative-children who are chronically abused/beaten may have a different pain threshold, but the same injury (multiple loop cord marks from being beaten) should be considered to have caused substantial pain to them compared with a child who is not chronically abused even if the chronically abused child may not be complaining as much about pain.</p>
Act 108 Added to §6303(a) of Title 23 Effective 12/31/14	<u>Child." An individual under 18 years of age.</u>	Birth to 17
Act 108 of 2013 Amended §6303(b.1) of Title 23 Effective 12/31/14	<p><u>Child abuse.--The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:</u></p> <p><u>(1) Causing bodily injury to a child through any recent act or failure to act.</u></p> <p><u>(2) 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.</u></p>	<p>Recent acts applies to the following situation: (1) bodily injury, (2) fabricating, feigning a medical symptom or disease, (5) creating a reasonably likelihood of bodily injury, (6) creating a reasonable likelihood of sexual abuse or exploitation, and (8) the pro se list of acts.</p> <p>Recent act does not apply to (3) serious mental injury, (4) causing sexual abuse or exploitation, (6) serious physical neglect and suspicious deaths.</p>

<p><u>(3) 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.</u></p> <p><u>(4) Causing sexual abuse or exploitation of a child through any act or failure to act.</u></p> <p><u>(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.</u></p> <p><u>(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.</u></p> <p><u>(7) Causing serious physical neglect of a child.</u></p> <p><u>(8) Engaging in any of the following recent acts:</u></p> <p><u>(i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.</u></p> <p><u>(ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.</u></p> <p><u>(iii) Forcefully shaking a child under one year of age.</u></p> <p><u>(iv) Forcefully slapping or otherwise striking a child under one year of age.</u></p> <p><u>(v) Interfering with the breathing of a child.</u></p> <p><u>(vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.</u></p> <p><u>(vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:</u></p> <p><u>(A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.</u></p> <p><u>(B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.</u></p> <p><u>(C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12</u></p>	<p>Munchausen Syndrome by Proxy (Factitious Disorder)</p> <p>An act or a series of acts over a course of time that significantly contributes to, not necessarily directly causes a child to be fearful, agitated, depressed, anxious, etc. A physician or licensed psychologist must still diagnose.</p> <p>#6 – This would include situations in which the child may not have been left unsupervised with a registered sex offender or indicated/founded perpetrator of sexual abuse such as a parent who knows their paramour is a registered sex offender or an indicated/founded perpetrator of sexual abuse, yet they continue to allow him/her to reside in the home and have contact with children.</p> <p>Imminent risk-type situations. These “pro se” acts are those in which the acts in and of themselves constitute abuse regardless of whether an injury resulted.</p> <p>In a manner that ‘endangers’ means the accused was aware that the child was in circumstances that could threaten the child’s physical welfare.</p> <p>The toxic nature of these labs and the impact of these toxins on children is so serious that as long as a criminal investigation is occurring into a lab where children are present constitutes abuse.</p> <p>The appropriate standard to use to determine whether a parent or caretaker is a Perpetrator by omission is whether a reasonable person in the position of the caretaker knew or should have known that acts of abuse were occurring and the parent or caretaker failed to take steps to remove the child from harm's way. <i>Bucks County Children and Youth Social Services Agency v. Department of Public Welfare, 151 Pa.Cmwlth. 110, 616 A.2d 170 (Pa.Cmwlth.1992).</i></p> <p>Tier I and Tier II sexual offenders are those who have been registered with Megan’s Law (http://www.pameganslaw.state.pa.us/)</p>
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	<p><u>(relating to definitions).</u> <u>(9) Causing the death of the child through any act or failure to act.</u> <u>(c) Restatement of culpability.--Conduct that causes injury or harm to a child or creates a risk of injury or harm to a child shall not be considered child abuse if there is no evidence that the person acted intentionally, knowingly or recklessly when causing the injury or harm to the child or creating a risk of injury or harm to the child.</u> <u>(d) Child abuse exclusions.--The term "child abuse" does not include any conduct for which an exclusion is provided in section 6304 (relating to exclusions from child abuse).</u></p>	<p>Act 21 applies to adjudicated youth, aging out of the juvenile justice system, that has a "mental abnormality" that renders them unable to control their violent sexual impulses. The Act mandates DPW provide mental health and sex-offense-specific treatment to an identified population that had been adjudicated of certain sex crimes, received treatment in a juvenile program, yet remains a significant risk to sexually re-offend after reaching the age of 21, an age when oversight by the juvenile justice system typically ends. The Act requires the referral of such individuals who have committed these specific crimes to the Pennsylvania Sexual Offenders Assessment Board (SOAB) ninety days prior to their 20th birthday for purposes of determining if the individual has "serious difficulty in controlling sexually violent behavior." If so determined, a petition for a mental health hearing will be made for determination of civil commitment to the Sexual Responsibility and Treatment Program (SR & TP) on the grounds of Torrance State Hospital.</p> <p>Deaths can be investigated as abuse regardless of when the act occurred.</p>
<p>Act 108 of 2013 Added to §630 4 of Title 23 Effective 12/31/14</p>	<p>§ 6304. Exclusions from child abuse. <u>(a) Environmental factors.--No child shall be deemed to be physically or mentally abused based on injuries that result solely from environmental factors, such as inadequate housing, furnishings, income, clothing and medical care, that are beyond the control of the parent or person responsible for the child's welfare with whom the child resides. This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.</u> <u>(b) Practice of religious beliefs.--If, upon investigation, the county agency determines that a child has not been provided needed medical or surgical care because of sincerely held religious beliefs of the child's parents or relative within the third degree of consanguinity and with whom the child resides, which beliefs are consistent with those of a bona fide religion, the child shall not be deemed to be physically or mentally abused. In such cases the following shall apply:</u> <u>(1) The county agency shall closely monitor the child and the child's family and shall seek court-ordered</u></p>	<p>These exclusions apply to substantiation of child abuse, not to the requirement to report!!!</p> <p>Parents and other caregivers will not be determined to be perpetrators of child abuse as a result of poverty or other factors outside of their control.</p> <p>“deemed to be” means by the county children and youth agency.</p> <p>Parents can practice their religious beliefs and not be a perpetrator of child abuse except when their child dies. (Example, a parent can refuse for their child to receive blood transfusions, but if their child dies as a result, they can be considered a perpetrator of abuse.)</p>

