AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in child protective services, further providing for definitions, for persons required to report suspected child abuse, for access to information in Statewide database, for release of information in confidential reports, for employees having contact with children and adoptive and foster parents, for volunteers having contact with children, for continued employment or participation in program, activity or service, for certification compliance and for mandatory reporting of children under one year of age.

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

Section 1. The definitions of "child-care services," "direct contact with children," "independent contractor," "perpetrator," "person responsible for the child's welfare," "program, activity or service" and "school employee" in section 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes, amended October 22, 2014 (P.L.2529, No.153), are amended and the section is amended by adding a definition to read:

§ 6303. Definitions.
(a) General rule.--The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

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

(1) Child day-care centers.
(2) Group day-care homes.
(3) Family day-care homes.
(4) Foster homes.
(5) Adoptive parents.
(6) Boarding homes for children.
(7) Juvenile detention center services or programs for delinquent or dependent children.
(8) Mental health services for children.
(9) Services for children with intellectual disabilities.
(10) Early intervention services for children.
(11) Drug and alcohol services for children.
(12) Day-care services or programs that are offered by a school.
(13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the department or a county social services agency or that are provided pursuant to a contract with the department or a county social services agency.

The term does not apply to services provided by administrative or other support personnel unless the administrative or other support personnel's duties involve direct contact with children.

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"Direct contact with children." The care, supervision,
guidance or control of children [or] and routine interaction
with children.

* * *

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

* * *

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

(1) The term includes only the following:

(i) A parent of the child.

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

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

(iv) A person 14 years of age or older and
responsible for the child's welfare or having direct
contact with children through a program, activity or
service.

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

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

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

(i) A parent of the child.

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

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

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

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

* * *

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

* * *

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

(1) A youth camp or program.

(2) A recreational camp or program.
A sports or athletic program.

(4) [An] A community or social outreach program.

(5) An enrichment or educational program.

(6) A troop, club or similar organization.

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

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

Section 2. Section 6311(a)(7) of Title 23 is amended to read:

§ 6311. Persons required to report suspected child abuse.

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

(7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, [accepts responsibility for a child] is a person responsible for the child's welfare.
Section 3. Section 6335(e) of Title 23, amended October 22, 2014 (P.L.2529, No.153), is amended to read:

§ 6335. Access to information in Statewide database.

* * *

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

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

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

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

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

§ 6340. Release of information in confidential reports.

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

* * *

(18) The Department of the Auditor General in conjunction with the performances of the duties designated to the Office of Auditor General, except that the Auditor
General may not remove identifiable reports or copies thereof from the department or county agency.

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

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

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

(1) An employee of child-care services.

(2) A foster parent.

(3) A prospective adoptive parent.

(4) A self-employed family day-care provider.

(5) [An] (i) Except as provided under subparagraph (ii), an individual 14 years of age or older who is applying for or holding a paid position as an employee and who is a person responsible for the child's welfare or having direct contact with children through a program, activity or service.

(ii) An adult applying for or holding a paid position with an employer that participates in an internship, externship, work-study, co-op or similar program with a school and is identified by the employer as the child's supervisor and the person responsible for the child's welfare while the child participates in the program with the employer.

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

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

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

(1) School employees governed by the provisions of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall be subject to the provisions of section 111 of the Public School Code of 1949, except that this section shall apply with regard to the information required under [subsection (b)(2)] subsections (b)(2) and (c)(1).

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

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

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

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

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

(1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general regulations).
(2) A certification from the department as to whether the applicant is named in the Statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report.

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

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

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

* * *

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

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

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

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

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

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

   (iv) Composition of the resident family unit.
(v) Protection from abuse orders filed by or against either parent, provided that such orders are accessible to the county or private agency.

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

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

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

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

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

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

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

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Section 6. Sections 6344.2(a), (b.1) and (f), 6344.3(e) and (f) and 6344.4 of Title 23, amended or added October 22, 2014 (P.L.2529, No.153), are amended to read:
§ 6344.2. Volunteers having contact with children.

(a) Applicability.--This section applies to an adult applying for or holding an unpaid position as a volunteer with a child-care service, a school or a program, activity or service, as a person responsible for the welfare of a child or having direct contact with children.

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(b.1) Exception.--

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

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

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

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

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

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

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

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(e) Noninterference with decisions.--Nothing in this chapter shall be construed to otherwise interfere with the ability of an employer or program, activity or service to make employment, discipline or termination decisions or establishing additional [clearance] certification standards.

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

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

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

(1) If an individual's certification is current under
section 6344.4 (relating to recertification) and the
individual completes an affirmation under paragraph (2), the
individual may use the certification as follows:

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

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

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

and

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

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

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

(4) Nothing in this section shall be construed to prohibit an employer or organization from requiring additional information as part of the certification process for employees or volunteers.

§ 6344.4. [Certification compliance] Recertification.

New certifications shall be obtained in accordance with the following:

(1) Effective December 31, 2014:

   (i) A person identified in section 6344 (relating to employees having contact with children; adoptive and foster parents) shall be required to obtain the certifications required by this chapter every 36 months.

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

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

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

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

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

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

Section 7. Section 6386(a) of Title 23 is amended to read:
§ 6386. Mandatory reporting of children under one year of age.
(a) When report to be made.--A health care provider shall
immediately make a report or cause a report to be made to the appropriate county agency if the provider is involved in the delivery or care of a child under one year of age who is born and identified as being affected by any of the following:

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

(2) Withdrawal symptoms resulting from prenatal drug exposure[.]

unless the child's mother, during the pregnancy, was:

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

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

(3) A Fetal Alcohol Spectrum Disorder.

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Section 8. This act shall take effect immediately.