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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1276 Session of  
2015

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INTRODUCED BY WATSON, MOUL, HARHART, PICKETT, PETRI, BAKER,  
BISHOP, R. BROWN, BROWBLEE, CAUSER, DEAN, DIGIROLAMO, FARRY,  
FEE, GIBBONS, GODSHALL, A. HARRIS, PHILLIPS-HILL, IRVIN,  
JAMES, KAUFFMAN, M. K. KELLER, KILLION, LONGIETTI, MALONEY,  
MILLARD, MURT, O'NEILL, QUINN, ROZZI, SAYLOR, STAATS, TOPPER,  
TRUITT, ROSS, COHEN, CONKLIN, GABLER, RADER, KORTZ, BRIGGS,  
SCHLOSSBERG, GILLEN, JOZWIAK, BARBIN AND DAVIS, JUNE 2, 2015

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SENATOR BROWNE, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, JUNE 28, 2015

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in child protective services, further  
3 providing for definitions, for persons required to report  
4 suspected child abuse, for access to information in Statewide  
5 database, for release of information in confidential reports,  
6 for employees having contact with children and adoptive and  
7 foster parents, for information relating to certified or  
8 registered day-care home residents, for volunteers having  
9 contact with children, for continued employment or  
10 participation in program, activity or service, for  
11 certification compliance, for education and training and for  
12 mandatory reporting of children under one year of age.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The definitions of "child-care services,"  
16 "independent contractor," "perpetrator," "person responsible for  
17 the child's welfare," "program, activity or service," "school"  
18 and "school employee" in section 6303(a) of Title 23 of the  
19 Pennsylvania Consolidated Statutes, ~~amended October 22, 2014~~ <--

1 ~~(P.L.2529, No.153)~~, are amended and the section is amended by  
2 adding definitions to read:

3 § 6303. Definitions.

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

7 \* \* \*

8 "ADULT FAMILY MEMBER." A PERSON 18 YEARS OF AGE OR OLDER WHO <--  
9 HAS THE RESPONSIBILITY TO PROVIDE CARE OR SERVICES TO AN  
10 INDIVIDUAL WITH AN INTELLECTUAL DISABILITY OR CHRONIC  
11 PSYCHIATRIC DISABILITY.

12 \* \* \*

13 "Child-care services." Includes any of the following:

- 14 (1) Child day-care centers.
- 15 (2) Group day-care homes.
- 16 (3) Family [day-care] child-care homes.
- 17 (4) Foster homes.
- 18 (5) Adoptive parents.
- 19 (6) Boarding homes for children.
- 20 (7) Juvenile detention center services or programs for  
21 delinquent or dependent children.
- 22 (8) Mental health services for children.
- 23 (9) Services for children with intellectual  
24 disabilities.
- 25 (10) Early intervention services for children.
- 26 (11) Drug and alcohol services for children.
- 27 (12) Day-care services or programs that are offered by a  
28 school.
- 29 (13) Other child-care services that are provided by or  
30 subject to approval, licensure, registration or certification

1 by the department or a county social services agency or that  
2 are provided pursuant to a contract with the department or a  
3 county social services agency.

4 The term does not apply to services provided by administrative  
5 or other support personnel unless the administrative or other  
6 support personnel has direct contact with children.

7 \* \* \*

8 "DIRECT VOLUNTEER CONTACT." THE CARE, SUPERVISION, GUIDANCE <--  
9 OR CONTROL OF CHILDREN AND ROUTINE INTERACTION WITH CHILDREN.

10 \* \* \* <--

11 "EDUCATION ENTERPRISE." AN EDUCATIONAL ACTIVITY IN THIS <--  
12 COMMONWEALTH:

13 (1) FOR WHICH COLLEGE CREDITS OR CONTINUING EDUCATION  
14 UNITS ARE AWARDED, CONTINUING PROFESSIONAL EDUCATION IS  
15 OFFERED OR TUITION OR FEES ARE CHARGED OR COLLECTED; AND

16 (2) THAT IS SPONSORED BY A CORPORATION, ENTITY OR  
17 INSTITUTION THAT IS INCORPORATED OR AUTHORIZED BY OTHER MEANS  
18 IN A STATE OTHER THAN THIS COMMONWEALTH AND IS APPROVED AND  
19 AUTHORIZED TO OPERATE IN THIS COMMONWEALTH UNDER 15 PA.C.S.  
20 PT. II SUBPT. B (RELATING TO BUSINESS CORPORATIONS) OR C  
21 (RELATING TO NONPROFIT CORPORATIONS) AND 24 PA.C.S. CH. 65  
22 (RELATING TO PRIVATE COLLEGES, UNIVERSITIES AND SEMINARIES).

23 \* \* \*

24 "FAMILY CHILD-CARE HOME." A RESIDENCE WHERE CHILD DAY CARE  
25 IS PROVIDED AT ANY TIME TO NO LESS THAN FOUR CHILDREN AND NO  
26 MORE THAN SIX CHILDREN WHO ARE NOT RELATIVES OF THE CAREGIVER.

27 \* \* \*

28 "IMMEDIATE VICINITY." AN AREA IN WHICH AN INDIVIDUAL IS  
29 PHYSICALLY PRESENT WITH A CHILD AND CAN SEE, HEAR, DIRECT AND  
30 ASSESS THE ACTIVITIES OF THE CHILD.

1 "Independent contractor." An individual who provides a  
2 program, activity or service to an agency, institution,  
3 organization or other entity, including a school or regularly  
4 established religious organization, that is responsible for the  
5 care, supervision, guidance or control of children. The term  
6 does not [include an individual who has no] apply to  
7 administrative or other support personnel unless the  
8 administrative or other support personnel has direct contact  
9 with children.