<p><u>medical intervention when the lack of medical or surgical care threatens the child's life or long-term health.</u></p> <p><u>(2) All correspondence with a subject of the report and the records of the department and the county agency shall not reference child abuse and shall acknowledge the religious basis for the child's condition.</u></p> <p><u>(3) The family shall be referred for general protective services, if appropriate.</u></p> <p><u>(4) This subsection shall not apply if the failure to provide needed medical or surgical care causes the death of the child.</u></p> <p><u>(5) This subsection shall not apply to any child-care service as defined in this chapter, excluding an adoptive parent.</u></p> <p><u>(c) Use of force for supervision, control and safety purposes.--Subject to subsection (d), the use of reasonable force on or against a child by the child's own parent or person responsible for the child's welfare shall not be considered child abuse if any of the following conditions apply:</u></p> <p><u>(1) The use of reasonable force constitutes incidental, minor or reasonable physical contact with the child or other actions that are designed to maintain order and control.</u></p> <p><u>(2) The use of reasonable force is necessary:</u></p> <p><u>(i) to quell a disturbance or remove the child from the scene of a disturbance that threatens physical injury to persons or damage to property;</u></p> <p><u>(ii) to prevent the child from self-inflicted physical harm;</u></p> <p><u>(iii) for self-defense or the defense of another individual; or</u></p> <p><u>(iv) to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are on the child or within the control of the child.</u></p> <p><u>(d) Rights of parents.--Nothing in this chapter shall</u></p>	<p>The agency can intervene to assure the health and safety of children, but would be required to go to court as necessary to ensure the provision of services and necessary medical care for the child.</p> <p>The use of "reasonable force" applies to parents, schools and residential programs. It permits an individual to intervene in order to maintain order or control, break up fights, prevent injury to self or others or property or to obtain weapons or contraband.</p> <p>Reasonable means that generally speaking, the majority of people would look at the act and say that it made sense. This determination of reasonable must be made on an individual case-by-case basis.</p> <p>No differentiation between dependent or delinquent programs.</p>
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be construed to restrict the generally recognized existing rights of parents to use reasonable force on or against their children for the purposes of supervision, control and discipline of their children. Such reasonable force shall not constitute child abuse.

