

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1156 Session of 2015

INTRODUCED BY SABATINA, VULAKOVICH, RAFFERTY, SCHWANK, COSTA, FOLMER, FONTANA, BARTOLOTTA, RESCHENTHALER, TARTAGLIONE, KITCHEN, BREWSTER, BROWNE, HUGHES AND BOSCOLA, MARCH 22, 2016

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 7, 2016

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions, for disposition and expunction of
4 unfounded reports and general protective services reports,
5 for employees having contact with children and adoptive and
6 foster parents, for volunteers having contact with children
7 and for recertification.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The definitions of "institution of higher
11 education," "matriculated student" and "school" in section
12 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes,
13 amended or added July 1, 2015 (P.L.94, No.15), are amended and
14 subsection (a) is amended by adding a definition to read:

15 § 6303. Definitions.

16 (a) General rule.--The following words and phrases when used
17 in this chapter shall have the meanings given to them in this
18 section unless the context clearly indicates otherwise:

19 \* \* \*

1 "Health care personnel." Includes any of the following:

2 (1) A health care provider, including a health care  
3 provider who provides health care services in a health care  
4 facility.

5 (2) An employee of a health care facility.

6 The term does not apply to services provided by administrative  
7 or other support personnel unless the administrative or other  
8 support personnel have direct contact with children.

9 \* \* \*

10 "Institution of [higher] postsecondary education." Any of  
11 the following:

12 (1) A community college which is an institution now or  
13 hereafter created pursuant to Article XIX-A of the act of  
14 March 10, 1949 (P.L.30, No.14), known as the Public School  
15 Code of 1949, or the act of August 24, 1963 (P.L.1132,  
16 No.484), known as the Community College Act of 1963.

17 (2) An independent institution of higher education which  
18 is an institution of higher education located in and  
19 incorporated or chartered by the Commonwealth, entitled to  
20 confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to  
21 power to confer degrees) and entitled to apply to itself the  
22 designation "college," "university" or "seminary" as provided  
23 for by standards and qualifications prescribed by the State  
24 Board of Education under 24 Pa.C.S. Ch. 65.

25 (3) A State-owned institution.

26 (4) A State-related institution.

27 (5) An education enterprise.

28 (6) A private school licensed under the act of December  
29 15, 1986 (P.L.1585, No.174), known as the Private Licensed  
30 Schools Act.

1 \* \* \*

2 "Matriculated student." A student who is enrolled in an  
3 institution of [higher] postsecondary education and pursuing a  
4 program of study that results in a postsecondary credential,  
5 such as a certificate, diploma or degree.

6 \* \* \*

7 "School." A facility providing elementary, secondary or  
8 postsecondary educational services. The term includes the  
9 following:

- 10 (1) Any school of a school district.
- 11 (2) An area vocational-technical school.
- 12 (3) A joint school.
- 13 (4) An intermediate unit.
- 14 (5) A charter school or regional charter school.
- 15 (6) A cyber charter school.
- 16 (7) A private school licensed under the act of January  
17 28, 1988 (P.L.24, No.11), known as the Private Academic  
18 Schools Act.
- 19 (8) A private school accredited by an accrediting  
20 association approved by the State Board of Education.
- 21 (9) A nonpublic school.
- 22 (10) An institution of [higher] postsecondary education.
- 23 [(14) A private school licensed under the act of  
24 December 15, 1986 (P.L.1585, No.174), known as the Private  
25 Licensed Schools Act.]
- 26 (15) The Hiram G. Andrews Center.
- 27 (16) A private residential rehabilitative institution as  
28 defined in section 914.1-A(c) of the Public School Code of  
29 1949.

30 \* \* \*

1 Section 2. Section 6337(d) of Title 23 is amended to read:  
2 § 6337. Disposition and expunction of unfounded reports and  
3 general protective services reports.

4 \* \* \*

5 (d) Expunction of valid general protective services  
6 reports.--Information concerning valid general protective  
7 services reports shall be maintained in the Statewide database  
8 as follows:

9 (1) Reports that are assessed by the county agency and  
10 are determined to be valid, but are not accepted for  
11 services, shall be reported to the department and entered  
12 into the Statewide database. The reports shall be maintained  
13 for a period of [five] 10 years or until the child who is the  
14 subject of the report attains 23 years of age, whichever  
15 occurs first. Following the expiration of [five] 10 years  
16 after the date the report was received by the department or  
17 when the child who is the subject of the report attains 23  
18 years of age, whichever occurs first, the report shall be  
19 expunged from the Statewide database as soon as possible, but  
20 no later than 120 days after the [five-year] 10-year period  
21 following the date the report was received by the department  
22 or 120 days after the child who is the subject of the report  
23 attains 23 years of age, whichever occurs first.

24 (2) Reports that are assessed by the county agency and  
25 accepted for services shall be reported to the department and  
26 entered into the Statewide database. The reports shall be  
27 maintained for a period of [five] 10 years after the closure  
28 of services by the county agency or until the child who is  
29 the subject of the report attains 23 years of age, whichever  
30 occurs first. Following the expiration of [five] 10 years

1 after the closure of services by the county agency or when  
2 the child who is the subject of the report attains 23 years  
3 of age, whichever occurs first, the report shall be expunged  
4 from the Statewide database as soon as possible, but no later  
5 than 120 days after the [five-year] 10-year period following  
6 the closure of services by the county agency or 120 days  
7 after the child who is the subject of the report attains 23  
8 years of age, whichever occurs first.

9 (3) The expunction of information on general protective  
10 services under this subsection shall be mandated and  
11 guaranteed by the department.

