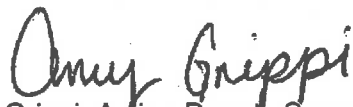


ISSUE DATE November 1, 2019	EFFECTIVE DATE Immediately	NUMBER 3490-19-03
SUBJECT Information Sharing in Custody Filings (Act 107 of 2013)	BY  Amy Grippi, Acting Deputy Secretary Office of Children, Youth & Families	

SCOPE:

County Children and Youth Agencies
County Children and Youth Agency Solicitors
County Juvenile Probation Offices
Administrative Office of Pennsylvania Courts

PURPOSE:

The purpose of this bulletin is to transmit requirements and guidance related to legislative changes to Pennsylvania's Child Custody Act, specifically Act 107 of 2013. This legislation amended Title 23, Pa. C.S. (Domestic Relations), Chapter 53 (Child Custody) (otherwise known as the Child Custody Act) and Chapter 63 (Child Protective Services) (otherwise known as the Child Protective Services Law (CPSL)) along with Title 42 Pa. C.S. (Judiciary and Judicial Procedure), Chapter 63 (Juvenile Matters) (otherwise known as the Juvenile Act). Act 107 requires custody courts to determine if a child is the victim of a crime which would constitute child abuse as defined in the CPSL.

BACKGROUND:

Act 107, which became effective January 1, 2014, requires cooperation and information sharing between the Department of Human Services (Department), county children and youth service agencies (CCYAs) and the courts. As part of Pennsylvania's statewide efforts to implement legislative changes to the CPSL, and other laws impacting children, the Department convened a Custody Workgroup as part of the CPSL Implementation Workgroup. The Custody Workgroup was tasked with making recommendations for

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The appropriate OCYF Regional Office

ORIGIN OF BULLETIN:

Erik Walters, OCYF Human Services Program Specialist
(717-705-5420 / eriwalters@pa.gov)

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rules and regulations for the following amendments to Title 23, Pa. C.S. (Domestic Relations) and Title 42, Pa. C.S. (Judiciary and Judicial Procedure):

- Amended 23 Pa. C.S. § 5328 (relating to factors to consider when awarding custody) of the Child Custody Act to include information relating to child abuse and involvement with protective services.
- Amended 23 Pa. C.S. § 5329.1 (relating to consideration of child abuse and involvement with protective services) of the Child Custody Act to allow the court, in custody matters, to consider the following:
 - With respect to child abuse:
 - Whether the child is the subject of an indicated or founded report of child abuse;
 - Whether a party or a member of the party's household has been identified as the perpetrator in an indicated or founded report of child abuse;
 - The date and circumstances of the child abuse; and
 - The jurisdiction where the child abuse took place.
 - With respect to child protective services (CPS) or general protective services (GPS):
 - Whether a party or a member of the party's household was provided services;
 - The type of services provided;
 - The circumstances surrounding the provision of services;
 - The status of services;
 - The date services were provided; and
 - The jurisdiction where services were provided.
- Amended 23 Pa. C.S. § 6340 (relating to release of information in confidential reports) and § 6375 (relating to county agency requirements for general protective services) of the CPSL to allow for information sharing by the Department and the CCYA on CPS and GPS to the jurisdiction determining custody.
- Amended 42 Pa. C.S. § 6307 (relating to inspection and court files) and § 6308 (relating to law enforcement records) of the Juvenile Act to allow all respective files and records of the court to be open for inspection by:
 - A court in determining custody per 23 Pa. C.S. § 5328 (relating to factors to consider when awarding custody) and § 5329.1 (relating to consideration of child abuse and involvement with protective services) of the Child Custody Act; and

- o The Department when determining whether an indicated or founded perpetrator of child abuse should be expunged from the statewide database.

DISCUSSION:

Title 23 Pa. C.S. § 5329.1 (a)(1) and (2) outlines what information the court is to consider in custody determinations and provides for information sharing in custody filings related to child abuse and protective services involvement.

Courts previously considered custody parties' involvement with CCYAs, as well as their criminal history, based upon the criminal history affidavit that all parties are required to file in custody actions per Rule 1915.3-2 (relating to criminal record or abuse history) of the Pennsylvania Rules of Civil Procedure. When awarding custody of a child under the Child Custody Act, the court's mandate is to consider all relevant factors at § 5328 (relating to factors to consider when awarding custody), giving weighted consideration to those factors that affect the child's safety. This includes, but is not limited to, "The present and past abuse committed by a party or member of the party's household, whether there is a continued risk of harm to the child or an abused party and which party can better provide adequate physical safeguards and supervision of the child." The newly added § 5329.1 (a)(1) and (2) allows parties to a custody action to request information related to the parties' involvement with CCYAs and also obligates the courts to consider any CCYA involvement in their statutorily required best interest analysis. This is an additional factor for the court to weigh.

Without a standard definition of "best interest of the child," the United States Department of Health and Human Services, Children's Bureau, recognizes through their Child Welfare Information Gateway that the term generally refers to the consideration taken by the courts when deciding what type of services, actions, and order will best serve a child as well as who is best suited to take care of a child. Additionally, the Children's Bureau acknowledges that determinations based on the best interests of the child analysis are made by considering various factors related to the child's circumstances and the parent or caregiver's circumstances and ability to parent, with the child's safety and well-being holding the utmost importance.

The Information Sharing in Custody Filings Form has been developed to capture the required information, once brought forth by the courts, to ensure that judges and hearing masters in custody matters are fully aware of any history of child abuse or neglect involving the family (*See attached CY1002*).

