

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1276 Session of
2015

INTRODUCED BY WATSON, MOUL, HARHART, PICKETT, PETRI, BAKER,
BISHOP, R. BROWN, BROWNLIE, 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

SENATOR VANCE, PUBLIC HEALTH AND WELFARE, IN SENATE, AS AMENDED,
JUNE 26, 2015

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

14 "Independent contractor." An individual who provides a
15 program, activity or service to an agency, institution,
16 organization or other entity, including a school or regularly
17 established religious organization, that is responsible for the
18 care, supervision, guidance or control of children. The term
19 does not [include an individual who has no] apply to
20 administrative or other support personnel unless the
21 administrative or other support personnel has direct contact
22 with children.

23 * * *

24 "Institution of higher education." Any of the following:

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

30 (2) An independent institution of higher education which

1 is an institution of higher education, operated not for
2 profit, located in and incorporated or chartered by the
3 Commonwealth, entitled to confer degrees as set forth in 24
4 Pa.C.S. § 6505 (relating to power to confer degrees) and
5 entitled to apply to itself the designation "college" or
6 "university" as provided for by standards and qualifications
7 prescribed by the State Board of Education under 24 Pa.C.S.
8 Ch. 65 (relating to private colleges, universities and
9 seminaries).

10 (3) A State-owned university.

11 (4) A State-related university.

12 * * *

13 "MATRICULATED STUDENT." A STUDENT WHO IS ENROLLED IN AN <--
14 INSTITUTION OF HIGHER EDUCATION AND PURSUING A PROGRAM OF STUDY
15 THAT RESULTS IN A POSTSECONDARY CREDENTIAL, SUCH AS A
16 CERTIFICATE, DIPLOMA OR DEGREE.

17 * * *

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

20 (1) The term includes only the following:

21 (i) A parent of the child.

22 (ii) A spouse or former spouse of the child's
23 parent.

24 (iii) A paramour or former paramour of the child's
25 parent.

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

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

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

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

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 18 years of age or older and
15 responsible for the child's welfare.

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

18 * * *

19 "Person responsible for the child's welfare." A person who
20 provides permanent or temporary care, supervision, mental health
21 diagnosis or treatment, training or control of a child in lieu
22 of parental care, supervision and control. [The term includes
23 any such person who has direct or regular contact with a child
24 through any program, activity or service sponsored by a school,
25 for-profit organization or religious or other not-for-profit
26 organization.]

27 * * *

28 "Program, activity or service." [A public or private
29 educational, athletic or other pursuit in which children
30 participate. The term includes, but is not limited to, the

1 following:] Any of the following in which children participate
2 and which is sponsored by a school or a public or private
3 organization:

- 4 (1) A youth camp or program.
- 5 (2) A recreational camp or program.
- 6 (3) A sports or athletic program.
- 7 (4) [An] A community or social outreach program.
- 8 (5) An enrichment or educational program.
- 9 (6) A troop, club or similar organization.

10 * * *

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

13 * * *

14 "School." A facility providing elementary, secondary or
15 postsecondary educational services. The term includes the
16 following:

- 17 (1) Any school of a school district.
- 18 (2) An area vocational-technical school.
- 19 (3) A joint school.
- 20 (4) An intermediate unit.
- 21 (5) A charter school or regional charter school.
- 22 (6) A cyber charter school.
- 23 (7) A private school licensed under the act of January
24 28, 1988 (P.L.24, No.11), known as the Private Academic
25 Schools Act.
- 26 (8) A private school accredited by an accrediting
27 association approved by the State Board of Education.
- 28 (9) A nonpublic school.
- 29 (10) [A community college which is an institution now or
30 hereafter created pursuant to Article XIX-A of the act of

1 March 10, 1949 (P.L.30, No.14), known as the Public School
2 Code of 1949, or the act of August 24, 1963 (P.L.1132,
3 No.484), known as the Community College Act of 1963.