10 \* \* \*

11 "Institution of higher education." Any of 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, ~~operated not for~~ <--  
19 ~~profit,~~ located in and incorporated or chartered by the  
20 Commonwealth, entitled to confer degrees as set forth in 24  
21 Pa.C.S. § 6505 (relating to power to confer degrees) and  
22 entitled to apply to itself the designation "college" or <--  
23 "COLLEGE," "university" OR "SEMINARY" as provided for by <--  
24 standards and qualifications prescribed by the State Board of  
25 Education under 24 Pa.C.S. Ch. 65 ~~(relating to private~~ <--  
26 colleges, universities and seminaries).

27 (3) A State-owned university INSTITUTION. <--

28 (4) A State-related university INSTITUTION. <--

29 (5) AN EDUCATION ENTERPRISE. <--

30 \* \* \*

1       "MATRICULATED STUDENT." A STUDENT WHO IS ENROLLED IN AN       <--  
2       INSTITUTION OF HIGHER EDUCATION AND PURSUING A PROGRAM OF STUDY  
3       THAT RESULTS IN A POSTSECONDARY CREDENTIAL, SUCH AS A  
4       CERTIFICATE, DIPLOMA OR DEGREE.

5       \* \* \*

6       "Perpetrator." A person who has committed child abuse as  
7 defined in this section. The following shall apply:

8           (1) The term includes only the following:

9               (i) A parent of the child.

10              (ii) A spouse or former spouse of the child's  
11 parent.

12              (iii) A paramour or former paramour of the child's  
13 parent.

14              (iv) A person 14 years of age or older and  
15 responsible for the child's welfare or having direct  
16 contact with children AS AN EMPLOYEE OF CHILD-CARE       <--  
17 SERVICES, A SCHOOL OR through a program, activity or  
18 service.

19              (v) An individual 14 years of age or older who  
20 resides in the same home as the child.

21              (vi) An individual 18 years of age or older who does  
22 not reside in the same home as the child but is related  
23 within the third degree of consanguinity or affinity by  
24 birth or adoption to the child.

25           (2) Only the following may be considered a perpetrator  
26 for failing to act, as provided in this section:

27               (i) A parent of the child.

28              (ii) A spouse or former spouse of the child's  
29 parent.

30              (iii) A paramour or former paramour of the child's

1 parent.

2 (iv) A person 18 years of age or older and  
3 responsible for the child's welfare.

4 (v) A person 18 years of age or older who resides in  
5 the same home as the child.

6 \* \* \*

7 "Person responsible for the child's welfare." A person who  
8 provides permanent or temporary care, supervision, mental health  
9 diagnosis or treatment, training or control of a child in lieu  
10 of parental care, supervision and control. [The term includes  
11 any such person who has direct or regular contact with a child  
12 through any program, activity or service sponsored by a school,  
13 for-profit organization or religious or other not-for-profit  
14 organization.]

15 \* \* \*

16 "Program, activity or service." [A public or private  
17 educational, athletic or other pursuit in which children  
18 participate. The term includes, but is not limited to, the  
19 following:] Any of the following in which children participate  
20 and which is sponsored by a school or a public or private  
21 organization:

- 22 (1) A youth camp or program.  
23 (2) A recreational camp or program.  
24 (3) A sports or athletic program.  
25 (4) [An] A community or social outreach program.  
26 (5) An enrichment or educational program.  
27 (6) A troop, club or similar organization.

28 \* \* \*

29 "Routine interaction." Regular and repeated contact that is  
30 integral to a person's employment or volunteer responsibilities.

1 \* \* \*

2 "School." A facility providing elementary, secondary or  
3 postsecondary educational services. The term includes the  
4 following:

5 (1) Any school of a school district.

6 (2) An area vocational-technical school.

7 (3) A joint school.

8 (4) An intermediate unit.

9 (5) A charter school or regional charter school.

10 (6) A cyber charter school.

11 (7) A private school licensed under the act of January  
12 28, 1988 (P.L.24, No.11), known as the Private Academic  
13 Schools Act.

14 (8) A private school accredited by an accrediting  
15 association approved by the State Board of Education.

16 (9) A nonpublic school.

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

22 (11) An independent institution of higher education  
23 which is an institution of higher education which is operated  
24 not for profit, located in and incorporated or chartered by  
25 the Commonwealth, entitled to confer degrees as set forth in  
26 24 Pa.C.S. § 6505 (relating to power to confer degrees) and  
27 entitled to apply to itself the designation "college" or  
28 "university" as provided for by standards and qualifications  
29 prescribed by the State Board of Education pursuant to 24  
30 Pa.C.S. Ch. 65 (relating to private colleges, universities

1 and seminars).

2 (12) A State-owned university.

3 (13) A State-related university.] An institution of  
4 higher education.

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

8 (15) The Hiram G. Andrews Center.

9 (16) A private residential rehabilitative institution as  
10 defined in section 914.1-A(c) of the Public School Code of  
11 1949.

12 "School employee." An individual who is employed by a school  
13 or who provides a program, activity or service sponsored by a  
14 school. The term [excludes an individual who has no] does not  
15 apply to administrative or other support personnel unless the  
16 administrative or other support personnel has direct contact  
17 with children.

18 \* \* \*

19 Section 2. Section 6311(a)(7) and (12) of Title 23 are  
20 amended and the subsection is amended by adding a paragraph to  
21 read:

22 § 6311. Persons required to report suspected child abuse.

23 (a) Mandated reporters.--The following adults shall make a  
24 report of suspected child abuse, subject to subsection (b), if  
25 the person has reasonable cause to suspect that a child is a  
26 victim of child abuse:

27 \* \* \*

28 (7) An individual paid or unpaid, who, on the basis of  
29 the individual's role as an integral part of a regularly  
30 scheduled program, activity or service, [accepts

1 responsibility for a child] is a person responsible for the  
2 child's welfare or has direct contact with children.

3 \* \* \*

4 (12) An individual supervised or managed by a person  
5 listed under paragraphs (1), (2), (3), (4), (5), (6), (7),  
6 (8), (9), (10) [and], (11) and (13), who has direct contact  
7 with children in the course of employment.

