

file
C.O.



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LYNNE ABRAHAM
DISTRICT ATTORNEY

July 12, 1995

Representative C. Allan Egolf
18 West Main Street
New Bloomfield, PA 17068

Re: **Act 31, Child Homicide and Endangering the
Welfare of Children**

Dear Representative Egolf:

On behalf of the citizens of Philadelphia, the District Attorney's Office and the Pennsylvania District Attorneys Association, I would like to thank you for your foresight and initiative in addressing the problem of compromise verdicts in child death cases and cases dealing with a pattern of child abuse.

As happens with most difficult issues, the solution to the child death problem went through many permutations until we all agreed that the key to resolution was to increase the penalty for involuntary manslaughter when the victim is a child. We appreciate your willingness to work with us and amend the bill as we struggled to come up with the most appropriate language.

Increasing the penalty for endangering the welfare of a child to a third degree felony where there are multiple incidents of abuse will insure that a suitable punishment is given.

We appreciate your concern and your motivation to confront these matters.

Very truly yours,

LYNNE ABRAHAM
District Attorney

/swh

ALLAN EGOLF, MEMBER

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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APPOINTMENTS:

VIETNAM VETERANS' HEALTH
INITIATIVE COMMISSION
PA INTERSTATE COMPACT COMMISSION
FOR EDUCATION
CHILDREN AND FAMILIES TASK FORCE

House Bill 578 amends Chapters 25 and 43 of the Crimes Code, specifically the bill creates and defines the offense of child homicide. That offense is committed if a parent, guardian or other person supervising the welfare of a child under 12 years of age recklessly causes the death of that child.

Child homicide would be a felony of the 1st degree which carries a maximum penalty of 20 years in prison. You may wonder why there is a need for this bill. I want to give you an example of why it is needed. In my district two years ago, three-year-old Logan Borchick was beaten to death within five weeks after he was taken from his foster home and returned to his parents. The foster parents had cared for him most of his life since birth and had warned the judge that he was probably in danger. When he was killed they found 81 bruises over his body. Ten of those were inside the scalp and there were large, round bruises indicating that they came from kicking or hitting with fists. His brain was swollen as if he had fallen from a three-story building.

This is not an isolated case. The Department of Public Welfare, Office of Children, Youth and Families claim that on the average, every seven days a child is killed by beating, drowning, suffocation, scalding or shaken to death in Pennsylvania. In 1992 there were 8,419 substantiated reports of child abuse. Out of those numbers, 51 died. In 1993, 54 children died from abuse.

In the case of Logan Borchick, the mother was convicted of involuntary manslaughter and conspiracy to commit aggravated assault and reckless endangerment and only received a sentence of five to ten years. The problem in Pennsylvania is that although it is possible to convict with murder, it is very unlikely because you must prove intent to kill. It is hard for a jury or judge to believe that parents intend to kill their child. In most cases, they only get involuntary manslaughter which has a maximum sentence of five years in prison.

Other examples come from the Philadelphia District Attorney's Office to emphasize the difficulties, are as follows:

Case #1 - Philadelphia - babysitter (aunt) smothered a two and one-half year old child with her hand and then wheeled the body in a baby carriage and left the body in an alley. The verdict was involuntary manslaughter.

Case #2 - Philadelphia - A mother and father left a one-year-old child alone in a house. There was no heat, lights or water. A candle was left burning on a plant stand next to the child's bed. It caught on fire and the child died in the fire. The verdict was involuntary manslaughter--they got probation.

Case #3 - Philadelphia - A 19-year-old mother gave birth to an infant at home. She shook the baby to death and placed the body in a trash bag. The verdict was involuntary manslaughter--she received 11 months jail time.

My bill will allow and encourage more severe and appropriate punishment.

WORK WITH THE SCHEDULE

W01

Calendar for: Rep. Allan Egolf
 Date: 06/06/95 Tuesday
 Type any changes to the schedule below.

BEGIN	END	DESCRIPTION
8:00AM	9:15AM	Keystone State Reading Association Awareness Breakfast in Rm. 60E, East Wing - Brent Hege will attend for you
8:30AM	9:30AM	PA's Aviation Council Legislative Briefing re: PA's Aviation Program @ Hbg. Hilton & Towers
8:30AM	11:00AM	Independent Oil & Gas Assoc. of PA Leg. Breakfast in Rm. 40E, EW
9:00AM		Stop 35 Breakfast
10:00AM		Video interview with Member Services re: Senior Expos Studeo, Capitol Annex
10:30AM		PA Coalition Against Domestic Violence Memorial & Rally in Capitol Rotunda
11:00AM		SESSION
11:00AM		Senate Judiciary Committee Meeting in Rm. 8E-A to consider HB578
11:30AM		Senate Judiciary Committee Mtg. in Rm. 8E-A, MCB
PF3	Cancel changes	PF4 Next day PF5 Previous day Screen 1 of 2
PF9	Help	PF10 Next Screen PF11 Previous Screen PF12 Return

note correction in time

WORK WITH THE SCHEDULE


W01

Calendar for: Rep. Allan Egolf
 Date: 06/06/95 Tuesday
 Type any changes to the schedule below.