4 (11) An independent institution of higher education
5 which is an institution of higher education which is operated
6 not for profit, located in and incorporated or chartered by
7 the Commonwealth, entitled to confer degrees as set forth in
8 24 Pa.C.S. § 6505 (relating to power to confer degrees) and
9 entitled to apply to itself the designation "college" or
10 "university" as provided for by standards and qualifications
11 prescribed by the State Board of Education pursuant to 24
12 Pa.C.S. Ch. 65 (relating to private colleges, universities
13 and seminaries).

14 (12) A State-owned university.

15 (13) A State-related university.] An institution of
16 higher education.

17 (14) A private school licensed under the act of December
18 15, 1986 (P.L.1585, No.174), known as the Private Licensed
19 Schools Act.

20 (15) The Hiram G. Andrews Center.

21 (16) A private residential rehabilitative institution as
22 defined in section 914.1-A(c) of the Public School Code of
23 1949.

24 "School employee." An individual who is employed by a school
25 or who provides a program, activity or service sponsored by a
26 school. The term [excludes an individual who has no] does not
27 apply to administrative or other support personnel unless the
28 administrative or other support personnel has direct contact
29 with children.

30 * * *

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

4 § 6311. Persons required to report suspected child abuse.

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

9 * * *

10 (7) An individual paid or unpaid, who, on the basis of
11 the individual's role as an integral part of a regularly
12 scheduled program, activity or service, [accepts
13 responsibility for a child] is a person responsible for the
14 child's welfare or has direct contact with children.

15 * * *

16 (12) An individual supervised or managed by a person
17 listed under paragraphs (1), (2), (3), (4), (5), (6), (7),
18 (8), (9), (10) [and], (11) and (13), who has direct contact
19 with children in the course of employment.

20 * * *

21 (16) An adult ~~household~~ FAMILY member who is a person <--
22 responsible for the child's welfare and provides services to
23 a child in a family living home, community home for
24 individuals with an intellectual disability or host home for
25 children which are subject to SUPERVISION OR licensure by the <--
26 department under Articles IX and X of the act of June 13,
27 1967 (P.L.31, No.21), known as the Public Welfare Code.

28 Section 3. Section 6335(e) of Title 23, amended October 22,
29 2014 (P.L.2529, No.153), is amended to read:

30 § 6335. Access to information in Statewide database.

1 * * *

2 (e) [Clearances] Certifications.--Information provided in
3 response to inquiries under section 6344 (relating to employees
4 having contact with children; adoptive and foster parents),
5 6344.1 (relating to information relating to certified or
6 [registered day-care] licensed child-care home residents) or
7 6344.2 (relating to volunteers having contact with children)
8 shall not include unfounded reports of child abuse or reports
9 related to general protective services and shall be limited to
10 the following:

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

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

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

18 * * *

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

21 § 6340. Release of information in confidential reports.

22 (a) General rule.--Reports specified in section 6339
23 (relating to confidentiality of reports) shall only be made
24 available to:

25 * * *

26 (18) The Department of the Auditor General in
27 conjunction with the performances of the duties designated to
28 the Office of Auditor General, except that the Auditor
29 General may have access to only the reports in the possession<--
30 of the entity being audited and may not remove identifiable

1 reports or copies thereof from the department or county
2 agency.

3 * * *

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

8 § 6344. Employees having contact with children; adoptive and
9 foster parents.

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

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

13 (2) A foster parent.

14 (3) A prospective adoptive parent.

15 (4) A self-employed family [day-care] CHILD-CARE <--
16 provider.

17 (5) [An] (i) Except as provided under subparagraph
18 (ii), an individual 14 years of age or older who is
19 applying for or holding a paid position as an employee
20 with a program, activity or service, as a person AND IS A <--
21 PERSON responsible for the [welfare of a child] child's
22 welfare or having direct contact with children THROUGH A <--
23 PROGRAM, ACTIVITY OR SERVICE.

