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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
JUDICIARY COMMITTEE

IRVIS OFFICE BUILDING  
ROOM G50  
HARRISBURG, PENNSYLVANIA

PUBLIC HEARING ON  
HOUSE BILL 928

MONDAY, FEBRUARY 22, 2010  
11:00 A.M.

BEFORE:

- HONORABLE THOMAS R. CALTAGIRONE,  
MAJORITY CHAIRMAN
- HONORABLE JAMES E. CASORIO, JR.
- HONORABLE DOM COSTA
- HONORABLE BRYAN R. LENTZ
- HONORABLE JOSEPH A. PETRARCA
- HONORABLE JOSH SHAPIRO
- HONORABLE RONALD G. WATERS
- HONORABLE RON MARSICO, MINORITY CHAIRMAN
- HONORABLE MIKE VEREB
- HONORABLE GLEN R. GRELL
- HONORABLE KATIE TRUE

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ALSO PRESENT:

HONORABLE RICHARD T. GRUCELA  
HONORABLE MARK LONGIETTI  
HONORABLE SAM ROHRER  
HONORABLE CHRIS SAINATO  
HONORABLE DANTE SANTONI, JR.  
HONORABLE TIM SEIP

WILLIAM H. ANDRING, SENIOR LEGAL COUNSEL (D)  
V. KURT BELLMAN, LEGISLATIVE ASSISTANT (D)  
WENDELL HANNAFORD, LEGISLATIVE ASSISTANT (D)  
KAREN L. DALTON, SENIOR LEGAL COUNSEL (R)

BRENDA J. PARDUN, RPR  
REPORTER - NOTARY PUBLIC

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## P R O C E E D I N G S

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CHAIRMAN CALTAGIRONE: This is the House Judiciary Committee, public hearing on House Bill 928. I'm Chairman Tom Caltagirone. And I'd like to have the rest of the committee, including the chairman beside me, introduce themselves for the record. We'll get started.

REPRESENTATIVE MARSICO: Good morning. Thank you, Mr. Chairman.

I'm Representative Ron Marsico from Dauphin County.

MS. DALTON: Karen Dalton, counsel to the committee.

REPRESENTATIVE LONGIETTI: Hello. Mark Longietti, Mercer County.

REPRESENTATIVE SAINATO: Hello. I'm Representative Chris Sainato. I represent the 9th Legislative District, which is parts of Lawrence and a small section of Beaver County.

REPRESENTATIVE COSTA: Representative Dom Costa, 21st District, Allegheny County.

REPRESENTATIVE TRUE: Good morning.

1 Katie True, Lancaster County.

2 REPRESENTATIVE SEIP: Tim Seip,  
3 representing part of Berks County, part  
4 Schuylkill County, Cabela's and Yuengling  
5 district.

6 MR. ANDRING: Bill Andring, legal  
7 counsel.

8 REPRESENTATIVE SHAPIRO: Josh  
9 Shapiro, representative from Montgomery  
10 County.

11 REPRESENTATIVE LENTZ: Bryan Lentz,  
12 representative from Delaware County.

13 REPRESENTATIVE VEREB: Mike Vereb  
14 from Montgomery County.

15 REPRESENTATIVE SANTONI: Dante  
16 Santoni, Berks County.

17 REPRESENTATIVE ROHRER: Sam Rohrer,  
18 not a member of the committee but testifying  
19 this morning.

20 REPRESENTATIVE GRUCELA: I'm Rich  
21 Grucela, also not a member of the committee,  
22 but it's my bill before the committee this  
23 morning. And I'm from Northampton County.

24 CHAIRMAN CALTAGIRONE: Thank you,  
25 gentlemen. As far as I'm concerned, you're

1 all part of the committee with the hearing  
2 that's going on.

3 Like to start off with Representative  
4 Grucela and then Representative Rohrer for  
5 comments for the record.

6 REPRESENTATIVE GRUCELA: Thank you,  
7 Mr. Chairman.

8 And my thanks to you and the members  
9 of the committee for this hearing on House  
10 Bill 928. House Bill 928, although with a  
11 different number, has been around for other  
12 sessions. Representative Tom Yewcic, who has  
13 retired last session, and Representative  
14 Rohrer have actually worked on this really a  
15 lot more than I did, but I was merely a  
16 cosponsor. But in this session, and speaking  
17 with Representative Rohrer, I took the lead as  
18 the sponsor of House Bill 928.

19 Essentially -- and you've seen the  
20 analysis -- essentially it's a reporting  
21 bill. House bill 928 requires the physician  
22 or healthcare practitioner who treats a minor  
23 with respect to prenatal care, delivery of a  
24 baby, termination of a pregnancy, or any  
25 sexually transmitted disease to obtain

1 credible written evidence that the minor is  
2 thirteen years of age or older. So it's  
3 essentially a reporting bill.

4 And, again, there will be people here  
5 testifying today, little bit more in depth  
6 about the bill, but at this time, I would like  
7 to call on my colleague and friend, Sam  
8 Rohrer, for some further comments on House  
9 Bill 928.

10 Representative Rohrer.

11 REPRESENTATIVE ROHRER: Thank you,  
12 Representative Grucela.

13 And thank you, Mr. Chairman, for  
14 calling the hearing today. And I'd like to  
15 thank all the members and staff, advocacy  
16 groups and members of the public who have  
17 traveled to be here this morning.

18 I'm grateful for the opportunity to  
19 address the committee about an issue that's  
20 very serious and also very emotional. The  
21 sexual abuse of children in our commonwealth  
22 is a tragedy and one that we would like to  
23 believe doesn't happen but does. Due to  
24 efforts to combat these horrific cases of  
25 abuse, legislation has been passed on both the

1 federal and state levels in order to  
2 strengthen the penalties and empower our  
3 police to crack down on these predators.

4 Previously enacted legislation has  
5 expanded the mandated reporting requirements  
6 for child abuse in a manner that requires the  
7 reporting of pregnancies of girls who are  
8 under thirteen years of age to county  
9 agencies. Unfortunately, however, despite  
10 these laws, a significant number of child  
11 rapists and other child predators can avoid  
12 detection and punishment because the age of  
13 the child is not determined.

14 When I first became aware of this  
15 loophole in the law, I sat down with former  
16 Representative Tom Yewcic, who was mentioned,  
17 to draft legislation that might provide law  
18 enforcement with the tools they need to  
19 further prosecute child predators.

20 When a child in the under thirteen  
21 years of age has a sexually transmitted  
22 disease or is pregnant, that is evidence that  
23 a felonious sex crime has been committed. The  
24 premise of this bill is to require that a  
25 healthcare practitioner who treats a minor for



1 pre- or postnatal care or with an STD to  
2 ascertain the age of the child, and in so  
3 doing, greatly strengthen Pennsylvania's  
4 ability to protect children under thirteen  
5 years of age against child rapists or other  
6 sexual predators.

7           The legislation specifically  
8 addresses the unique role that healthcare  
9 practitioners play. As physicians and other  
10 health practitioners may see evidence of  
11 sexual abuse or a felonious sex crime, these  
12 individuals have concrete knowledge that a  
13 crime was committed.

14           The requirement to share this  
15 knowledge was codified in the law so that  
16 young girls and young boys might be protected  
17 and their abusers punished. This is already  
18 the law. Requiring that the age of the child  
19 be determined is an enforcement mechanism that  
20 will further serve to protect the children of  
21 our commonwealths.

22           From a policy perspective, this  
23 legislation is necessary to ensure that the  
24 laws against sexual conduct with those under  
25 thirteen years of age are properly enforced.

1 Knowing a child's age keeps a large class of  
2 girls and boys from falling through the  
3 cracks.

4 The child rapist and predator  
5 detection legislation would not create any new  
6 law, but rather would correct a loophole or a  
7 structural deficiency overlooked in the  
8 original legislation.

9 Because of methodology and the  
10 difficulty of quantifying such statistics,  
11 some organizations do not or cannot measure  
12 the victimization of children age under twelve  
13 or younger. Additionally, the relative  
14 dependence and immaturity of these children  
15 make it difficult, in many cases, for the  
16 children to report abuse.

17 When children do come in contact with  
18 health care professionals then, there is  
19 evidence of abuse, that makes all the more  
20 necessary for law enforcement to be given the  
21 proper tools to track down and to punish these  
22 child predators.

23 When drafting this legislation, we  
24 were careful to bring in people and  
25 organizations involved with this issue for

1 their comments and concerns in order to draft  
2 fair and comprehensive legislation. We have a  
3 few people representing these organizations  
4 here today to testify to the absolute  
5 necessity of this legislation.

6 Children who have been victimized by  
7 sexual abuse are perhaps some of society's  
8 most innocent and vulnerable citizens. The  
9 very least that we, as legislator, can do is  
10 to ensure that those who perpetrate such  
11 heinous crimes are caught and punished. Our  
12 children deserve nothing less than this.

13 Mr. Chairman, those are my comments.  
14 Thank you.

15 CHAIRMAN CALTAGIRONE: Thank you.

16 We'll next move -- we'll next move to  
17 Mike McMonagle, Pro-Life Coalition.

18 MR. MCMONAGLE: May I proceed,  
19 Mr. Chairman?

20 CHAIRMAN CALTAGIRONE: Yes, sir.

21 MR. MCMONAGLE: Good morning. Thank  
22 you, Mr. Chairman and Representative Rohrer,  
23 Representative Grucela and all the members,  
24 for coming here.

25 I'll minimize my comments not to

1 repeat what Representative Rohrer said, in  
2 my -- I have two-page testimony, and it  
3 highlights. And I refer to enclosures in  
4 this. Which, I'm heartened by the good turn  
5 out, based on the predictions, Expedia's  
6 predictions, so I don't have -- I only made  
7 ten copies. So for the enclosures, we can get  
8 them to you, if we have to.

9           So the first part, I don't want to  
10 repeat, except for the issue of a court  
11 definition of an STD being a serious bodily  
12 injury. That has legal ramifications. Under  
13 child abuse reporting, a serious bodily injury  
14 has to be reported. So under state law, an  
15 STD is a serious bodily injury. Plus I would  
16 add, the attorney general, the current  
17 attorney general, has issued two memorandum  
18 about pregnancy twelve and under and STDs  
19 twelve and under, and his interpretation of  
20 the law, that they must be reported and is a  
21 reasonable basis to suspect child abuse.

22           So other than that, to the extent of  
23 the problem, how big is this? And a comment  
24 about determining numbers. The numbers of  
25 abortions on ages twelve and under are very

1 exact, and the reason is that we have tested  
2 AGs going back to Fisher and Pappert and then  
3 Corbett, that under the Abortion Control Act,  
4 if law enforcement asks, the health department  
5 will break it down, because they only report  
6 fifteen and under abortions, so to get twelve  
7 and under, you have to precede that.

8           The others, we just picked two STDs  
9 and childbirth, there's -- over the years.  
10 Members of this committee have the right to go  
11 to the health department and ask for very  
12 specific breakdowns. But you can see the  
13 numbers; this is not a minimal problem. This  
14 really exists, if you add up these numbers.  
15 These children, these little girls, are  
16 victims of sexual assault, just based on these  
17 numbers. And it's not being reported.

18           I mean, this body passed Senate Bill  
19 1254 in late 2006, which made it clear who's a  
20 mandated reporter, and if you have a  
21 reasonable basis to suspect abuse. So  
22 pregnancy in a girl twelve and under is a  
23 reasonable basis to suspect abuse, but it's  
24 not being reported.

25           Why not? You can tell by the title

1 of our group, you can guess where we stand on  
2 the issue of protecting unborn children from  
3 abortion. Abortion facilities have a vested  
4 financial interest in not reporting this. And  
5 if you are aware of any of stories in other  
6 states that they're -- they tell minors either  
7 not to tell the age, you know, quote -- this  
8 is from an Indiana abortion mill -- I don't  
9 want to know your age. Don't tell me that.  
10 When the girl told him she was thirteen. So  
11 they avoid officially determining age.

12 And, you know, part of law  
13 enforcement, to be candid, to get to the next  
14 section, they -- they'll actually support the  
15 abortion industry, don't want to challenge  
16 it.

17 And there's no one here from  
18 Philadelphia, but I'm a native of  
19 Philadelphia, and I'll speak candidly about  
20 Philadelphia. This problem is not  
21 proportional around the state. Philadelphia's  
22 at the heart of this problem. And, therefore,  
23 you would think the Philadelphia District  
24 Attorney's office would be all over this,  
25 trying to do something about it. But that is

1 not the case.

2           Keep on. What their policy is --  
3 keep on -- if a twelve-year-old girl shows up  
4 in an abortion mill or a school nurse  
5 pregnant, does the Philadelphia District  
6 Attorney's office require that healthcare  
7 provider or abortion provider to report that?  
8 The answer's no. No. Believe it or not. And  
9 this is the reason: There's an itsy-bitsy  
10 chance that the male who got this girl  
11 pregnant could be twelve or under, and,  
12 therefore, we don't know who the victim is.  
13 This, I literally got from the mouth of John  
14 Delaney. He's the head, the number three guy  
15 in the DA's office. And this is their  
16 rationale.

17           And maybe this will change under the  
18 new management, I don't know. But this is --  
19 this is what's happening and what happened.

20           I mean, many of you probably read,  
21 two years ago, about this time, it was  
22 reported in the Inquirer on the Arnesx Honore  
23 case. This sexual predator got a fourteen-  
24 year-old girl -- between the ages of fourteen  
25 and seventeen -- committed repeated sexual

1 assault on her, at least one baby born, at  
2 least two babies killed by abortion and never  
3 reported.

4 And so you would think the first time  
5 that girl got pregnant, when she went to the  
6 hospital and gave birth, under this bill, that  
7 healthcare provider would have been required  
8 to report that sexual assault and take a  
9 DNA sample to be up with the DA -- with the  
10 unit that's going to be created in AG's  
11 office. So, this -- this is an example of  
12 what happens in our commonwealth, particularly  
13 in our lead city.

14 You know, I wish the bill would go  
15 further. I wish it would protect fourteen and  
16 under, and I wish -- because I don't see the  
17 Philadelphia DA's office changing any time  
18 soon, I wish the AG's office would use  
19 concurrent jurisdiction to enforce it. But  
20 this is a good first step.

21 And how much time do I have? I just  
22 read some of the comments critical of the  
23 legislation. And I'd like briefly to respond  
24 to them. And one is very anticipated, and  
25 that is, this legislation would deter minors



1 from seeking medical treatment. Nonsense. I  
2 mean, if you buy that, I'll convince you -- in  
3 other words, a twelve-year-old girl, pregnant,  
4 we don't want to tell her parents that she's a  
5 subject of rape. I mean is this what you guys  
6 want the policy to be? Is that because she  
7 won't get treated or she won't get treated for  
8 an STD. A twelve-year-old has an STD and  
9 we're not going to tell law enforcement or her  
10 parents? I mean, I just trust your common  
11 sense on that to reject that argument of the  
12 ACLU, which is their testimony.

13 And the other ones, yeah, this will  
14 hurt the abortion industry, that's why we're  
15 supporting it. I'll be very candid about  
16 that. But you should -- if you describe your  
17 position as pro-choice, you should be for this  
18 bill as well, because you don't want little  
19 girls being sexually assaulted and being  
20 covered up, which is happening right now.

21 So I'll stop. Thank you for  
22 listening. And please pass this great  
23 legislation.

24 CHAIRMAN CALTAGIRONE: Would you hold  
25 for questions.

1                   Members, are there any questions.

2                   Yes, go ahead.

3                   REPRESENTATIVE SHAPIRO: Thank you,  
4                   Mr. Chairman.

5                   Thank you for your testimony,  
6                   Mr. McMonagle. It's -- I have the utmost  
7                   respect for Representatives Grucela and Rohrer  
8                   and what they're trying to do. Unfortunately,  
9                   they invited you to be an advocate for this  
10                  bill, which I think undermines it quite  
11                  substantially.

12                  Just your final statement there about  
13                  the parents, alerting the parents in the case  
14                  of rape. I believe that was your testimony  
15                  that you think --

16                  MR. MCMONAGLE: That should trump.  
17                  That should be trump.

18                  REPRESENTATIVE SHAPIRO: Are there  
19                  incidents in Pennsylvania where the rape of  
20                  that child occurs as a result of the parent  
21                  perpetuating that rape of that child?

22                  MR. MCMONAGLE: Sure.

23                  REPRESENTATIVE SHAPIRO: Do you have  
24                  any idea how -- what the percentage of that  
25                  might be?

1 MR. MCMONAGLE: No, I don't.

2 REPRESENTATIVE SHAPIRO: Two, 3  
3 percent maybe, a small amount. I gather if  
4 you think we should be letting the parents  
5 know, you would think they would not be  
6 involved in the rape and, thus, they would be  
7 a protecting and comforting factor for the  
8 child; is that correct?

9 MR. MCMONAGLE: Yes.

10 REPRESENTATIVE SHAPIRO: Okay. So  
11 would it surprise you, then, to know that our  
12 own Department of Public Welfare suggested  
13 27.3 percent of the offender relationships to  
14 your child victims are parents? So you would  
15 alert one-quarter, more than one-quarter of  
16 those who actually rape their own children  
17 under this bill. That would be a good aim of  
18 this legislation, according to your testimony;  
19 is that correct?

20 MR. MCMONAGLE: Under the bill, the  
21 notification goes through the police. So if a  
22 twelve-year-old girl is pregnant and shows up  
23 at a healthcare provider, they notify the  
24 police.

25 REPRESENTATIVE SHAPIRO: And

1 parents --

2 MR. MCMONAGLE: No. Then the law  
3 enforcement provides parent. I apologize for  
4 that mistake, if I lumped it. It's not a  
5 parallel thing; it's a series thing. Law  
6 enforcement's notified, and law enforcement  
7 notifies the parents.

8 REPRESENTATIVE SHAPIRO: So here you  
9 have a traumatized twelve-year-old, to use  
10 your example, who's been raped, more than a  
11 quarter percent of the time of all the cases,  
12 by a parent, and you are now going to subject  
13 that child -- take them away from the comforts  
14 of their healthcare provider, who they know,  
15 who can provide confidential comfort to them,  
16 and instead involve them in the judicial  
17 system, in the legal system, as well as  
18 bringing in closer to them the person who  
19 committed that rape in the first place, the  
20 father, in most cases. Right? I mean that's  
21 the underlying bill.

