

**OFFICE OF CHILDREN, YOUTH AND FAMILIES
BULLETIN**

**COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC
WELFARE**

NUMBER:

3490-08-02

ISSUE DATE:

March 24, 2008

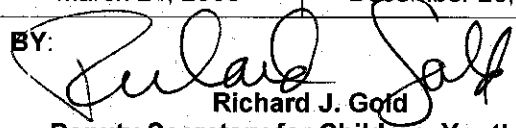
EFFECTIVE DATE:

December 26, 2006

SUBJECT:

Implementation of Act 126 of 2006 Amending the
Child Protective Services Law

BY:


Richard J. Gold
Deputy Secretary for Children, Youth and
Families

SCOPE:

COUNTY CHILDREN AND YOUTH SOCIAL SERVICE AGENCIES
COUNTY CHILDREN AND YOUTH ADVISORY COMMITTEES
PRIVATE CHILDREN AND YOUTH SOCIAL SERVICE AGENCIES
COUNTY CHILDREN AND YOUTH FISCAL OFFICERS
COUNTY CHILDREN AND YOUTH SOLICITORS
COUNTY JUVENILE PROBATION OFFICES

PURPOSE:

The purpose of this bulletin is to transmit to public children and youth agencies the requirements related to Act 126 of 2006, which amended 23 Pa. C.S., Chapter 63 (relating to the Child Protective Services Law) (CPSL).

BACKGROUND:

On October 27, 2006, Pennsylvania Governor Edward G. Rendell signed Senate Bill 63, Printer's Number 1988 into law. This amendment to the CPSL, known as Act 126 of 2006, was effective December 26, 2006. Act 126 of 2006 requires county children and youth agencies to maintain annually updated photographs of children in family case records and to include these photographs when the record is transferred to another county children and youth agency.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Office of Children, Youth and Families Regional Directors

Origin: Bryle Zickler, (717)705-5420, bzickler@state.pa.us

DISCUSSION:

Act 126 was introduced as a result of growing concerns nationally, as well as, in Pennsylvania regarding appropriate identification of children served by the children and youth social service system. There have been cases in which families have misrepresented children or tried to present one child in place of the actual subject child which has resulted in children suffering serious abuse or neglect, and at times, even death.

The implementation of Act 126 will further enhance the county agency's ability to promote the safety and well-being of children, in that it will help to confirm the identity of children and ensure that the correct children are being served, including when records transfer between county agencies.

The use of photographs is not new to the field of child welfare and has been a long standing practice used for documentation of environmental conditions within the homes of families being served by the agency, documentation of injuries to a child during suspected child abuse investigations, creating life books for children in substitute care and on the Pennsylvania Adoption Exchange website for children awaiting a permanent home. The requirements of Act 126 merely provide a more structured accountability for taking and maintaining photographs of children being served by the local county children and youth agencies.

Act 126 is intended to appropriately identify each child being served by the county children and youth agency and requires the agency to take photographs of children during suspected child abuse investigations, as well as, during the provision of ongoing services when the case has been accepted for Child Protective Services (CPS) or General Protective Services (GPS), including cases in which children are placed in substitute care. The photographing of children during suspected child abuse investigations is currently required by Title 55, Pa. Code, § 3490.55 (f) (relating to investigation of reports of suspected child abuse).

Act 126 requires that records transferred to another county, must contain any photographs of the children including the annually updated photographs. Including all of the photographs taken of children when transferring records will provide the receiving agency with the ability to see the growth of the children and to ensure that the child was not being misrepresented.

It is understood that county agencies may experience some difficulty in obtaining photographs of children, especially during the early stages of involvement. If a family refuses to allow their children to be photographed or is unwilling to provide a photograph of the children with verification of the date taken, county agencies must document this refusal by having the family sign a refusal statement form. The attempts made by the county agency to meet the requirements of the Act should also be documented. The county agency is still expected to make additional attempts throughout the life of the case to obtain photographs as families may be more willing to have their children photographed once an ongoing relationship is developed between the caseworker and family. While these attempts should occur on a regular basis,

workers must be aware of the effect these attempts may have on building a positive and therapeutic relationship with the family. Attempts should be made, as stated earlier, on a regular basis, but no less than every six months in accordance with the Family Service Plan (FSP)/Child Permanency Plan (CPP) review.