8 \* \* \*

9 (16) An adult ~~household~~ FAMILY member who is a person <--  
10 responsible for the child's welfare and provides services to  
11 a child in a family living home, community home for  
12 individuals with an intellectual disability or host home for  
13 children which are subject to SUPERVISION OR licensure by the <--  
14 department under Articles IX and X of the act of June 13,  
15 1967 (P.L.31, No.21), known as the Public Welfare Code.

16 Section 3. Section 6335(e) of Title 23, ~~amended October 22,~~ <--  
17 ~~2014 (P.L.2529, No.153),~~ is amended to read:

18 § 6335. Access to information in Statewide database.

19 \* \* \*

20 (e) [Clearances] Certifications.--Information provided in  
21 response to inquiries under section 6344 (relating to employees  
22 having contact with children; adoptive and foster parents),  
23 6344.1 (relating to information relating to certified or  
24 [registered day-care] licensed child-care home residents) or  
25 6344.2 (relating to volunteers having contact with children)  
26 shall not include unfounded reports of child abuse or reports  
27 related to general protective services and shall be limited to  
28 the following:

29 (1) Whether the person was named as a perpetrator of  
30 child abuse in a founded or indicated report.

1 (2) Whether there is an investigation pending in which  
2 the individual is an alleged perpetrator.

3 (3) The number, date of the incidents upon which the  
4 report is based and the type of abuse or neglect involved in  
5 any reports identified under paragraph (1).

6 \* \* \*

7 Section 4. Section 6340(a) of Title 23 is amended by adding  
8 a paragraph to read:

9 § 6340. Release of information in confidential reports.

10 (a) General rule.--Reports specified in section 6339  
11 (relating to confidentiality of reports) shall only be made  
12 available to:

13 \* \* \*

14 (18) The Department of the Auditor General in  
15 conjunction with the performances of the duties designated to  
16 the Office of Auditor General, except that the Auditor  
17 General may have access to only the reports in the possession  
18 of the entity being audited and may not remove identifiable  
19 reports or copies thereof from the department or county  
20 agency.

21 \* \* \*

22 Section 5. Section 6344(a), (a.1), (b), (b.1), (b.2), (d)  
23 (4.1), (5), (6) and (8) and (e) of Title 23, ~~amended October 22,~~  
24 ~~2014 (P.L.2529, No.153),~~ are amended and the section is amended  
25 by adding subsections to read:

26 § 6344. Employees having contact with children; adoptive and  
27 foster parents.

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

30 (1) An employee of child-care services.

- 1 (2) A foster parent.
- 2 (3) A prospective adoptive parent.
- 3 (4) A self-employed family ~~[day care] CHILD CARE~~ <--  
4 ~~provider~~ PROVIDER OF CHILD-CARE SERVICES IN A FAMILY [DAY- <--  
5 CARE PROVIDER] CHILD-CARE HOME.
- 6 (5) [An] (i) Except as provided under subparagraph  
7 (ii), an individual 14 years of age or older who is  
8 applying for or holding a paid position as an employee  
9 with a program, activity or service, as a person AND IS <--  
10 WITH A PROGRAM, ACTIVITY OR SERVICE, AS A PERSON <--  
11 responsible for the [welfare of a child] child's welfare  
12 or having direct contact with children THROUGH A PROGRAM, <--  
13 ACTIVITY OR SERVICE.
- 14 (ii) An IF THE PROGRAM, ACTIVITY OR SERVICE IS AN <--  
15 INTERNSHIP, EXTERNSHIP, WORK-STUDY, CO-OP OR SIMILAR  
16 PROGRAM, AN adult applying for or holding a paid position  
17 with an employer that participates in an THE internship, <--  
18 externship, work-study, co-op or similar program with a  
19 school and is identified by the employer WHOM THE <--  
20 EMPLOYER AND THE SCHOOL IDENTIFY as the child's  
21 supervisor and the person responsible for the child's  
22 welfare while the child participates in the program with  
23 the employer. This subparagraph does not apply to other <--  
24 employees of that employer who have not been identified  
25 as the person responsible for the child's welfare. THE <--  
26 ADULT IDENTIFIED UNDER THIS SUBPARAGRAPH AS THE PERSON  
27 RESPONSIBLE FOR THE CHILD'S WELFARE IS REQUIRED TO BE IN  
28 THE IMMEDIATE VICINITY AT REGULAR INTERVALS WITH THE  
29 CHILD DURING THE PROGRAM.
- 30 (6) Any individual seeking to provide child-care

1 services under contract with a child-care facility or  
2 program.

3 (7) An individual 18 years of age or older who resides  
4 in the home of a foster parent for at least 30 days in a  
5 calendar year or who resides in the home of a prospective  
6 adoptive parent for at least 30 days in a calendar year.

7 (8) An individual 18 years of age or older who resides  
8 for at least 30 days in a calendar year in the following  
9 homes which are subject to SUPERVISION OR licensure by the <--  
10 department under Articles IX and X of the act of June 13,  
11 1967 (P.L.31, No.21), known as the Public Welfare Code:

12 (i) A family living home.

13 (ii) A community home for individuals with an  
14 intellectual disability.

15 (iii) A host home for children.

16 This paragraph does not include an individual with an  
17 intellectual disability or chronic psychiatric disability  
18 receiving services in a home.

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

21 (1) School employees governed by the provisions of the  
22 act of March 10, 1949 (P.L.30, No.14), known as the Public  
23 School Code of 1949, shall be subject to the provisions of  
24 section 111 of the Public School Code of 1949, except that  
25 this section shall apply with regard to the [information]  
26 certification required under subsection (b) (2) and the <--  
27 grounds for denying employment under subsection (c) (1).

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

1           (ii) This paragraph shall not apply to an employee  
2 of an institution of higher education whose direct  
3 contact with children, in the course of employment, is  
4 limited to children 16 years of age or older who are <--  
5 either:

6           (A) prospective students visiting a campus  
7 operated by the institution of higher education; or

8           (B) MATRICULATED students who are enrolled with <--  
9 the institution. and attend classes at a campus or <--  
10 facility operated by the institution of higher  
11 education. THIS SECTION SHALL NOT APPLY TO STUDENTS <--  
12 WHO HAVE NOT RECEIVED A HIGH SCHOOL DIPLOMA OR ITS  
13 EQUIVALENT.