24 (ii) An adult applying for or holding a paid
25 position with an employer that participates in an
26 internship, externship, work-study, co-op or similar
27 program with a school and is identified by the employer <--
28 WHOM THE EMPLOYER AND THE SCHOOL IDENTIFY as the child's <--
29 supervisor and the person responsible for the child's
30 welfare while the child participates in the program with

1 ~~the employer. This subparagraph does not apply to other~~ <--
2 ~~employees of that employer who have not been identified~~
3 ~~as the person responsible for the child's welfare. THE~~ <--
4 ADULT IDENTIFIED UNDER THIS SUBPARAGRAPH AS THE PERSON
5 RESPONSIBLE FOR THE CHILD'S WELFARE IS REQUIRED TO BE IN
6 THE IMMEDIATE VICINITY AT REGULAR INTERVALS WITH THE
7 CHILD DURING THE PROGRAM.

8 (6) Any individual seeking to provide child-care
9 services under contract with a child-care facility or
10 program.

11 (7) An individual 18 years of age or older who resides
12 in the home of a foster parent for at least 30 days in a
13 calendar year or who resides in the home of a prospective
14 adoptive parent for at least 30 days in a calendar year.

15 (8) An individual 18 years of age or older who resides
16 for at least 30 days in a calendar year in the following
17 homes which are subject to SUPERVISION OR licensure by the <--
18 department under Articles IX and X of the act of June 13,
19 1967 (P.L.31, No.21), known as the Public Welfare Code:

20 (i) A family living home.

21 (ii) A community home for individuals with an
22 intellectual disability.

23 (iii) A host home for children.

24 This paragraph does not include an individual with an
25 intellectual disability or chronic psychiatric disability
26 receiving services in a home.

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

29 (1) School employees governed by the provisions of the
30 act of March 10, 1949 (P.L.30, No.14), known as the Public

1 School Code of 1949, shall be subject to the provisions of
2 section 111 of the Public School Code of 1949, except that
3 this section shall apply with regard to the [information]
4 certification required under subsection (b) (2) ~~and the~~ <--
5 ~~grounds for denying employment under subsection (c) (1).~~

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

9 (ii) This paragraph shall not apply to an employee
10 of an institution of higher education whose direct
11 contact with children, in the course of employment, is
12 limited to children 16 years of age or older who are <--
13 either:

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

16 (B) MATRICULATED students who are enrolled with <--
17 the institution and attend classes at a campus or
18 facility operated by the institution of higher
19 education. THIS SECTION SHALL NOT APPLY TO STUDENTS <--
20 WHO HAVE NOT RECEIVED A HIGH SCHOOL DIPLOMA OR ITS
21 EQUIVALENT.

22 (a.2) Minors.--An individual between 14 and 17 years of age
23 who applies for or holds a paid position as an employee who is a
24 person responsible for the child's welfare or a person with
25 direct contact with children through a program, activity or
26 service prior to the commencement of employment or under section
27 6344.4 (relating to recertification) shall be required to submit
28 only the information under subsection (b) (1) and (2) to an
29 employer, administrator, supervisor or other person responsible
30 for employment decisions, if the following apply:

1 (1) The individual has been a resident of this
2 Commonwealth during the entirety of the previous 10-year
3 period or, if not a resident of this Commonwealth during the
4 entirety of the previous 10-year period, has received
5 certification under subsection (b) (3) at any time since
6 establishing residency in this Commonwealth and provides a
7 copy of the certification to the employer.

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

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

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

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

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

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

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

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

30 (2) A certification from the department as to whether

1 the applicant is named in the Statewide database as the
2 alleged perpetrator in a pending child abuse investigation or
3 as the perpetrator of a founded report or an indicated
4 report.

5 (3) A report of Federal criminal history record
6 information. The applicant shall submit a full set of
7 fingerprints to the Pennsylvania State Police for the purpose
8 of a record check, and the Pennsylvania State Police or its
9 authorized agent shall submit the fingerprints to the Federal
10 Bureau of Investigation for the purpose of verifying the
11 identity of the applicant and obtaining a current record of
12 any criminal arrests and convictions.