(e) Participation in events that involve physical contact with child.--An individual participating in a practice or competition in an interscholastic sport, physical education, a recreational activity or an extracurricular activity that involves physical contact with a child does not, in itself, constitute contact that is subject to the reporting requirements of this chapter.

(f) Child-on-child contact.--

(1) Harm or injury to a child that results from the act of another child shall not constitute child abuse unless the child who caused the harm or injury is a perpetrator.

(2) Notwithstanding paragraph (1), the following shall apply:

(i) Acts constituting any of the following crimes against a child shall be subject to the reporting requirements of this chapter:

(A) rape as defined in 18 Pa.C.S. § 3121 (relating to rape);

(B) involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

(C) sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault);

(D) aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault);

(E) indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault); and

(F) indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(ii) No child shall be deemed to be a perpetrator of

Parents CAN physically discipline their children. The use of “reasonable force” is one in which force used was no greater than necessary, and was applied in a good faith effort to maintain discipline and not to intentionally harm the child.

Incidental contact that occurs in and of itself does not rise to the level of child abuse (Example: A basketball coach showing a player how to box out.)

EXCLUSION FROM REPORTING – harm or injury caused between two children, under 18 years of age, unless the child who caused the harm is a perpetrator or if it is a sexual offense.

	<p><u>child abuse based solely on physical or mental injuries caused to another child in the course of a dispute, fight or scuffle entered into by mutual consent.</u></p> <p><u>(iii) A law enforcement official who receives a report of suspected child abuse is not required to make a report to the department under section 6334(a) (relating to disposition of complaints received), if the person allegedly responsible for the child abuse is a nonperpetrator child.</u></p> <p><u>(g) Defensive force.--Reasonable force for self-defense or the defense of another individual, consistent with the provisions of 18 Pa.C.S. §§ 505 (relating to use of force in self-protection) and 506 (relating to use of force for the protection of other persons), shall not be considered child abuse.</u></p>	<p>Two children involved in a fist fight. This is not meant to include an “attack” on one child by another. Reasonable cause to suspect child abuse must exist first!</p> <p>Mutual consent means a fight or scuffle upon mutual consent is one in which “both of the parties engaged in the fighting mutually, both desiring to do so.” Pa. SSJI (Crim) § 15.2701E</p>
<p>Act 119 Amended §6303(a) of Title 23 Effective 12/31/14</p>	<p><u>"Child-care services." Includes any of the following:</u></p> <p><u>(1) Child day-care centers.</u></p> <p><u>(2) Group day-care homes.</u></p> <p><u>(3) Family day-care homes.</u></p> <p><u>(4) Foster homes.</u></p> <p><u>(5) Adoptive parents.</u></p> <p><u>(6) Boarding homes for children.</u></p> <p><u>(7) Juvenile detention center services or programs for delinquent or dependent children.</u></p> <p><u>(8) Mental health services for children.</u></p> <p><u>(9) Services for children with intellectual disabilities.</u></p> <p><u>(10) Early intervention services for children.</u></p> <p><u>(11) Drug and alcohol services for children.</u></p> <p><u>(12) Day-care services or programs that are offered by a school.</u></p> <p><u>(13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare or a county social services agency or that are provided pursuant to a contract with the Department of Public Welfare or a county social services agency.</u></p>	<p>Used generally for clearances. Includes daycare services or other programs offered by a school which were specifically excluded previously. If the program is licensed to provide child care services, they likely would have already been required to obtain clearances regardless of where the child care was provided.</p>
<p>Act 33 of 2014 Added</p>	<p><u>"Direct contact with children." The care, supervision, guidance or control of children, or routine interaction</u></p>	<p>Includes individuals who have some level of involvement and responsibility for children and for those who come into contact with children on a regular, repeated or</p>

