

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 215 Session of
1993

INTRODUCED BY DeLUCA, TIGUE, BLAUM, SURRA, COY, YANDRISEVITS,
ROONEY, CAWLEY, KENNEY, GEIST, LaGROTTA, DALEY, BELFANTI,
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BROWN, CAPPABIANCA, BEBKO-JONES, STABACK, DENT, CLARK,
BATTISTO, GIGLIOTTI, BISHOP, KASUNIC, DONATUCCI, STISH,
SANTONI, WOZNIAK, VEON AND JAMES, FEBRUARY 3, 1993

AS REPORTED FROM COMMITTEE ON AGING AND YOUTH, HOUSE OF
REPRESENTATIVES, AS AMENDED, DECEMBER 8, 1993

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for information on
3 prospective child-care personnel.

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

6 Section 1. Section 6344 of Title 23 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6344. Information relating to prospective child-care
9 personnel.

10 (a) Applicability.--This section applies to all prospective
11 employees of child-care services, prospective foster parents,
12 prospective adoptive parents, prospective self-employed family
13 day-care providers and other persons seeking to provide child-
14 care services under contract with a child-care facility or
15 program. This section also applies to individuals 14 years of
16 age or older who reside in the home of a family day-care

1 provider. This section does not apply to administrative or other
2 support personnel unless their duties will involve direct
3 contact with children.

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

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

17 (2) A certification from the department as to whether
18 the applicant is named in the central register as the
19 perpetrator of a founded or indicated report of child abuse.
20 [An indicated report shall not be included until the <—
21 department adopts regulations specifying the manner in which
22 the investigation required by sections 6366 (relating to
23 continuous availability to receive reports) through 6372
24 (relating to protecting well-being of children detained
25 outside home) is to be conducted.] <—

26 (3) Where the applicant is not a resident of this
27 Commonwealth, administrators shall require the applicant to
28 submit with the application for employment a report of
29 Federal criminal history record information pursuant to the
30 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).

1 Section 3127 (relating to indecent exposure).

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

4 Section 4304 (relating to endangering welfare of
5 children).

6 Section 4305 (relating to dealing in infant children).

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

9 Section 5903(c) or (d) (relating to obscene and other
10 sexual materials AND PERFORMANCES). <—

11 Section 6301 (relating to corruption of minors).

12 Section 6312 (relating to sexual abuse of children).

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

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

22 (2) In the course of approving a prospective foster
23 parent, a foster family care agency shall require prospective
24 foster parents to submit the information set forth in
25 subsection (b)(1) and (2) for review by the foster family
26 care agency in accordance with this section.

27 (e) Self-employed family day-care providers.--Self-employed
28 family day-care providers who apply for a certificate of
29 registration with the department shall submit with their
30 registration application a report of criminal history record

1 information pertaining to themselves and to any individuals 14
2 years of age or older who reside in their homes and shall also
3 obtain certification from the department as to whether the
4 applicant or an individual 14 years of age or older who resides
5 in the applicant's home is named in the central register as the
6 perpetrator of a founded report OR INDICATED REPORT of child <—
7 abuse.

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

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

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

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

25 (3) Provide for the confidentiality of information
26 obtained pursuant to subsection (b).

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

30 (i) Time limit for certification.--The department shall

1 comply with certification requests no later than 14 days from
2 the receipt of the request.

3 (j) Voluntary certification of child caretakers.--The
4 department shall develop a procedure for the voluntary
5 certification of child caretakers to allow persons to apply to
6 the department for a certificate indicating the person has met
7 the requirements of subsection (b). The department shall also
8 provide for the biennial recertification of child caretakers.

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

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

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

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

22 (3) They are a part of a job development or job training
23 program funded, in whole or in part, by public or private
24 sources.

25 Once employment of a person who meets these conditions extends
26 beyond 90 days, all requirements of this section shall take
27 effect.

28 (m) Provisional employees for limited periods.--
29 Notwithstanding subsection (b), administrators may employ
30 applicants on a provisional basis for a single period not to

1 exceed 30 days or, for out-of-State applicants, a period of 90
2 days, if all of the following conditions are met:

3 (1) The applicant has applied for the information
4 required under subsection (b) and the applicant provides a
5 copy of the appropriate completed request forms to the
6 administrator.

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

10 (3) The applicant swears or affirms in writing that he
11 is not disqualified from employment pursuant to subsection
12 (c).

13 (4) If the information obtained pursuant to subsection
14 (b) reveals that the applicant is disqualified from
15 employment pursuant to subsection (c), the applicant shall be
16 immediately dismissed by the administrator.

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

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

24 (1) Is named in the central register as the perpetrator
25 of a founded report of child abuse. ~~committed within the five~~ <—
26 ~~years immediately preceding application.~~

27 (2) Has been sentenced for an offense listed in
28 subsection (c). ~~within the five years immediately preceding~~ <—
29 ~~application.~~

30 Section 2. This act shall take effect in 60 days.