



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 435

PRINTERS NO. 2010

PRIME SPONSOR: Moul

### COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	See Fiscal Impact

**SUMMARY:** House Bill 435, Printer's Number 2010, amends Title 23 (Domestic Relations) to provide for the requirements for background clearances and grounds for denying employment for individuals who work with children. This bill will take effect 60 days after enactment.

**ANALYSIS:** This legislation redefines the term "Child-care services" to include the following: child day-care centers; group day-care homes; family day-care homes; foster homes; adoptive parents; boarding homes for children; juvenile detention center services or programs for delinquent or dependent children; mental health services for children; services for children with intellectual disabilities; early intervention services for children; drug and alcohol services for children; day-care services or programs that are offered by a school; other comparable services that are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare (DPW) or a county social services agency or that are provided pursuant to a contract with DPW or a county social services agency.

House Bill 435 provides that the following individuals must comply with requirements for background clearances (FBI, State Police, DPW's child abuse registry): a prospective employee of child-care services; a prospective foster parent; a prospective adoptive parent; a prospective self-employed family day-care provider; any person seeking to provide child-care services under contract with a child-care facility or program; and an individual 18 years of age or older who resides in the home of a prospective foster parent for at least 30 days in a calendar year or who resides in the home of a prospective adoptive parent for at least 30 days in the calendar year.

Volunteers who work with children will be required to submit the State Police and DPW clearances, if 1) the position is unpaid; and 2) the person has been a PA resident for the entirety of the previous ten-year period. In these cases, nothing will prohibit the organization from requiring that a prospective volunteer undergo an FBI clearance.

This legislation creates a tiered system to either temporarily or permanently prohibit those with a history of certain crimes or child abuse from working or volunteering with children.

#### Permanent ban

- Criminal homicide
- Aggravated assault
- Stalking
- Kidnapping

- Unlawful restraint
- Luring a child into a motor vehicle or structure
- Rape
- Statutory sexual assault
- Involuntary deviate sexual intercourse
- Sexual assault
- Aggravated indecent assault
- Indecent assault
- Indecent exposure
- Sexual intercourse with an animal
- Incest
- Concealing the death of a child
- Endangering the welfare of children
- Dealing in infant children
- Felony prostitution
- Certain offenses related to obscene and other sexual materials and performances
- Corruption of minors
- Sexual abuse of children
- Unlawful contact with a minor
- Solicitation of minors to traffic drugs
- Sexual exploitation of children
- An offense similar in nature to any of the above in another jurisdiction
- A founded report of sexual abuse or exploitation of a child in DPW's child abuse registry.

Ten-year ban (from the expiration of the sentence)

- Any first, second or third degree felony, where the victim is a child (other than those offenses subject to a permanent ban).
- A felony offense under the Controlled Substance, Drug, Device and Cosmetic Act.

Five-year ban (from the expiration of the sentence)

- Any first degree misdemeanor where the victim is a child (other than those offenses subject to a permanent ban).
- A founded report of child abuse in DPW's child abuse registry (except for sexual abuse or exploitation, which is a permanent ban).

An employee or volunteer will be required to report new arrests or convictions for an offense that would create a ban on employment or volunteer work with children to the administrator in writing within 72 hours.

For foster parents, notification must be provided to the foster family care agency within 48 hours after an arrest or conviction for an offense specified in the bill or being named as a perpetrator in a founded/indicated report of abuse.

If the person responsible for employment decisions or an administrator has a reasonable belief that an employee or volunteer was arrested or convicted for an offense that would constitute grounds for denying employment, or was named as a perpetrator in a founded or indicated report of child abuse, or

the employee or volunteer has provided notice as required under the bill, the employer or administrator will require that individual to submit the FBI, State Police and DPW clearances.

If an employee or volunteer does not disclose arrests or convictions as required, that person commits a misdemeanor of the third degree and will also be subject to discipline, including possible termination.

Additionally, a person who is required to undergo background clearances in order to be employed or volunteer with children are required to provide the FBI, State Police and DPW background clearances every 24 months.

**FISCAL IMPACT:** This legislation is based on a recommendation of the Task Force on Child Protection. The bill will require DPW to process clearances for persons not currently required to obtain them. DPW has indicated they may have difficulty accommodating the increased volume of clearances that will occur with the clearance requirement for volunteers without additional staff support. However, the number of volunteers that will need to comply is undeterminable. There is a \$10 charge for each clearance, which will help to offset the additional administrative costs incurred. It should be noted that DPW is planning implementation of an automated clearance process within the Information Systems updates for the child welfare system, which would ultimately reduce the amount of administrative support needed to process clearances. This upgrade is part of a larger scale IT upgrade which is already underway and part of existing budgets.

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House Appropriations Committee (R)

**DATE:** June 24, 2013

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*