BEGIN	END	DESCRIPTION
11:30AM		Senate Judiciary Committee Mtg. in Rm. 8E-A, MCB (Agenda: HB578)
4:30PM		Mtg. with Sec. Hickok, Dept. of Ed. & Billy Kay Krouse, Dir. of Governmental Relations re: school choice in Hbg.
5:30PM	8:00PM	UTELPAC Picnic in Meadow Pavilion at Allenberry

PF3 Cancel changes PF4 Next day PF5 Previous day Screen 2 of 2
 PF9 Help PF10 Next Screen PF11 Previous Screen PF12 Return

House of Representatives



News

FOR RELEASE:

April 25, 1995

Public Information Department
Commonwealth
of Pennsylvania
Rep. Allan Egolf
(717) 783-1593
(717) 582-8119

HARRISBURG -- When child abuse or neglect results in death in Pennsylvania, the offender could be charged with a new crime carrying severe punishments under legislation which passed the House unanimously today.

Sponsored by Rep. Allan Egolf (R-86th), House Bill 578 creates the crime of child homicide or "murder by child abuse." The measure also creates the felony offense of endangering the welfare of a child.

"It is appropriate that we take steps to get tough with child abuse at the same time we commemorate National Crime Victims' Rights Week. Certainly children who suffer abuse are defenseless victims and the offender should be made to pay a heavy price for this action," Egolf said.

According to the bill, child homicide is committed if a parent, guardian or other person supervising the welfare of a child under the age of 12 recklessly causes the death of that child. Child homicide would be classified a first degree felony which carries a maximum penalty of 20 years in prison.

The charge of endangering the welfare of a child is committed if the offender puts the child in danger by knowingly violating a duty of care, protection or support and a course of such action can be proven. The offense would be a third degree felony punishable by a maximum penalty of seven years in prison.

"Seventeen other states have enacted laws enabling 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 expect to get in these cases is involuntary manslaughter, a misdemeanor of the first degree."

The legislation has the support of the Philadelphia district attorney's office and the state attorney general's office.

Egolf said his proposal was prompted by the 1992 beating death of three-year-old Logan Borchik of Perry County.

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Senate of Pennsylvania

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PUBLIC HEALTH & WELFARE
POLICY COMMITTEE

PUBLIC EMPLOYEE RETIREMENT
STUDY COMMISSION
GOVERNOR'S COMMISSION FOR
CHILDREN & FAMILIES
INTERGOVERNMENTAL COUNCIL
ON LONG TERM CARE

May 1, 1995

Honorable Stewart J. Greeleaf, Chairman
Senate Judiciary Committee
Room 19 East Wing Capitol Complex
Harrisburg, Pennsylvania 17120-3012

Dear Stu:

On April 25, the House of Representatives unanimously passed House Bill #578, which specifically creates and defines the offense of child homicide in Pennsylvania.

House Bill #578 was introduced by Representative Allan Egolf (R-86) and also creates the felony offense of endangering the welfare of a child. A person commits that offense if they knowingly endanger the welfare of a child by violating a duty of care, protection, or support and a course of conduct of such neglect exists. This bill has been referred to the Senate Judiciary Committee effective April 26.

Stu, I have enclosed a copy of the bill and an analysis of it for your review, and I would ask that you consider placing it on a committee agenda at the earliest possible date.

Thank you for considering this request, and if you have any questions or concerns, please feel free to contact me.

Sincerely yours,

Harold F. Mowery, Jr.,
Senator, 31st District

HFM, Jr./wsb

cc: Representative Allan Egolf

enclosures

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House of Representatives

COMMONWEALTH OF PENNSYLVANIA
HARRISBURG
January 23, 1995

TO: All House Members

FROM: Rep. Allan Egolf *ae*

SUBJECT: Proposed Legislation - Murder of a Child

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

Many of you are familiar with the death 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.

Because judges are unwilling to convict parents of homicide in these cases, the most that a prosecutor can expect to get 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 a new crime of murder of a child, my legislation would amend existing law to enable prosecutors to secure a second-degree murder conviction against a parent or guardian who causes death through 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

PREVIOUS COSPONSORS: Egolf, Caltagirone, Vance, Piccola, Fajt, Masland, Clark, Nailor, Gerlach, Heckler, Fleagle, L. I. Cohen, Yewcic, Perzel, Coy, Bunt, Gordner, Nyce, Tigue, Gannon, Bush, Fargo, Maitland, King, Geist, Armstrong, Daley, Sather, Krebs, Leh, Hasay, Waugh, Stern, Steil, Marsico, True, Miller, Fairchild, Saylor, Laughlin, Kasunic, Trello, Barley, Herman, J. Taylor, E. Z. Taylor, Platts, Raymond, Durham, Druce, Kenney, Steelman, Cornell, Saurman, Rooney, Battisto, Gamble, Kirkland, Blaum, Civera, Gruppo and Washington