
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 215

Session of
1993

INTRODUCED BY DeLUCA, TIGUE, BLAUM, SURRA, COY, YANDRISEVITS,
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BATTISTO, GIGLIOTTI, BISHOP, KASUNIC, DONATUCCI, STISH,
SANTONI, WOZNIAC, VEON AND JAMES, FEBRUARY 3, 1993

SENATOR HECKLER, AGING AND YOUTH, IN SENATE, AS AMENDED,
JUNE 7, 1994

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for involuntary
3 termination of parental rights, for definitions and for
4 information on prospective child-care personnel.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 2511(a)(5) and (b) of Title 23 of the
8 Pennsylvania Consolidated Statutes are amended and subsection
9 (a) is amended by adding a paragraph to read:

10 § 2511. Grounds for involuntary termination.

11 (a) General rule.--The rights of a parent in regard to a
12 child may be terminated after a petition filed on any of the
13 following grounds:

14 * * *

15 (5) The child has been removed from the care of the
16 parent by the court or under a voluntary agreement with an

1 agency [for a period of at least six months], the conditions
2 which led to the removal or placement of the child continue
3 to exist, the parent [cannot or will not remedy those
4 conditions within a reasonable period of time] has not
5 remedied those conditions within ~~18~~ 12 months from the date <—
6 of removal or placement, the services or assistance
7 reasonably available to the parent [are not likely to remedy]
8 have not remedied the conditions which led to the removal or
9 placement of the child within [a reasonable period of time]
10 ~~18~~ 12 months from the date of removal or placement and <—
11 termination of the parental rights would best serve the needs
12 and welfare of the child.

13 * * *

14 (8) The child has been removed from the care of the
15 parent by the court or under a voluntary agreement with an
16 agency and the child:

17 (i) was in placement for a period of 12 months or
18 longer;

19 (ii) was returned home to the parent; and

20 (iii) was, within 12 months of returning, again
21 removed from the care of the parent by the court or under
22 a voluntary agreement with an agency for similar
23 conditions of abuse, neglect or incapacity.

24 (b) Other considerations.--The court in terminating the
25 rights of a parent shall give primary consideration to the
26 developmental, physical and emotional needs and welfare of the
27 child. The rights of a parent shall not be terminated solely on
28 the basis of environmental factors such as inadequate housing,
29 furnishings, income, clothing and medical care if found to be
30 beyond the control of the parent. With respect to any petition

1 filed pursuant to subsection (a)(1) or (6), the court shall not
2 consider any efforts by the parent to remedy the conditions
3 described therein which are first initiated subsequent to the
4 giving of notice of the filing of the petition.

5 * * *

6 Section 2. Section 2512(a) of Title 23 is amended by adding
7 a paragraph to read:

8 § 2512. Petition for involuntary termination.

9 (a) Who may file.--A petition to terminate parental rights
10 with respect to a child under the age of 18 years may be filed
11 by any of the following:

12 * * *

13 (4) The child, represented by an attorney, if the child
14 has been adjudicated dependent under 42 Pa.C.S. § 6341(c)
15 (relating to adjudication).

16 * * *

17 Section 3. Section 6303 of Title 23 is amended by adding a
18 definition to read:

19 § 6303. Definitions.

20 The following words and phrases when used in this chapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 * * *

24 "Reside." To dwell at a residence for at least 30 days in a
25 calendar year.

26 * * *

27 Section 4. Section 6344 of Title 23 is amended to read:

28 § 6344. Information relating to prospective child-care
29 personnel.

30 (a) Applicability.--This section applies to all prospective

1 employees of child-care services, prospective foster parents,
2 prospective adoptive parents, prospective self-employed family
3 day-care providers and other persons seeking to provide child-
4 care services under contract with a child-care facility or
5 program. This section also applies to individuals 14 years of
6 age or older who reside in the home of a family day-care
7 provider. This section does not apply to administrative or other
8 support personnel unless their duties will involve direct
9 contact with children.

10 (b) Information submitted by prospective employees.--
11 Administrators of child-care services shall require applicants
12 to submit with their applications the following information
13 obtained within the preceding one-year period:

14 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
15 history record information), a report of criminal history
16 record information from the Pennsylvania State Police or a
17 statement from the Pennsylvania State Police that the State
18 Police central repository contains no such information
19 relating to that person. The criminal history record
20 information shall be limited to that which is disseminated
21 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general
22 regulations).

23 (2) A certification from the department as to whether
24 the applicant is named in the central register as the
25 perpetrator of a founded or indicated report of child abuse.
26 [An indicated report shall not be included until the
27 department adopts regulations specifying the manner in which
28 the investigation required by sections 6366 (relating to
29 continuous availability to receive reports) through 6372
30 (relating to protecting well-being of children detained

outside home) is to be conducted.]

(3) Where the applicant is not a resident of this Commonwealth, administrators shall require the applicant to submit with the application for employment a report of Federal criminal history record information pursuant to the Federal Bureau of Investigation appropriation of the Department of Justice Appropriation Act of 1973 (Public Law 92-544, 86 Stat. 1116), and the department shall be the intermediary for the purposes of this section.

For the purposes of this subsection, an applicant may submit a copy of the required information with an application for employment. Administrators shall maintain a copy of the required information and shall require applicants to produce the original document prior to employment.