14           (III) SUBPARAGRAPH (II) (A) AND (B) SHALL NOT APPLY <--  
15 TO STUDENTS WHO ARE ENROLLED IN A SECONDARY SCHOOL.

16       (a.2) Minors.--An individual between 14 and 17 years of age  
17 who applies for or holds a paid position as an employee who is a  
18 person responsible for the child's welfare or a person with  
19 direct contact with children through a program, activity or  
20 service prior to the commencement of employment or under section  
21 6344.4 (relating to recertification) shall be required to submit  
22 only the information under subsection (b) (1) and (2) to an  
23 employer, administrator, supervisor or other person responsible  
24 for employment decisions, if the following apply:

25           (1) The individual has been a resident of this  
26 Commonwealth during the entirety of the previous 10-year  
27 period or, if not a resident of this Commonwealth during the  
28 entirety of the previous 10-year period, has received  
29 certification under subsection (b) (3) at any time since  
30 establishing residency in this Commonwealth and provides a

1 copy of the certification to the employer.

2 (2) The individual and the individual's parent or legal  
3 guardian swears or affirms in writing that the individual is  
4 not disqualified from service under subsection (c) or has not  
5 been convicted of an offense similar in nature to those  
6 crimes listed in subsection (c) under the laws or former laws  
7 of the United States or one of its territories or  
8 possessions, another state, the District of Columbia, the  
9 Commonwealth of Puerto Rico or a foreign nation, or under a  
10 former law of this Commonwealth.

11 ~~(a.3) Internships and similar programs with schools. An~~ <--  
12 ~~adult applying for or holding a paid position with an employer~~  
13 ~~that participates in an internship, externship, work study, co-~~  
14 ~~op or similar program with a school shall not be required to~~  
15 ~~submit information under subsection (b) if the child~~  
16 ~~participating in the program is at least 16 years of age.~~

17 ~~(a.4) (A.3) Exchange visitor.--An individual in possession~~ <--  
18 ~~of a nonimmigrant visa issued pursuant to 8 U.S.C. § 1101(a) (15)~~  
19 ~~(J) (relating to definitions) to an exchange visitor, commonly~~  
20 ~~referred to as a "J-1" Visa, shall not be required to submit~~  
21 ~~information under subsection (b) if all of the following apply:~~

22 (1) The individual is applying for or holds a paid  
23 position with a program, activity or service for a period not  
24 to exceed a total of 90 days in a calendar year.

25 (2) THE INDIVIDUAL HAS NOT BEEN EMPLOYED PREVIOUSLY IN <--  
26 THIS COMMONWEALTH OR ANOTHER STATE, THE DISTRICT OF COLUMBIA  
27 OR THE COMMONWEALTH OF PUERTO RICO.

28 ~~(2) (3) The individual swears or affirms in writing that~~ <--  
29 ~~the individual is not disqualified from service under~~  
30 ~~subsection (c) or has not been convicted of an offense~~

1 similar in nature to the crimes listed under subsection (c)  
2 under the laws or former laws of the United States or one of  
3 its territories or possessions, another state, the District  
4 of Columbia, the Commonwealth of Puerto Rico or a foreign  
5 nation, or under a former law of this Commonwealth.

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

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

24 (2) A certification from the department as to whether  
25 the applicant is named in the Statewide database as the  
26 alleged perpetrator in a pending child abuse investigation or  
27 as the perpetrator of a founded report or an indicated  
28 report.

29 (3) A report of Federal criminal history record  
30 information. The applicant shall submit a full set of

1 fingerprints to the Pennsylvania State Police for the purpose  
2 of a record check, and the Pennsylvania State Police or its  
3 authorized agent shall submit the fingerprints to the Federal  
4 Bureau of Investigation for the purpose of verifying the  
5 identity of the applicant and obtaining a current record of  
6 any criminal arrests and convictions.

7 (b.1) Required documentation to be maintained and  
8 produced.--The employer, administrator, supervisor or other  
9 person responsible for employment decisions or acceptance of the  
10 individual to serve in any capacity identified in subsection (a)  
11 (1), (2), (3), (4), (5) or (6) [or], (a.1) or (a.2) shall  
12 maintain a copy of the required information and require the  
13 individual to [produce] submit the [original document] required  
14 documents prior to employment or acceptance to serve in any such  
15 capacity or as required in section 6344.4, except as allowed  
16 under subsection (m).

17 (b.2) Investigation.--An employer, administrator, supervisor  
18 or other person responsible for employment decisions shall  
19 require an applicant to submit the required documentation set  
20 forth in this chapter or as required in section 6344.4. An  
21 employer, administrator, supervisor or other person responsible  
22 for employment decisions that intentionally fails to require an  
23 applicant to submit the required documentation before the  
24 applicant's hiring or upon recertification commits a misdemeanor  
25 of the third degree.

26 (B.3) VOLUNTEER CERTIFICATION PROHIBITION.--AN EMPLOYER, <--  
27 ADMINISTRATOR, SUPERVISOR OR OTHER PERSON RESPONSIBLE FOR  
28 EMPLOYMENT DECISIONS IS PROHIBITED FROM ACCEPTING A  
29 CERTIFICATION THAT WAS OBTAINED FOR VOLUNTEERING PURPOSES UNDER  
30 SECTION 6344.2 (RELATING TO VOLUNTEERS HAVING CONTACT WITH

1 CHILDREN).

2 \* \* \*

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

6 \* \* \*

7 (4.1) If a foster parent, prospective adoptive parent,  
8 or an individual over 18 years of age residing in the home is  
9 arrested for or convicted of an offense that would constitute  
10 grounds for denying approval under this chapter or is named  
11 as a perpetrator in a founded or indicated report, the foster  
12 parent or prospective adoptive parent shall provide the  
13 foster family care agency or the agency listed to provide  
14 adoption services with written notice not later than 72 hours  
15 after the arrest, conviction or notification that the [foster  
16 parent] individual was named as a perpetrator in the  
17 Statewide database.