13 (b.1) Required documentation to be maintained and
14 produced.--The employer, administrator, supervisor or other
15 person responsible for employment decisions or acceptance of the
16 individual to serve in any capacity identified in subsection (a)
17 (1), (2), (3), (4), (5) or (6) [or], (a.1) or (a.2) shall
18 maintain a copy of the required information and require the
19 individual to [produce] submit the [original document] required
20 documents prior to employment or acceptance to serve in any such
21 capacity or as required in section 6344.4, except as allowed
22 under subsection (m).

23 (b.2) Investigation.--An employer, administrator, supervisor
24 or other person responsible for employment decisions shall
25 require an applicant to submit the required documentation set
26 forth in this chapter or as required in section 6344.4. An
27 employer, administrator, supervisor or other person responsible
28 for employment decisions that intentionally fails to require an
29 applicant to submit the required documentation before the
30 applicant's hiring or upon recertification commits a misdemeanor

1 of the third degree.

2 (B.3) VOLUNTEER CERTIFICATION PROHIBITION.--AN EMPLOYER, <--
3 ADMINISTRATOR, SUPERVISOR OR OTHER PERSON RESPONSIBLE FOR
4 EMPLOYMENT DECISIONS IS PROHIBITED FROM ACCEPTING A
5 CERTIFICATION THAT WAS OBTAINED FOR VOLUNTEERING PURPOSES UNDER
6 SECTION 6344.2 (RELATING TO VOLUNTEERS HAVING CONTACT WITH
7 CHILDREN).

8 * * *

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

12 * * *

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

24 (5) Foster parents and prospective adoptive parents
25 shall be required to report any other change in the [foster]
26 family household composition within 30 days of the change for
27 review by the foster family care agency or the agency listed
28 to provide adoption services. If any individual over 18 years
29 of age, who has resided outside this Commonwealth at any time
30 within the previous five-year period, begins residing in the

1 home of an approved foster family or a prospective adoptive
2 family, that individual shall, within 30 days of beginning
3 residence, submit to the foster family care agency or the
4 agency listed to provide adoption services a certification
5 obtained from the Statewide database, or its equivalent in
6 each state in which the person has resided within the
7 previous five-year period, as to whether the person is named
8 as a perpetrator. If the certification shows that the person
9 is named as a perpetrator within the previous five-year
10 period, the foster family care agency or the agency listed to
11 provide adoption services shall forward the certification to
12 the department for review. If the department determines that
13 the person is named as the equivalent of a perpetrator of a
14 founded report within the previous five-year period and the
15 person does not cease residing in the home immediately, the
16 county agency shall immediately seek court authorization to
17 remove the foster child or children from the home. In
18 emergency situations when a judge cannot be reached, the
19 county agency shall proceed in accordance with the
20 Pennsylvania Rules of Juvenile Court Procedure.

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

30 * * *

1 (8) The department shall require information based upon
2 certain criteria for foster and adoptive parent applications.
3 The criteria shall include, but not be limited to,
4 information provided by the applicant or other sources in the
5 following areas:

6 (i) Previous addresses within the last [ten] 10
7 years.

8 (ii) Criminal history background [clearance]
9 certification generated by the process outlined in this
10 section.

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

13 (iv) Composition of the resident family unit.

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

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

20 (vii) Drug-related or alcohol-related arrests, if
21 criminal charges or judicial proceedings are pending, and
22 any convictions or hospitalizations within the last five
23 years. If the applicant provides information regarding
24 convictions or hospitalizations in that five-year period,
25 then information on the prior five years shall be
26 requested related to any additional convictions or
27 hospitalizations.

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

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

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

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

7 (xii) Related education, training or personal
8 experience working with foster children or the child
9 welfare system.