12 \* \* \*

13 Section 3. Section 6344(a.1)(2), (b) and (b.1) of Title 23,  
14 amended July 1, 2015 (P.L.94, No.15), are amended and subsection  
15 (a) is amended by adding paragraphs to read:

16 § 6344. Employees having contact with children; adoptive and  
17 foster parents.

18 (a) Applicability.--Beginning December 31, 2014, this  
19 section applies to the following individuals:

20 \* \* \*

21 (9) An individual 18 years of age or older who is  
22 applying for or holding a paid position as health care  
23 personnel and is a person responsible for the child's welfare  
24 or having direct contact with children.

25 (10) An individual who is a member of the clergy and is  
26 a person responsible for the child's welfare or having direct  
27 contact with children.

28 (a.1) School employees.--This section shall apply to school  
29 employees as follows:

30 \* \* \*

1 (2) (i) School employees not governed by the provisions  
2 of the Public School Code of 1949 shall be governed by  
3 this section.

4 [(ii) This paragraph shall not apply to an employee <--  
5 of an institution of ~~higher~~ postsecondary education <--  
6 whose direct contact with children, in the course of  
7 employment, is limited to either:

8 (A) prospective students visiting a campus  
9 operated by the institution of ~~higher~~ postsecondary <--  
10 education; or

11 (B) matriculated students who are enrolled with  
12 the institution.

13 (iii) The exemption under subparagraph (ii) (B) shall  
14 not apply to students who are enrolled in a secondary  
15 school.] <--

16 \* \* \*

17 (b) Information to be submitted.--An individual identified  
18 in subsection (a) (7) or (8) at the time the individual meets the  
19 description set forth in subsection (a) (7) or (8) and an  
20 individual identified in subsection (a) (1), (2), (3), (4), (5)  
21 [or], (6), (9) or (10), (a.1) or (a.2) prior to the commencement  
22 of employment or service or in accordance with section 6344.4  
23 shall be required to submit the following information to an  
24 employer, administrator, supervisor or other person responsible  
25 for employment decisions or involved in the selection of  
26 volunteers:

27 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal  
28 history record information), a report of criminal history  
29 record information from the Pennsylvania State Police or a  
30 statement from the Pennsylvania State Police that the State

1 Police central repository contains no such information  
2 relating to that person. The criminal history record  
3 information shall be limited to that which is disseminated  
4 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general  
5 regulations).

6 (2) A certification from the department as to whether  
7 the applicant is named in the Statewide database as the  
8 alleged perpetrator in a pending child abuse investigation or  
9 as the perpetrator of a founded report or an indicated  
10 report.

11 (3) A report of Federal criminal history record  
12 information. The applicant shall submit a full set of  
13 fingerprints to the Pennsylvania State Police for the purpose  
14 of a record check, and the Pennsylvania State Police or its  
15 authorized agent shall submit the fingerprints to the Federal  
16 Bureau of Investigation for the purpose of verifying the  
17 identity of the applicant and obtaining a current record of  
18 any criminal arrests and convictions.

19 (b.1) Required documentation to be maintained and  
20 produced.--The employer, administrator, supervisor or other  
21 person responsible for employment decisions or acceptance of the  
22 individual to serve in any capacity identified in subsection (a)  
23 (1), (2), (3), (4), (5) [or], (6), (9) or (10), (a.1) or (a.2)  
24 shall maintain a copy of the required information and require  
25 the individual to submit the required documents prior to  
26 employment or acceptance to serve in any such capacity or as  
27 required in section 6344.4, except as allowed under subsection  
28 (m).

29 \* \* \*

30 Section 4. Section 6344.2(a) of Title 23, amended July 1,

1 2015 (P.L.94, No.15), is amended to read:

2 § 6344.2. Volunteers having contact with children.

3 (a) Applicability.--This section applies to an adult  
4 applying for or holding an unpaid position as a volunteer as  
5 health care personnel or with a child-care service, a school or  
6 a program, activity or service, as a person responsible for the  
7 child's welfare or having direct volunteer contact with  
8 children.

9 \* \* \*

10 Section 5. Section 6344.4(1) introductory paragraph and (i)  
11 of Title 23, amended July 1, 2015 (P.L.94, No.15), is amended  
12 and the section is amended by adding a paragraph to read:

13 § 6344.4. Recertification.

14 New certifications shall be obtained in accordance with the  
15 following:

16 (1) [Effective] Except as provided in paragraph (4),  
17 effective December 31, 2014:

18 (i) [Except as provided in subparagraph (v), a] A  
19 person identified in section 6344 (relating to employees  
20 having contact with children; adoptive and foster  
21 parents) shall be required to obtain the certifications  
22 required by this chapter every 60 months.

23 \* \* \*

24 (4) Effective August 1, 2016:

25 (i) A person identified in section 6344(a)(9) or  
26 (10) and health care personnel under section 6344.2(a)  
27 shall be required to obtain the certifications required  
28 by this chapter every 60 months.

29 (ii) Any person identified in section 6344(a)(9) or  
30 (10) and health care personnel under section 6344.2(a)

1 with a current certification issued prior to the  
2 effective date of this paragraph shall be required to  
3 obtain the certifications required by this chapter within  
4 60 months from the date of the person's oldest  
5 certification or, if the current certification is older  
6 than 60 months, no later than December 31, 2016.

7 (iii) A person identified in section 6344(a)(9) or  
8 (10) and health care personnel under section 6344.2(a)  
9 without a certification, including a person who was  
10 previously not required to have a certification, shall be  
11 required to obtain the certifications required by this  
12 chapter no later than December 31, 2016.

13 Section 6. This act shall take effect immediately.