<p>§6303(a) of Title 23 Effective 12/31/14</p>	<p><u>with children.</u></p>	<p>habitual basis.</p>
<p>Act 29 of 2014 Added §6303(a) of Title 23 Effective 12/31/14</p>	<p><u>"Electronic technologies." The transfer of information in whole or in part by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic or photo-optical systems, or similar capabilities. The term includes, but is not limited to, e-mail, Internet communication or other means of electronic transmission.</u></p>	<p>Allows for the use of CWIS and for processes to be completed electronically rather than paper based.</p>
<p>Act 44 of 2014 Amended §6303(a) of Title 23 Effective 12/31/14</p>	<p><u>"Founded report." A child abuse report involving a perpetrator that is made pursuant to this chapter, if any of the following applies:</u> <u>(1) There has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following:</u> <u>(i) The entry of a plea of guilty or nolo contendere.</u> <u>(ii) A finding of guilt to a criminal charge.</u> <u>(iii) A finding of dependency under 42 Pa.C.S. § 6341 (relating to adjudication) if the court has entered a finding that a child who is the subject of the report has been abused.</u> <u>(iv) A finding of delinquency under 42 Pa.C.S. § 6341 if the court has entered a finding that the child who is the subject of the report has been abused by the child who was found to be delinquent.</u> <u>(2) There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.</u> <u>(3) There has been a consent decree entered in a juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the decree involves the same factual circumstances involved in the allegation of</u></p>	<p>Includes two additional categories for which cases can be founded as long as the proceeding involves the same factual circumstances involved in the allegation of child abuse including Protection from Abuse proceedings or when a person has entered an Accelerated Rehabilitative Disposition program.</p>

	<p><u>child abuse and the terms and conditions of the [allegation] consent decree include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent.</u></p> <p><u>(4) A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and:</u></p> <p><u>(i) only one individual is charged with the abuse in the protection from abuse action;</u></p> <p><u>(ii) only that individual defends against the charge;</u></p> <p><u>(iii) the adjudication involves the same factual circumstances involved in the allegation of child abuse; and</u></p> <p><u>(iv) the protection from abuse adjudication finds that the child abuse occurred.</u></p>	
<p>Act 44 of 2014 Amended §6303(a) of Title 23 Effective 12/31/14</p>	<p><u>"General protective services." Those services and activities provided by each county agency for cases requiring protective services, as defined by the department in regulations.</u></p>	<p>General neglect cases</p>
<p>Act 33 of 2014 Added §6303(a) of Title 23 Effective 12/31/14</p>	<p><u>"Health care facility." as defined in section 802.1 of the Act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.</u></p>	<p>Provides a definition of health care facilities which includes, but is not limited to, a general, chronic disease or other type of hospital, a home health care agency, a home care agency, a hospice, a long-term care nursing facility, cancer treatment centers using radiation therapy on an ambulatory basis, an ambulatory surgical facility, a birth center regardless of whether such health care facility is operated for profit, nonprofit or by an agency of the Commonwealth or local government. It further states that the term health care facility shall not include an office used primarily for the private practice of neither a health care practitioner, nor a program which renders treatment or care for drug or alcohol abuse or dependence unless located within a health facility, nor a facility providing treatment solely on the basis of prayer or spiritual means. The term health care facility shall not apply to a facility which is conducted by a religious organization for the purpose of providing health care services exclusively to clergymen or other persons in a religious profession who are members of a religious denomination.</p>