10 * * *

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

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

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

28 (ii) The adult ~~household~~ FAMILY member who is <--
29 providing services to a child in the home shall be
30 required to report any other change in the household

1 composition within 30 days of the change for review by
2 the agency. If any individual over 18 years of age, who
3 has resided outside this Commonwealth at any time within
4 the previous five-year period, begins residing in the
5 home, that individual shall, within 30 days of beginning
6 residence, submit to the agency a certification obtained
7 from the Statewide database, or its equivalent in each
8 state in which the individual has resided within the
9 previous five-year period, as to whether the person is
10 named as a perpetrator. If the certification shows that
11 the person is named as a perpetrator within the previous
12 five-year period, the agency shall forward the
13 certification to the department for review.

14 (2) This subsection shall not apply to an individual
15 with an intellectual disability or chronic psychiatric
16 disability receiving services in a home.

17 (3) As used in this subsection, the term "agency" means
18 a family living home agency, community home agency for
19 individuals with an intellectual disability or a host home
20 agency.

21 (e) Self-employed family [day-care] child-care providers.--
22 Self-employed family [day-care] child-care providers who apply
23 for a [certificate of registration] license with the department
24 shall submit with their [registration] licensure application the
25 information set forth under subsection (b) for review in
26 accordance with this section.

27 * * *

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

30 § 6344.1. Information relating to certified or [registered day-

1 care] licensed child-care home residents.

2 (a) General rule.--In addition to the requirements of
3 section 6344 (relating to employees having contact with
4 children; adoptive and foster parents), an individual who
5 applies to the department for a certificate of compliance or a
6 [registration certificate] license to provide child day care in
7 a residence shall include criminal history record and child
8 abuse record information required under section 6344(b) for
9 every individual 18 years of age or older who resides in the
10 home for at least 30 days in a calendar year.

11 * * *

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

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

22 (2) has been convicted of an offense enumerated in
23 section 6344(c).

24 * * *

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

29 § 6344.2. Volunteers having contact with children.

30 (a) Applicability.--This section applies to an adult

1 applying for or holding an unpaid position as a volunteer ~~with a~~<--
2 ~~child care service, a school or a program, activity or service,~~
3 as a person responsible for the [welfare of a child] child's
4 welfare or having direct VOLUNTEER contact with children THROUGH<--
5 A CHILD-CARE SERVICE, A SCHOOL OR A PROGRAM, ACTIVITY OR
6 SERVICE.

7 * * * <--

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

19 (b.1) Exception.--

20 (1) A person responsible for the selection of volunteers
21 under this chapter shall require an applicable prospective
22 volunteer prior to the commencement of service to submit only
23 the information under section 6344(b)(1) and (2), if the
24 following apply:

25 (i) The position the prospective volunteer is
26 applying for is unpaid.

27 (ii) The prospective volunteer has been a resident
28 of this Commonwealth during the entirety of the previous
29 [ten-year period.] 10-year period or, if not a resident
30 of this Commonwealth during the entirety of the previous

1 10-year period, has received certification under section
2 6344(b) (3) at any time since establishing residency in
3 this Commonwealth and provides a copy of the
4 certification to the person responsible for the selection
5 of volunteers.

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

15 (2) If the information obtained pursuant to section
16 6344(b) reveals that the prospective volunteer applicant is
17 disqualified from service pursuant to section 6344(c), the
18 applicant shall not be approved for service.

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

29 (I) THE STUDENT IS CURRENTLY ENROLLED IN A SCHOOL.

30 (II) THE STUDENT IS NOT A PERSON RESPONSIBLE FOR THE

1 CHILD'S WELFARE.

2 (III) THE STUDENT IS VOLUNTEERING FOR AN EVENT THAT
3 OCCURS ON SCHOOL GROUNDS.

4 (IV) THE EVENT IS SPONSORED BY THE SCHOOL.

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

7 * * *

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

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

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

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

1 (2) The background ~~check~~ CERTIFICATIONS may not be used, <--
2 and shall not be valid, to satisfy the requirements for
3 employment under section 6344(b) or any other law for which a
4 similar background check may be required.

