

David E. Sloane

LAW OFFICES
ORLANDO & STRAHN
A PROFESSIONAL CORPORATION

5341 PERKIOMEN AVENUE
READING, PA 19606

(215) 779-3830

EUGENE ORLANDO, JR.
ERIC L. B. STRAHN
DAVID E. SLOANE

FAX (215) 370-1527
300 E. PHILADELPHIA AVENUE
BOYERTOWN, PA 19512
(215) 367-7443

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The Honorable Thomas R. Caltagirone
Chairman, Judiciary Committee
House of Representatives
Commonwealth of Pennsylvania

Thank you for the opportunity to address the members of your committee. I applaud your efforts to investigate and evaluate the Child Protective Services Law and its operation in the Commonwealth. As a practicing attorney with a long prior career in psychology, I have had the opportunity to see this area first hand, and I have come to recognize several aspects which, I believe, are in serious need of reform.

Let me begin by stressing that no one more than I recognizes the vital importance of this statute and all that it stands for. The neglect, mistreatment, or abuse of a child is a terrible event, and one which clearly is to be prevented. I am, however, genuinely concerned that the mechanisms by which we attempt to afford this protection are weakened and compromised by flaws that are so serious as to create a danger to our society that is nearly as great as the unspeakable harm it seeks to prevent. In our genuine concern to protect the well-being of our children, I believe we are routinely, inexcusably, and unconscionably destroying innocent families. In many cases, I feel that we are causing irreparable harm to the very victims we are seeking to help.

In virtually all areas of our society, we stress the unshakable importance of respecting the rights of each and every individual. Despite our revulsion at their acts, we staunchly defend the unalienable rights of the person accused of murder, rape, drug trafficking, or arson. But what do we do with the individual who is accused of an act of abuse directed at a child? Somewhere in our zealous concern for the victim, we manage to ignore the concept of "due process." I must stress that I do not believe that this is the proper forum to challenge the extensive case law that has addressed the constitutionality of our statute. Rather I am concerned with the underlying philosophy that guides the application of those laws and pervades the day-to-day actions of those entrusted with upholding and enforcing them.

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In over twenty-five years of management consulting, I have become thoroughly committed to the concept of accountability. As I use the term, it signifies answerability for the end results of one's actions. It is a concept which, in the organizational setting, typically spells the difference between success and failure. In Pennsylvania, virtually every professional is held accountable for his or her actions. Regardless of their personal expertise or the fallibility of their profession, every physician, nurse, podiatrist, optometrist, chiropractor, psychologist, yes, even every attorney must adhere to the standards of their profession and be answerable for the harm they cause if they fail to do so. The President of the United States can be impeached and removed from office for wrongdoing. Why, then, is there no accountability for the protectors of our children? How can we allow individuals to hold total power and control over the lives and integrity of thousands of families and not require them to meet any defined standards of education, training, or experience? How can we permit them to make decisions that may destroy the innocent without ever saying to them, "You may go so far and no further. If you do harm, you will have to answer for it."

There is no doubt in my mind that there are many conscientious, caring, dedicated professionals who tirelessly devote themselves to the protection of our children and the preservation of their families. Unfortunately, I have seen far too many instances of the negative side. Misguided pseudoprofessionals distort the truth, ignore relevant information, disregard the well-being of the very children they are there to protect, and zealously seek to impose their own values on those unfortunate enough to come within their control. The tragedy of this is that few, if any, of these victims have the resources to even try to fight back. And those that do are usually denied recourse by the uncaring doctrines of governmental or sovereign immunity.

The need for reform is great, and the time for reform is now. I urge the legislature to address these concerns promptly. We must not weaken the ability of the "system" to protect our children, but we cannot continue to sacrifice countless families to do so. We would not think of executing one hundred suspects to be certain that we include the "real" murder. Let us not "execute" innocent families to stop the "real" abusers. The child whose family is needlessly torn apart by a system that lacks standards, professionalism, and accountability is just as much a victim of abuse as the one who is struck or neglected. The crime is just as heinous! We must not allow it to continue.