22 MR. MCMONAGLE: What's the  
23 alternative? This twelve-year-old girl has  
24 been raped and you don't tell law  
25 enforcement? And if she says, Hey, it's my

1 father who's the perpetrator, then law  
2 enforcement would take action.

3 REPRESENTATIVE SHAPIRO: Right.  
4 Under our current standards, which allow for  
5 practitioners, for doctors, for pediatricians  
6 to go out and if they -- if they see evidence  
7 of this abuse, report it to the authorities,  
8 as they do now, here you are mandating that  
9 that process take place involving the parent,  
10 in at least one-quarter of the time where the  
11 parent should not be involved. And you're  
12 taking that discretion away from the doctors.

13 So I guess I would ask a second  
14 question. And those of you who are coming to  
15 testify, I'll probably ask you this question  
16 as well. What is broken about the current  
17 system? How is it today that physicians are  
18 not doing a good enough job reporting this?  
19 What evidence do you have to suggest, as the  
20 underlying bill suggests, that it would  
21 greatly strengthen the commonwealth's ability  
22 to protect children under thirteen years of  
23 age, to take away this discretion from the  
24 physicians? Where's the evidence of that?

25 MR. MCMONAGLE: The evidence is the

1 number of abortions, the number of STDs, the  
2 number of childbirths being to girls fourteen  
3 and under, and more specifically, twelve and  
4 under. And --

5 REPRESENTATIVE SHAPIRO: I accept the  
6 fact that you and I may not agree on the issue  
7 of abortion. And I truly respect your  
8 position on that. This is not about abortion.  
9 This underlying legislation suggests that  
10 something in the current system is not  
11 working, and that this bill would strengthen  
12 it. And I'm asking, how would this strengthen  
13 it?

14 MR. MCMONAGLE: The age requirement.  
15 That right now healthcare practitioners,  
16 particularly abortion facilities, are saying,  
17 Don't tell me your age. And they're looking  
18 the other way. And this would stop under this  
19 bill.

20 REPRESENTATIVE SHAPIRO: Okay. And  
21 what evidence do you have that that is  
22 happening?

23 MR. MCMONAGLE: Undercover  
24 investigations in other states and just the  
25 mere lack of reporting.

1                   REPRESENTATIVE SHAPIRO: And have you  
2 provided that to Chairman Marsico or Chairman  
3 Caltagirone so that we can see that evidence  
4 for us, or should we just take your word for  
5 that?

6                   MR. MCMONAGLE: You could do your  
7 investigation. I'm not asking you to --

8                   REPRESENTATIVE SHAPIRO: You don't  
9 have any evidence to suggest --

10                  MR. MCMONAGLE: I can't give you an  
11 undercover videotape of an abortion facility  
12 in Pennsylvania, but I can refer you to  
13 stories what's happening in other states.

14                  REPRESENTATIVE SHAPIRO: I'm mean,  
15 I'm all ears. If there's some evidence to  
16 suggest that the current system needs to be  
17 strengthened, I'd like to know what that is.  
18 You're suggesting to me you've done some  
19 cohort operations and can't share --

20                  MR. MCMONAGLE: In other states. But  
21 you're --

22                  REPRESENTATIVE SHAPIRO: In other  
23 states.

24                  MR. MCMONAGLE: But you're ignoring  
25 my comment about --

1                   REPRESENTATIVE SHAPIRO:  It's not an  
2                   issue here in Pennsylvania.

3                   MR. MCMONAGLE:  -- about  
4                   Philadelphia.  In other words, if you're a  
5                   school nurse in Philadelphia and you treat a  
6                   twelve-year-old girl, should you have to tell  
7                   law enforcement?

8                   REPRESENTATIVE SHAPIRO:  I guess what  
9                   I'm suggesting to you -- and you have not been  
10                  able to rebut this -- is we already provide  
11                  the latitude and the discretion to our  
12                  healthcare providers.  You're suggesting in  
13                  your testimony and the underlying bill  
14                  suggests that the system is not strong enough  
15                  and needs to be strengthened.  I'm all ears.  
16                  This is an informational hearing where we're  
17                  here to learn.  I'm just trying to find out  
18                  what needs to be strengthened.  Where is the  
19                  system not working?

20                  And you tell me you've got some  
21                  undercover thing and --

22                  MR. MCMONAGLE:  The proof of age.  
23                  But, you've avoided my question, which is the  
24                  heart -- Philadelphia's the heart of this  
25                  problem.  And you have law enforcement in



1 Philadelphia saying, a healthcare provider or  
2 an abortion facility in Philadelphia does not  
3 have to tell law enforcement if they treat a  
4 twelve year old girl. That's how it's  
5 broken.

6 REPRESENTATIVE SHAPIRO: I'm -- first  
7 off, I ask the questions; you don't ask the  
8 questions.

9 Second off, those providers have  
10 discretion under our current law. You're  
11 suggesting that they should not have  
12 discretion, that they should be mandated to  
13 report. And I'm suggesting to you -- I'm  
14 asking you why that mandate? What is not  
15 working in this the current system?

16 MR. MCMONAGLE: As far as current  
17 law, there's other people who will testify to  
18 that. But my understanding of law is, that  
19 there's no discretion. They have to report.

20 REPRESENTATIVE SHAPIRO: So --

21 MR. MCMONAGLE: A healthcare  
22 provider --

23 REPRESENTATIVE SHAPIRO: So today, if  
24 a twelve-year-old child comes to her  
25 pediatrician and demonstrates or displays

1 evidence of sexual abuse, you're saying that  
2 doctor doesn't report that?

3 MR. MCMONAGLE: Yes. Oh, yeah.

4 REPRESENTATIVE SHAPIRO: Really?

5 MR. MCMONAGLE: Yes.

6 REPRESENTATIVE SHAPIRO: And do you  
7 have any evidence that suggest that that is a  
8 fact? I mean, I see former District Attorney  
9 Castor here, who I know has been involved in  
10 many cases where he successfully prosecuted  
11 folks based on physicians in Montgomery County  
12 coming forth to provide that to him, to Risa  
13 Ferman, his first ADA who's now our district  
14 attorney. We have several success stories on  
15 our books in Montgomery County and across the  
16 state where physicians have provided a tip to  
17 law enforcement

18 You're suggesting that doesn't  
19 happen?

20 MR. MCMONAGLE: Yes. Very much so,  
21 in Philadelphia.

22 REPRESENTATIVE SHAPIRO: okay. Well,  
23 look, I appreciate your opinion.  
24 Unfortunately, it's -- at least according your  
25 to testimony today, it's based on no facts

1           whatsoever.

2                       Mr. Chairman, I appreciate the  
3           committee's time, and I'll follow up with more  
4           questions later. Thank you.

5                       CHAIRMAN CALTAGIRONE: Are there  
6           other questions? No.

7                       MR. MCMONAGLE: Thank you,  
8           Mr. Chairman.

9                       CHAIRMAN CALTAGIRONE: Thank you for  
10          your testimony.

11                      We'll next hear from Major Ken Hill,  
12          director, Bureau of Forensic Services,  
13          Pennsylvania State Police.

14                      MAJOR HILL: Good morning,  
15          Mr. Chairman, members of the committee.

16                      I'm Major Ken Hill, director of the  
17          Bureau of Forensic Services of the  
18          Pennsylvania State Police.

19                      On behalf of Colonel Frank Pawlowski,  
20          commissioner of the Pennsylvania State Police,  
21          I want to thank you for the opportunity to  
22          speak with you today about House Bill 928,  
23          child Rapist and Predator Detection.

24                      Before I specifically address this  
25          legislation, I would like to give you some

1 insight into our current and past operations  
2 regarding convicted offender registration and  
3 forensic DNA casework. These are the two  
4 sections that we operate at the DNA  
5 laboratory. At present, Pennsylvania has over  
6 two hundred twenty-one thousand convicted  
7 offenders registered in the National Combined  
8 DNA Index System, or CODIS.

9 Over the past three years, 2007  
10 through 2009, we have averaged approximately  
11 twenty-five thousand samples received and  
12 uploaded per year. Over the past five years,  
13 there have been two thousand three hundred  
14 forty-four hits to the state database, and  
15 sixty-one hits -- I'm sorry. Two thousand  
16 three hundred forty-four hits uploaded by our  
17 laboratory. In 2009 alone, there were six  
18 hundred seventeen hits to the state database,  
19 and sixty-one hits to out-of-state offenders  
20 through the national CODIS database.

21 At the end of 2009, our backlog was  
22 just over three thousand samples, which is  
23 approximately a one-month delay from receipt  
24 to upload into CODIS.

25 The casework section analyzes samples

1 obtained from crime scenes for DNA. As the  
2 technology becomes better understood by  
3 investigators and prosecutors, and as the  
4 success stories mount, our casework has risen  
5 from approximately twelve hundred submissions  
6 in 2006 to over twenty-one hundred cases in  
7 2009. This increase, along with attrition of  
8 scientists and the current negative fiscal  
9 picture, has affected our ability to keep up  
10 with that casework. At present, our  
11 turnaround time for DNA is one hundred eighty-  
12 nine days. We expect DNA casework submissions  
13 to continue increasing.

14 Our DNA analysts are trained,  
15 educated, and certified to interpret results  
16 that identify the DNA of the donor only. In  
17 this legislation, the analyst would be  
18 required to interpret results from the fetus  
19 or donor and extrapolate those results to  
20 identify the sperm donor. None of our  
21 analysts are certified or trained to conduct  
22 that interpretation.

23 Given the extent of our current  
24 workload, we do not have the luxury of taking  
25 analysts off the bench to train, educate,

1 certify, and accredit the new process proposed  
2 in this legislation without a significant loss  
3 of production. I estimate it would take  
4 approximately three years to obtain  
5 accreditation for this process, at a cost of  
6 nearly ten thousand dollars per analyst.

7           There are other laboratories that  
8 specialize in forensic relationship testing,  
9 are accredited, offer easy access for users,  
10 and often receive federal grant funding to  
11 offer limited free testing to law  
12 enforcement. Marshall University in West  
13 Virginia is one of such labs.

14           Since we do not conduct forensic  
15 relationship testing, I recommend that the  
16 state police be removed as a regulating body  
17 and promulgating authority for this particular  
18 section.

19           Given the very specific nature of  
20 this legislation, it would not be cost  
21 efficient for the state police to undertake  
22 this additional task and would add further  
23 delays in providing results to law  
24 enforcement. Further delays in providing the  
25 identification of often violent criminals to

1 law enforcement translates to those criminals  
2 remaining on the streets, free to committed  
3 further crimes while their DNA sits untested  
4 in the lab.

5           Were there no other alternative, we  
6 would, of course, take on this role. However,  
7 there are very reasonable alternatives  
8 available to accomplish the goal of this  
9 legislation faster and cheaper and with no  
10 negative implications for the state Police or  
11 the citizens of the commonwealth.

12           Again, I thank you for the invitation  
13 to discuss this subject and will be happy to  
14 answer any questions you may have.

15           CHAIRMAN CALTAGIRONE: Thank you,  
16 Major.

17           Members?

18           Tim.

19           REPRESENTATIVE SEIP: Thank you,  
20 Mr. Chairman.

21           Thank you for being here today,  
22 Major.

23           MAJOR HILL: Thank you, sir.

24           REPRESENTATIVE SEIP: I'm not -- I  
25 was hoping that maybe we would have somebody

1 from the Department of Public Welfare on the  
2 agenda or perhaps some somebody from children  
3 and youth, more specifically. But I'll ask  
4 you this question.

5 I'm a mandated reporter myself, as a  
6 licensed social worker, and I would think that  
7 if some of the situations that were discussed  
8 earlier about a student coming before a  
9 licensed school nurse and in a pregnant state  
10 or believed to be pregnant state, then that  
11 that school nurse would have an obligation to  
12 call children and youth services or ChildLine  
13 to report that is a suspected child abuse.  
14 Certainly, my understanding of the law is that  
15 you don't have to have evidence, you're not  
16 supposed to go out and gather things on your  
17 own. As a mandated reporter, you're supposed  
18 to be mandated to report anything that you  
19 think might be child abuse.

20 So, I guess my question is, is that  
21 what your understanding of that type of  
22 situation would be?

23 MAJOR HILL: Yes, sir. That's --

24 REPRESENTATIVE SEIP: That would be a  
25 reportable instance to Children and Youth



1 Services on ChildLine?

2 MAJOR HILL: Yes, sir, I believe it  
3 would.

4 REPRESENTATIVE SEIP: Okay. Thank  
5 you.

6 Thank you, Mr. Chairman.

7 CHAIRMAN CALTAGIRONE: Thank you.

8 Chairman Marsico.

9 REPRESENTATIVE MARSICO: Thank you,  
10 Mr. Chair.

11 The chairman and I were just  
12 discussing your testimony and -- thanks for  
13 being here, by the way.

14 MAJOR HILL: You're welcome, sir.

15 REPRESENTATIVE MARSICO: It seems to  
16 us that the -- one of the reasons for your, I  
17 guess, not wanting -- for the state police not  
18 wanting to take a role in this process is the  
19 cost of per analyst. You had mentioned ten  
20 thousand dollars per analyst as well as three  
21 years accreditation.

22 And you mentioned in your statement,  
23 on page two, the bottom of page two, that  
24 would be at the very end of your statement,  
25 you mentioned that there are other reasonable

1 alternatives to this legislation. Could you  
2 let us know what they are?

3 MAJOR HILL: Yes, sir. Marshall  
4 University is one such alternative. Public  
5 laboratory that offers limited free testing  
6 for law enforcement for forensic relationship  
7 testing, which is a process that they  
8 currently do.

9 REPRESENTATIVE MARSICO: You  
10 mentioned that in your testimony as well.

11 MAJOR HILL: Yeah. There are other  
12 private laboratories that also offer similar  
13 forensic relationship testing.

14 REPRESENTATIVE MARSICO: Is that a  
15 cost to the commonwealth? Is that a cost to  
16 the commonwealth? Private labs would be a  
17 cost, I'm sure.

18 MAJOR HILL: They would, sir.

19 REPRESENTATIVE MARSICO: Okay. That  
20 is my question. You want to follow up.

21 CHAIRMAN CALTAGIRONE: I'm just  
22 curious about that. The workload that you're  
23 experiencing now, and evidently it's being  
24 compounded by the budget process.

25 MAJOR HILL: It is, sir.

1                   CHAIRMAN CALTAGIRONE: Not having  
2                   enough analysts available or the training and  
3                   certification that I would assume that your  
4                   people have to have in order to appear in  
5                   court to testify. They have to have that  
6                   certification.

7                   MAJOR HILL: They do, sir, certified  
8                   and the laboratory's accredited.

9                   CHAIRMAN CALTAGIRONE: So this would  
10                  present a burden, an extra burden, on the  
11                  state police to be able to perform those extra  
12                  duties.

13                  Is it a matter of money, or is it a  
14                  matter of time, or both?

15                  MAJOR HILL: I think the money is the  
16                  minimal issue. Money is always an issue, but  
17                  in this case, I think it's the minimal side.  
18                  The matter is the time to undertake a new  
19                  process, which we don't currently do, are not  
20                  currently trained to do or currently  
21                  accredited to do. And in addition, the time  
22                  to take to obtain that accreditation and  
23                  certification and training that would also  
24                  cause the limited number of analysts we  
25                  currently have to be assigned to do these

1 types of cases and take them away from the  
2 caseload we're currently experiencing, which  
3 is extensive.

4 CHAIRMAN CALTAGIRONE: You had  
5 mentioned that this out-of-state college or  
6 university can do this?

7 MAJOR HILL: Yes, sir.

8 CHAIRMAN CALTAGIRONE: At no cost to  
9 the commonwealth.

10 MAJOR HILL: No cost for the  
11 testing. They have federal grants that they  
12 receive that allow them to offer law  
13 enforcement limited, no-cost testing. There  
14 would be a cost to the commonwealth for the  
15 prosecutor, should their analyst come to  
16 testify.

17 CHAIRMAN CALTAGIRONE: Okay. Do you  
18 currently send any testing to them now on any  
19 of the DNA tests?

20 MAJOR HILL: No, sir. We do not.  
21 And on the tests that we currently conduct, we  
22 do not sent DNA. We don't do forensic  
23 relationship testing, nor do we forward that  
24 to anybody. We have law enforcement directly  
25 forward their DNA to appropriate laboratories.

1                   CHAIRMAN CALTAGIRONE: Your backlog  
2 right now --

3                   MAJOR HILL: Yes, sir.

4                   CHAIRMAN CALTAGIRONE: -- what are we  
5 talking about in number of cases that you're  
6 dealing with?

7                   MAJOR HILL: In DNA casework, it's  
8 over eight hundred cases in the backlog. In  
9 the convicted offender database, it's about  
10 three thousand case. Three thousand cases  
11 translates to about thirty days from the time  
12 we get the convicted offender sample until we  
13 upload it into CODIS. The casework samples,  
14 the eight hundred or so cases of crime scene  
15 DNA, that's about a hundred eighty-nine days.

16                  CHAIRMAN CALTAGIRONE: So before they  
17 can get into court, you have to have these  
18 tests completed?

19                  MAJOR HILL: Correct, sir.

20                  CHAIRMAN CALTAGIRONE: Before any  
21 adjudication could take place.

22                  MAJOR HILL: Before we were able to  
23 testify. Often they plead guilty prior to our  
24 testifying.

25                  CHAIRMAN CALTAGIRONE: Okay. Any

1 other questions?

2 Representative Costa?

3 REPRESENTATIVE COSTA: Yes. Major,  
4 thank you again for being here.

5 In your opinion, do you see a need  
6 for this testing? Do you have many cases that  
7 would require this type of testing?

8 Obviously, you haven't sent any out. Is there  
9 a need in Pennsylvania, in the commonwealth,  
10 for us to train people in this type of thing?

