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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

EDUCATION
MILITARY & VETERANS AFFAIRS

March 24, 1993

TO: All House Members
FROM: Representative Allan Egolf
SUBJECT: Legislation - Murder by Child Abuse

I invite you to join me in sponsoring legislation which would create the crime of murder by child abuse.

Many of you are familiar with the death last fall of three-year old Logan Borchick. The child died of a massive cerebral hemorrhage caused by a severe beating. There were eighty-one bruises found on his small body.

Under Pennsylvania's existing homicide statute, the most that a prosecutor can ^{expect to get} seek in this type of case is involuntary manslaughter, a misdemeanor of the first degree. In light of the serious, violent nature of this crime, I believe that the present penalties are totally inadequate.

In addition to the creation of the new crime of murder by child abuse, my legislation would amend existing law to enable prosecutors to secure a second-degree murder conviction against a parent or guardian who commits a protracted pattern or multiple incidents of endangering the welfare of his or her child. This amendment fits precisely the facts of the Borchick case in that it would amend the offense of Endangering the Welfare of a Child to create a felony of the third degree where there was a protracted or multiple incidents of abuse. Young Logan Borchick suffered this fate. The District Attorney would have been able to charge the Borchicks not only with a third-degree felony based upon a pattern of abuse; he could have charged felony murder, that is, second degree murder and perhaps obtained a conviction which would have carried a penalty of life imprisonment.

If you would like to cosponsor this important legislation, please call my secretary, Teri, at 3-1593. Thank you.

AE/tcr

REP. EGOLF

March 18, 1993

On September 20, 1992, three year old Logan Borchick died of a massive cerebral hemorrhage. His death was caused by a severe beating. Eighty-one bruises were found on his small body.

A jury ruled that Carla Borchick caused her son's death. She was convicted of conspiracy to commit aggravated assault, involuntary manslaughter, reckless endangerment, and endangering the welfare of a child. Logan was beaten to death just five weeks after his removal from the home of his foster parents, Thomas and Susan Midrano. He was returned to his parents' custody over the protests of the Perry County Children and Youth Services Agency and the Midranos who believed that Logan's return to his parents home would endanger his life. The problems in our Youth Services and Foster Care network highlighted in this case will be addressed by my colleague, Representative Pat Vance.

The persons responsible for this child's death should be subject to the most severe penalties permissible under law. Unfortunately, under present Pennsylvania law, the judge in this case is precluded from imposing a sentence of more than five to ten years.

I want to move this state in the direction of at least seventeen other states which have enacted laws to enable their prosecutors to secure appropriate convictions for persons who repeatedly beat their children, beating them to death. Under our existing homicide statute, they cannot do ^{that} it. The most prosecutors can seek in these cases is involuntary manslaughter, a misdemeanor of the first degree.

Today, I am introducing legislation to create a new crime - murder by child abuse. A person commits murder by child abuse if he or she knowingly or recklessly causes the death of a child by physical assault, suffocation, or drowning; or, if the person is the parent or caregiver, by depriving the child

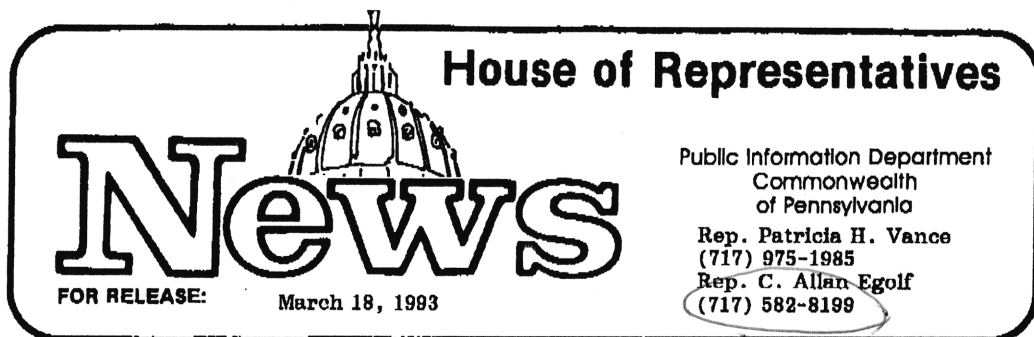
of necessary food, clothing, responsible medical care, or shelter, or by placing the child in or failing to remove the child from a situation that may endanger the child's life or health; and the person is 21 years of age or older, is the parent of the child, or is the caregiver of the child at the time of his death, and the child is less than twelve years of age.