I have long believed that one should never criticize without offering a solution. Therefore, I would ask that you consider the following as proposed changes to the Child Protective Services Law. I believe that these changes would not, in any way, weaken the protection the law affords, but would actually increase its effectiveness by serving to control, if not eliminate, the harm so rampant today.

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The Child Protective Services Law, 23 Pa. C.S.A. § 6301, et seq., should be amended as follows:

Section	Proposed modification
§ 6302(b)	The purpose of this chapter should <u>also</u> include the need to <u>protect the integrity of the family.</u>
§ 6302 (c)	There should be a <u>presumptive</u> right of a child to remain with <u>family.</u>
§ 6303	<p>The definition of emotional abuse, while contained in the Regulations, should be present in the statute, as well.</p> <p>"Indicated Report." Subsection 2 of this definition allows for this status to be based on the investigation by the Child Protective Service. However, without <u>explicit</u> standards for such an investigation, this provision allows the subjective impression of a caseworker with no required qualifications to make such a legal determination. The standards for an investigation must be strictly defined and adhered to for a report to be "Indicated."</p>
§ 6311 (b)	<u>Attorneys</u> are notoriously absent from the enumeration of required reporters. They should be added.
§ 6315 (e)	Recognizing the severe trauma that can be caused by removing a child from his or her family, the primary approach should <u>always</u> require that the appropriateness of placement within the extended family be thoroughly investigated and evaluated before <u>any</u> other placement is even considered.
§ 6318	<p>This is one of the most dangerous provisions of the law. Although this immunity is necessary to encourage and support the honest reporting of suspected abuse, there are two provisions which <u>must</u> be added:</p> <p>(c) There should be a list of specifically defined actions which would remove the immunity that otherwise exists. For example, a person who willfully, knowingly, or maliciously files a false</p>

report of abuse against an individual should be subject to both civil and criminal action.

- (d) The immunity of the staff of the Child Protective Service should depend on their strict adherence to rigid professional standards. These should be specifically defined by statute, and violation should remove all immunity otherwise provided by law.

§ 6337 The allowable time for expungment of an "unfounded" report is much too long. Ten (10) days is far more appropriate than twelve (12) months. We certainly would not keep a suspect in a criminal proceeding incarcerated for a year after they were acquitted!

§ 6340 It is inconceivable that this information is made available to such a wide range of people except the alleged perpetrator and his or her attorney. Other than protecting the anonymity of the reporter, this information must be authorized by the statute to the one who stands accused. Where is our constitution?

§ 6361 (b) The term "sufficient qualifications" is grossly inadequate to assure the professionalism and integrity of the Child Protective Service. These qualifications must be explicitly defined by the statute and should be specific to the type of position and the authority and power that resides therein.

§ 6364 The wording of this section is much too vague. Some standards should be included, and the provision for a public audit is necessary. There must be no interlocking employment or financial relationships. The integrity of any such agencies must be held to the highest standards of ethics, competence, and professionalism.

§ 6369 The standards required for obtaining such "judicial authorization" must be clearly defined. We should not empower a caseworker to seize a person's child with fewer restrictions and guidelines than we require to search for evidence in the commission of a crime.

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- § 6381 (d) This section should explicitly define the prima facie evidence of "emotional abuse," as well as physical and sexual abuse.
- § 6382 The role of the guardian ad litem appears to be defined in section (b) as representing the "best interests" of the child. We have seen an increasing awareness in the judicial system of the right of a child to have his or her wishes and desires presented to the Court through the representation of an attorney of the Child's own choosing. Historically our Courts have given credence to the feelings of older minors in domestic proceedings. A Child must have an opportunity to be heard when his or her position is not that believed by the guardian ad litem to be in his or her best interests. The right of a Child to counsel of his or her own choosing should be added to this section.
- § 6384 This legislative oversight should be more clearly defined and should be required to operate in an open and aggressive manner to provide the public with the assurance that this provisions of this statute are fairly and justly applied.

Finally, I would add one cautionary note. Anyone who has seen or even heard of the tragedy of an abused child can easily be swept up by the emotionality thereof. But I have seen the other side. I have seen the pain and anguish of those abused by "the system." Please act now to prevent the needless destruction of even one more family.

Respectfully yours,

David E. Sloane, Ph.D., J.D.

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