18 (5) Foster parents and prospective adoptive parents  
19 shall be required to report any other change in the [foster]  
20 family household composition within 30 days of the change for  
21 review by the foster family care agency or the agency listed  
22 to provide adoption services. If any individual over 18 years  
23 of age, who has resided outside this Commonwealth at any time  
24 within the previous five-year period, begins residing in the  
25 home of an approved foster family or a prospective adoptive  
26 family, that individual shall, within 30 days of beginning  
27 residence, submit to the foster family care agency or the  
28 agency listed to provide adoption services a certification  
29 obtained from the Statewide database, or its equivalent in  
30 each state in which the person has resided within the

1 previous five-year period, as to whether the person is named  
2 as a perpetrator. If the certification shows that the person  
3 is named as a perpetrator within the previous five-year  
4 period, the foster family care agency or the agency listed to  
5 provide adoption services shall forward the certification to  
6 the department for review. If the department determines that  
7 the person is named as the equivalent of a perpetrator of a  
8 founded report within the previous five-year period and the  
9 person does not cease residing in the home immediately, the  
10 county agency shall immediately seek court authorization to  
11 remove the foster child or children from the home. In  
12 emergency situations when a judge cannot be reached, the  
13 county agency shall proceed in accordance with the  
14 Pennsylvania Rules of Juvenile Court Procedure.

15 (6) In cases where foster parents knowingly fail to  
16 submit the material information required in paragraphs (4.1)  
17 and (5) and section 6344.4 [(relating to certification  
18 compliance)] such that it would disqualify them as foster  
19 parents, the county agency shall immediately seek court  
20 authorization to remove the foster child or children from the  
21 home. In emergency situations when a judge cannot be reached,  
22 the county agency shall proceed in accordance with the  
23 Pennsylvania Rules of Juvenile Court Procedure.

24 \* \* \*

25 (8) The department shall require information based upon  
26 certain criteria for foster and adoptive parent applications.  
27 The criteria shall include, but not be limited to,  
28 information provided by the applicant or other sources in the  
29 following areas:

30 (i) Previous addresses within the last [ten] 10

1 years.

2 (ii) Criminal history background [clearance]  
3 certification generated by the process outlined in this  
4 section.

5 (iii) Child abuse [clearance] certification  
6 generated by the process outlined in this section.

7 (iv) Composition of the resident family unit.

8 (v) Protection from abuse orders filed by or against  
9 either parent, provided that such orders are accessible  
10 to the county or private agency.

11 (vi) Details of any proceedings brought in family  
12 court, provided that such records in such proceedings are  
13 accessible to the county or private agency.

14 (vii) Drug-related or alcohol-related arrests, if  
15 criminal charges or judicial proceedings are pending, and  
16 any convictions or hospitalizations within the last five  
17 years. If the applicant provides information regarding  
18 convictions or hospitalizations in that five-year period,  
19 then information on the prior five years shall be  
20 requested related to any additional convictions or  
21 hospitalizations.

22 (viii) Evidence of financial stability, including  
23 income verification, employment history, current liens  
24 and bankruptcy findings within the last [ten] 10 years.

25 (ix) Number of and ages of foster children and other  
26 dependents currently placed in the home.

27 (x) Detailed information regarding children with  
28 special needs currently living in the home.

29 (xi) Previous history as a foster parent, including  
30 number and types of children served.

1 (xii) Related education, training or personal  
2 experience working with foster children or the child  
3 welfare system.

4 \* \* \*

5 (d.3) Family living homes, community homes for individuals  
6 with an intellectual disability and host homes.--

7 (1) The following shall apply to an individual over 18  
8 years of age residing in a family living home, a community  
9 home for individuals with an intellectual disability or a  
10 host home ~~providing community residential rehabilitation~~ <--  
11 services FOR CHILDREN, which are subject to SUPERVISION OR <--  
12 licensure by the department under Articles IX and X of the  
13 Public Welfare Code:

14 (i) If an individual is arrested for or convicted of  
15 an offense that would constitute grounds for denying  
16 approval under this chapter, or is named as a perpetrator  
17 in a founded or indicated report, the individual shall  
18 provide the agency with written notice not later than 72  
19 hours after the arrest, conviction or notification that  
20 the individual was named as a perpetrator in the  
21 Statewide database.

22 (ii) The adult ~~household~~ FAMILY member who is <--  
23 providing services to a child in the home shall be  
24 required to report any other change in the household  
25 composition within 30 days of the change for review by  
26 the agency. If any individual over 18 years of age, who  
27 has resided outside this Commonwealth at any time within  
28 the previous five-year period, begins residing in the  
29 home, that individual shall, within 30 days of beginning  
30 residence, submit to the agency a certification obtained

1 from the Statewide database, or its equivalent in each  
2 state in which the individual has resided within the  
3 previous five-year period, as to whether the person is  
4 named as a perpetrator. If the certification shows that  
5 the person is named as a perpetrator within the previous  
6 five-year period, the agency shall forward the  
7 certification to the department for review.

8 (2) This subsection shall not apply to an individual  
9 with an intellectual disability or chronic psychiatric  
10 disability receiving services in a home.

11 (3) As used in this subsection, the term "agency" means  
12 a family living home agency, community home agency for  
13 individuals with an intellectual disability or a host home  
14 agency.

15 (e) Self-employed family [day-care] child-care providers.--  
16 Self-employed family [day-care] child-care providers who apply  
17 for a [certificate of registration] license with the department  
18 shall submit with their [registration] licensure application the  
19 information set forth under subsection (b) for review in  
20 accordance with this section.

21 \* \* \*

22 Section 6. Section 6344.1 heading, (a) and (c) of Title 23  
23 are amended to read:

24 § 6344.1. Information relating to certified or [registered day-  
25 care] licensed child-care home residents.