(c) Grounds for denying employment.--In no case shall an administrator hire an applicant where the department has verified that the applicant is named in the central register as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification pursuant to this section. In no case shall an administrator hire an applicant if the applicant's criminal history record information indicates the applicant has been convicted[, within five years immediately preceding the date of the report,] of one or more of the following offenses under Title 18 (relating to crimes and offenses):

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709 (relating to harassment and stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122 (relating to statutory rape).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4303 (relating to concealing death of child born out of wedlock).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

A felony offense under section 5902(b) (relating to prostitution and related offenses).

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

(d) Prospective adoptive or foster parents.--With regard to prospective adoptive or prospective foster parents, the following shall apply:

(1) In the course of causing an investigation to be made pursuant to section 2535(a) (relating to investigation), an agency or person designated by the court to conduct the investigation shall require prospective adoptive parents to submit the information set forth in subsection (b)(1) and (2) for review in accordance with this section.

(2) In the course of approving a prospective foster parent, a foster family care agency shall require prospective foster parents to submit the information set forth in

subsection (b)(1) and (2) for review by the foster family care agency in accordance with this section.

(e) Self-employed family day-care providers.--Self-employed family day-care providers who apply for a certificate of registration with the department shall submit with their registration application a report of criminal history record information pertaining to themselves and to any individuals 14 years of age or older who reside in their homes and shall also obtain certification from the department as to whether the applicant or an individual 14 years of age or older who resides in the applicant's home is named in the central register as the perpetrator of a founded report or indicated report of child abuse.

(f) Submissions by operators of child-care services.--The department shall require persons seeking to operate child-care services to submit the information set forth in subsection (b)(1) and (2) for review in accordance with this section. This subsection requires information on an individual 14 years of age or older who resides in the home of a family day-care provider.

(g) Regulations.--The department shall promulgate the regulations necessary to carry out this section. These regulations shall:

(1) Set forth criteria for unsuitability for employment in a child-care service in relation to criminal history record information which may include criminal history record information in addition to that set forth above. The criteria shall be reasonably related to the prevention of child abuse.

(2) Set forth sanctions for administrators who willfully hire applicants in violation of this section or in violation of the regulations promulgated under this section.

1 (3) Provide for the confidentiality of information
2 obtained pursuant to subsection (b).

3 (h) Fees.--The department may charge a fee not to exceed \$10
4 in order to conduct the certification as required in subsection
5 (b)(2).

6 (i) Time limit for certification.--The department shall
7 comply with certification requests no later than 14 days from
8 the receipt of the request.

9 (j) Voluntary certification of child caretakers.--The
10 department shall develop a procedure for the voluntary
11 certification of child caretakers to allow persons to apply to
12 the department for a certificate indicating the person has met
13 the requirements of subsection (b). The department shall also
14 provide for the biennial recertification of child caretakers.

15 (k) Existing or transferred employees.--A person employed in
16 child-care services on January 1, 1986, shall not be required to
17 obtain the information required in subsection (b)(1) and (2) as
18 a condition of continued employment. A person who has once
19 obtained the information required under subsection (b)(1) and
20 (2) may transfer to another child-care service established and
21 supervised by the same organization and shall not be required to
22 obtain additional reports before making the transfer.

23 (l) Temporary employees under special programs.--The
24 requirements of this section do not apply to employees of child-
25 care services who meet all the following requirements:

26 (1) They are under 21 years of age.

27 (2) They are employed for periods of 90 days or less.

28 (3) They are a part of a job development or job training
29 program funded, in whole or in part, by public or private
30 sources.

1 Once employment of a person who meets these conditions extends
2 beyond 90 days, all requirements of this section shall take
3 effect.

4 (m) Provisional employees for limited periods.--

5 Notwithstanding subsection (b), administrators may employ
6 applicants on a provisional basis for a single period not to
7 exceed 30 days or, for out-of-State applicants, a period of 90
8 days, if all of the following conditions are met:

9 (1) The applicant has applied for the information
10 required under subsection (b) and the applicant provides a
11 copy of the appropriate completed request forms to the
12 administrator.

13 (2) The administrator has no knowledge of information
14 pertaining to the applicant which would disqualify him from
15 employment pursuant to subsection (c).

16 (3) The applicant swears or affirms in writing that he
17 is not disqualified from employment pursuant to subsection
18 (c).

19 (4) If the information obtained pursuant to subsection
20 (b) reveals that the applicant is disqualified from
21 employment pursuant to subsection (c), the applicant shall be
22 immediately dismissed by the administrator.

23 (5) The administrator requires that the applicant not be
24 permitted to work alone with children and that the applicant
25 work in the immediate vicinity of a permanent employee.

26 (n) Use of information.--The department may not approve a
27 family day-care provider if the provider, an employee of the
28 provider or an individual 14 years of age or older who resides
29 with the provider meets any of the following:

30 (1) Is named in the central register as the perpetrator

1 of a founded report of child abuse.

2 ~~(2) Has been sentenced for an offense listed in~~ <—
3 ~~subsection (c).~~

4 (2) HAS BEEN FOUND GUILTY OF OR ADJUDICATED DELINQUENT <—
5 FOR AN OFFENSE LISTED IN SUBSECTION (C).

6 Section 5. This act shall take effect in 60 days.