<p>Act 4 of 2014 Added to §6303(a) of Title 23 Effective 4/22/14</p>	<p><u>"Health care provider."</u> A licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.</p>	<p>Primarily used for mandatory reporting of substance exposed infants.</p>
<p>Act 33 of 2014 Added to §6303(a) of Title 23 Effective 12/31/14</p>	<p><u>"Independent contractor."</u> An individual who provides a program, activity or service to an agency, institution, organization or other entity, including a school or regularly established religious organization, that is responsible for the care, supervision, guidance or control of children. The term does not include an individual who has no direct contact with children.</p>	<p>Includes individuals who are performing a service or interacting with children on behalf of the agency, but are not employees of the agency including food service workers, janitorial staff, school bus drivers, etc.</p>
<p>Act 108 of 2013 Added to §6303(a) of Title 23 Effective 12/31/14</p>	<p><u>"Intentionally."</u> The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability). <i>A person acts intentionally when they consciously engage in conduct of that nature or cause such a result and are aware of such circumstances or believe or hope that they exist. 18 Pa.C.S. § 302 (relating to general requirements of culpability).</i></p> <p><u>"Knowingly."</u> The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability). <i>A person acts knowingly when they are aware that their conduct is of that nature or that such circumstances exist and they are aware that it is practically certain that their conduct will cause such a result. 18 Pa.C.S. § 302 (relating to general requirements of culpability).</i></p> <p><u>"Recklessly."</u> The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability). <i>A person acts recklessly when they consciously disregard a substantial and justifiable risk that the material element exists or will result from their conduct. The</i></p>	<p><u>Intentionally</u> - A person acts intentionally with respect to bodily (or serious bodily injury) injury when it is his or her conscious object or purpose to cause such injury.</p> <ul style="list-style-type: none"> <i>Example- Joe is driving a car and sees a man walking on the sidewalk. With the purpose of running the man over, Joe drives the car up on to the sidewalk and hits the pedestrian.</i> <p><u>Knowingly</u> - A person acts knowingly with respect to bodily injury (or serious bodily injury) when he or she is aware that it is practically certain that his or her conduct will cause such a result.</p> <ul style="list-style-type: none"> <i>Example- Joe is stuck in traffic. He is late for a meeting. He notices that the sidewalk is wide enough to accommodate his car. He also sees numerous pedestrians on the sidewalk. He does not want to injure anyone but it is practically certain that driving the car on to the sidewalk will injure a pedestrian. Despite the risk that it is practically certain he may hit and injure one of the pedestrians, Joe drives his car on to the sidewalk in an effort to get out of the traffic jam. Sure enough, Joe strikes a pedestrian.</i> <p><u>Recklessly</u> - A person acts recklessly with respect to bodily injury (or serious bodily injury) when he or she consciously disregards a substantial and unjustifiable risk that bodily injury will result from his or her conduct. The risk must be of such a nature and degree that, considering the nature and intent of the defendant's conduct and the</p>

	<p><i>risk must be of such a nature and degree that, considering the nature and intent of the conduct and the circumstances known to them, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the situation. 18 Pa.C.S. § 302 (relating to general requirements of culpability).</i></p>	<p>circumstances known to him or her, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the defendant's situation.</p> <ul style="list-style-type: none"> • <u>Example</u>- Joe is stuck in traffic. He is late for a meeting. He notices that the sidewalk is wide enough to accommodate his car. He does not see any pedestrians on the sidewalk at this moment. From past experience, he knows that pedestrians do occasionally use the sidewalk. He decides to hope for the best and drive on to the sidewalk to bypass the traffic jam. While he is driving on the sidewalk, about halfway down the block, a pedestrian steps out of an alleyway directly in front of Joe's car. Joe strikes the pedestrian with his car.
<p>Act 29 of 2014 Added §6303(a) of Title 23 Effective 12/31/14</p>	<p>"Law enforcement official." The term includes the following: (1) The Attorney General. (2) A Pennsylvania district attorney. (3) A Pennsylvania State Police officer. (4) A municipal police officer.</p>	<p>No clarification needed.</p>
<p>Act 29 of 2014 Added §6303(a) of Title 23 Effective 12/31/14</p> <p>Act 33 of 2014 Added §6303(a) of Title 23 Effective 12/31/14</p>	<p>"Mandated reporter." A person who is required by this chapter to make a report of suspected child abuse.</p>	<p>Refers to those individuals required to report suspected child abuse in accordance with § 6311.</p>
<p><u>Act 44 of 2014</u> <u>Amended §6303(a) of Title 23</u> <u>Effective</u></p>	<p><u>"Near fatality" A child's serious or critical condition, as certified by a physician, where that child is a subject of the report of child abuse.</u></p>	<p>Reworded for clarity to require a physician to certify that the child is in serious or critical condition as a result of suspected child abuse.</p>