11 MAJOR HILL: To train -- is there a  
12 need for us to train state troopers to do this  
13 kind of thing or for our forensic analysts to  
14 do this?

15 REPRESENTATIVE COSTA: Is there  
16 enough cases that would require us to train  
17 our troopers to do this without -- I mean,  
18 even if we got a new batch of troopers that we  
19 were going to train so we wouldn't be  
20 backlogging the cases?

21 MAJOR HILL: I'm sorry. I misspoke  
22 when I said troopers. Forensic scientists for  
23 the state police.

24 REPRESENTATIVE COSTA: Forensic  
25 scientists.

1 MAJOR HILL: In my opinion, there are  
2 currently several credible alternatives for  
3 Pennsylvania to use that don't involve the  
4 state police. As to the number of cases that  
5 this type of legislation would affect, I would  
6 only be guessing.

7 REPRESENTATIVE COSTA: Okay. Thank  
8 you very much.

9 MAJOR HILL: You're welcome.

10 REPRESENTATIVE COSTA: Thank you,  
11 Mr. Chairman

12 CHAIRMAN CALTAGIRONE: Thank you,  
13 Major. Appreciate your testimony.

14 We will next move to Dr. Debra Evans-  
15 Rhodes, psychologist.

16 DR. EVANS-RHODES: Good morning.

17 Let me begin by giving you my  
18 credentials. I'm Dr. Debra Evans-Rhodes. I'm  
19 a psychologist and a professor at the  
20 Pennsylvania State University. Additionally,  
21 I have been active in the area of domestic  
22 violence, most recently serving on the board  
23 of directors for domestic violence services of  
24 Fayette County for the past five years and  
25 currently serving as the president of the

1 board since 2008.

2 I not only know what the effects of  
3 abuse can be, I have seen firsthand the  
4 devastation that such abuse causes. I am,  
5 therefore, in favor of House Bill 928.

6 It is important to distinguish what  
7 the bill does not do. The bill does not  
8 change the standards set by the Pennsylvania  
9 legislature and affirmed by our courts that  
10 those who provide medical care to our children  
11 are mandated to report suspected cases of  
12 abuse to appropriate authorities.

13 The bill does not expand the list of  
14 mandated reporters nor their duty to report.

15 The bill does not change the  
16 definitions for reporting standards. It does  
17 not address the defined ages for consent or  
18 statutory crimes. Those standard have also  
19 been determined by the legislature and  
20 affirmed by the courts.

21 The bill does not require mandated  
22 reporters to conduct investigations into the  
23 source of the sexual activity. That process  
24 has also been established by the law.

25 The bill simply seeks to assure that



1 those mandated to report sexual abuse do  
2 report sexual abuse.

3 Let's look at the numbers. According  
4 to the Pennsylvania Department of Health,  
5 there were three hundred ninety-five reported  
6 pregnancies to young women under the age of  
7 fifteen in 2007. Of those, one hundred  
8 eighty-six resulted in live births, two  
9 hundred six were aborted, and three unborn  
10 children died in utero.

11 This pregnancy rate averages out to  
12 one pregnancy per one thousand girls between  
13 the ages of ten and fourteen. This rate has  
14 been relatively constant since 2005.

15 Additionally, the Department of  
16 Health statistics for sexually transmitted  
17 diseases for 2007 revealed that there were two  
18 hundred seventy-eight reported case of  
19 gonorrhea, seven hundred and fifty-one cases  
20 of clamidia, and four cases of syphilis in  
21 children aged fourteen and under. This means  
22 that approximately one thousand thirty-three  
23 children in Pennsylvania were diagnosed with  
24 just those three sexually transmitted diseases  
25 in the year 2007. This does not include HPV,

1 genital warts, or pelvic inflammatory disease.

2 Unfortunately, this was not an anomaly.

3           It is almost too obvious to mention  
4 that the presence of a pregnancy or a sexually  
5 transmitted disease is evidence of sexual  
6 contact. And since these statistics came from  
7 the Department of Health, they came from  
8 contact with a member of the healthcare  
9 profession. Therefore, we should expect to  
10 see at least one thousand five hundred reports  
11 of possible sexual abuse from healthcare  
12 providers for the year 2007. That is not the  
13 case.

14           The Department of Public Welfare  
15 reports that there were a total of one  
16 thousand five hundred and twelve reported case  
17 of sexual abuse in this age range for that  
18 year. This figure includes all types of  
19 sexual abuse such as indecent exposure and not  
20 just reports of physical contact. It also  
21 includes all reports, not just those from  
22 mandated reporters. In fact, the department  
23 reports that only 22 percent of abuse reports,  
24 or just three hundred thirty-two incident,s  
25 were actually reported by healthcare workers.

1                   So, conservatively speaking,  
2                   approximately fifteen hundred children in the  
3                   year 2007 saw a mandated reporter with a  
4                   condition that absolutely proved that sexual  
5                   conduct had occurred and the mandated reporter  
6                   failed to obey the law and file the report.  
7                   And this happens every year. We must do  
8                   better than this.

9                   House Bill 928 requires that mandated  
10                  reporters ascertain the age of the young  
11                  person who comes to them for treatment of a  
12                  pregnancy or sexually transmitted disease.  
13                  The proof of age must be kept on file.  
14                  Obtaining proof of age is not overly  
15                  burdensome, since this information is  
16                  obtainable through a health insurance provider  
17                  or other medical record.

18                  This requirement is fully within the  
19                  bounds of HIPAA regulations, which state that  
20                  the privacy rule permits covered entities to  
21                  make disclosures that are required by other  
22                  laws.

23                  The requirement eliminates the  
24                  possibility of a child lying about his or her  
25                  age to avoid a report. Again, the mandatory

1 nature of the report is already established by  
2 law, and House Bill 928 does not change that  
3 requirement. It creates a process to  
4 facilitate following of existing law.

5 It also establishes penalties for  
6 those who fail to acquire proof of age,  
7 removing a loophole for anyone who is seeking  
8 to avoid their legal responsibility to report  
9 the sexual abuse of a child who has come to  
10 them for care.

11 The damages to a child who must  
12 continue to suffer because of the failure of  
13 the adult who should have helped her are well  
14 documented and serious. Sometimes they are  
15 life threatening.

16 House Bill 928 is an important step  
17 in protecting these children. I urge you to  
18 approve it.

19 Thank you.

20 CHAIRMAN CALTAGIRONE: Thank you,  
21 Doctor.

22 Questions?

23 Thank you.

24 Excuse me.

25 REPRESENTATIVE WATERS: Can I ask you

1 questions?

2 CHAIRMAN CALTAGIRONE: I'm sorry.  
3 Representative Waters.

4 REPRESENTATIVE WATERS: Thank you,  
5 Mr. Chairman.

6 And thank you to for being here and  
7 giving testimony, but we can't let you leave  
8 without asking you at least one question.

9 DR. EVANS-RHODES: Go right ahead.

10 REPRESENTATIVE WATERS: From what I  
11 gather, there is no requirement at all for --  
12 for any agencies who receive underage child  
13 and has had sexual relationship. You're  
14 saying there's no law that requires them to do  
15 anything?

16 DR. EVANS-RHODES: No, I didn't say  
17 there's no law. I said that they're mandated  
18 reporters. I said that they're not following  
19 the law.

20 REPRESENTATIVE WATERS: They're  
21 not -- so there is a law that they're not  
22 following.

23 DR. EVANS-RHODES: Correct.

24 REPRESENTATIVE WATERS: All right.  
25 So what you want to do is see that there's

1 penalties for people who don't do it. I  
2 guess, if there's a law, there should be some  
3 penalties that come and consequences for not  
4 reporting. Right?

5 DR. EVANS-RHODES: I want to see to  
6 it that people who should be reporting follow  
7 the existing law.

8 REPRESENTATIVE WATERS: Follow the  
9 existing law.

10 Are there penalties in place right  
11 now for people who don't follow the existing  
12 law?

13 DR. EVANS-RHODES: You know, I cannot  
14 speak knowledgeably to that. What happens is  
15 that they're not reporting. The fact that  
16 they're not reporting, we don't have a trail,  
17 and so, we are not doing what we need to do to  
18 protect our young children.

19 REPRESENTATIVE WATERS: And I  
20 understand that. Because I'm surprised to  
21 hear that they are not doing it. I know for  
22 children who go to school that show signs of  
23 -- some scars or something on their body, the  
24 teachers are required to call DHS to say this  
25 child may be getting physically abused, and

1 now you're saying that it's not across the  
2 board.

3 DR. EVANS-RHODES: As in so many  
4 areas of the law, there's what we say is  
5 required and then there's what's done.

6 REPRESENTATIVE WATERS: I thank you  
7 so much.

8 Thank you.

9 CHAIRMAN CALTAGIRONE: Another  
10 question?

11 Chairman Rohrer.

12 REPRESENTATIVE ROHRER: Thank you for  
13 testimony. You laid out some very interesting  
14 statistics today. And I know when we were  
15 working on this legislation last year, the  
16 thing that really drove our concern was the  
17 fact that -- that there could possibly really  
18 be -- when, I mean, because most of us here --  
19 a lot, anyway, were around when we passed the  
20 mandated reporter law. And I remember the  
21 debates on why that was so important, because  
22 we wanted to protect our innocent children  
23 from things that were occurring to them. And  
24 when it became aware, when I became aware  
25 that, in fact, it was likely that there were

1 children that were actually being multiple  
2 times assaulted when they were twelve and  
3 under, of all things, which is statutory rape,  
4 if there is a sexual assault, that just really  
5 shocked me. And I found it very, very  
6 difficult to believe that whether that's done  
7 intentionally or it's done because it's just  
8 an easy thing to overlook, requires a little  
9 bit more work, I don't know fully, but I know  
10 that there is -- there seemed to be an issue.

11 You're a psychologist.

12 DR. EVANS-RHODES: Yes.

13 REPRESENTATIVE ROHRER: Speak to me a  
14 little bit about the harm done to a young  
15 child, and what -- and what this -- I mean --  
16 part of this is to get at the perpetrator.

17 DR. EVANS-RHODES: Correct.

18 REPRESENTATIVE ROHRER: But part of  
19 it is also to save lives of young children who  
20 can be damaged forever.

21 DR. EVANS-RHODES: Absolutely.

22 REPRESENTATIVE ROHRER: Can you speak  
23 to that a little bit, about what you have  
24 found and what are we talking about here?

25 DR. EVANS-RHODES: The damage occurs



1 on so many levels. And unfortunately, you  
2 know, when we talk about damages, it's bad  
3 enough that we've got a child victim, but as  
4 that child grows and goes untreated, so now we  
5 have an adult bearing those scars. That has  
6 an impact on society.

7 Speaking of the damage to the victim,  
8 not the least of which is the damage to  
9 trust. So a trusted professional who was  
10 there in a position to protect her, failed to  
11 do so. The damage to trust is immeasurable.  
12 When we talk about how that child proceeds, of  
13 course there are physical repercussions of  
14 abuse in terms of, for example, potential for  
15 childbearing, in terms of risk of diseases, in  
16 terms of risk of pregnancy, again all of those  
17 carry damage or potential harm to the child.

18 The damage to the psyche, again, of  
19 being abused, and the abuse perpetrating, in  
20 terms of self-esteem, in terms of trust, in  
21 terms of ability to bond and build  
22 relationships, in terms of the ability to even  
23 later become a successful parent herself.

24 REPRESENTATIVE ROHRER: There was an  
25 earlier question about -- because,

1 unfortunately, this happens where some of this  
2 abuse is afflicted by a parent, of all things.

3 DR. EVANS-RHODES: Correct.

4 REPRESENTATIVE ROHRER: From your  
5 perspective, as a psychologist, in dealing  
6 with this, how -- what -- how do you deal with  
7 an issue of trying to protect a young child,  
8 when, perhaps, you have an adult in place --  
9 I'm not sure that the only choice is just --  
10 if there is an adult, either -- a parent  
11 involved, you just don't go there because  
12 that's embarrassing. So does that mean we  
13 don't do anything for the child but just let  
14 the child be victimized? Or is something --  
15 how do we deal with that? Because we know  
16 that that's a difficult issue. From your  
17 perspective, how -- should we not deal with  
18 it? Should we deal with it, knowing that it's  
19 a very difficult --

20 DR. EVANS-RHODES: I understand that  
21 it's a difficult issue. By simply turning our  
22 eyes and looking the other way, the abuse  
23 continues. We haven't, then, done our job.

24 So, once again, we're back to the  
25 place we are here. We have mandated

1 reporters. We're asking that they follow the  
2 law. They're not. We are now requiring that  
3 they obtain proof of age, because that's been  
4 the loophole they've used.

5 It -- are we going to eliminate  
6 parents who are abusing their children? I  
7 wish I could say we eliminate parents who are  
8 abusing their children. This isn't going to  
9 make that go away, but the fact is that we've  
10 got to see to it that those mandated  
11 reporters, who are supposed to be there to  
12 protect the innocent, are doing so.

13 REPRESENTATIVE ROHRER: Thank you,  
14 Mr. Chairman.

15 CHAIRMAN CALTAGIRONE: Are there  
16 any -- Tim.

17 REPRESENTATIVE SEIP: Just very  
18 briefly. Thank you for being here,  
19 Dr. Rhodes.

20 I know myself -- and I don't want  
21 oversimplify this -- but I remember I was  
22 working as a caseworker with a child who was  
23 involved with children and youth, had an  
24 injury to his nose, was wintertime, I said,  
25 Gee, what happened to you? He says, I was

1 snowboarding and broke my nose. Now, sounds  
2 very reasonable to me, but I contacted the  
3 caseworker who was working with the family and  
4 said, You know, this is what was reported to  
5 me. You know, I don't know if there is abuse  
6 going on or not. I wanted to make sure that  
7 there wasn't.

8           And children and youth followed up on  
9 that and they substantiated that there was no  
10 abuse going on, no physical abuse. You know,  
11 and certainly, again, I didn't want any abuse  
12 taking place, but also along with that, I  
13 didn't want to lose my job. I didn't want to  
14 be -- open myself up to different legal  
15 sanctions, which there are. And if you are a  
16 practitioner, if you're a school nurse with a  
17 license or if you're a licensed social worker,  
18 like myself, you would have the opportunity to  
19 lose your license if you don't report  
20 suspected child abuse.

21           And again, that's the key word. It's  
22 suspected. It's not that you're supposed to  
23 go out and collect any evidence or -- you're  
24 not the one who's supposed to determine  
25 whether, well, I think this is abuse or I

1 think it's not. It's up to you to report that  
2 either to ChildLine or to the county children  
3 and youth office so they can investigate  
4 that.

5           And believe me, I -- I really  
6 recognize the damage that some individuals can  
7 do, because I've, unfortunately, had an  
8 opportunity to meet some very impaired people  
9 with some very, very debilitating conditions,  
10 I guess, who have caused tremendous harm to  
11 children. And nobody -- I don't know anybody  
12 on this panel is pro child abuse. We want to  
13 make sure that we're doing all we can to  
14 thwart that.

15           But I do want the people here in the  
16 audience today and the people on television to  
17 know that mandated reporting laws are in  
18 place, and there are sanctions if you don't  
19 follow through on your commitment. And  
20 everybody's -- as I'm sure the psychologists  
21 have ongoing training requirements to maintain  
22 their license, social workers do. And  
23 hopefully we'll have a human services license  
24 in the very near future.

25           So if you want to comment on --

1 DR. EVANS-RHODES: Your comments take  
2 me two different directions. And the first is  
3 that, certainly, again, all we're asking that  
4 people follow through on what they're supposed  
5 to follow through on. It is not up to the  
6 mandated reporter to gather evidence. All  
7 they're doing is reporting suspected abuse.

8 I have young children myself, and I  
9 have had those situations at the ER where the  
10 kid is injured, and as a parent, you're  
11 saying, oh, gee, what are they going to  
12 think. But, again, all they're doing is, they  
13 have to report suspected abuse.

14 And so the second direction I go is,  
15 so here we are at the physician's office or at  
16 the ER or at CYS, and we've got a child twelve  
17 years old who's pregnant. We have evidence  
18 that sexual contact occurred. I know of no  
19 other way for pregnancy to occur in a twelve-  
20 year-old child other than sexual contact, the  
21 same with sexually transmitted diseases. So,  
22 again, mandated reporting, following through.

23 REPRESENTATIVE SEIP: Well, I guess  
24 we can both agree that that's a situation for  
25 ChildLine or children and youth.

1 DR. EVANS-RHODES: Absolutely.

2 REPRESENTATIVE SEIP: All right.

3 Thank you, Mr. Chairman.

4 Thank you for your comments,

5 Dr. Rhodes.

6 CHAIRMAN CALTAGIRONE: Representative

7 True.

8 REPRESENTATIVE TRUE: Thank you,

9 Mr. Chairman.

10 Just -- I think some of us have  
11 tip-toed around this somewhat. I've been  
12 listening patiently, and I just want to lay  
13 out something. You were talking about  
14 mandated reporters as someone who's been very  
15 involved in the child abuse issues for many  
16 years. And if you don't have knowledge of  
17 this, please speak to that. I was kind of  
18 saving up for our district attorney, but I'd  
19 just like to enter it here.

20 The folks in abortion clinics that  
21 perform abortions on a twelve- or thirteen-  
22 years-old girl, they're a mandated reporter?

23 DR. EVANS-RHODES: You know, I can't  
24 speak to that knowledgeably.

25 REPRESENTATIVE TRUE: Okay. I think

1       there might be a question about that. One of  
2       my concerns, and trying very hard, you know,  
3       not to get into the whole emotional issue of  
4       abortion, in my book, if a parent or a  
5       guardian or whoever brings a girl -- a young  
6       girl into an abortion clinic and they don't  
7       ask her how old she is or whatever but  
8       performs an abortion on a twelve- or thirteen-  
9       year-old girl, that's absolutely child abuse  
10      in my book because she's pregnant in the first  
11      place.