26 (a) General rule.--In addition to the requirements of  
27 section 6344 (relating to employees having contact with  
28 children; adoptive and foster parents), an individual who  
29 applies to the department for a certificate of compliance or a  
30 [registration certificate] license to provide child day care in

1 a residence shall include criminal history record and child  
2 abuse record information required under section 6344(b) for  
3 every individual 18 years of age or older who resides in the  
4 home for at least 30 days in a calendar year.

5 \* \* \*

6 (c) Effect on certification or [registration] licensure.--  
7 The department shall refuse to issue or renew a certificate of  
8 compliance or [registration certificate] license or shall revoke  
9 a certificate of compliance or [registration certificate]  
10 license if the day-care home provider or individual 18 years of  
11 age or older who has resided in the home for at least 30 days in  
12 a calendar year:

13 (1) is named in the Statewide database as the  
14 perpetrator of a founded report committed within the  
15 immediately preceding five-year period; or

16 (2) has been convicted of an offense enumerated in  
17 section 6344(c).

18 \* \* \*

19 Section 7. Section 6344.2(a), (B), (b.1), (e) and (f) of <--  
20 Title 23, ~~amended October 22, 2014 (P.L.2529, No.153),~~ are <--  
21 amended and the section is amended by adding ~~a subsection~~ <--  
22 SUBSECTIONS to read: <--

23 § 6344.2. Volunteers having contact with children.

24 (a) Applicability.--This section applies to an adult  
25 applying for or holding an unpaid position as a volunteer ~~with a~~ <--  
26 ~~child care service, a school or a program, activity or service,~~  
27 WITH A CHILD-CARE SERVICE, A SCHOOL OR A PROGRAM, ACTIVITY OR <--  
28 SERVICE, as a person responsible for the [welfare of a child]  
29 child's welfare or having direct VOLUNTEER contact with children <--  
30 ~~THROUGH A CHILD CARE SERVICE, A SCHOOL OR A PROGRAM, ACTIVITY OR~~ <--

1 SERVICE.

2 \* \* \*

<--

3 (B) INVESTIGATION.--EMPLOYERS, ADMINISTRATORS, SUPERVISORS <--  
4 OR OTHER PERSONS RESPONSIBLE FOR SELECTION OF VOLUNTEERS SHALL  
5 REQUIRE AN APPLICANT TO SUBMIT TO ALL REQUIREMENTS SET FORTH IN  
6 SECTION 6344(B) (RELATING TO EMPLOYEES HAVING CONTACT WITH  
7 CHILDREN; ADOPTIVE AND FOSTER PARENTS) EXCEPT AS PROVIDED IN  
8 SUBSECTION (B.1). AN EMPLOYER, ADMINISTRATOR, SUPERVISOR OR  
9 OTHER PERSON RESPONSIBLE FOR SELECTION OF VOLUNTEERS REGARDING  
10 AN APPLICABLE PROSPECTIVE VOLUNTEER UNDER THIS SECTION THAT  
11 INTENTIONALLY FAILS TO REQUIRE THE SUBMISSIONS BEFORE [HIRING]  
12 APPROVING THAT INDIVIDUAL COMMITS A MISDEMEANOR OF THE THIRD  
13 DEGREE.

14 (b.1) Exception.--

15 (1) A person responsible for the selection of volunteers  
16 under this chapter shall require an applicable prospective  
17 volunteer prior to the commencement of service to submit only  
18 the information under section 6344(b)(1) and (2), if the  
19 following apply:

20 (i) The position the prospective volunteer is  
21 applying for is unpaid.

22 (ii) The prospective volunteer has been a resident  
23 of this Commonwealth during the entirety of the previous  
24 [ten-year period.] 10-year period or, if not a resident  
25 of this Commonwealth during the entirety of the previous  
26 10-year period, has received certification under section  
27 6344(b)(3) at any time since establishing residency in  
28 this Commonwealth and provides a copy of the  
29 certification to the person responsible for the selection  
30 of volunteers.

1 (iii) The prospective volunteer swears or affirms in  
2 writing that the prospective volunteer is not  
3 disqualified from service pursuant to section 6344(c) or  
4 has not been convicted of an offense similar in nature to  
5 those crimes listed in section 6344(c) under the laws or  
6 former laws of the United States or one of its  
7 territories or possessions, another state, the District  
8 of Columbia, the Commonwealth of Puerto Rico or a foreign  
9 nation, or under a former law of this Commonwealth.

10 (2) If the information obtained pursuant to section  
11 6344(b) reveals that the prospective volunteer applicant is  
12 disqualified from service pursuant to section 6344(c), the  
13 applicant shall not be approved for service.

14 ~~(3) A volunteer who provides episodic, infrequent or <--~~  
15 ~~intermittent services to a program, activity or service and~~  
16 ~~who is within the immediate vicinity of at least one~~  
17 ~~individual who is responsible for the child's welfare and has~~  
18 ~~submitted the information under section 6344(b) (1) and (2)~~  
19 ~~shall be exempt from this section. As used in this paragraph,~~  
20 ~~the term "immediate vicinity" means an area subject to sight,~~  
21 ~~hearing and direction and assessment of activity. IF ALL OF <--~~  
22 ~~THE FOLLOWING APPLY, AN INDIVIDUAL SHALL NOT BE REQUIRED TO~~  
23 ~~OBTAIN THE CERTIFICATIONS REQUIRED UNDER SUBSECTION (B):~~

24 ~~(I) THE STUDENT INDIVIDUAL IS CURRENTLY ENROLLED IN <--~~  
25 ~~A SCHOOL.~~

26 ~~(II) THE STUDENT INDIVIDUAL IS NOT A PERSON <--~~  
27 ~~RESPONSIBLE FOR THE CHILD'S WELFARE.~~

28 ~~(III) THE STUDENT INDIVIDUAL IS VOLUNTEERING FOR AN <--~~  
29 ~~EVENT THAT OCCURS ON SCHOOL GROUNDS.~~

30 ~~(IV) THE EVENT IS SPONSORED BY THE SCHOOL IN WHICH <--~~

1           THE INDIVIDUAL IS ENROLLED AS A STUDENT.

2           (V) THE EVENT IS NOT FOR CHILDREN WHO ARE IN THE  
3           CARE OF A CHILD-CARE SERVICE.