<p>12/31/14</p> <p>Act 108 of 2013 Added to §6303(a) of Title 23 Effective 12/31/14</p>	<p>"Parent." A biological parent, adoptive parent or legal guardian.</p>	<p>A legal guardian must be appointed through the court. The term 'custodian' is typically used in place of 'legal guardian'.</p> <p>"Custodian" means a person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.</p>
<p>Act 117 of 2013 Amended §6303(a) of Title 23 Effective 12/31/14</p>	<p>"Perpetrator." A person who has committed child abuse as defined in this section. The following shall apply:</p> <p>(1) The term includes only the following:</p> <p>(i) A parent of the child.</p> <p>(ii) A spouse or former spouse of the child's parent.</p> <p>(iii) A paramour or former paramour of the child's parent.</p> <p>(iv) A person 14 years of age or older and responsible for the child's welfare.</p> <p>(v) An individual 14 years of age or older who resides in the same home as the child.</p> <p>(vi) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.</p> <p>(2) Only the following may be considered a perpetrator for failing to act, as provided in this section:</p> <p>(i) A parent of the child.</p> <p>(ii) A spouse or former spouse of the child's parent.</p> <p>(iii) A paramour or former paramour of the child's parent.</p> <p>(iv) A person 18 years of age or older and responsible for the child's welfare.</p> <p>(v) A person 18 years of age or older who resides in the same home as the child.</p>	<p>For the purposes of the CPS investigation, a perpetrator includes a person who is or has been in a caregiving role and is providing permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care.</p> <p>14-18 year olds who are not parents can be held accountable for their actions, but not the actions of others.</p> <p>Difference in age for person's responsible for a child's welfare to 18 years of age based on commission or omission.</p>
<p>Act 33 of 2014 Added §6303(a) of Title 23</p>	<p>"Person affiliated with" a person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a specified person.</p>	<p>Includes individuals who may not be directly responsible for care, supervision, guidance or training of the child they suspect is a victim of abuse, but is somehow connected to the agency that is. For example, they may be a therapist within an agency, but not treating the child they suspect is a victim, so they are "affiliated with"</p>

Effective 12/31/14		the agency.
Act 117 of 2013 Amended §6303(a) of Title 23 Effective 12/31/14	<u>"Person responsible for the child's welfare."</u> A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization.	Individuals who have direct or regular contact with the child and now includes programs, activities and services sponsored by a school, for-profit organization or religious or other not-for-profit organization. Includes paid and unpaid positions
Act 33 of 2013 Amended §6303(a) of Title 23 Effective December 31, 2014	<u>"Program, activity or service."</u> A public or private educational, athletic or other pursuit in which children participate. The term includes, but is not limited to, the following: (1) A youth camp or program. (2) A recreational camp or program. (3) A sports or athletic program. (4) An outreach program. (5) An enrichment program. (6) A troop, club or similar organization.	This includes, but it not limited to, organizations such as the Girl Scouts, Boy Scouts, Boys and Girls Clubs, after school programs, sports programs such as Little League Baseball, youth soccer, and summer camps.
Act 108 of 2013 Added to §6303(a) of Title 23 Effective 12/31/14	<u>"Recent act or failure to act."</u> Any act or failure to act committed within two years of the date of the report to the Department of Public Welfare or county agency.	Two years is based on the date of the report to ChildLine, not the date the injury occurred.
Act 4 of 2014 Added to §6303(a) of Title 23 Effective 4/22/14	<u>"Safety assessment."</u> A Commonwealth-approved systematic process that assesses a child's need for protection or services based on the threat to the safety of the child.	This definition codifies Pennsylvania's Safety Assessment and Management Process.
Act 44 of 2014	<u>"School."</u> A facility providing elementary, secondary or postsecondary educational services. The term	Now includes colleges and universities