12                   And in my way of looking at it, why  
13      would they not report. She had some sort of  
14      relationship with somebody, obviously. And I  
15      think the heart of a lot of this legislation,  
16      I would hope, would be to get to just that.  
17      Because regardless of how you feel about the  
18      abortion issue, a twelve-year-old girl coming  
19      in pregnant and having an abortion performed  
20      on her, she has been abused. No question.  
21      Thirteen, fourteen, in my book. But I know we  
22      can get into details on age. Nevertheless,  
23      that's abuse.

24                   DR. EVANS-RHODES: But, once again,  
25      we can even take abortion issue out of it.



1       Simply the fact that a child of that age,  
2       pregnant, according to our laws in the state  
3       of Pennsylvania, that is abuse.

4                 REPRESENTATIVE TRUE:   And I  
5       appreciate that.   And I thank you.

6                 And, just for the record, though, I  
7       think the folks that work in that -- in the  
8       clinics need to acknowledge that.   You know, I  
9       know it's a tough place to go, but  
10      nevertheless --

11                DR. EVANS-RHODES:   I would not  
12      disagree.

13                REPRESENTATIVE TRUE:   --  
14      reporting should be made.

15                Thank you, Mr. Chairman.

16                Thank you, ma'am.

17                CHAIRMAN CALTAGIRONE:   Thank you.

18                Any other questions?

19                Josh.

20                REPRESENTATIVE SHAPIRO:   Thank you,  
21      Mr. Chairman.

22                Just to Representative True's  
23      question, I just -- I believe I know the  
24      answer -- and perhaps counsel can check and  
25      get back to us on that to confirm -- the Title

1 X family planning institutions, like those  
2 that I believe you were referring to, are  
3 required to meet state reporting  
4 requirements. And my understanding further  
5 was, we have eighty-six of them here in  
6 Pennsylvania, and each was deemed to be in  
7 could compliance with state reporting  
8 requirements.

9 Now, that's the information that was  
10 shared with me, and I'd be happy to leave that  
11 open to counsel to come back and report to us  
12 on this. That's my understanding of the  
13 situation.

14 REPRESENTATIVE TRUE: Okay.  
15 Mr. Chairman, may I be recognized?

16 CHAIRMAN CALTAGIRONE: Yes. Sure.

17 REPRESENTATIVE TRUE: Thank you.

18 Representative Shapiro, I guess part  
19 of the problem is, and we all have folks that  
20 come into our offices and so forth, but there  
21 is a concern that perhaps they might not be.  
22 How you get at that, I wish I had the solution  
23 to, you know. Just that that reporting is  
24 done, but there's a great deal of concern.

25 We have -- I hear a lot about a

1 facility in York, for instance, a neighboring  
2 county. And I just -- but I appreciate the  
3 information, and perhaps that's something --  
4 it still is abuse, I mean, because there has  
5 been a male in that little girl's life that  
6 needs to have some serious harm done to him.  
7 Excuse me.

8 REPRESENTATIVE SHAPIRO:

9 Mr. Chairman, just to follow up.

10 And, Representative True, I'm not  
11 quibbling with your underlying assertion at  
12 all.

13 And I think, Mr. Chairman, if we can  
14 get to the bottom this, that's a fundamental  
15 question that I think Representative True and  
16 I would agree needs to be answered. So if  
17 there's a way that we can get to the heart of  
18 that reporting, whether that's happening in  
19 those eighty-six institutions, I think that  
20 could help inform the committee quite a bit.

21 CHAIRMAN CALTAGIRONE: Yes, I agree  
22 with you.

23 Representative Lentz.

24 DR. EVANS-RHODES: May I comment?

25 CHAIRMAN CALTAGIRONE: Sure. Go

1 ahead.

2 DR. EVANS-RHODES: I'm a numbers  
3 person. Numbers don't lie. Again, the  
4 numbers don't add up. Clearly, there are  
5 cases that are going unreported. Mandated  
6 reporters aren't reporting.

7 REPRESENTATIVE LENTZ: Just a quick  
8 follow-up on that point. Representative True  
9 raised an interesting issue as to whether or  
10 not personnel that work in abortion clinics  
11 are covered by the mandatory reporting law.  
12 And as I understood the earlier testimony,  
13 yours and the earlier gentleman's testimony,  
14 the point of requiring proof of age was that  
15 somehow healthcare providers were avoiding the  
16 reporting requirement by sort of being  
17 willfully blind to the age of the patient;  
18 correct?

19 DR. EVANS-RHODES: Correct.

20 REPRESENTATIVE LENTZ: Understood  
21 from Mr. McMonagle that that is a practice in  
22 abortion clinics; right?

23 DR. EVANS-RHODES: Again, abortion  
24 clinics, not my area of expertise.

25 REPRESENTATIVE LENTZ: Okay. So is

1       it your testimony that there's a widespread  
2       practice in hospitals and doctors' offices to  
3       not ascertain the age of the patient in order  
4       to avoid reporting something?

5               DR. EVANS-RHODES:  It is certainly a  
6       practice.

7               REPRESENTATIVE LENTZ:  Can you tell  
8       me a single hospital in the commonwealth of  
9       Pennsylvania where a young woman would be  
10      admitted for treatment without her age, in  
11      fact, her date of birth being recorded as part  
12      of the process?

13              DR. EVANS-RHODES:  You know, I can't  
14      point my finger at a specific institution.  
15      What we know is, again, the numbers don't  
16      lie.  We've got girls under age, pregnant.  
17      We've got girls under age with sexually  
18      transmitted diseases.  Again, by definition,  
19      sexual contact has occurred.

20              REPRESENTATIVE LENTZ:  Right.

21              DR. EVANS-RHODES:  The number of  
22      those that's occurring in the state does not  
23      match the number of reports.

24              REPRESENTATIVE LENTZ:  So that's a  
25      math problem.  But what we have here is a

1 statute that requires doctors and all  
2 healthcare providers to obtain proof of age.  
3 And I'm understanding that we're passing this  
4 law -- we're being asked to pass this law  
5 specifically because of the practice by  
6 healthcare providers of not getting the age of  
7 a patient.

8 And I want to know, where's that  
9 happening? Because I'm not familiar -- I  
10 don't think anybody in this room has ever  
11 taken a child to a hospital without one of the  
12 first things you do, you fill out a piece of  
13 paper and tell them what their age is. So I'd  
14 like to know where this is occurring that we  
15 have to pass a law to remedy it.

16 DR. EVANS-RHODES: Well, that's also  
17 you -- you spoke of you, yourself, taking a  
18 child into the hospital and doing that. We're  
19 not talking about a situation, for example,  
20 where a young girl shows up unaccompanied or  
21 where a young girl shows up with a friend that  
22 says, Yeah, my friend's such and such an age.  
23 All we're doing is asking that they document.

24 REPRESENTATIVE LENTZ: Again,  
25 unaccompanied or not, I don't -- I'm not aware

1 of any hospital that takes anybody and treats  
2 them without ascertaining your basic  
3 biographical information, including your age.  
4 It's usually one of the first things you're  
5 asked, if your seeking treatment.

6 DR. EVANS-RHODES: Very well, then.  
7 We're asking that we make it a point that they  
8 are required to document it, so we've got that  
9 paper trail.

10 CHAIRMAN CALTAGIRONE: Thank you,  
11 Doctor.

12 DR. EVANS-RHODES: For real this  
13 time?

14 CHAIRMAN CALTAGIRONE: I think so.  
15 Thank you.

16 Bruce.

17 Our next testifier will be Bruce  
18 Castor, former district attorney in Montgomery  
19 County, and gentleman I worked for for several  
20 years as DA with this committee.

21 MR. CASTOR: Nice to see you,  
22 Mr. Chairman. I was going to say good  
23 morning, but good afternoon to you and the  
24 committee.

25 As the chairman said, my name is

1 Bruce Castor, and I currently serve as a  
2 commissioner in Montgomery County. I am a  
3 lawyer by profession and have a been member of  
4 the bar of Pennsylvania for twenty-four  
5 years.

6 From 1985 until 2008, I served in the  
7 Montgomery County District Attorney's office,  
8 and was district attorney from 2000 to 2008.  
9 I am a past president of the Pennsylvania  
10 District Attorney's Association and served on  
11 the supreme court juvenile rules committee,  
12 which authored the rules of juvenile court. I  
13 currently serve on the senate select  
14 committee, studying so-called wrongful  
15 convictions.

16 In addition to my governmental rule,  
17 I am a partner in the Blue Bell-based law firm  
18 of Elliott, Greenleaf.

19 Today I speak to a particular aspect  
20 of House Bill 928. It's my view that the  
21 person elected by the people of the several  
22 counties to make criminal charging decision,  
23 the district attorneys, need to be given  
24 information pertaining to the crime of  
25 statutory rape when such evidence comes into



1 the hands of healthcare professionals.

2           Statistics I have seen compiled by  
3 various state agencies, including the Office  
4 of Attorney General, for example, list  
5 abortions performed on young women who are age  
6 thirteen or younger. This list is compiled by  
7 county, but a check with county officials to  
8 ascertain whether a corresponding prosecution  
9 for statutory rape was considered revealed no  
10 such connection.

11           In other words, abortion providers  
12 reported performing abortions on young girls,  
13 there is a probability that these young girls  
14 were victims of statutory rape, since girls  
15 under age thirteen are deemed incapable of  
16 consenting to sexual intercourse. But law  
17 enforcement officials were routinely not  
18 notified of these incidents.

19           Similarly, healthcare professional  
20 are sometimes called upon to treat young girls  
21 for sexually transmitted diseases. Where the  
22 girl is under thirteen years of age, she  
23 potentially has been the victim of a sexual  
24 offense, especially if the disease she has  
25 contracted could only have been as result of

1 sexual conduct. The child is treated, but,  
2 again, law enforcement is often not notified.

3 I am concerned that abortion  
4 providers and healthcare practitioners are not  
5 making a sufficient effort to learn the age of  
6 the patient in order to skirt existing  
7 reporting requirements. House Bill 928 would  
8 seek to remedy this situation by insisting  
9 that the providers of these services take  
10 active measures to learn the age of the  
11 patient. In turn, learning the age of the  
12 patient would lead to a definitive  
13 determination on the question on whether  
14 reporting is required.

15 I am sensitive to victims and their  
16 family's privacy. I am aware that often  
17 victims of sexual abuse, and especially those  
18 of tender age, would rather put the abuse  
19 behind them then relive the experience through  
20 the criminal justice system.

21 In Montgomery County, we have a well  
22 developed child advocacy program to assist  
23 with these issues. In addition, the  
24 prosecutors there decide on a case-by-case  
25 basis whether to push for prosecution, paying

1 close attention to the wishes of the victim  
2 and the victim's family.

3 The point here is that the district  
4 attorney, person elected to make charging  
5 decisions, is the one making the call on the  
6 criminal action, not the treating doctor, the  
7 victim, or the victim's family. The reason  
8 for this is obvious. The district attorney  
9 has to balance the needs of the victim against  
10 the danger that a perpetrator might attack  
11 another child if the perpetrator's not  
12 punished.

13 While the prosecutor is keenly aware  
14 of the feelings and sensibilities of the  
15 victim, he or she represents the Commonwealth  
16 as a whole and must be primarily concerned  
17 with protecting society at large.

18 I, therefore, support House Bill 928,  
19 especially those portions which provided for  
20 mandatory reporting of sexually transmitted  
21 diseases and abortions performed on girls  
22 thirteen years old or younger. By definition,  
23 in most instances, these girls are victims of  
24 crime, and thus evidence of their  
25 victimization needs to be brought to the

1 attention of law enforcement for appropriate  
2 action. Prosecutors must act with discretion  
3 to balance the need of the victim with the  
4 danger posed to society by having an offender  
5 go unpunished.

6 I support requiring those who treat  
7 these underaged girls for STDs or abortions  
8 having to take affirmative steps to learn the  
9 age of the child to trigger the reporting  
10 requirement or not.

11 Finally, I want to thank the  
12 committee for permitting me to testify and  
13 taking up this important public issue.

14 Thank you.

15 CHAIRMAN CALTAGIRONE: Thank you,  
16 sir.

17 Questions.

18 REPRESENTATIVE LENTZ: Good morning.

19 In the testimony that we are going to  
20 hear from an additional witness, they make  
21 reference to the fact that Pennsylvania  
22 already has a statute in place that requires  
23 the rape kit, the use of the rape kit. You're  
24 familiar with that, obviously, as a  
25 prosecutor.

1 MR. CASTOR: Right.

2 REPRESENTATIVE LENTZ: Would you  
3 agree that in most rape cases, the rape kit is  
4 the source of -- the physical identifying  
5 evidence, in other words, capturing of sperm  
6 or DNA or whatever usually comes in the rape  
7 kit. Is that right? Is that a fair  
8 statement?

9 MR. CASTOR: When such evidence is  
10 available to be recovered, that's how you get  
11 it. The -- unfortunately, I would say the  
12 majority of the prosecutions that I'm familiar  
13 with and that I conducted myself, rape kit was  
14 of limited value. Sometimes there's something  
15 there and most times there's not.

16 REPRESENTATIVE LENTZ: But when there  
17 is, it usually comes from the rape kit.

18 MR. CASTOR: Agreed.

19 REPRESENTATIVE LENTZ: And this law  
20 requires doctors to gather DNA evidence from  
21 newborn children if they are born to a child,  
22 under this statute, or from fetuses, if there  
23 was an abortion performed. Are you familiar  
24 with that section of the statute?

25 MR. CASTOR: I read that section of

1 the statute. That's not the portion that I  
2 was primarily testifying on, but I read that.

3 REPRESENTATIVE LENTZ: Do you support  
4 that section?

5 MR. CASTOR: I heard what the major  
6 said, and I am familiar with the difficulties  
7 in the forensic laboratories and staffing and  
8 personnel and expense. I wonder if there  
9 could be a compromise struck between the needs  
10 of the state police and their staffing issues  
11 and the needs to preserve evidence.

12 I mean, as I heard the major  
13 testifying -- obviously I did not know what he  
14 would say until I was here in the room -- I  
15 was struck with the notion that perhaps it  
16 might be a good idea if the evidence was  
17 preserved but not necessarily tested until it  
18 was needed.

19 REPRESENTATIVE LENTZ: Have you ever  
20 prosecuted a rape case using fetal DNA  
21 evidence?

22 MR. CASTOR: Me, personally, no. I  
23 believe that our office has done that when I  
24 was the district attorney.

25 REPRESENTATIVE LENTZ: You would

1 agree --

2 MR. CASTOR: Exceedingly rare.

3 REPRESENTATIVE LENTZ: Exceedingly  
4 rare. So for an exceedingly rare prosecution,  
5 we're going to gather DNA evidence in every  
6 case where a child is either born or aborted  
7 to a young victim of rape. That's you --  
8 that's what this statute would do.

9 MR. CASTOR: Yeah, but that isn't so  
10 burdensome, Mr. Lentz. The rape kit --

11 REPRESENTATIVE LENTZ: What's not  
12 burdensome to you or I, it may be burdensome  
13 to the medical providers or the infant child  
14 that's having its DNA gathered. Might be  
15 burdensome to them.

16 MR. CASTOR: If it's tested. I mean,  
17 you talk about rape-kit analysis. I mean,  
18 they do combings, they do swabs, they do blood  
19 tests. They do all of these things. It goes  
20 into a preserved bag and then into another  
21 bag, and then it is held in case it is  
22 needed. This would be one more step in that  
23 process.

24 Where it becomes burdensome is you go  
25 in and test all of it.

1                   REPRESENTATIVE LENTZ: Right. And  
2 you agree, again, it's exceedingly rare.

3                   Now, the child protective law that  
4 has been referenced already, Pennsylvania's  
5 child protective services law requires  
6 healthcare professionals to immediately  
7 contact the state's ChildLine when they have a  
8 reasonable cause to suspect that a child has  
9 been raped, and that report is thereafter  
10 immediately referred by ChildLine to the  
11 appropriate county children and youth agency.

12                   Do you agree that's the law today in  
13 Pennsylvania?

14                   MR. CASTOR: Absolutely.

15                   REPRESENTATIVE LENTZ: And would you  
16 also agree that the majority of the cases that  
17 are prosecuted in this state are -- of child  
18 sexual abuse are cases that are referred  
19 through that system?

20                   MR. CASTOR: No, absolutely not.

21                   REPRESENTATIVE LENTZ: Would you say  
22 that it's common in child sexual abuse cases  
23 for the individual child to walk into the  
24 police station and report having been raped?

25                   MR. CASTOR: No. The most common way



1 is a child tells a parent who then reports it  
2 to the police.

3 REPRESENTATIVE LENTZ: So they tell a  
4 parent. But the idea of a child going to the  
5 police and saying, I'm the victim of sexual  
6 abuse, that's almost unheard of; is that  
7 right?

8 MR. CASTOR: Yes. I mean, most  
9 people, most children wouldn't know how to  
10 find the police station. I mean, they'll tell  
11 their teacher. They'll tell their parents.  
12 They'll tell an adult that they trust.

13 REPRESENTATIVE LENTZ: Well, there's  
14 been a lot of reference to Philadelphia  
15 today. Isn't there a police officer in just  
16 about every school in Philadelphia on duty?

17 MR. CASTOR: I think I can honestly  
18 say I have never been in a school in  
19 Philadelphia

20 REPRESENTATIVE LENTZ: If you're  
21 going to support this legislation, you might  
22 want to visit.

23 MR. CASTOR: I'm not the DA anymore,  
24 either.

25 REPRESENTATIVE LENTZ: So if, in this

1 case, we're now essentially making the doctor  
2 the equivalent of the police so you know that  
3 word gets out among the youthful population  
4 and they will know shortly after this becomes  
5 law that if you tell a doctor that you have a  
6 sexually transmitted disease the doctor has to  
7 call the police; right?

8 MR. CASTOR: I think that that's the  
9 way the law is now.

10 REPRESENTATIVE LENTZ: Well, the law  
11 doesn't require them to call the police. The  
12 law requires them to call child protective  
13 services. There's a difference between child  
14 protective services and the police; you would  
15 agree?

16 MR. CASTOR: Yes.

17 REPRESENTATIVE LENTZ: So it will  
18 quickly become apparent that if you go to the  
19 doctor and you have a sexually transmitted  
20 disease or your pregnant, the next thing  
21 you're going to see is a guy with a clipboard  
22 and a uniform or a badge; right?

