



## PA Mandated Reporting Update: Act 115 of 2016

May 22, 2017

**In this update on Act 115, we highlight trafficking as child abuse; and child sexual abuse as grounds for involuntary termination of parental rights.**

*We provide ongoing support to churches/organizations completing our one year [Safe Church/Safe Places](#) program, but also periodically offer these website updates to clarify specific areas of concern in service to all those who want to protect children from sexual, and other harm. Please note that this information is intended for general use, and is not provided as legal advice.*

### TRAFFICKING & CHILD ABUSE

We find many churches and individuals support anti-trafficking efforts but they are reluctant to engage in sustained learning about the sexual abuse of children in their own congregations/communities, and how to protect them. Most children are molested by someone they know and/or trust. This can make people uncomfortable, and reluctant to engage deeply in learning more about child sexual abuse, despite the many advantages of participating in a Safe Church/Safe Places program.

There can be a tendency to view trafficking as “out there” in the world. While it is certainly a worthy ministry to support efforts to end it, it is equally worthy but more difficult to look at the child sexual abuse that impacts one in four girls and one in six boys in our own churches and communities.

**Ironically, being sexually abused puts a child at a significantly higher risk of being trafficked. If we want to squeeze the pipeline that feeds the horror of trafficking, we need to understand the deep connections.**

PA law, as revised last year, put a mandated reporting framework around the issue of trafficking of children in the passage of Act 115, amending the Child Protective Service Law (CPSL) to include trafficking of children for labor or sex, as well as acts related to facilitating trafficking, in the definition of child abuse. This may seem minor but it is significant in that it recognizes that a child who has been trafficked is a victim of child abuse and entitled to all the protections under the law afforded to children abused in other ways.

- A person 18 or older who engages a child in trafficking is now considered a “perpetrator” under the CPSL, and Child Protective Service workers investigate in cooperation with police and produce their own investigative reports.
- A mandated reporter is now required to report to ChildLine electronically or by phone any suspected trafficking of a child, using the same standards and processes defined for other types of suspected child abuse.

- Since our revised laws no longer require a mandated reporter to be in direct contact with the child, but compel a report if we learn about suspected abuse of an identifiable child under the age of 18 – now including trafficking – through a third party or direct disclosure, this means we must “immediately” file a report with ChildLine under standard procedures.

Act 115 incorporates the definition of trafficking from the federal statute (see 22 USC §7102 below).

***Elements of “force, fraud or coercion” are not applicable if trafficking involves children under the age of 18.***

**(8) Severe forms of trafficking in persons**

The term “severe forms of trafficking in persons” means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

**(9) Sex trafficking**

The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

These definitions are incorporated by reference in 2016 amendments to 23 PA 6303 (a) Perpetrator (1)(vii) and child abuse (b.1) (10) and 23 PA §6340 (a)(9).

## **Involuntary Termination of Parental Rights for Sex Abuse**

If a parent has been found to commit sexual abuse against the child or another child of the parent by a court of law (founded report) or is required to register as a sexual offender in PA, other states, or a foreign country, the finding is considered grounds for involuntary termination of parental rights. This does not mean involuntary termination is automatic. It means that the sexual abuse is now grounds for consideration of termination, rather than moving into the standard family reunification process. Termination would require filing of a petition and subsequent judicial adjudication based on a finding of “sexual abuse or exploitation” as defined in section 6303(a).

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