<p><u>Amended §6303(a) of Title 23 Effective 12/31/14</u></p>	<p><u>includes the following:</u></p> <p><u>(1) Any school of a school district.</u></p> <p><u>(2) An area vocational-technical school.</u></p> <p><u>(3) A joint school.</u></p> <p><u>(4) An intermediate unit.</u></p> <p><u>(5) A charter school or regional charter school.</u></p> <p><u>(6) A cyber charter school.</u></p> <p><u>(7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.</u></p> <p><u>(8) A private school accredited by an accrediting association approved by the State Board of Education.</u></p> <p><u>(9) A nonpublic school.</u></p> <p><u>(10) A community college which is an institution now or hereafter created pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or the former act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.</u></p> <p><u>(11) An independent institution of higher education which is an institution of higher education which is operated not for profit, located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college" or "university" as provided for by standards and qualifications prescribed by the State Board of Education pursuant to 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).</u></p> <p><u>(12) A State-owned university.</u></p> <p><u>(13) A State-related university.</u></p> <p><u>(14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.</u></p> <p><u>(15) Hiram G. Andrews Center.</u></p> <p><u>(16) A private residential rehabilitative institution as</u></p>	
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	<u>defined in section 914.1-A(c) of the Public School Code of 1949.</u>	
Act 44 of 2014 Amended §6303(a) of Title 23 Effective 12/31/14	<u>"School employee." An individual who is employed by a school or who provides a program, activity or service in sponsored by a school. The term includes an independent contractor and employees. The term excludes an individual who has no direct contact with children.</u>	Clarifies that school employees include all those individuals who have <u>direct contact</u> with children because they are directly employed by the school or are contractors of the school such as teachers, janitors, food service workers, counselors, etc. This term would not include HVAC personnel or grounds staff.
Act 108 of 2013 Added to §6303(a) of Title 23 Effective 12/31/14	<u>"Serious physical neglect." Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning: (1) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities. (2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.</u>	Neglect over a period of time or a one-time event that is so blatant that the child's health or development has been impacted. This includes a failure to provide essential food, clothing, shelter or medical or behavioral health care (includes pharmacy, vision and dental). Example: A young child found wandering outside without appropriate supervision on a busy street.
Act 108 of 2013 Added to §6303(a) of Title 23 Effective 12/31/14	<u>"Sexual abuse or exploitation." Any of the following: (1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following: (i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual. (ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual. (iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual. (iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including</u>	An exception to sexual abuse in paragraph #1 is sexual activity between two minors, ages 14-18, which does not involve the use of force or coercion. Sexual abuse includes coaxing or forcing a child to engage in or assisting someone else in looking at intimate parts, participating in sexually explicit conversation, simulating sexual activity or photographing or other visual depiction of sexual activity for the purposes of gratification. Now allows for perpetrator by omission without first having a perpetrator by commission. (i-iv) was pulled over from existing regulations.

	<p><u>photographing, videotaping, computer depicting or filming.</u></p> <p><u>This paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.</u></p> <p><u>(2) Any of the following offenses committed against a child:</u></p> <p><u>(i) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).</u></p> <p><u>(ii) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).</u></p> <p><u>(iii) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).</u></p> <p><u>(iv) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).</u></p> <p><u>(v) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).</u></p> <p><u>(vi) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).</u></p> <p><u>(vii) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).</u></p> <p><u>(viii) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).</u></p> <p><u>(ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).</u></p> <p><u>(x) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).</u></p> <p><u>(xi) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).</u></p> <p><u>(xii) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).</u></p> <p><u>(xiii) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).</u></p>	<p>Newly added crimes: Statutory sexual assault, Institutional sexual assault, Indecent assault, and Unlawful contact with a minor.</p>
Act 45 of	"Subject of the report." Any child, parent, guardian	Had previously excluded school employees, but now includes them as they are now

2014 Amended §6303(a) of Title 23 Effective 12/31/14	<u>or other person responsible for the welfare of a child or any alleged or actual perpetrator [or school employee named] in a report made to the Department of Public Welfare or a county agency under this chapter.</u>	considered persons responsible for the child’s welfare so they would also be a subject of a report.
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