23 MR. CASTOR: I don't know that I can  
24 draw that conclusion. I think the conclusion  
25 that I would draw is that the law requires

1 reporting of the treatment of a sexually  
2 transmitted disease to a government agency,  
3 and that a government agency then is likely to  
4 report it to law enforcement. So the same  
5 risk that your question suggests regarding  
6 against is already present.

7 REPRESENTATIVE LENTZ: You would  
8 agree that if a child has a serious disease,  
9 in which all of these diseases are serious,  
10 some more serious and some are threatening to  
11 the health of the child and others, but the  
12 first priority is treatment; correct?

13 MR. CASTOR: The first priority for  
14 the ill person?

15 REPRESENTATIVE LENTZ: Yes.

16 MR. CASTOR: Sure.

17 REPRESENTATIVE LENTZ: So treatment  
18 would be above the prosecution and the order  
19 of things we want to get done for that child;  
20 right?

21 MR. CASTOR: Yes.

22 REPRESENTATIVE LENTZ: And to the  
23 extent the perception that going to the doctor  
24 would lead immediately to contact with law  
25 enforcement would discourage a child from

1 getting treatment, that would be a bad thing.

2 We could agree on that; right?

3 MR. CASTOR: If, in fact, the premise  
4 is true. I mean, we have a law that requires  
5 doctors to report gunshot wound victim, and  
6 people still walk into hospitals with gunshot  
7 in them.

8 REPRESENTATIVE LENTZ: That's to  
9 avoid bleeding to death, usually the result of  
10 a gunshot. But you agree that it's a rare  
11 occurrence for a child to go directly to law  
12 enforcement; right? So if the child thinks  
13 going to the doctor is the equivalent of going  
14 to law enforcement, that may discourage them  
15 from seeking medical care, and that would be a  
16 bad thing; right?

17 MR. CASTOR: I think it is bad thing  
18 if a child would not seek medical care. I  
19 would not necessarily connect the two. I  
20 think that when a child presents at a doctor  
21 or a hospital with a severe medical condition,  
22 the child is brought there by a parent or a  
23 caregiver, and the first priority is to treat  
24 the illness.

25 I suppose it is possible that some

1 parent would prefer their child to continue to  
2 go downhill and potentially die from a disease  
3 rather than take the risk that it might be  
4 reported to the police, but that's seems so  
5 fanciful as to be unlikely to be worthy of  
6 your consideration.

7 REPRESENTATIVE LENTZ: Well, if the  
8 parent was the rapist, that may make sense,  
9 but also I'm talking about the child's  
10 decision, not -- without their parents, which  
11 in many of these cases the child's decision  
12 whether or not they want to get treated for an  
13 illness that they may not know has long-term  
14 impacts on them, such as leading to  
15 infertility, et cetera.

16 MR. CASTOR: Well, I --

17 REPRESENTATIVE LENTZ: I just have  
18 one last question.

19 MR. CASTOR: Mr. Lentz, I have to  
20 stop you there. Probably, when I was in the  
21 DA's office, conservatively two hundred  
22 thousand cases went through there when I was  
23 there, and perhaps a hundred fifty of them --  
24 thousand of them while I was in the  
25 supervisory condition. I cannot recollect a

1 single case where a child elected not to  
2 receive medical care from a serious disease or  
3 illness.

4 REPRESENTATIVE LENTZ: Okay. Well  
5 that -- this law wasn't in effect during that  
6 time period, right, so we don't know that that  
7 impact would be felt.

8 But just one last question. In the  
9 penalty section of the bill -- and you're now  
10 a lawyer in civil practice, so you probably  
11 have clients that this would impact, so I'm  
12 interested in getting your opinion on it.

13 In the civil remedy section, it says  
14 that a doctor or the person that they work  
15 for, so let's use Children's Hospital as an  
16 example. If a doctor were to fail to comply  
17 with this statute, and then the child victim  
18 were raped again by the same predator, so say  
19 we have a situation where a young woman is  
20 being raped by a stepfather, and for some  
21 reason the doctor or the nurse at Children's  
22 Hospital fails to comply with this statute,  
23 she returns home and is raped again by her  
24 stepfather. Children's Hospital would be  
25 civilly liable for both compensatory and

1           punitive damages for the fact that she had  
2           been rape a second time. Do you support that  
3           provision of that statute?

4                       MR. CASTOR: Yes.

5                       REPRESENTATIVE LENTZ: Okay. Thank  
6           you.

7                       CHAIRMAN CALTAGIRONE: Josh.

8                       REPRESENTATIVE SHAPIRO: Thank you,  
9           Mr. Chairman.

10                      And thank you, Commissioner, for your  
11           testimony today.

12                      I want to pick up on some of the  
13           areas of questioning that Representative Lentz  
14           issued and also some of the questions that I  
15           had earlier for Mr. McMonagle. I want to sort  
16           of come back to where I began. Page three,  
17           line twenty-one of the underlying legislation  
18           -- and I'll read it to you if you don't have  
19           it in front of you -- talks about how this  
20           will greatly strengthen the Commonwealth's  
21           ability to protect children under thirteen  
22           years of age against child rapists and other  
23           sexual predators.

24                      And that's in line, seemingly  
25           consistent with your testimony that says, I'm

1 concerned that abortion providers and  
2 healthcare practitioners not making sufficient  
3 efforts to learn the age the patient in order  
4 to skirt the existing reporting requirements.  
5 Suggesting in your testimony and in the  
6 underlying bill that somehow the current  
7 system is not working; that is, physicians are  
8 not reporting.

9           And so I really want to come back to  
10 where I ended my question before, and ask you,  
11 What is broken? Again, I can recall your  
12 press conferences. I can recall your  
13 statements back home talking about the great  
14 cooperation between our healthcare providers  
15 in Montgomery County, our law enforcement, our  
16 physicians, our medical providers. In fact,  
17 that was one of the foundations for the  
18 establishment of Mission Kids, of the -- of  
19 the various programs we have back in  
20 Montgomery County.

21           So it seems to me that, as district  
22 attorney, you were almost bragging about how  
23 well the system was working. And now, today,  
24 you're sitting before us suggesting that it is  
25 broken, not working, and this legislation is



1 the answer to that.

2 So I was wondering if you could just  
3 help me understand that sort of seeming  
4 dichotomy between the two statements that  
5 you've made over time.

6 MR. CASTOR: When I would announce a  
7 prosecution, I would certainly have stated  
8 that particular agencies cooperated well with  
9 each other in that particular case. I cannot  
10 recall ever saying that that always was the  
11 case.

12 The way this issue came to my  
13 attention was when I was given statistics by  
14 county of abortions performed on girls, I  
15 believe it was under twelve, but I'm not sure  
16 about that. And it would have a list of the  
17 county on the one side and then it would have  
18 a list on the other side of the number  
19 performed. The agency that performed the  
20 abortion was apparently required to send  
21 statistics to some state agency by age of the  
22 person that was having the abortion. They  
23 were some years out of date, so I would get  
24 them maybe three, four years after the fact.

25 And even in a county as large as

1           Montgomery, it is still a relatively rare  
2           thing to have a twelve-year-old girl pregnant  
3           and a prosecution as a result of it. As a  
4           matter of fact, I would venture to say that  
5           there would be none that occurred in the years  
6           that I was either first assistant or district  
7           attorney, that I would not know of  
8           individually. Because it is relatively --  
9           relatively rare, and it is a serious offense  
10          and a matter of great public interest.

11                        So when I see, in the column for  
12          Montgomery, four, five, six, whatever it was,  
13          and I know that there's only been one or two  
14          prosecutions, and I know that the district  
15          attorney's office would individually review  
16          possible cases for prosecution, and I know  
17          that we didn't review that many, I know that  
18          something's not adding up.

19                        So the question you asked earlier  
20          about what aspect of it is broken, those two  
21          things should -- there should be a -- a  
22          connection. Because of my position with the  
23          district attorney's association, I then picked  
24          up a telephone and called my counterparts in  
25          other counties where they had a few of these.

1 Did you do any prosecutions as a result of  
2 this? The answer was invariably, Not that  
3 many.

4 So that lead me to think that there's  
5 some -- there's no correlation between the  
6 number of, in this case, abortions performed  
7 and the number of cases that were submitted to  
8 law enforcement for consideration of  
9 prosecution. And I think that the legislation  
10 is designed to try to assist in matching those  
11 two things up.

12 Obviously, there are plenty of times  
13 when the prosecutor would elect not to go  
14 forward with a case for a host of reasons:  
15 The perpetrator is -- difficult to ascertain  
16 who the perpetrator is, the child is of such  
17 tender years that he or she can't testify, it  
18 would be too traumatic and burdensome for the  
19 family to relive it. All of these things are  
20 components of whether the prosecutor would  
21 exercise discretion to go forward or not.

22 What I'm saying is, I think the  
23 prosecutor ought to be put in a position where  
24 he or she can decide whether to go forward or  
25 not.

1                   REPRESENTATIVE SHAPIRO: Right. I  
2 totally understand that. And I want to make  
3 sure that our prosecutors have the tools  
4 available to go after these rapists.

5                   I think I have the chart that you're  
6 referring to here, which is entitled Induced  
7 Abortions Performed in Pennsylvania Females  
8 Twelve and Under. It lists the counties. And  
9 2005 is the last year listed, which correlate  
10 with your testimony that it was a few years  
11 old.

12                   It says there were six in all  
13 counties in Pennsylvania, five in Philadelphia  
14 and one in Franklin County. Doesn't show that  
15 there were any in Montgomery County. So, I  
16 guess this is what you're sort of hanging your  
17 testimony on?

18                   MR. CASTOR: Probably the one before  
19 that.

20                   REPRESENTATIVE SHAPIRO: 2004 there  
21 were also six. Don't see --

22                   MR. CASTOR: I'm trying to remember  
23 how long ago it was this came to my attention,  
24 but I would say that it was four or five years  
25 ago, anyway.

1                   REPRESENTATIVE SHAPIRO: Okay. Well,  
2                   there's no evidence, at least on this chart,  
3                   of that ever occurring in Montgomery County.  
4                   So, even if you go based on this, you're sort  
5                   of hanging your support on this legislation  
6                   based on six incidents here in '05, one in  
7                   Franklin, five in Philly, pick any area you  
8                   want, where we do or don't know whether or not  
9                   prosecutors even got involved in these cases.

10                   I guess that's what I'm sort of  
11                   getting at here. We're -- I think we should  
12                   be very careful when we try and legislate the  
13                   behavior of physicians when there is no  
14                   evidence to suggest that the physicians aren't  
15                   acting in a way that is helping the  
16                   prosecutors already go after those who  
17                   perpetuate an obvious heinous crime.

18                   And putting your former hat back on  
19                   as the district attorney I'm just asking, When  
20                   did that happen? No one here today has  
21                   testified in a way to show me any evidence to  
22                   suggest that this is a problem that this  
23                   legislation will address. That's what I'm  
24                   getting at.

25                   I think many of us can agree on the

1 underlying -- parts of the underlying premise  
2 here. But no one, including yourself, seems  
3 to be providing any evidence to suggest that  
4 the physicians, healthcare providers aren't  
5 doing this already. Indeed, we are going to  
6 hear testimony in a few moments from a doctor,  
7 Dr. Pletcher, and we have a letter from CHOP,  
8 talking about the hippocratic oath that  
9 physicians have to take, talking about their  
10 ethical and legal duty to contact child  
11 protective services or legal law enforcement.  
12 I'm just asking you, when is this not  
13 happening?

14 MR. CASTOR: I'm telling you, that  
15 based -- other than what I told you concerning  
16 charts that I've seen, I don't know. And it  
17 may be that you're putting your finger on  
18 something that needs to be investigated  
19 further.

20 REPRESENTATIVE SHAPIRO: Good. And I  
21 hope that we will.

22 Now, you focused your testimony, and  
23 I appreciate this, on learning the age. That  
24 was -- I think you agree that was for the crux  
25 of your testimony. There is a key part of

1 this on page eight. I direct your attention  
2 to that. Page eight of the underlying  
3 legislation, line twenty-one, talking about  
4 delivery of a baby.

5 I will read it, in case you don't  
6 have it in front of you: A physician who  
7 delivers or supervises the delivery of a baby  
8 conceived by a child shall collect or provide  
9 for the collection of a sample of DNA suitable  
10 for testing from the baby in accordance with  
11 the instructions of the state police.

12 How does that help ascertain the age  
13 of those involved in this possible rape?

14 MR. CASTOR: I think that this  
15 portion is designed to try to preserve  
16 physical evidence that would be of value in a  
17 prosecution and not connected with the age of  
18 the victim.

19 REPRESENTATIVE SHAPIRO: Not  
20 connected.

21 MR. CASTOR: I think it is not.

22 REPRESENTATIVE SHAPIRO: I think it's  
23 not as well, but I just wanted to see if your  
24 read was different than mine.

25 MR. CASTOR: I think that that -- I

1 think that the evidence collection portion of  
2 the bill was designed to enhance the  
3 prosecution, if there is one.

4 REPRESENTATIVE SHAPIRO: Would you  
5 agree that mandatory evidence collection like  
6 this is somewhat controversial?

7 MR. CASTOR: You talking about a  
8 career prosecutor. I think we should be  
9 collecting as much evidence as possible to win  
10 cases.

11 REPRESENTATIVE SHAPIRO: You don't  
12 think this violates the Fourth Amendment?

13 MR. CASTOR: I don't think so, no. I  
14 don't think it violates the Fourth Amendment  
15 because I don't think it is state action.

16 REPRESENTATIVE SHAPIRO: I know a  
17 number of state mandatory collection laws have  
18 already been challenged in the courts,  
19 suggesting they violate the Fourth Amendment.  
20 And one of the things that we found, and  
21 perhaps you're not aware of this -- I'll be  
22 happy to inform you, and then maybe you can  
23 offer your opinion on it -- is that those  
24 mandatory collections have been found in  
25 violation of the Fourth Amendment, unless,



1 unless the individual that they were  
2 collecting it from was convicted of a crime or  
3 a person accused or arrested of a crime.

4 I'm assuming you would agree that the  
5 baby here is not a criminal. The baby here  
6 was not accused of a crime; is that correct?

7 MR. CASTOR: I agree that the baby is  
8 not accused of a crime. The portion that you  
9 read is for the preservation of evidence for  
10 future testing. The -- the -- the baby will  
11 still exist, if it is a viable baby, and the  
12 evidence will still be there. So it really --  
13 it can't be any Fourth Amendment violation  
14 because you can always go and get it later.

15 REPRESENTATIVE SHAPIRO: I'm not sure  
16 the courts would agree with you on the  
17 potential violation there of the Fourth  
18 Amendment.

19 But I would just come back to your  
20 original purpose for being here today and  
21 supporting this legislation on the grounds  
22 that it will help us get at the age. When  
23 you've also acknowledged that the collection  
24 of DNA is preserving potential evidence has  
25 nothing to do with the age. And I would

1       argue, and I think the courts would, in many  
2       cases, uphold this, it's also a violation of  
3       Fourth Amendment.

4               MR. CASTOR: It absolutely is not a  
5       violation of the Fourth Amendment. The -- if  
6       you're talking about a viable baby, another  
7       human being, you do not have a Fourth  
8       Amendment interest in someone else's DNA. So  
9       the answer is, it can never be a violation of  
10      the Fourth Amendment, unless, of course, it's  
11      the baby that's being prosecuted.

12              REPRESENTATIVE SHAPIRO: Again,  
13      mandatory DNA collection bills like this have  
14      been challenged successfully in other states  
15      where the individual they are collecting it  
16      from is not a criminal or arrested in a  
17      crime. They have not been shown to be  
18      constitutional. So --

19              MR. CASTOR: Well, you and I can  
20      argue about that, but I'm telling you, in the  
21      courts of Pennsylvania, you cannot have a  
22      Fourth Amendment standing in someone else's  
23      DNA. I have tried DNA cases, many of them,  
24      including the first one in Montgomery County.  
25      A famous case, Caleb Fairley. You're probably

1 familiar with it.

2 REPRESENTATIVE SHAPIRO: Was that a  
3 mandatory DNA collection case?

4 MR. CASTOR: It was before we even  
5 knew what DNA was. It was one of the first  
6 times we ever used it.

7 The point is, forcing someone to give  
8 their DNA that then can be used to incriminate  
9 them, they have standing to challenge the  
10 constitutionality of how the DNA was  
11 collected. You never have standing to  
12 challenge how DNA's collected from someone  
13 else.

14 REPRESENTATIVE SHAPIRO: And I hear  
15 your argument, I just don't think that  
16 pertains when you're talking about a mandatory  
17 collection law like the one that is being  
18 proposed. Nevertheless, I hear your  
19 testimony.

20 So, I mean, in sum, Mr. Chairman, you  
21 know, I have yet to hear from any of those  
22 testifying, to -- including the commissioner  
23 here, any evidence to demonstrate to us how  
24 this system isn't working, any evidence to  
25 suggest it's broken, any evidence in terms of

1 how it would be strengthened.

2 Indeed, the underlying legislation  
3 here, the commissioner just testified,  
4 includes provisions that really don't get at  
5 the heart of what prosecutors need, and that  
6 is tools to go after these criminals.

7 I think -- well, I'll reserve my two  
8 cents for the conclusion of the witnesses  
9 today.

10 Thank you, Mr. Chairman.

11 CHAIRMAN CALTAGIRONE: Representative  
12 Vereb and then Counsel Andring.

13 REPRESENTATIVE VEREB: Thank you,  
14 Mr. Chairman.

15 Good afternoon, commissioner.

16 Been suspiciously quiet this whole  
17 hearing. And now hearing you testify reminds  
18 me of a phone call to you when you're chief of  
19 the criminal division on, I believe, a  
20 Saturday afternoon in a rape case that the  
21 victim took over a month to report. A family  
22 dispute arose. Our patrol guys were called  
23 out. I was called in, and in panic, called  
24 you. And we dealt with a lot of  
25 circumstantial evidence because of the girl's

1 lack to report when there were no mandatories  
2 on anyone back then.