The photographs that are to be included in the family case record do not have to be photographs taken directly by the county agency as long as identity of the children and the date the photograph was taken can be verified. This can occur by asking the child's school or any other community agency that they may be involved with for verification or by listening to what name other siblings or children call each other. These are merely suggestions, as individual counties may have their own processes regarding verification of identity. Examples of the types of acceptable photographs include family pictures, school pictures or sports photos. These types of photographs however, should only be used when the family continues to refuse to allow the county agency to actually take a photograph themselves.

REQUIREMENT OF PHOTOGRAPHING DURING CPS INVESTIGATIONS:

Section 3490.55 (f) (relating to investigation of reports of suspected child abuse) and § 6368 (a) (relating to investigation of reports) of the CPSL requires the county agency, when investigating a report of suspected child abuse, to obtain a color photograph of the child's visible injury. The photographs are to include one snapshot in which the child is clearly identifiable with the injured part of the body visible to establish the identity of the child and the actual location and extent of the injury. Act 126 amended § 6368 of the CPSL by placing into statute what has already been occurring by regulation and practice. The photographs must be labeled with the name of the child, the age of the child, the date and time the photo was taken, the location at which the photo was taken, the names of any witnesses present, and the name of the photographer. These requirements should continue to be followed by the county agency to meet the requirements of Act 126.

The requirements regarding the expunction of photographs taken during CPS investigations, including those for the purposes of meeting the requirement of Act 126 are outlined below and must be followed by the county agencies.

Unfounded CPS Cases and Not Accepted for Service: Any injury specific photographs taken during a child abuse investigation need to be expunged in accordance with § 3490.70 (relating to expunction and amendment of report by the county agency). This section requires that records of child abuse be expunged upon notification from ChildLine.

Unfounded CPS Cases and Accepted for Service: Any injury specific photographs taken during a child abuse investigation will remain in the child's case record in accordance with § 3490.68 (relating to retention of information in unfounded reports) until services have ended. These injury specific photographs must be expunged when the record of child abuse is expunged.

Indicated or Founded CPS Cases and Either Accepted or Not Accepted for Service: Any injury specific photographs taken during a child abuse investigation will remain in the child's case record until the record is to be expunged in accordance with § 3490.70 (relating to expunction and amendment of report by the county agency).

Photographs that are not injury specific, but were taken during a child abuse investigation which include identifying information regarding the investigation including the ChildLine registry number, must also be expunged at the appropriate times.

REQUIREMENT OF PHOTOGRAPHING ONCE A CASE HAS BEEN ACCEPTED FOR SERVICE INCLUDING ANNUALLY UPDATED PHOTOGRAPHS:

Act 126 amended § 6375 of the CPSL (relating to monitoring, evaluating and assessing) by requiring that during the monitoring, evaluating and assessing of the case, meaning once a CPS or GPS case is accepted for ongoing services annually updated photographs must be taken and that the identity of the children must be verified. This would include cases accepted for in home services, as well as, those in which children are in substitute care. Photographs must be taken of all children in the home, not just the subject child. The only exception to this would be multi-family households and only the children of the family that is accepted for services are subject to this requirement. Photographs taken must be labeled with the name of the child, the age of the child, the date and time the photo was taken, the location at which the photo was taken, the names of any witnesses present, and the name of the photographer.

The annually updated photographs are to be kept in the family's case record. Any photographs taken once the case has been accepted for general protective services should be expunged 5 years following case closure in accordance with § 3130.43 (d) (relating to family case records) and § 3490.236 (b) relating to general protective service records).

It is important to note that families whose cases were open prior to the effective date of this legislation will now need annual photographs that must be maintained in the record. Initial photos, and annual photos thereafter, should be taken at times when it would be opportune to get these photos, including court hearings, family service plan review meetings, or permanency plan review meetings. Every annually updated photograph needs to be maintained in the record for the time that the record is open. Old photographs may not be expunged when a new annual photograph is taken. The initial photo should be taken no later than 90 days from the issuance of this Bulletin.

REQUIREMENT OF FILE TRANSFERS BETWEEN COUNTY AGENCIES:

When a county agency transfers the case of a child needing ongoing protective services to another county agency, the file must include all photographs of the children, including the annually updated photographs, to ensure proper identification.