The legislation provides that when the death of a child is caused knowingly, murder by child abuse would be a murder of the second degree. When the death of a child is caused recklessly, murder by child abuse would be a murder of the third degree. Murder of the second degree carries a sentence of life imprisonment. Murder of the third degree constitutes a felony of the first degree which is punishable by a term of imprisonment of up to twenty years.

In addition to the creation of this new crime, my legislation would amend existing law to enable prosecutors to secure a second degree murder conviction against a parent or guardian who commits a protracted pattern or multiple incidents of endangering the welfare of his or her child. This amendment precisely fits the facts of the Borchick case in that it would amend the offense of Endangering the Welfare of a Child to create a felony of third degree where there was a protracted pattern or multiple incidents of abuse. This was certainly the fate Logan Borchick suffered. The District Attorney would have been able to charge the Borchicks not only with a third degree felony based upon a pattern of abuse, he could have charged felony murder, that is second degree murder and, perhaps, obtained a conviction which would have carried a penalty of life imprisonment.

The status quo in our Commonwealth is simply unacceptable. It affords inadequate punishment of parents or any caregiver who perpetrates the ultimate crime against the child ~~for whom they have sworn a duty of care.~~

who looks to them for love and protection



HARRISBURG -- In an effort to prevent future cases of death by child abuse, Reps. Allan Egolf (R-Perry) and Pat Vance (R-Cumberland) announced today they will introduce a legislative package to toughen the state's criminal and civil laws regarding foster care placement.

In announcing the legislation at a Capitol Hill news conference, Egolf and Vance noted that the proposal is the result of the 1992 beating-death of three-year-old Logan Borchick and recommendations from a 1991 grand jury report. Joining the two Republican lawmakers in the news conference were Thomas and Susan Midrano, the foster care parents of Logan Borchick, and Perry County District Attorney Scott Cramer.

"I want to move this state in the direction of at least 17 other states which have enacted laws to enable their prosecutors to secure appropriate convictions for persons who repeatedly beat their children, beating them to death," Egolf said. "Under our existing homicide statute, the most prosecutors can seek in these cases is involuntary manslaughter, a misdemeanor of the first degree."

Egolf's proposal would create a new crime -- murder by child abuse. A person commits murder by child abuse if he or she:

-- knowingly or recklessly causes the death of a child by physical assault, suffocation or drowning; or

-- deprives the child of necessary food, clothing, responsible medical care or shelter;

-- places the child in or fails to remove the child from a situation that may endanger the child's life or health;

-- is over 21 years of age, is the parent or caregiver of the child at the time of death, and the child is less than 12 years of age.

Penalties under the bill range from murder of the second degree, which carries a sentence of life imprisonment, to murder of the third degree, which constitutes a felony of the first degree, punishable by 20 years in prison.

The proposal would amend existing law to enable prosecutors to secure a second degree murder conviction against a parent or guardian who commits a protracted pattern or multiple incidents of endangering the welfare of his or her child.

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"This amendment precisely fits the facts of the Borchick case: a protracted pattern or multiple incidents of abuse," Egolf said. "This was certainly the fate Logan Borchick suffered.

"The status quo in our Commonwealth is simply unacceptable. It affords inadequate punishment of parents or any caregiver who perpetrates the ultimate crime against the child for whom they have sworn a duty of care," Egolf said.

Vance said her proposal is aimed at "preventing any more innocent deaths and improving the protections afforded to foster children throughout Pennsylvania.

"We do realize and appreciate the tremendous burden under which the staff of these agencies have to work," Vance said. "However, of utmost importance is our basic responsibility and obligation to protect the lives and well-being of these children who cannot protect themselves."

Vance's bill would establish guidelines for the structure and operation of Boards of Directors of private foster parent agencies to insure their integrity and accountability. The legislation would:

- require the board of directors to be involved in the operation of the agency and be regularly consulted on the current activities and future plans of the agency;
- require annual submissions of the minutes of all meetings of the board of directors;
- inspection and audit of the financial status of each agency; and
- require the Public Welfare Department to establish a limit to the number of children an agency could place at any facility.

"In order to specifically address the circumstances that resulted in the tragic death of Logan, I have developed a number of amendments to the Child Protective Services Law," Vance said. "The legislation provides for responsibilities of the county children and youth agencies and requires certain information to be forwarded from private providers of children services to the county children and youth agencies."

Under the Vance bill, the Child Protective Services Law would clearly and emphatically state that the county children and youth agency shall maintain supervisory powers over any private or public agency designated to be responsible for the placement of a child.