3 And you remember how painstaking the  
4 case was, both criminally and lack of evidence  
5 and all the procedures that are involved of  
6 dragging this girl of this age in question  
7 through -- through that process.

8 So, pardon me, Mr. Chairman, if I'll  
9 use that statement in that particular case as  
10 one that says, you know, is it a pro-life, is  
11 it an abortion issue, is it a clinic issue? I  
12 agree that Mr. McMonagle should not come here  
13 and slight a particular county without  
14 statistical facts, nor should any witness come  
15 in in front of us unless they know that from  
16 their professional experience.

17 But I also refute and disagree with  
18 some of the bobbing heads of the audience and  
19 even some members of my colleagues here that  
20 say that rape victims by via this legislation  
21 will fail to go get medical help of some  
22 type. And a condition that is consistent with  
23 rape or whether they think they've consented  
24 to it or not consented to it, by law, by  
25 statute, at this age, they can't consent to

1 it.

2 I don't just don't see how this  
3 prevents any further from what already  
4 happened, rape victims or victims of abuse,  
5 how this prevents them from going to get  
6 treatment. We assume, and some will assume  
7 that this stops people from that treatment or  
8 from going to get that treatment. But, you  
9 know, it's almost the same argument. It's a  
10 reverse argument of mandatory reporting a lost  
11 or stolen guns. We're getting the same  
12 argument used for the opposite position of  
13 we're mandating a report.

14 I agree with Representative Shapiro,  
15 he and I know and the hospitals that we are  
16 very familiar with, I can't even fathom a  
17 medical doctor looking at a victim and not  
18 reporting it. But there is the possibility, I  
19 guess, that it does happen.

20 I look at the failures in our medical  
21 system. I also look at the failures in our  
22 legal system. And, you know, we get into this  
23 debate, and just a moment ago, Commissioner,  
24 is what is the difference between this and me  
25 being interrogated by a doctor when I was in

1 full uniform with my daughter in Pottstown  
2 Hospital with a broken nose, and she fell off  
3 the bed, and I was brought through the third  
4 degree back in the mid-'90s.

5 What is the difference between child  
6 abuse and the mandatories that doctors  
7 currently have to report it versus this?

8 MR. CASTOR: Well, my immediate  
9 thought, Mr. Vereb, is that the doctor must  
10 have known you personally.

11 REPRESENTATIVE VEREB: First one in  
12 about ten years, Mr. Chairman.

13 MR. CASTOR: You know, it's  
14 interesting you point that situation out. I  
15 remember when your daughter was injured. A  
16 family friend of ours had a infant that had a  
17 broken femur, which is a very difficult bone  
18 to break, and it was a spiral fracture, which,  
19 as you know from your experience in law  
20 enforcement, oftentimes is from twisting the  
21 bone. A highly irregular type of injury.

22 And I got a panicked call from that  
23 child's mother, saying they got the third-  
24 degree, too, in the hospital about it. And  
25 so -- my anecdotal experience is, as is yours,

1 that you get a lot of -- you get a lot of  
2 interest from people at hospitals when  
3 children present with those sorts of  
4 injuries.

5 I think that the import of the  
6 legislation is not to deal with the hospitals  
7 that you and I and Representative Shapiro are  
8 familiar with, but perhaps those medical  
9 providers that are of less ethical standings  
10 than we would hope they would have.

11 REPRESENTATIVE VEREB: Well, we  
12 obviously heard the issue of the abortion  
13 clinics, which -- you know, never had a  
14 position to be in one and don't know what  
15 criteria there are, and I guess there's some  
16 more credible, medically standing, than  
17 others.

18 Would you -- I mean, do you agree, I  
19 think you can enter this opinion, you  
20 certainly have had the experience, would you  
21 agree that a mandate on doctors or medical  
22 professionals or nurses, whoever the  
23 appropriate titles are, would you agree that's  
24 going to deter more children from reporting a  
25 rape, based on your experience?



1 MR. CASTOR: I wouldn't think so. I  
2 think that a child who is the victim of a  
3 crime such as a sexual offense who screws up  
4 the courage to go tell somebody about it is  
5 going to do it regardless of what the  
6 reporting requirements are.

7 I mean, we have -- we have various  
8 statutes in place where age is a critical  
9 issue. I mean, you have to be twenty-one to  
10 drink; we require proof that you're 21. You  
11 have to be eighteen to vote, and we require  
12 proof that your eighteen. You have to be  
13 sixteen to drive; we require proof that you're  
14 sixteen to drive.

15 So if this body, in its wisdom, is  
16 going to impose restrictions on age, it would  
17 seem to me that be prudent to require those on  
18 whom the restriction is place ascertain what  
19 the age is.

20 REPRESENTATIVE VEREB: That's all my  
21 questions for this witness, Mr. Chairman.

22 Just to follow up on a comment on  
23 that -- you know, illegal aliens walk into ERs  
24 that we're very familiar with in our area  
25 every day and they have no fear of our federal

1 law or our immigration laws, residency laws,  
2 to go in and receive free medical treatment.  
3 And I just -- I hope as we proceed with  
4 however this legislation works out, that if we  
5 are going to proceed numerically, I think  
6 these numbers should be found.

7 If the accusation in Philadelphia --  
8 I have the greatest respect -- I think a lot  
9 of us do -- for former district attorney of  
10 Philadelphia, and I don't know much about the  
11 current, but your inciting a lot of people not  
12 doing their job by that statement, and I think  
13 as we proceed, we should deal with the facts  
14 on all of these -- these agreements, but  
15 I think the former district attorney, you  
16 know, has the greatest experience in our  
17 region as any other prosecutor down there.  
18 And I think that that's something that I'd  
19 like to see off the table. It's a question of  
20 credible medical people doing their job versus  
21 the ones that this legislation, I think,  
22 fairly targets.

23 Thank you, Mr. Chairman.

24 CHAIRMAN CALTAGIRONE: Thank you.

25 Counsel Andring.

1           MR. ANDRING: Yeah, just briefly. An  
2           awful lot of our conversation today seems to  
3           revolve around matters that strike me as being  
4           well settled law currently. If a twelve-year-  
5           old girl walked into a physician's office and  
6           she's pregnant or she has a sexually  
7           transmitted disease, I don't think there is  
8           any question that, under current law, there is  
9           a reasonable suspicion that child abuse has  
10          occurred to initiate the entire reporting  
11          system, I think that requirement is clear  
12          under current law and would be kicked in.

13                 Under current law, the physician  
14          would then be required to report that  
15          suspected abuse to the county agency or the  
16          state agency, which would re-refer it back.  
17          And this comes back to your specific comment  
18          that the district attorney has to be the one  
19          making charging decision, which again is the  
20          way our system is set up right now and the way  
21          it's supposed to work.

22                 So my question goes as to whether you  
23          have any experience or comment on the extent  
24          to that step of the process where abuse -- the  
25          suspected abuse is reported to the

1 administrative agencies, but then if you're  
2 going to become involved, they have to take  
3 the step of bringing you into the process.

4 Do you think that is the potential  
5 breakdown in what we're looking at here? And  
6 what is your experience with the efficacy of  
7 that function?

8 MR. CASTOR: If your question is, is  
9 that a potential breakdown? The answer has to  
10 be yes. Whether it's, in fact, a breakdown, I  
11 cannot say.

12 I can say that I've seen plenty of  
13 cases that came to us because of a child  
14 reporting to a parent or a teacher or school  
15 nurse or somebody like that, and then we find  
16 out previously that the child had sought  
17 treatment from a physician. Now, that doesn't  
18 mean that the physician didn't report it to  
19 the right place. It maybe hasn't reached  
20 around the law enforcement yet. We don't wait  
21 for it, we just go ahead.

22 So is there a potential breakdown  
23 between reporting to the social service agency  
24 and then the social service agency to law  
25 enforcement? Yes, but I don't know how we

1 would prove that.

2 MR. ANDRING: I specifically asked  
3 that, because I think it was about three or  
4 four years ago the Philadelphia District  
5 Attorney's office actually proposed a law. We  
6 had a hearing on it, and maybe that would have  
7 set up an entirely separate and distinct  
8 mandatory reporting system where providers  
9 would be required to report both to the  
10 existing system and to local law enforcement  
11 officials, be it police or the district  
12 attorney.

13 And they indicated back at that time  
14 that there was -- again this was the  
15 Philadelphia DA's office, not the DA's  
16 association -- but they indicated that they  
17 felt there was a problem in that process of  
18 getting the information from the  
19 administrative agency taking the abuse  
20 complaint, doing the initial investigation. I  
21 know of past various statutory provisions  
22 trying to address that issue, and, you know,  
23 make sure that that occurs. And in a lot of  
24 counties, we have these committees set up that  
25 review these types of things.

1                   And I was just wondering if you had  
2                   any more feelings about that part of the  
3                   process.

4                   MR. CASTOR: I guess the answer is, I  
5                   don't have any more feelings about it. I can  
6                   see where there -- that issue could exist.  
7                   And I can see why Philadelphia would think  
8                   that that's an area that needs to be  
9                   addressed. But from my experience, I don't  
10                  know that to be the case.

11                  CHAIRMAN CALTAGIRONE: Are there any  
12                  other questions?

13                  Thank you, Bruce.

14                  MR. CASTOR: Thank you, Mr. Chairman.

15                  CHAIRMAN CALTAGIRONE: We'll next  
16                  hear from Dr. Jonathan P. Pletcher, Children's  
17                  Hospital of Pittsburgh, and Lourdes M. Rosado,  
18                  associate director, Juvenile Law Center.

19                  DR. PLETCHER: Good afternoon,  
20                  Mr. Chairman and members of the committee.

21                  Thank you for hearing my testimony  
22                  today regarding House Bill 928. My name is  
23                  Jonathan Pletcher, and I'm a pediatrician  
24                  who's devoted his career to understanding and  
25                  addressing the healthcare needs of

1 adolescents.

2 I truly applaud the congressmen's  
3 efforts to protect vulnerable preteen children  
4 from sexual victimization. In my testimony  
5 today, I hope to demonstrate that as  
6 healthcare providers, we are willing and able  
7 to work with this legislative body and law  
8 enforcement to protect children and teenager  
9 from adults who wish to prey on the young for  
10 their own sexual gratification.

11 However, I also hope to explain how  
12 this bill, as proposed, would not serve this  
13 purpose. Both the effectiveness and the  
14 effect of forcing healthcare providers to  
15 prioritize the report of any and all cases of  
16 sexually transmitted disease or pregnancy in  
17 children under the age of thirteen, I believe,  
18 would lead us away from the challenge of  
19 protecting our children.

20 Please allow me to explain my  
21 background and perspective. I grew up in what  
22 was then a semi rural suburb of Pittsburgh. I  
23 was raised by a school teacher and principal.  
24 So I learned early that protecting children is  
25 the collective responsibility of parents and

1 professionals. My home away from home has  
2 always been with both sets of grandparents,  
3 who are life-long residents of Indian Head in  
4 Fayette County and Greensboro, Greene County.

5 I graduated from University of  
6 Pittsburgh's School of Medicine and I received  
7 medical training in general pediatrics and  
8 adolescent medicine at the Children's Hospital  
9 of Philadelphia, starting in 1994. I worked  
10 there as an attending physician until 2006,  
11 and helped to build a comprehensive adolescent  
12 health center that primarily served youth in  
13 West Philadelphia and surrounding suburbs.

14 An opportunity to create a new  
15 adolescent health center led me to work at  
16 Lehigh Valley Hospital in Allentown. Once  
17 that was established, family needs and  
18 professional opportunities led me to my  
19 current position and the ability to return  
20 home, to the Children's Hospital of Pittsburgh  
21 of UPMC.

22 Having lived and worked throughout  
23 the commonwealth, I'm intimately acquainted  
24 with its diversity, and I have a profound  
25 respect for the values held and the challenges



1       faced by families who raise children in urban,  
2       suburban and rural communities.

3               I am primarily a clinician, but I've  
4       also conducted research in the areas of teen  
5       pregnancy, sexually transmitted disease, and  
6       health risk behaviors.

7               Having lived and worked in these  
8       regions of the state while providing care  
9       exclusive to older children and teens from all  
10      walks of life, I believe that I can offer some  
11      unique insight into what happens when a child  
12      under the age thirteen is diagnosed with  
13      sexually transmitted disease or pregnancy.  
14      You can trust that I have copious clinical  
15      experience helping children and families heal  
16      both physically and emotionally from these  
17      very traumatic experiences.

18              My experience tells me that involving  
19      law enforcement can be very important, even  
20      crucial, element of protecting the safety of  
21      the child. To this end, I am fully  
22      supportive.

23              But this bill, as written, raises  
24      many concerns. As was mentioned, I've take  
25      the hippocratic oath to, first, do no harm,

1 and second, to provide aid and care. My first  
2 duty's for the protection and safety of the  
3 child. This requires and rests on a sound  
4 doctor-patient relationship, which in these  
5 circumstances is often a doctor-family  
6 relationship.

7           When we address the healthcare needs  
8 of vulnerable youth, establishing a trusting  
9 relationship with the patient is essential to  
10 having open and honest discussions that aid in  
11 effective treatment. We are called legally  
12 and ethically to contact child protective  
13 services or local law enforcement if we  
14 suspect that our patients have be subjected to  
15 or are at risk for abuse, neglect or  
16 maltreatment.

17           When making these reports, we take  
18 into account many factors about the child and  
19 their environment, as Pennsylvania's mandated  
20 reporting laws allow for some application of  
21 our clinical knowledge and experience.  
22 Because of this small degree of flexibility,  
23 reporting can be accomplished in partnership  
24 with families and child protective agencies.  
25 This preserves and often strengthens the

1 doctor-family relationship, as maintaining  
2 continuity of regular healthcare is an  
3 essential component of healing.

4 A mandate that our first duty is to  
5 contact the Attorney General's office, the  
6 Child Predator Unit, based on single piece of  
7 information would have an absolute chilling  
8 effect on our ability to work with families  
9 and community child protective agencies.  
10 Adolescents and their families generally  
11 expect that they can confide intimate personal  
12 details to their healthcare provider in order  
13 to improve their health. Even a perceived  
14 threat to this doctor-patient relationship  
15 could return the risk that families would not  
16 seek help or withhold information that is  
17 crucial to the care and protection of that  
18 child. This effect would not be limited to  
19 children under thirteen.

20 While this bill may be viewed as a  
21 way to aid the valiant efforts of the Child  
22 Predator Unit, it would significantly impede  
23 our ability to provide optimal healthcare to  
24 individuals and families.

25 These are my conclusion as a

1 healthcare provider, but I hope to provide  
2 some medical evidence and opinion that will  
3 help you, the Judiciary Committee -- members  
4 of the Judiciary Committee, draw your own. I  
5 hope you understand if I use some frank  
6 terminology, and I assure you that what I say  
7 is in the mainstream of medical discourse.

8           First, a single act of penetrative  
9 intercourse is not a guarantee that a child  
10 will become pregnant or acquire a sexually  
11 transmitted disease. In fact, most  
12 children -- most female children age twelve or  
13 younger are either premenstrual or  
14 anovulatory, meaning that their reproductive  
15 organs are too immature to conceive a  
16 pregnancy.

17           Second, the term "sexually  
18 transmitted disease" is a broad categorization  
19 of viral, bacterial, and parasitic pathogens  
20 that can be spread through sexual contact but  
21 may not exclusively be transmitted in this  
22 manner. For example, genital herpes and warts  
23 are diseases that are typically spread through  
24 skin-to-skin contact and not through  
25 penetrative intercourse. As such, a child

1 with a benign flat wart on their hand may, in  
2 fact, transmit the virus to their genital  
3 area.

4 Bacterial pathogens, these were  
5 discussed previously, such as gonorrhea and  
6 chlamydia, are -- typically are spread through  
7 penetrative intercourse. When these bacteria  
8 infect the reproductive organs of younger  
9 teens, they require treatment that must begin  
10 immediately and can last for weeks. A delay  
11 in initiating treatment or a curtailing of  
12 that treatment can result in complications  
13 that are not uncommon, such as infertility,  
14 chronic pain, damage to vital organs and even  
15 death. Of course, this is not to mention the  
16 impact of pregnancy or STD on the psyche of a  
17 young child, requiring long-term care to  
18 prevent severe behavioral health  
19 consequences.

20 From a public health perspective,  
21 many of these pathogens are more likely to  
22 affect certain segments of our population,  
23 such as African-Americans who reside in large  
24 cities and in individuals of limited  
25 socioeconomic means.

1           I want to deviate a little bit from  
2 my prepared testimony to answer the question  
3 about numbers, if I may. Some numbers were  
4 presented earlier today and numbers were  
5 lumped together. When you're looking at  
6 public health statistics and they give the  
7 number under the age of fourteen or under the  
8 age of fifteen, you have to look at it year by  
9 year. You can look at any public health  
10 department statistics, you can look at  
11 organizations such as the Kaiser Family  
12 Foundation in the example of teen pregnancy,  
13 and you will see there's a precipitous drop-  
14 off in the number of teen pregnancies as you  
15 move down the ladder of age. In fact, if my  
16 memory serves me correct, there are one-ninth  
17 the number of pregnancies that occur in  
18 thirteen-year-olds as do occur in fourteen-  
19 year-olds.

20           Additionally, when you're looking at  
21 numbers related to STD reports, of course they  
22 don't add up. Somebody can re-acquire the  
23 same infection. The same infection can be  
24 reported more than one time. So each  
25 individual report does not represent an

1 individual who has been infected.

2           Let me just say that in my role as  
3 physician, it is of paramount importance that  
4 I maintain a non-judgmental, respectful, and  
5 continuous relationship with patients and  
6 families who are affected by these unfortunate  
7 occurrences. Impediments to the maintenance  
8 of this relationship caused by mistrust or  
9 fear put the health of some of our most  
10 vulnerable children at risk.