4           \* \* \*

5           [(e) Construction.--Nothing in this section shall be  
6 construed to prohibit an organization from requiring additional  
7 information as part of the clearance process for volunteers who  
8 are responsible for the welfare of a child or have direct  
9 contact with children.]

10          (f) [Provisional clearances for volunteers] Nonresident  
11 volunteer certification.--Employers, administrators, supervisors  
12 or other persons responsible for selection of volunteers may  
13 allow a volunteer to serve on a provisional basis [for a single  
14 period] not to exceed a total of 30 days in a calendar year if  
15 the volunteer is in compliance with the clearance standards  
16 under the law of the jurisdiction where the volunteer is  
17 domiciled. The nonresident volunteer must provide the employer,  
18 administrator, supervisor or other person responsible for  
19 selection of volunteers with documentation of certifications.

20          (g) Waiver of fees for certain background checks <--  
21 CERTIFICATIONS.--The fees for certifications provided REQUIRED <--  
22 under section 6344(b) (1) and (2) which a volunteer is required  
23 to complete SUBMIT under this section shall be waived and the <--  
24 certifications shall be provided free of charge to the volunteer  
25 under the following conditions:

26           (1) The background check is CERTIFICATIONS ARE necessary <--  
27 to comply with the requirements of subsection (b).

28           (2) The background check CERTIFICATIONS may not be used, <--  
29 and shall not be valid, to satisfy the requirements for  
30 employment under section 6344(b) or any other law for which a

1 similar background check may be required.

2 (3) ~~A background check~~ BACKGROUND CERTIFICATIONS shall <--  
3 only be provided free of charge to a volunteer once every ~~36~~ <--  
4 57 months. <--

5 (4) The volunteer certifies SWEARS OR AFFIRMS, IN <--  
6 WRITING, under penalty of 18 Pa.C.S. § 4904 (relating to  
7 unsworn falsification to authorities), the following:

8 (i) The background ~~check is~~ CERTIFICATIONS ARE <--  
9 necessary to satisfy the requirements under subsection  
10 (b).

11 (ii) The volunteer has not received a background <--  
12 ~~check~~ CERTIFICATIONS free of charge within the previous <--  
13 ~~36~~ 57 months. <--

14 (iii) The volunteer understands that the ~~check~~ <--  
15 CERTIFICATIONS shall not be valid or used for any other <--  
16 purpose.

17 (H) PRESUMPTION OF GOOD FAITH.--FOR THE PURPOSES OF CRIMINAL <--  
18 LIABILITY UNDER THIS SECTION, AN EMPLOYER, ADMINISTRATOR,  
19 SUPERVISOR OR OTHER PERSONS RESPONSIBLE FOR THE SELECTION OF  
20 VOLUNTEERS ARE PRESUMED TO HAVE ACTED IN GOOD FAITH WHEN  
21 IDENTIFYING INDIVIDUALS REQUIRED TO SUBMIT CERTIFICATION UNDER <--  
22 CERTIFICATIONS AND MAINTAIN RECORDS AS REQUIRED BY THIS SECTION. <--

23 Section 8. Sections 6344.3(e) and (f) and 6344.4 of Title <--  
24 23, added October 22, 2014 (P.L.2529, No.153), (F) AND (G), <--  
25 6344.4, 6383(C) (1), (2) AND (3) AND 6386(A) OF TITLE 23 are  
26 amended to read:

27 § 6344.3. Continued employment or participation in program,  
28 activity or service.

29 \* \* \*

30 (e) Noninterference with decisions.--Nothing in this chapter

1 shall be construed to otherwise interfere with the ability of an  
2 employer or person responsible for a program, activity or  
3 service to make employment, discipline or termination decisions  
4 or from establishing additional [clearance] standards as part of  
5 the hiring or selection process for employees or volunteers.

6 (f) [Transfer] Portability of certification.--

7 [(1) Any person who has obtained the information  
8 required under this chapter may transfer or provide services  
9 to another subsidiary or branch established and supervised by  
10 the same organization, or serve in a volunteer capacity for  
11 any program, service or activity, during the length of time  
12 the person's certification is current pursuant to section  
13 6344.4 (relating to certification compliance).

14 (2) Any employee who begins employment with a new  
15 agency, institution, organization or other entity that is  
16 responsible for the care, supervision, guidance or control of  
17 children shall be required to obtain a new certification of  
18 compliance as required by this chapter.]

19 (1) ~~IF~~ SUBJECT TO THE RESTRICTIONS UNDER SECTION <--  
20 6344(B.3) (RELATING TO EMPLOYEES HAVING CONTACT WITH  
21 CHILDREN; ADOPTIVE AND FOSTER PARENTS), IF an individual's  
22 certifications are current under section 6344.4 (relating to  
23 recertification) and the individual completes an affirmation  
24 under paragraph (2), the individual may use the  
25 certifications as follows:

26 (i) to apply for employment as identified in section  
27 6344 (relating to employees having contact with children;  
28 adoptive and foster parents);

29 (ii) to serve as an employee as identified in  
30 section 6344;

1           (iii) to apply as a volunteer under section 6344.2  
2           (relating to volunteers having contact with children);  
3           and

4           (iv) to serve as a volunteer under section 6344.2.

5           (2) Prior to commencing employment or service, an  
6           individual must swear or affirm in writing that the  
7           individual has not been disqualified from employment or  
8           service under section 6344(c) or has not been convicted of an  
9           offense similar in nature to a crime listed in section  
10           6344(c) under the laws or former laws of the United States or  
11           one of its territories or possessions, another state, the  
12           District of Columbia, the Commonwealth of Puerto Rico or a  
13           foreign nation, or under a former law of this Commonwealth.