"My legislation will require that private or public agencies, providing these types of services, must contact children and youth when they receive information suggesting that the safety or the welfare of the child is in jeopardy."

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Additionally, the Vance bill would:

-- mandate a visit by the child protective services agency with the parents in a situation similar to the Borchick case, that is, where the child has been taken into protective custody previously because of parental abuse and is placed back with the parents, then removed again because of abuse, placed in foster care and placed back with the parents;

-- require a case worker to visit the child and the parents within one month of the return of the child to the parents, guardian or custodian to review the status of the case and to determine whether additional services are necessary;

-- protect an employee of an agency who is discharged or disciplined as a result of reporting and alleged violation; and

-- prohibit county children and youth social service agency employees from receiving any funds or honoraria from any agency or individual with whom the county agency has contracted for services to place children as a result of child abuse.

"This legislation is an important first step in the direction of establishing accountability for the welfare of children who suffer as a result of child abuse," Vance said.

Egolf and Vance called on the House leadership to consider these proposals in a timely manner.

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

Memorandum

To: Honorable *Allan Egolf*
From: Honorable Rick Geist, Republican Caucus Chairman
Date: *October 28, 1994*

A bill / amendment which you have sponsored is scheduled for floor activity in the near future.

Would you please proof the following synopsis of your legislation? The enclosed summary will be used as a part of the "Week In Preview" Republican Caucus handout.

If we do not hear from you before 10:00 a.m., Monday, on the Session week in which the bill is scheduled for a vote, due to our own printing/processing constraints we will be forced to assume the synopsis information is accurate.

We encourage you to come to Caucus each week to further explain your legislation and respond to any questions.

SECRETARIES : IN AN EVENT THAT YOU RECEIVE THIS MEMO WHEN YOUR MEMBER IS OUT OF THE HARRISBURG OFFICE, WE URGE YOU TO FAX/MAIL/READ IT TO HIM/HER AT THEIR PRESENT LOCATION. SUCH A POLICY WILL PROMOTE AND ENSURE ACCURATE CAUCUS INFORMATION.

Please direct all responses to Phyllis Brown or Amy Riggelman at 787-4195.

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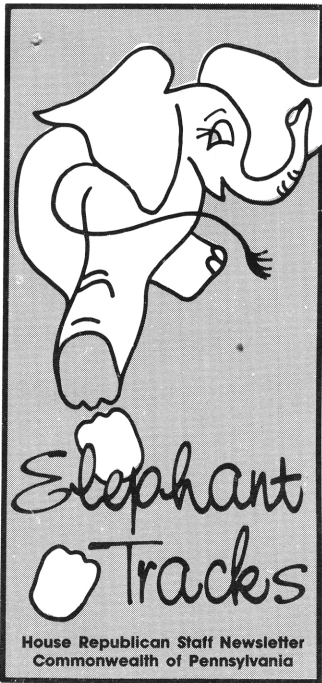
Dear Rep Egolf

I am writing to thank you for starting action on child protection laws after the senseless death of Logan Borsick. Our church is up in arms about this and want to do every thing we can to see that this doesn't happen again.

It seems to me some where the "rights of the child" has been once looked. What ever we can do to help this please let us know.

Christa M. Guppitt
Christian Social Concerns
Summersdale United Meth


Summersdale Pa 17093



Dear Crystal.

Thank you for your letter of support on my ~~proposed~~ bill to strengthen our child protection laws (murder by child abuse).

It was officially introduced to the legislature today and

was ~~given~~ designated House Bill _____

It has been referred to the committee for their consideration.

You asked if there was anything you could do to help. Please ask your church members to ~~write~~ call or write to their representative and ask that the bill be ~~given~~ passed.

Thank you for your concern



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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

May 5, 1993

Representative Kevin Blaum
Chairman, Aging & Youth Committee
Room 210, South Office Building
Harrisburg, PA 17120

Dear Representative Blaum:

I am enclosing a copy of House Bill 1276 of which you are a co-sponsor.

As you will recall, I introduced this bill to address the deficiency of our homicide statutes regarding parents and other caretakers who murder their children. As you can see by the number of cosponsors, the legislation has a significant amount of support and I would greatly appreciate your scheduling the bill for consideration by the Aging & Youth Committee in the near future. Mary Woolley of the House Republican Judiciary staff is prepared to offer any assistance you might need in analyzing the legislation.

I look forward to hearing from you at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "al".

Allan Egolf
State Representative
86th Legislative District

AE/tcr

cc: Representative Leonard Gruppo