11           If there remains any doubt in your  
12 minds about my sincerity or my motives for  
13 speaking out against this bill, please know  
14 this. I'm the father of three children, ages  
15 five, nine, and eleven. Like hopefully all  
16 parents, there's not an hour that goes by that  
17 I'm not with them that I don't worry about  
18 their safety. I firmly understand and applaud  
19 law enforcement, the Attorney General's Child  
20 Predator Unit, and others efforts and progress  
21 at protecting all of our children from  
22 predators.

23           In fact, I am currently working with  
24 the office of the Attorney General towards  
25 this goal, and I welcome future opportunities

1 for continued collaboration.

2 I cannot emphasize enough that by  
3 forcing me to be a blunt instrument of law  
4 enforcement, it would greatly diminish by  
5 capacity to work with families towards  
6 fulfilling my first duty, which is to provide  
7 for the care of my patient. I worry that the  
8 ripple effect of this law would lead many  
9 individuals and families away from seeking  
10 help from healthcare professionals. Not only  
11 would this jeopardize the health and well-  
12 being of injured children, it could move all  
13 of us further from the goal of eliminating the  
14 threat of child predators.

15 Thank you.

16 CHAIRMAN CALTAGIRONE: Thank you.  
17 Before we have questions, if you would like to  
18 testify next, Ms. Rosado.

19 MS. ROSADO: Of course.

20 Thank you to the chairpersons and to  
21 the entire Judiciary Committee for the  
22 opportunity to speak to you today about House  
23 Bill 928.

24 My name is Lourdes Rosado, and I'm  
25 testifying on behalf of my organization, the



1 Juvenile Law Center, to express our concerns  
2 about the bill. As I will explain in more  
3 detail in a moment, the Juvenile Law Center's  
4 primary objection to House Bill 928 is that it  
5 adds a redundant abuse reporting requirement  
6 that does not enhance children's safety but at  
7 the same time does raise unnecessary barriers  
8 to teenagers who seek healthcare. For that  
9 reason, Juvenile Law Center respectfully urges  
10 members of the committee not to support the  
11 bill.

12 Juvenile Law Center was founded in  
13 1975, and we're the oldest multi-issue public  
14 interest law firm for children in the United  
15 States. Our mission is to advance the rights  
16 and well-being of children in jeopardy. While  
17 Juvenile Law Center has been in the news as of  
18 late for -- primarily for our work on juvenile  
19 justice issues in Luzerne County, we also have  
20 a long history of working on behalf of  
21 children in the child welfare system. For  
22 example, we have represented children in abuse  
23 and neglect system -- abuse and neglect  
24 proceedings in Philadelphia family court for  
25 the last thirty-five years.

1                   We routinely conduct training for  
2                   child-serving professionals, a whole range of  
3                   professionals -- healthcare practitioners,  
4                   social workers, family planning providers,  
5                   juvenile justice staff, and school-based  
6                   professional -- on the legal reporting  
7                   requirements for child abuse and neglect in  
8                   Pennsylvania.

9                   And our publication Child Abuse and  
10                  the Law, which now is in its seventh edition,  
11                  is the leading comprehensive manual in  
12                  Pennsylvania abuse reporting requirements.  
13                  It's been circulated to tens of thousands of  
14                  child-serving professional, attorneys, and  
15                  judges since it was first published in 1977.  
16                  Juvenile Law Center has been, is, and will  
17                  always be committed to protecting children  
18                  from all forms of abuse in the commonwealth.

19                  HB 928 purports to create further  
20                  protections for children under the age of  
21                  thirteen by mandating that physicians forgo  
22                  confidentiality and report instances of rape  
23                  to state authorities, but we already have a  
24                  law that does that.

25                  Under our penal code, a person

1 commits rape when he or she sexual intercourse  
2 with a child under the age of thirteen, no  
3 matter what the person's age or relationship  
4 to that child. Pennsylvania's Child  
5 Protective Services Law requires healthcare  
6 professionals to immediately contact our  
7 state's ChildLine when they have reasonable  
8 cause to suspect that child has been raped,  
9 and that report is thereafter immediately  
10 referred by ChildLine to appropriate child --  
11 county children and youth agency. And the  
12 children and youth agency must then notify law  
13 enforcement of a report that a child's been  
14 raped. These laws are in place. HB 928's  
15 requirement that reporters call law  
16 enforcement directly with the same report does  
17 not augment child safety.

18           And here, for a moment, if I may,  
19 Representative Waters, I believe, asked a  
20 question earlier about what -- what sanctions  
21 were in place if a mandated reporter does not,  
22 in fact, fulfill their duty, and there are  
23 criminal sanctions in place, under current  
24 law, for failure to report.

25           REPRESENTATIVE WATERS: Thank you.

1 MS. ROSADO: What House Bill 928 does  
2 do is impose additional and what I think is  
3 unnecessary constraint on healthcare  
4 professionals that will deter teenagers from  
5 seeking healthcare. As parents, law makers  
6 and advocates, we all have an overarching  
7 interest in encouraging children to seek  
8 healthcare for high-risk medical conditions  
9 and diseases. The last thing we want is to  
10 discourage youth from getting treated, for  
11 example, for STDs because they're worried  
12 about whom such information will be shared  
13 with.

14 Before states across the country  
15 provided these confidentiality protections,  
16 teens avoided seeing their doctors and  
17 diseases spread, children's illness were  
18 exacerbated.

19 Thus, our general assembly, like  
20 other general assemblies, wisely chose to  
21 allow minors to consent to various types of  
22 healthcare, ranging from testing and treatment  
23 of STDs, to treatment for substance abuse  
24 problems, from prenatal care to outpatient  
25 mental health therapy. And that's based on a

1 recognition that -- how crucial healthcare  
2 access is to ensuring their well-being.

3 The bill, however, will force doctors  
4 to collect documentation from teenagers before  
5 they can provide them with the healthcare to  
6 which they can legally consent to under our  
7 laws. Knowing that they have to produce  
8 papers when they go to an appointment will  
9 keep many youth from seeking healthcare.

10 And what happens when a teenager  
11 presents at a healthcare facility without  
12 papers and wants to get an HIV test or  
13 prenatal care? Do we really want that  
14 healthcare facility to have to turn that minor  
15 away?

16 The bill incorrectly claims that  
17 there's evidence that healthcare professionals  
18 routinely circumvent their mandated reporter  
19 duty, but, again, the data shows otherwise.  
20 According to the DPW's report, their annual  
21 report, in 2008, over four thousand reports of  
22 suspected child and student abuse were  
23 substantiated, and sexual abuse consisted  
24 of -- was involved in about 52 percent of all  
25 of those substantiated.

1 Healthcare professionals were the  
2 source of 22 percent of all substantiated  
3 reports of abuse received that year. They  
4 were the second largest reporting body in the  
5 commonwealth, behind only social service  
6 agencies, which contributed to 27 percent of  
7 those substantiated reports.

8 The general assembly commendably  
9 amended the CPSL in 2007 to close certain  
10 loopholes in the law, most notably by  
11 mandating the report of abuse committed by all  
12 persons and not just those that fit into a  
13 definition of who a perpetrator is.

14 Juvenile Law Center supports efforts  
15 to close existing gaps in our abuse reporting  
16 laws and to streamline them. For example, we  
17 understand that Senator Fontana is planning to  
18 introduce legislation that would establish the  
19 same threshold for triggering a duty to report  
20 abuse by a school employee that currently  
21 applies to everyone else. Currently, there is  
22 no requirement to report in that instance,  
23 unless the abuse rises to serious bodily  
24 injury, which is a much higher threshold to  
25 trigger a report. And while we haven't seen

1 Senator Fontana's bill and can't specifically  
2 comment on it, we encourage attempts to create  
3 a unified and coherent system of abuse  
4 reporting and investigation.

5 We also support more training on the  
6 Child Protective Services Law, as in bills  
7 such as Senate Bill 1137, which was introduced  
8 by Senator Vance, which specifically calls for  
9 more training of school personnel. Our  
10 research, writing, and training in this area  
11 tells us that it's challenging for mandated  
12 reporters to learn and understand  
13 Pennsylvania's comprehensive set -- yet  
14 complex set of laws on abuse reporting.  
15 Healthcare professionals, in particular, often  
16 face the difficult task of figuring out when  
17 their duty to provide confidential healthcare  
18 ends and their duty to report begins.

19 What we really need is to better  
20 educate child-serving professionals on their  
21 obligation. We should avoid adding redundant  
22 law provisions that will only make a complex  
23 set of laws more confusing while also  
24 deterring youth from seeking healthcare.

25 In conclusion, keeping our children

1 out of -- children out of harm's way is an  
2 awesome and complicated responsibility. And  
3 we need many, many different tools or  
4 techniques to accomplish this. There is no  
5 question that one such powerful tool is  
6 mandatory child abuse reporting. But another  
7 critical tool is allowing youth the  
8 opportunity to build relationships of trust  
9 with healthcare practitioners so they will  
10 seek their assistance when they're unsafe.

11 Our job, and it's not an easy one, is  
12 to determine the right balance. Juvenile Law  
13 Center remains committed to assisting the  
14 general assembly in this task.

15 Thank you.

16 CHAIRMAN CALTAGIRONE: Thank you.

17 For the record, I want to mention  
18 that Pennsylvania Medical Society,  
19 Pennsylvania Children and Youth  
20 Administrators, the American Civil Liberties  
21 Union, and the Children's Hospital of  
22 Philadelphia have submitted testimony for the  
23 record, which will be part of the official  
24 record.

25 Questions from members?



1 Yes.

2 REPRESENTATIVE WATERS: Thank you,  
3 Mr. Chairman.

4 Thank you for answering the question  
5 that I was seeking an answer to.

6 MS. ROSADO: Thank you. You're  
7 welcome.

8 REPRESENTATIVE WATERS: Because to  
9 me, what this -- a matter of basic common  
10 sense that there was some mandatory  
11 requirements and consequences for not doing so  
12 already in place and as I hear my colleagues  
13 argue about why do we need to have this bill,  
14 and, of course, on the flip side of that, we,  
15 as legislators, are always looking for ways to  
16 enhance and better protect the citizens of  
17 this commonwealth. And, of course, we don't  
18 want to be redundant in doing so.

19 The -- the very fact that certain  
20 parts of the commonwealth appears to have  
21 larger numbers as opposed to the others --  
22 Philadelphia, I see, has always been like the  
23 highest number of cases, according to the  
24 chart that I saw in terms of induced  
25 abortions. And I don't know what the numbers

1 might be when it comes down to sexually  
2 transmitted diseases, too.

3           How could Philadelphia do a better  
4 job, in your opinion, to make sure that those  
5 numbers go down? I believe it was eight --  
6 the latest report, as many, as high as eight  
7 abortions. I don't know what the numbers was  
8 in terms of sexually transmitted diseases.  
9 But how can Philadelphia do a better job in  
10 bringing those numbers down?

11           MS. ROSADO: I think that's a great  
12 question. I think one of the keys is  
13 training. The law that we have, even though  
14 that we did have substantial revisions a few  
15 years ago and I think are working on  
16 streamlining the laws, they're still fairly  
17 complex to understand. And I think we  
18 shouldn't assume that anyone knows them just  
19 because they are in a certain profession, as  
20 like a social service provider. I think we  
21 need to -- I think legislation would be aimed  
22 at mandating more training of certain  
23 professionals would probably be very useful,  
24 so that they can get up to date on the current  
25 requirements of the law.

1                   REPRESENTATIVE WATERS: Not only  
2                   that, but I want to know how -- what  
3                   legislation did you say that could be, maybe,  
4                   helpful as a deterrent to this behavior?  
5                   Because obviously the mandatory reporting laws  
6                   that we have haven't really done as good as it  
7                   has in other sixty-eight -- or other sixty-six  
8                   counties. We still have a higher number. And  
9                   I'm just trying to figure out how we can do  
10                  something to make that number go down. Not, I  
11                  -- I'm more like pro, when it comes down to  
12                  prevention rather than reaction. That's what  
13                  I'm trying to see.

14                 MS. ROSADO: I'm going to turn it  
15                 over to Dr. Pletcher on that one.

16                 DR. PLETCHER: Representative Waters,  
17                 I agree that it is about access to  
18                 confidential care, removing barriers to  
19                 preventive care. Legislatively, if your  
20                 question's specifically about legislatively,  
21                 is there something that can be done to improve  
22                 opportunities for young children to get in the  
23                 proper education early, when they need it, and  
24                 also presented in a way that shows them they  
25                 have choices. That they don't have to follow

1 the same path that maybe somebody else did or  
2 somebody else tells them.

3 REPRESENTATIVE WATERS: Yes.

4 DR. PLETCHER: It involves exposure  
5 to role models. It involves improvements to  
6 the education system, the social service  
7 system. So absolutely there's things that can  
8 be done that I believe we can all work  
9 together to do to improve that number.

10 REPRESENTATIVE WATERS: So something  
11 could be done, perhaps, in the basic  
12 educational process that we have now that  
13 would be helpful?

14 DR. PLETCHER: Absolutely.

15 REPRESENTATIVE WATERS: Would  
16 children know how to better protect themselves  
17 from becoming victims in the first place?

18 DR. PLETCHER: Absolutely.

19 REPRESENTATIVE WATERS: And if they  
20 feel, I don't know what you call it,  
21 endangered or suspect, because I don't  
22 particularly know of any cases firsthand, but  
23 I've seen enough or heard enough about cases  
24 of problems that -- with leading up to a  
25 problems.

1           And, of course, I didn't see the  
2 movie, but we all heard of the Precious,  
3 which, I believe, got a lot of attention of  
4 people. Unfortunately, hasn't gotten my  
5 attention enough for me to go see it yet, but  
6 we hear about these problems. We hear about,  
7 you know, these cases. And I know that you  
8 are opposed to the mandatory reporting that  
9 this bill requires, because you believe it  
10 would interfere with the trust that physicians  
11 and patients are trying to improve or  
12 establish.

13           And I'm not exactly sure if -- if a  
14 parent that feels as if their -- their child  
15 has some issue that needs medical attention  
16 and they're suspect of something, and --  
17 because when you spoke earlier about there are  
18 other ways to contract diseases, like herpes,  
19 you mentioned, and -- and just touches,  
20 doesn't necessarily mean that an actual sex  
21 act took place, it could be other ways. I  
22 guess those are definitely rare. But  
23 nonetheless, if a parents feels as though this  
24 needs to be investigated, I don't think that a  
25 responsible parent would hesitate at all to go

1 and seek medical attention to -- just to  
2 substantiate their suspicions.

3 So, I just -- I just find that that  
4 part of your argument, to -- to me, to -- we  
5 get into like the -- the HIPAA law and stuff  
6 like that, I just don't see how that -- this  
7 part of the legislation actually interferes or  
8 would deter a parent from seeking to get to an  
9 answer. That's -- I'm just throwing that out  
10 there to you.

11 I'm trying to play both sides here,  
12 because at the end of the day, we all just to  
13 want to make sure that we provide enough  
14 legislation or what we do legislatively is to  
15 remedy what has become a growing problem. And  
16 I believe that's what the -- the gentleman who  
17 introduced this legislation was really trying  
18 to attempt to do.

19 DR. PLETCHER: May I makes a comment  
20 on that?

21 REPRESENTATIVE WATERS: Yes.

22 DR. PLETCHER: I appreciate that. I  
23 also appreciate the comment of the  
24 congressman -- I don't know his name -- who  
25 was in the back. I wish he was here. But I

1 have been involved in many situations where  
2 care was delayed either by the child or by the  
3 parent because of fear and mistrust. If I  
4 could be assured HIPAA immunity, I'd be happy  
5 to discuss them. Situations where, as you  
6 mentioned, a stepfather is the abuser and the  
7 mother just doesn't want to believe it.

8 Denial, as we all know, can be a very, very  
9 powerful psychological force. Situations --  
10 involving situations where teenagers were  
11 afraid that they would become persecuted.

12 Girls are not the only children who  
13 are abused; boys are as well. And there are  
14 high-profile cases of teenage boys who are  
15 identified as sex predators. So a young man  
16 with a sexually transmitted disease will not  
17 come to seek help for fear he will be  
18 identified as a sexual abusers.

19 These are just some specific examples  
20 of how it can happen, because I think folks  
21 are struggling with that. How does it  
22 happen?

23 When we first moved to Pittsburgh --  
24 well, I grew up there, but when I moved back  
25 to Pittsburgh with my family last year, we

1 were there for about a month or so; we didn't  
2 know too many people. And my youngest son  
3 bumped his head, needed to get staples in  
4 his -- for a little laceration. Of course it  
5 came up in the conversation with my wife --  
6 we're both healthcare providers -- we knew we  
7 could probably treat this at home. We also  
8 knew it wasn't our decision to make. Take him  
9 to healthcare. Because we had the resources,  
10 because we knew they were going to ask the  
11 questions, we were prepared. We didn't  
12 hesitate to take him to the ER.

13 As a healthcare provider, I often put  
14 myself in the shoes of my patients and other  
15 people. They don't have the same resources.  
16 They don't have the same knowledge. They  
17 don't have the same experience of me -- as me,  
18 going for help and receiving help, first and  
19 foremost. So I understand when they come to  
20 me and they say, This is why I didn't come to  
21 seek help. Because I'm only interested in  
22 providing them with treatment. That's my  
23 priority, my job.

24 REPRESENTATIVE WATERS: Thank you,  
25 Mr. Chairman.



1 Thank you for your answers.

2 CHAIRMAN CALTAGIRONE: Any other  
3 questions?

4 Sam, sure.

5 REPRESENTATIVE ROHRER: Thank you.

6 I appreciate the testimony. As  
7 someone who has physicians in their family as  
8 well, I understand what you're talking about.  
9 I -- we've had a lot of discussion today. And  
10 I just wanted to kind of reiterate, again, the  
11 focus of this is -- is the fact that we're  
12 dealing with young children. We are not  
13 talking about fifteen-, sixteen-, seventeen-  
14 year-olds. These are twelve and down. And  
15 these are not individuals who -- you know, in  
16 this case, education for older children will  
17 work, but these are kids who are involved  
18 against their will. They're in circumstances  
19 where they don't have choices that they're  
20 able to make. They are truly victims.