14           (3) An employer, administrator, supervisor, other person  
15           responsible for employment decisions or other person  
16           responsible for the selection of volunteers shall make a  
17           determination of employment or volunteer matters based on a  
18           review of the information required under section 6344(b)  
19           prior to employment or acceptance to service in any such  
20           capacity and must maintain a copy of the required  
21           information.

22           ~~(4) This subsection shall apply to drivers of~~           <--  
23           ~~independent school bus contractors.~~

24           \* \* \*

25           § 6344.4. [Certification compliance] Recertification.

26           New certifications shall be obtained in accordance with the  
27 following:

28           (1) Effective December 31, 2014:

29           (i) [A] Except as provided in subparagraph (v), a  
30           person identified in section 6344 (relating to employees

1 having contact with children; adoptive and foster  
2 parents) shall be required to obtain the certifications  
3 required by this chapter every [36] 60 months. <--

4 (ii) School employees identified in section  
5 6344(a.1)(1) shall be required to obtain reports under  
6 section 111 of the act of March 10, 1949 (P.L.30, No.14),  
7 known as the Public School Code of 1949, and under  
8 section 6344(b)(2) every [36] 60 months. <--

9 (iii) Any person identified in section 6344 with a  
10 current certification issued prior to the effective date  
11 of this section shall be required to obtain the  
12 certifications required by this chapter within [36] 60 <--  
13 months from the date of [their most recent] the person's  
14 oldest certification or, if the current certification is  
15 older than [36] 60 months, within one year of the <--  
16 effective date of this section.

17 (iv) A person identified in section 6344 without a  
18 certification or who was previously not required to have  
19 a certification shall be required to obtain the  
20 certifications required by this chapter no later than  
21 December 31, 2015.

22 ~~(v) An employee identified under section 6344 who~~ <--  
23 ~~has completed a certification or recertification under~~  
24 ~~this section, in which a report of Federal criminal~~  
25 ~~history record information under section 6344(b)(3) was~~  
26 ~~required and completed, shall be required to obtain a~~  
27 ~~subsequent report under section 6344(b)(3) every 60~~  
28 ~~months.~~

29 (2) (i) Effective [July 1,] AUGUST 25, 2015, a person <--  
30 identified in section 6344.2 (relating to volunteers

1 having contact with children) shall be required to obtain  
2 the certifications required by this chapter every [36] 60 <--  
3 months[.] from the date of the person's most recent  
4 certification or, if the current certification is older  
5 than ~~36~~ 60 months, within one year of the effective date <--  
6 of this section.

7 (ii) A person identified under section 6344.2  
8 without a certification or who was previously not  
9 required to have a certification shall be required to  
10 obtain the certifications required by this chapter no  
11 later than July 1, 2016.

12 (3) For renewals of certification required under this  
13 chapter, the date for required renewal under this section  
14 shall be from the date of the oldest certification under  
15 section 6344(b).

16 ~~Section 9. Section 6383(c) (1), (2) and (3) of Title 23 are~~ <--  
17 ~~amended to read:~~

18 § 6383. Education and training.

19 \* \* \*

20 (c) Training of persons subject to department regulation.--

21 (1) The following persons shall be required to meet the  
22 child abuse recognition and reporting training requirements  
23 of this subsection:

24 (i) Operators of institutions, facilities or  
25 agencies which care for children and are subject to  
26 supervision by the department under Article IX of the  
27 Public Welfare Code, and their employees who have direct  
28 contact with children.

29 (ii) Foster parents.

30 (iii) Operators of facilities and agencies which

1 care for children and are subject to licensure by the  
2 department under Article X of the Public Welfare Code and  
3 their employees who have direct contact with children.

4 (iv) Caregivers in family [day care] child-care  
5 homes which are subject to [registration] licensure by  
6 the department under [Subarticle (c) of] Article X of the  
7 Public Welfare Code and their employees who have direct  
8 contact with children.

9 (v) The adult ~~household~~ FAMILY member who is a <--  
10 person responsible for the child's welfare and is  
11 providing services to a child in a family living home, a  
12 community homes for individuals with an intellectual  
13 disability or a host home which are subject to  
14 SUPERVISION OR licensure by the department under Articles <--  
15 IX and X of the Public Welfare Code.

16 (2) Within six months of the effective date of this  
17 subsection, operators and caregivers shall receive three  
18 hours of training prior to the issuance of a license[, ] or  
19 approval [or registration] certificate and three hours of  
20 training every five years thereafter.

21 (3) Employees who have direct contact with children and  
22 foster parents shall receive three hours of training within  
23 six months of the issuance of a license[, ] or approval [or  
24 registration] certificate and three hours of training every  
25 five years thereafter. New employees and new foster parents  
26 shall receive three hours of training within 90 days of hire  
27 or approval as a foster parent and three hours of training  
28 every five years thereafter.

29 \* \* \*

30 ~~Section 10. Section 6386(a) of Title 23 is amended to read:~~ <--

1 § 6386. Mandatory reporting of children under one year of age.

2 (a) When report to be made.--A health care provider shall  
3 immediately make a report or cause a report to be made to the  
4 appropriate county agency if the provider is involved in the  
5 delivery or care of a child under one year of age who is born  
6 and identified as being affected by any of the following:

7 (1) Illegal substance abuse by the child's mother.

8 (2) Withdrawal symptoms resulting from prenatal drug  
9 exposure[.] unless the child's mother, during the pregnancy,  
10 was:

11 (i) under the care of a prescribing medical  
12 professional; and

13 (ii) in compliance with the directions for the  
14 administration of a prescription drug as directed by the  
15 prescribing medical professional.

16 (3) A Fetal Alcohol Spectrum Disorder.

17 \* \* \*

18 SECTION ~~11~~ 9. THE AMENDMENT OF 23 PA.C.S. § 6344.4(2)(I) IF <--  
19 ENACTED AFTER JULY 1, 2015, SHALL BE RETROACTIVE TO JULY 1,  
20 2015.

21 Section ~~11~~ ~~12~~ 10. This act shall take effect immediately. <--