

**Submitted comments from
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**House Children and Youth Committee
March 5, 2013
House Bills 433, 434 and 435**

Pennsylvania Partnerships for Children (PPC) is a statewide, independent, non-partisan child advocacy organization that uses research and data as the foundation for its public policy work. For more than 20 years, PPC's vision has been simple: make Pennsylvania one of the top 10 states in the nation to be a child and to raise a child. We currently rank 14th. As always, PPC stands ready to assist the members of this committee as you work on these bills and other measures to improve the commonwealth's child welfare laws.

Before I delve into the particulars of each of these bills, I'd like to comment on the tremendous volume of work before the committee as it strives to improve Pennsylvania's child protective services. Let me offer my thanks to the members for their commitment to this important body of work.

PPC understands and appreciates this work encompasses numerous pieces of legislation that, in many cases, are intended to be enacted simultaneously. Of course, when such a multitude of bills is under consideration and subject to possible amendments in the legislative process, there is a risk of issues being inadvertently left out in the final pieces of legislation that head to the governor's desk.

We urge the members of this committee to, whenever possible, make sure all of the child welfare bills not only complement each other in their technical language, but be able to stand alone if the entire package is not passed. This would minimize the risk of one bill unintentionally countering another or losing key provisions governing child welfare laws. We certainly understand the difficulty of having so many legislative irons in the fire, and trying to cover every nuance in every piece of legislation.

While PPC currently has no formal position on [House Bill 433](#) (P.N. 618), I would like to offer comments on the other two bills before you today.

[House Bill 434 \(P.N. 619\)](#)

HB 434 would eliminate from state law the separate definition of what constitutes abuse by teachers and other school employees - essentially applying the same rules for what constitutes abuse among others who work directly with children. PPC strongly supports this change. Pennsylvania is the only state in the nation with a separate definition of student abuse.

Unlike Pennsylvania, the majority of states include teachers under the definition of child abuse and include school personnel as perpetrators. Pennsylvania also is the only state that sets a higher threshold for what constitutes abuse by school employees toward students. Simply put, our existing state law allows abusive actions against children that would be illegal in a child's home, a child care facility or other settings to be legal when they occur at the hands of a school employee. This not only make no sense, but it puts our children needlessly in harm's way when they are in school.

It is long overdue that we eliminate this disparity. Abuse is abuse – no matter where it occurs.

We urge some technical amendments in HB 434, including:

- Use the same definition of “child care services” in House Bill 434 (page 2, lines 8-20) with House Bill 435 (page 1, line 20: page 2, lines 12 -30; and page 3, lines 1-3).
- Language on page 4, line 16, does not specifically reference “cyber charter schools” in the definition of “school.” While the intent is to include cyber charters under the “school” definition in lines 3 -6, we urge the specific reference to include “cyber charter schools” on line 16 to align more closely with the Public School Code.
- Language on page 5, lines 5-9, revises the definition of “student,” but does not specify that a child is an individual under the age of 18. For the purposes of this act, we urge the definition of “student” be limited to children under the age of 18 to align with the definition of child abuse, which is limited to children under the age of 18.
- Language on page 8, line 8, that references “public or private school” can be revised to simply state “school,” since the bill establishes a more comprehensive definition of “school” on page 4, beginning with line 3.
- Language on page 11, line 18, and page 12, line 2, should be changed to “18 years of age” instead of “14 years of age” to make it consistent with language in HB 435.

Aligning with our recommendation above to ensure consistency and recognize that these bills may not pass as a package, PPC is concerned that House Bill 434 strikes the requirement for child abuse clearance checks (page 22-24). Even with the language on page 12, lines 24-30, and page 13, lines 1-2, that states school employees “shall be subject to provisions of Section 111 of the Public School Code of 1949,” school employees would no longer be required to get child abuse clearance checks. Section 111 of the Public School Code only requires school employees to undergo a federal criminal history check and a State Police background check, but not child abuse history clearances. We trust that the members intend to require child abuse clearances for school employees in HB 434 and suggest an amendment to assure its inclusion should this bill pass alone. With this stated, PPC recognizes that if House Bill 434 and 435 were to pass together, school employees would continue to be required to have all three checks performed.

House Bill 435 (P.N. 717)

HB 435 appropriately expands the use of background clearances to better protect children. The bill also improves existing state law as it requires self-disclosure of arrests or convictions that would impact an adult's ability to work with children and creates employment bans. PPC urges the committee to ensure parity exists in self-disclosure requirements and employment bans proposed and currently contained in the Domestic Relations and Public School Codes for all individuals covered in House Bill 435. That is not the case as the bill is currently drafted.

While PPC supports House Bill 435, we have concerns about the clearances required for volunteers.

As currently written, HB 435 requires that unpaid volunteers who have resided in Pennsylvania for the previous 10 years undergo a Department of Public Welfare child abuse history clearance and a State Police background check, but it does not require a federal criminal history check. Instead, HB 435 leaves such federal checks to the discretion of the organization enlisting the volunteer.

PPC believes volunteers should be required to have all three background checks – the same trio of checks required for others who are paid to work with children. While this might create an additional expense for volunteers or the organizations that enlist them, it's a small price to pay to help ensure our children are safe.

PPC recommends that either the language beginning on page 7, lines 24-28, relating to reporting of arrests or convictions for foster care parents or the language beginning on page 16, line 29, relating to a "departmental form" for reporting of arrests or convictions for current and prospective employees and volunteers be expanded to include prospective adoptive parents. As the bill is currently drafted, we are unclear if prospective adoptive parents are included and believe that they should be prior to a final adoption agreement being in force.

Thank you for taking PPC's comments into consideration. We remain ready to assist the committee in any way we can to ensure these important child protection measures become law.