21 And the result of that is that the  
22 focus, guess what, was we need to get help for  
23 them. That's correct. The focus here, more  
24 than anything, is on the ability to locate and  
25 identify the perpetrator. We know, from

1 facts, that the younger the child, the older  
2 the parent, the person involved with them. So  
3 we're not talking fourteen-, fifteen-year-  
4 olds -- fourteen-, fifteen-year-olds, we're  
5 talking, you know, those who are in their  
6 twenties and above, in most cases. And these  
7 are folks who repeat the actions.

8           And the concern here is that -- is  
9 that there are, because of one reason or  
10 another, the system is allowing individuals to  
11 slip through this system. And there are a  
12 couple of cases that we know of where, in  
13 fact, there were individuals who had had  
14 multiple, multiple pregnancies, multiple --  
15 and it was never, ever caught, even though  
16 that person had been in the presence of  
17 someone who would have been subject to  
18 mandatory reporting requirements, never did  
19 it.

20           There was some indication that I had  
21 seen that there seemed to be an aspect about  
22 it that there was just, the child looked  
23 younger -- or looked older than they were, and  
24 they just didn't want to go down that road and  
25 didn't ask the age. That's the reason for the

1 age requirements, and that's been testified, I  
2 think, by the commissioner. We do -- we do  
3 require proof of age in a lot of different  
4 things, so it's not just here.

5 But, you know, I wonder what more of  
6 an important category should we be requiring  
7 age. We're talking about the lives of young  
8 children. I agree with you, they're not just  
9 girls; they're boys too. And so that's the  
10 intent of this.

11 I suppose that there are aspects that  
12 can be modified, the intent was to build in as  
13 many of the things into the bill up front so  
14 as to address the issue as best as possible.  
15 And I'm not saying that there couldn't be more  
16 area for some improvement; I'm sure there is.  
17 But I just want to make sure we walk out of  
18 here with the concept that we're not trying to  
19 defend a system that's allowing our young  
20 children to be victimized because of either  
21 willful and/or laziness, and/or whatever else  
22 that could be involved in the system to just  
23 not go that extra step.

24 So that's -- you know, and I think  
25 you would agree with me on that. I understand

1 what you're saying from my perspective is  
2 working on the bill. And -- but, at the same  
3 time, not to be protecting something that is  
4 out that, in fact, is allowing -- you know, I  
5 mean, the numbers I'm looking at from -- from  
6 the rape abuse and incest national network,  
7 those figures indicate that 15 percent of  
8 sexual abuse occurs in children twelve and  
9 under. So that is that's no small number.

10 And I think, from my perspective, as  
11 a father of six children, I am concerned about  
12 what I see. And I am concerned whether  
13 there's not intact families and that sort of  
14 thing, there's less help for those young  
15 people than those where there are. So that's  
16 my concern, that we work together and fix this  
17 glaring omission that appears to be in the  
18 system.

19 I mean, I'm sure you would probably  
20 agree with me on what I'm saying in that  
21 regard, but just wanted to make that statement  
22 as we conclude here, Mr. Chairman.

23 DR. PLETCHER: I do agree with the  
24 intent, with the intention. I do support the  
25 intent to create mechanism, improve a system

1 so that child predators are identified and  
2 removed. What I question is the methodology.  
3 It's the who we're reporting to, it's the how  
4 it's being reported.

5 I also question some of the core  
6 assumptions that this methodology is based  
7 on. Several times people have said, most of  
8 the time when somebody of the age of thirteen  
9 becomes pregnant or gets an STD it's because  
10 of an adult in their twenties or thirties.  
11 Personally, in my experience, I don't know  
12 that to be true.

13 I pride myself in maintaining  
14 longitudinal relationships with families.  
15 When I'm involved with these situations, I  
16 work hard to stay involved. Even when the  
17 family doesn't agree with my decision to call  
18 child protective services, when I explain to  
19 them why and I worked with them through it,  
20 they've always maintained, fought to maintain  
21 that relationship. I just don't know that  
22 assumption to be true.

23 And then there's something else, I  
24 think, that I've seen occur many times. I  
25 hope -- I hope that nobody in this room has

1       been the victim of abuse, but victims that I  
2       have known who are very young often feel they  
3       develop very close connections to their  
4       abuser, and they try to protect them. And  
5       I've seen that over and over again. And it's  
6       only through connecting with caring  
7       professional that they're able to talk about  
8       what actually happened.

9               The methods of this bill will just  
10       cut that right out. I firmly believe that.

11              Thank you.

12              CHAIRMAN CALTAGIRONE: Thank you all  
13       for testifying.

14              MS. ROSADO: Thank you.

15              CHAIRMAN CALTAGIRONE: The hearing is  
16       now adjourned.

17              (Whereupon, the hearing concluded at  
18       1:12 p.m.)

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\* \* \* \* \*

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22

WRITTEN TESTIMONY SUBMITTED

23

24

(The following letter has been

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submitted by the Pennsylvania Medical

1 Society.)

2 Dear Chairman Caltagirone:

3 I am writing on behalf of the  
4 Pennsylvania Medical Society to express our  
5 concerns with House Bill 928, dealing with  
6 child rapists and predators.

7 First, let me state categorically  
8 that the Pennsylvania Medical Society strongly  
9 supports efforts to detect and prosecute child  
10 rapists and predators, and we stand ready to  
11 work with you and your committee to enhance  
12 those efforts. We agree with the  
13 legislation's premise that the state has a  
14 compelling interest in bringing these felons  
15 to justice.

16 However, sometimes well-meaning  
17 actions can have unintended consequences, and  
18 we believe that is the case with House Bill  
19 928. The bill places the burden of proof of  
20 compliance on the treating health care  
21 provider, and then in section 6321.5(a)(4)  
22 deprives the provider of the right to prove  
23 his or her innocence if a written record was  
24 not prepared. It is not difficult to imagine  
25 any number of circumstances where a written

1 record might not be needed because the  
2 provider has independent knowledge of the  
3 patient's age. For example, the provider  
4 might also coach the patient's youth soccer  
5 team, where birth certificates are required to  
6 prove age eligibility. House Bill 928 would  
7 deprive the health care provider of the right  
8 to prove his or her innocence in such a case.  
9 Other similar examples are easy to envision.

10 As I stated at the beginning of this  
11 letter, we would be happy to work with you to  
12 address this important issue. However, we  
13 must object to legislation that prevents  
14 health care providers from demonstrating that  
15 they have solid outside information regarding  
16 a patient's age.

17 Thank you for your consideration.

18 Sincerely, James A. Goodyear, MD  
19 FACS, President

20 (This concludes the letter submitted  
21 by Pennsylvania Medical Society. The content  
22 was not altered to correct any errors in  
23 spelling, grammar, or punctuation.)

24 \* \* \* \* \*

25 (The following letter has been



1 submitted by the Pennsylvania Children and  
2 Youth Administrators, Inc.)

3 Testimony to House Judiciary Committee  
4 regarding HB 928 pn. 1052

5 February 22, 2010

6 Good morning Chairman Caltagirone,  
7 Chairman Marsico and ladies and gentlemen of  
8 the House Judiciary Committee. My name is  
9 Charles Songer. I am the Executive Director  
10 of the Pennsylvania Children and Youth  
11 Administrators Association (PCYA), an  
12 Affiliate of the County Commissioners  
13 Association of Pennsylvania (CCAP), and  
14 represent all 67 County Children and Youth  
15 Services Agency administrators in the  
16 Commonwealth. Personally, I have served in  
17 the public child welfare system in  
18 Pennsylvania as a county caseworker,  
19 supervisor and agency administrator from 1972  
20 to 1997, and as Executive Director of PCYA  
21 since 1997. I appreciate the opportunity to  
22 speak to you today regarding House Bill  
23 928, p.m. 1052.

24 The mission of PCYA is to enhance the  
25 quality of service delivery for children,

1 youth and their families by providing for its  
2 members:

3 (1) A forum for the exchange of  
4 information;

5 (2) Assistance in educating the  
6 general public and its constituencies; and

7 (3) An environment of support for the  
8 Association membership.

9 In light of this mission, the issue  
10 before us today, better detection of child  
11 rapists and predators, is important because of  
12 the often irreparable damage inflicted on  
13 children and youth by these individuals. We  
14 endorse the enhanced efforts to identify and  
15 apprehend these individuals.

16 We do have two concerns with the Bill  
17 as written however.

18 First, we are not convinced that the  
19 mere presence of a sexually transmitted  
20 disease constitutes evidence of either a  
21 felony or of child abuse as stated in sec.  
22 6321.4(a) and we suggests that further  
23 information be sought from health care experts  
24 to clarify whether certain sexually  
25 transmitted diseases can be transmitted

1 accidentally.

2           Secondly, in sec. 6321.5(c), the  
3 chief administrative officer of the county  
4 agency is required to establish procedures and  
5 track referrals to the child predator unit.  
6 We certainly have no issue with this for cases  
7 that meet our current definitions and  
8 responsibilities under the Child Protective  
9 Services Law. The definitions of "child" in  
10 sec. 6321.3 and "child abuse" in sec.  
11 6321.4(c) do not correspond to our operating  
12 definitions under either the Juvenile Court  
13 Act (42 Pa. C.S. sec. 6301) or the Child  
14 Protective Services Law (23 Pa. C.S. sec.  
15 6301) and we ask that our responsibilities not  
16 be expanded until the workload and financial  
17 impact are weighed and addressed.

18           Thank you for the opportunity to  
19 present this testimony. If further  
20 information or clarification is needed, please  
21 contact me at (717) 232-7554 or  
22 [csonger@pacounties.org](mailto:csonger@pacounties.org).

23           Charles Songer, Executive Director  
24           (This concludes the letter submitted  
25 by Pennsylvania Children and Youth

1 Administrators, Inc. The content was not  
2 altered to correct any errors in spelling,  
3 grammar, or punctuation.)

4 \* \* \* \* \*

5 (The following letter has been  
6 submitted by the American Civil Liberties  
7 Union of Pennsylvania.)

8 Dear Chairman Caltagirone,

9 Thank you for the opportunity to  
10 submit written testimony on House Bill 928 for  
11 the House Judiciary Committee's hearing on  
12 February 22. This bill would implement new  
13 reporting requirements for pre-teenage girls  
14 who are pregnant or who have a sexually  
15 transmitted disease. It also would place  
16 unnecessary barriers to care for all teens  
17 under the age of 18 attempting to get  
18 treatment for a pregnancy or for an STD. HB  
19 928 places the ability of teens to access  
20 critical healthcare at great risk. The  
21 American Civil Liberties Union of Pennsylvania  
22 opposes HB 928. On behalf of the  
23 approximately 16,000 members of the ACLU of  
24 Pennsylvania, I urge you to oppose it, as  
25 well.

1                   HB 928 puts teenagers at risk. The  
2 bill requires all teens under the age of 18 to  
3 provide "credible written evidence," such as  
4 a school record, healthcare record, or health  
5 insurance record, before the teen is able to  
6 receive care for pregnancy or sexually  
7 transmitted diseases (STDs). If the teen  
8 cannot provide this information, the health  
9 care practitioner will be unable to provide  
10 treatment without risking prosecution.  
11 Therefore, this identification requirement  
12 will serve as a barrier to care and drive  
13 teens away from health care providers. HB 928  
14 could cause teenagers - already a high risk  
15 population - to forego medical appointments  
16 and miss or dangerously postpone screening and  
17 treatment for STDs, routine gynecological  
18 exams, and other vital health care services.

19                   HB 928 alters long-standing public  
20 health policy. Under Pennsylvania law, a  
21 minor can consent to treatment for pregnancy  
22 or an STD. These laws protect the privacy of  
23 teens who are being abused by a parent or  
24 parents or who have some other reason why they  
25 must keep their condition private. But to

1 provide "credible written evidence" of their  
2 age, a teenager would likely require the help  
3 of an adult. This requirement undermines a  
4 teen's right to private medical care, and will  
5 drive teens away from the services they need.

6 The bill endangers children in  
7 another way. HB 928 requires a medical  
8 practitioner to inform a child's parent of the  
9 child's condition. But there is nothing in  
10 the bill to exempt this requirement when the  
11 parent is abusing the child. Doctors will be  
12 informing abusive parents that they are aware  
13 of their children's conditions, potentially  
14 placing the child in more danger.

15 Another major concern is that the  
16 bill lacks any protections of a victim's  
17 medical information. For a preteen who has  
18 been the victim of child abuse, the reporting  
19 requirements of this bill could be  
20 devastating. By our count, in addition to the  
21 mandated reporting of child abuse to  
22 Childline, there would be an additional six  
23 entities that would be informed about the  
24 alleged abuse: the child predator unit in the  
25 Attorney General's office, the chief of the

1 administrative office of her county, the  
2 county district attorney, the local chief of  
3 police, the Pennsylvania State Police, and her  
4 parent or guardian. There are no requirements  
5 in the bill for protecting her privacy. Once  
6 her medical information leaves the hands of  
7 medical providers, it is unlikely that strict  
8 HIPAA type protections would be afforded to  
9 the victim.

10 HB 928 is loaded with privacy  
11 problems for young people in need of medical  
12 treatment. It will also effectively drive  
13 them away from seeking the very care they  
14 need. The ACLU of Pennsylvania urges you and  
15 committee members to oppose this bill.

16 Sincerely, Andy Hoover, Legislative  
17 Director.

18 (This concludes the letter submitted  
19 by American Civil Liberties Union of  
20 Pennsylvania. The content was not altered to  
21 correct any errors in spelling, grammar, or  
22 punctuation.)

23 \* \* \* \* \*

24 (The following letter has been  
25 submitted by The Children's Hospital of

1 Philadelphia.)

2 Dear Mr. Caltagirone:

3 We thank the Committee and you for  
4 holding a hearing on House Bill 928, "The  
5 Child Rapist and Predator Detection Act," to  
6 be held on Monday, February 22, 2010. In the  
7 absence of personal testimony on this matter  
8 due to prior commitments, we respectfully  
9 request that you include this letter in the  
10 record.

11 As adolescent medicine caregivers,  
12 much of our practice is focused on protecting  
13 children. Accordingly, we treat children that  
14 are victims of sexual predators and therefore,  
15 as you would expect, concur with the sponsors  
16 of this legislation that persons committing  
17 the most heinous crimes against children ought  
18 to be identified and punished.

19 We serve all health needs of  
20 adolescents. This care includes offering  
21 sexual health treatment and prevention. We  
22 strongly encourage our patients to postpone  
23 sexual initiation, but for those that are  
24 sexually active, we assure them they are  
25 protected both physically and emotionally.



1 This means that we routinely check in on the  
2 health of relationships and consistently  
3 screen for abuse, exploitative relationships.

4 We have carefully gained the trust of  
5 thousands of teenagers by following a medical  
6 model that encourages these children to  
7 develop their own strengths; to be competent  
8 and resilient. Because we often treat  
9 underserved youth at risk for bad outcomes, we  
10 work hard to engage them and gain their  
11 confidence in order to provide the most  
12 effective and highest quality care.

13 Some of the provisions in this  
14 legislation, although clearly intended to  
15 protect youth, may actually cause fundamental  
16 harm to the relationships we build and could  
17 result in the following: 1)adolescents will  
18 forgo preventative care, and even treatment,  
19 as the word spreads among adolescent  
20 communities that not only is their privacy not  
21 honored, but law enforcement will become  
22 involved; and, 2)children who have been abused  
23 will not be surrounded by a nurturing,  
24 trustworthy environment both to disclose and  
25 begin the healing process.

1           It is vital that we both initiate the  
2 child welfare system when appropriate and  
3 avoid the secondary trauma that may occur  
4 through interaction with the criminal justice  
5 system.

6           We would be pleased to work with the  
7 Committee to improve the bill without causing  
8 negative impacts on the relationships required  
9 to navigate challenging environments and  
10 situations. In fact, we have conducted  
11 longstanding research on this very issue and  
12 have developed best practices focusing on  
13 trust and confidentiality.

14           Some highlights we would like to  
15 discuss include the following:

16           The adolescents we treat are made  
17 aware of the limitations of privacy on matters  
18 involving abuse;

19           If youth seek treatment for a  
20 sexually transmitted infection (STI) and law  
21 enforcement is contacted, they will stop  
22 seeking treatment. This may result in  
23 increased transmission and prevalence of  
24 diseases in the community. With delayed or no  
25 treatment, additional medical complications

1 can occur;

2 If adolescents do not seek care  
3 because they are worried about the potential  
4 ramifications of disclosure, there is likely  
5 to be a rise in unplanned pregnancies.  
6 Unplanned pregnancies often result in delayed  
7 prenatal care. The risk for poor health  
8 outcomes for mother and child are already high  
9 for adolescents; any further barriers to the  
10 receipt of early prenatal care for them could  
11 be devastating and result in worse outcomes  
12 and increased healthcare costs;

13 Sanctions against medical providers,  
14 punitive in nature, may have an adverse impact  
15 on clinicians that could choose to no longer  
16 treat adolescents for fear of failing to  
17 comply. Such sanctions could have large  
18 implications on access to care for a severely  
19 vulnerable population.

20 We would be honored to provide the  
21 Committee and you with further explanation of  
22 these matters and outcomes from the research  
23 we have conducted. While it is not our  
24 intention to support or oppose this  
25 legislation, it is our duty to share how it

1 may impact the practice of pediatric and  
2 adolescent medicine in the Commonwealth of  
3 Pennsylvania and the health and well being of  
4 the children we care for.

5 Sincerely, Andrea Bailer, MSN, CRNP;  
6 Carrie Calabrese, MSN, CRNP; Nadia Dowshen,  
7 MD; Karyn Feit, MSW; Christine Forke, MSN,  
8 CRNP; Kenneth R. Ginsburg, MD, MS Ed; Sara  
9 Kinsman, MD, PhD, Nadja Peter, MD; Oana  
10 Tomescu, MD, Ph D; Michele Zucker, MD.

11 (This concludes the letter submitted  
12 by The Children's Hospital of Philadelphia.  
13 The content was not altered to correct any  
14 errors in spelling, grammar, or punctuation.)

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## REPORTER'S CERTIFICATE

I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

---

BRENDA J. PARDUN, RPR  
Court Reporter  
Notary Public