When completing the Information Sharing in Custody Filings Form, the term "Party" will have the following meaning as defined in 42 Pa. C.S. (Judicial and Judicial Procedure), Chapter 1 (General Procedure), § 102 (Definitions):

“Party” a person who commences or against whom relief is sought in a matter. The term includes counsel for such a person who is represented by counsel.

NEXT STEPS:

To ensure cooperation between CCYAs and the courts, CCYAs should gather and return the information contained in the attached Information Sharing in Custody Filings Form, within 48 hours of receiving a request from the courts, unless the requesting court directs otherwise. To meet this requirement, CCYAs may use the attached CY1002 or may develop their own form, provided that all data elements from the CY1002 form are contained in their form. During annual licensing reviews, the Office of Children, Youth and Families will ensure that each CCYA is using a form that includes all required data elements to collect the required information.

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA

Plaintiff	.	
v.	.	No. _____
Defendant	.	

Information Related to Child Abuse and Involvement with Protective Services

HOUSEHOLD 1 – Please list ALL household members and attach sheets if necessary:

NAME	DATE OF BIRTH	ADDRESS	RELATIONSHIP TO CHILD(REN)

Party resides at a confidential location protected by the Protection from Abuse Act, 23 Pa. C.S. § 6112 and/or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa. C.S. § 6701-6713, and/or the Child Custody Act, 23 Pa. C.S. § 5336(b).

HOUSEHOLD 2 – Please list ALL household members and attach sheets if necessary:

NAME	DATE OF BIRTH	ADDRESS	RELATIONSHIP TO CHILD(REN)

Party resides at a confidential location protected by the Protection from Abuse Act, 23 Pa. C.S. § 6112 and/or the Domestic and Sexual Violence Victim Address Confidentiality Act, 23 Pa. C.S. § 6701-6713, and/or the Child Custody Act, 23 Pa. C.S. § 5336(b).

SUBJECT CHILD(REN) – Attach additional sheets if necessary:

NAME	DATE OF BIRTH

TO BE COMPLETED BY THE AGENCY

CHECK ALL THAT APPLY:

- No information on this family within CCYA records.
- Child Protective Services (Complete CPS section below)
- General Protective Services (Complete GPS section below)

I. Child Protective Services (CPS) Cases

Was any child(ren), listed above, subject of an indicated report of child abuse?

Yes No* If yes, indicate date(s) of incident(s) and name(s): _____

Was any child(ren), listed above, subject of a founded report of child abuse?

Yes No* If yes, indicate date(s) of incident(s) and name(s): _____

Has a party or member of the party's household been identified as the perpetrator in an indicated report of child abuse?

Yes No* If yes, indicate date(s) of incident(s) and name(s): _____

Has a party or member of the party's household been identified as the perpetrator in a founded report of child abuse?

Yes No* If yes, indicate date(s) of incident(s) and name(s): _____

*** If all FOUR questions above are answered "No", DO NOT complete the box below**

NAME OF CCYA:

CCYA CASEWORKER(S): (PLEASE LIST CURRENT OR MOST RECENTLY ASSIGNED)

CCYA SUPERVISOR(S): (PLEASE LIST CURRENT OR MOST RECENTLY ASSIGNED)

FOR EACH INSTANCE, PLEASE PROVIDE: (Attach additional sheets if necessary)

A. RECEIVED DATE OF INDICATED OR FOUNDED CPS REFERRAL(S):

B. DETERMINATION DATE OF INDICATED OR FOUNDED CPS REFERRAL(S):

C. WAS A SERVICE PROVIDED?
 No If answered "No", skip questions D, E, and F.
 Yes If answered "Yes", please list the type of service(s) and name of service provider(s):

D. DATE SERVICES ENDED, IF APPLICABLE:

E. WHO RECEIVED THE SERVICES?

F. SERVICES WERE:
 Voluntary Court-ordered If court-ordered, please provide the docket number:

G. DESCRIPTION OF CONTRACT: LIST CATEGORY OF ABUSE ALONG WITH ANY PERTINENT INFORMATION TO BE CONSIDERED AS PART OF THE BEST INTERESTS OF THE CHILD ANALYSIS.

II. General Protective Services (GPS) Cases

Has a party or a member of a party's household been provided services?

Yes No*

*** If answered "No", DO NOT complete the box below**

NAME OF CCYA:

CCYA CASEWORKER(S): (PLEASE LIST CURRENT OR MOST RECENTLY ASSIGNED)

CCYA SUPERVISOR(S): (PLEASE LIST CURRENT OR MOST RECENTLY ASSIGNED)

FOR EACH INSTANCE, PLEASE PROVIDE:

(Attach additional sheets if necessary)

A. RECEIVED DATE OF GPS REFERRAL(S):

B. THE CONCERNS IDENTIFIED ON THE GPS REFERRAL(S) WERE:

Valid Invalid

C. WERE GPS SERVICES PROVIDED?

Yes No

D. DATE GPS SERVICES ENDED, IF APPLICABLE:

E. WHO RECEIVED GPS SERVICES?

F. GPS SERVICES WERE:

Voluntary Court-ordered If court-ordered, please provide the docket number:

G. GENERALLY DESCRIBE THE SERVICES PROVIDED:

H. IF THE CCYA MADE REFERRALS TO OUTSIDE PROVIDERS, LIST THE TYPE OF SERVICE AND THE NAME OF THE SERVICE PROVIDER:

I. DESCRIPTION OF CONTRACT: LIST CONCERNS ALONG WITH ANY PERTINENT INFORMATION TO BE CONSIDERED AS PART OF THE BEST INTERESTS OF THE CHILD ANALYSIS.