5 (3) ~~A background check~~ BACKGROUND CERTIFICATIONS shall <--
6 only be provided free of charge to a volunteer once every ~~36~~ <--
7 57 months. <--

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

11 (i) The background ~~check is~~ CERTIFICATIONS ARE <--
12 necessary to satisfy the requirements under subsection
13 (b).

14 (ii) The volunteer has not received ~~a~~ background <--
15 ~~check~~ CERTIFICATIONS free of charge within the previous <--
16 ~~36~~ 57 months. <--

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

20 (H) PRESUMPTION OF GOOD FAITH.--FOR THE PURPOSES OF CRIMINAL <--
21 LIABILITY UNDER THIS SECTION, AN EMPLOYER, ADMINISTRATOR,
22 SUPERVISOR OR OTHER PERSONS RESPONSIBLE FOR THE SELECTION OF
23 VOLUNTEERS ARE PRESUMED TO HAVE ACTED IN GOOD FAITH WHEN
24 IDENTIFYING INDIVIDUALS REQUIRED TO SUBMIT CERTIFICATION UNDER
25 THIS SECTION.

26 Section 8. Sections 6344.3(e) ~~and (f)~~, (F) AND (G) and <--
27 6344.4 of Title 23, added October 22, 2014 (P.L.2529, No.153),
28 are amended to read:

29 § 6344.3. Continued employment or participation in program,
30 activity or service.

1 * * *

2 (e) Noninterference with decisions.--Nothing in this chapter
3 shall be construed to otherwise interfere with the ability of an
4 employer or person responsible for a program, activity or
5 service to make employment, discipline or termination decisions
6 or from establishing additional [clearance] standards as part of
7 the hiring or selection process for employees or volunteers.

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

9 [(1) Any person who has obtained the information
10 required under this chapter may transfer or provide services
11 to another subsidiary or branch established and supervised by
12 the same organization, or serve in a volunteer capacity for
13 any program, service or activity, during the length of time
14 the person's certification is current pursuant to section
15 6344.4 (relating to certification compliance).

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

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

28 (i) to apply for employment as identified in section
29 6344 (relating to employees having contact with children;
30 adoptive and foster parents);

1 (ii) to serve as an employee as identified in
2 section 6344;

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

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

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

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

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

26 * * *

27 § 6344.4. [Certification compliance] Recertification.

28 New certifications shall be obtained in accordance with the
29 following:

30 (1) Effective December 31, 2014:

1 (i) [A] Except as provided in subparagraph (v), a
2 person identified in section 6344 (relating to employees
3 having contact with children; adoptive and foster
4 parents) shall be required to obtain the certifications
5 required by this chapter every [36] 60 months. <--

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

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

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

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

1 (2) (i) Effective [July 1,] AUGUST 25, 2015, a person <--
2 identified in section 6344.2 (relating to volunteers
3 having contact with children) shall be required to obtain
4 the certifications required by this chapter every [36] 60 <--
5 months[.] from the date of the person's most recent
6 certification or, if the current certification is older
7 than ~~36~~ 60 months, within one year of the effective date <--
8 of this section.

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

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

18 Section 9. Section 6383(c) (1), (2) and (3) of Title 23 are
19 amended to read:

20 § 6383. Education and training.

21 * * *

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

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

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

1 (ii) Foster parents.

2 (iii) Operators of facilities and agencies which
3 care for children and are subject to licensure by the
4 department under Article X of the Public Welfare Code and
5 their employees who have direct contact with children.

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

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

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

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

1 * * *

2 Section 10. Section 6386(a) of Title 23 is amended to read:
3 § 6386. Mandatory reporting of children under one year of age.

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

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

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

13 (i) under the care of a prescribing medical
14 professional; and

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

18 (3) A Fetal Alcohol Spectrum Disorder.

19 * * *

20 SECTION 11. THE AMENDMENT OF 23 PA.C.S. § 6344.4(2)(I) IF <--
21 ENACTED AFTER JULY 1, 2015, SHALL BE RETROACTIVE TO JULY 1,
22 2015.

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