

**Testimony of
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Pennsylvania Partnerships for Children
House Children and Youth Committee
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Definition of Child Abuse – House Bill 726 and Amendment A01305**

Good afternoon, my name is Joan Benso and I am the president and CEO of Pennsylvania Partnerships for Children (PPC). 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 to be a child and to raise a child. We currently rank 14th. I'd like to thank Chairwomen Watson and Bishop for the opportunity to present testimony today on a proposal to improve the commonwealth's definition of child abuse, Rep. Petri for sponsoring such important legislation and to all the members of this committee for taking up the critically important issue of our children's safety.

PPC's work in child welfare is supported by Casey Family Programs – the nation's largest operating foundation whose sole mission is to provide, improve and ultimately prevent the need for foster care. Our child welfare efforts are also guided by a leadership council that includes a diverse group of state and national experts, legal and judicial officials, seven county children and youth directors and/or human services directors, former foster youth, parents and state legislators from all four caucuses. Rep. Petri is among the members of our leadership council.

The safety of our children is the paramount responsibility of Pennsylvania's child welfare system – and central to this objective is how our state defines child abuse. Our current definition has some thresholds for defining abuse that are too high and subjective, such as the standard of "severe pain," and the overall definition lacks functional clarity that inhibits its effective application.

Rep. Petri's legislation, House Bill 726 with Amendment (A01305) would make important improvements to our state's current definition of child abuse. I would like to first highlight some of these changes, and then discuss some areas where PPC believes the legislation could be strengthened further.

PPC supports:

- Eliminating the "severe pain" threshold by creating a lower standard of bodily injury.
- Including an expanded definition of perpetrator, but only including minors who are relatives within the definition if there is the opportunity to expunge records of one-time minor perpetrators when they reach adulthood.
- Qualifying that a child's presence where certain drug and alcohol violations are occurring should apply only to situations verified by law enforcement investigation.

- Incorporating appropriate exclusions for teenage sexual activity, minor peer-on-peer injuries and participation in activities involving physical contact.
- Creating an exclusion for discipline that does not allow injuries to be inflicted above the bodily injury standard created under the bill. Parents and legal guardians should have the right to discipline their children, but we think the combination of both the “reasonable” and “controlled” qualifiers within the bill are critical. The inclusion of “reasonable” alone could leave too much room for interpretation, but regardless of circumstances involving physical discipline, the force should be “controlled.”
- Limiting the religious beliefs exception to parents or guardians.
- Adding “per se” acts of child abuse to provide additional clarity of what constitutes abuse.
- Applying both the standards of culpability and bodily injury to the list of “per se” acts of child abuse. This would mean committing child abuse is dependent on both perpetrator acts and resulting effects on children.

PPC requests further consideration of how the following areas could be strengthened:

- Using the “intentional” and “reckless” standards of culpability from the Crimes Code seems to provide greater clarity on when certain acts against children are abusive. It is my understanding that there are differing legal opinions on whether the standard of “knowing” is embedded in both “intentional” and “reckless.” Therefore, why not include the “knowing” culpability standard, as well? We do not want to create a loophole that could result in substantiating child abuse when a person may act in a reckless manor but may be unaware they have done so. An example of this might be a mentally disabled adult who may put a child at risk of injury, yet be unaware of the potential risk. Conversely, clarity is essential to avoid unnecessary appeals of child abuse substantiations. It is critical that child welfare workers have a definition that does not require legal debate on when and how it applies.
- PPC supports a threshold of child abuse that is lower than current law so we can better protect our children, and therefore requests careful consideration of the potential impact of applying the same culpability standards to all forms of child abuse. The Task Force on Child Protection did not recommend the standards of “reckless” or “intentional” for mental injury and serious physical neglect. These are forms of child maltreatment that infrequently result in substantiation. We ask that you consider using the lower “negligence” standard for these types of child maltreatment.
- Incorporating the lower standard of “reasonable likelihood” into the definition related imminent risk as recommended by the task force as well as to mental injury.
- Interfering with a child’s breathing should be added to the list of “per se” acts of child abuse, as recommended by the task force.
- The discipline exclusion would appropriately limit force against children by ensuring it is “reasonable” and “controlled.” However, incorporating the qualifier of

“considering the circumstances” would seem to create vagueness and potentially opens the door to parents or guardians using excessive force.

We appreciate that Rep. Petri’s legislation does not inhibit the ability of county child welfare agencies to assess and provide services under General Protective Services (GPS) – an important aspect of our state’s approach to keeping children safe that falls outside the definition of child abuse. Approximately four times as many children receive services each quarter under GPS than as a result of alleged child abuse.

The General Assembly clearly faces an important task in considering revisions to the definition of child abuse, and we encourage careful consideration of the standards that would be applied to the definition. A revised definition that results in a similar or higher substantiation threshold than defined in current law would fall short of providing the additional protection our children deserve. How we define child abuse and who we define as perpetrators are central to our ability to protect children. We must get this right.

PPC would like to thank the committee for the opportunity to comment on Rep. Petri’s legislation. We stand ready to assist your efforts.

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