

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1138

Session of
1985

INTRODUCED BY SWEET, PICCOLA, PRATT, HAGARTY, MOEHLMANN,
KUKOVICH, GREENWOOD, CORDISCO, PRESSMANN, BALDWIN, McVERRY,
GALLAGHER, HAYES, FREIND AND REBER, MAY 1, 1985

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 5, 1985

AN ACT

1 Amending the act of November 26, 1975 (P.L.438, No.124),
2 entitled, as amended, "An act establishing child protective
3 services; providing procedures for reporting and
4 investigating the abuse of children; establishing and
5 providing access to a Statewide central register and pending
6 complaint file on child abuse; investigating such reports;
7 providing for taking protective action including taking a
8 child into protective custody; placing duties on the
9 Department of Public Welfare and county children and youth
10 social service agencies; establishing child protective
11 services in each county children and youth social service
12 agency; and providing penalties," further providing for the
13 provision and regulation of child care services and
14 recordkeeping duties AND IMMUNITY FROM LIABILITY; and <—
15 requiring certain persons to furnish information of criminal
16 history.

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

19 Section 1. The definition of "child care" in section 3 of
20 the act of November 26, 1975 (P.L.438, No.124), known as the
21 Child Protective Services Law, is repealed.

22 Section 2. Section 3 of the act is amended by adding a <—
23 ~~definition~~ DEFINITIONS to read: <—

24 Section 3. Definitions.--As used in this act:

* * *

"Child care services" means child day care centers, GROUP AND
FAMILY DAY CARE HOMES, foster homes, adoptive parents, boarding
homes FOR CHILDREN, juvenile detention center services or
programs for delinquent or dependent children; mental health,
mental retardation and drug and alcohol services for children;
and any other child services which are provided by or subject to
approval, licensure, registration or certification by the
Department of Public Welfare or the Department of Health or a
county social services agency or which are provided pursuant to
a contract with these departments or a county social services
agency. THE TERM SHALL NOT INCLUDE SUCH SERVICES OR PROGRAMS
WHICH MAY BE OFFERED BY PUBLIC AND PRIVATE SCHOOLS, INTERMEDIATE
UNITS OR AREA VOCATIONAL-TECHNICAL SCHOOLS.

* * *

"COOPERATION WITH AN INVESTIGATION" SHALL INCLUDE, BUT SHALL
NOT BE LIMITED TO, A SCHOOL OR SCHOOL DISTRICT WHICH PERMITS
AUTHORIZED PERSONNEL FROM THE DEPARTMENT OR CHILD PROTECTION
SERVICES TO INTERVIEW A STUDENT WHILE THE STUDENT IS IN
ATTENDANCE AT SCHOOL.

* * *

Section 3. ~~Section~~ SECTIONS 11 AND 14(i) of the act, amended
June 10, 1982 (P.L.460, No.136), ~~is~~ ARE amended to read:

SECTION 11. IMMUNITY FROM LIABILITY.--ANY PERSON, HOSPITAL,
INSTITUTION, SCHOOL, FACILITY OR AGENCY PARTICIPATING IN GOOD
FAITH IN THE MAKING OF A REPORT, COOPERATING WITH AN
INVESTIGATION OR TESTIFYING IN ANY PROCEEDING ARISING OUT OF AN
INSTANCE OF SUSPECTED CHILD ABUSE, THE TAKING OF PHOTOGRAPHS, OR
THE REMOVAL OR KEEPING OF A CHILD PURSUANT TO SECTION 8, SHALL
HAVE IMMUNITY FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT MIGHT

1 OTHERWISE RESULT BY REASON OF SUCH ACTIONS. FOR THE PURPOSE OF
2 ANY PROCEEDING, CIVIL OR CRIMINAL, THE GOOD FAITH OF ANY PERSON
3 REQUIRED TO REPORT PURSUANT TO SECTION 4 SHALL BE PRESUMED.

4 Section 14. Record Keeping Duties of the Department.--* * *

5 (i) The Statewide central register shall include and shall
6 be limited to the following information: the names, social
7 security numbers, age and sex of the subjects of the reports;
8 the date or dates and the nature and extent of the alleged
9 instances of suspected child abuse; the home addresses of
10 subjects of the report; the county in which the suspected abuse
11 occurred; family composition; the name and relationship to the
12 abused child of the person or persons responsible for causing
13 the abuse; the source of the report; services planned or
14 provided; whether the report is a founded report, an indicated
15 report; and the progress of any legal proceedings brought on the
16 basis of the report of suspected child abuse.

17 * * *

18 Section 4. Section 14.1 of the act is repealed.

19 Section 5. The act is amended by adding a section to read:

20 Section 23.1. ~~Regulation of Child Care Services~~ BACKGROUND <—
21 CHECKS OF PROSPECTIVE EMPLOYEES.--(a) This section shall apply
22 to all prospective employees of child care services, including
23 independent contractors and their employees and foster parents
24 except those employees and independent contractors and their
25 employees who have no direct contact with children AND <—
26 PROSPECTIVE SELF-EMPLOYED FAMILY DAY CARE PROVIDERS.

27 (b) Administrators of child care services shall require
28 prospective employees to submit with their applications for
29 employment, the following information, which shall be no more
30 than one year old:

1 (1) A report of criminal history record information from the
2 Pennsylvania State Police or a statement from the Pennsylvania
3 State Police that the central repository contains no such
4 information relating to that person. Such criminal history
5 record information shall be limited to that which is
6 disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to
7 general regulations).

8 (2) A certification from the department as to whether the
9 applicant is named in the central register as the perpetrator of
10 a founded or indicated report of child abuse: PROVIDED, THAT AN <—
11 INDICATED REPORT SHALL NOT BE INCLUDED UNTIL THE DEPARTMENT
12 ADOPTS REGULATIONS SPECIFYING THE MANNER IN WHICH THE
13 INVESTIGATION REQUIRED BY SECTION 17 OF THIS ACT IS TO BE
14 CONDUCTED.

15 (3) Where the applicant is not a resident of this
16 Commonwealth, administrators shall require the applicant to
17 submit with the application for employment a report of Federal
18 criminal history record information pursuant to the Federal
19 Bureau of Investigation appropriation of Title II of Public Law
20 92-544, 86 Stat. 1115, and the department shall be the
21 intermediary for the purposes of this section.

22 (c) For the purposes of this section, an applicant may
23 submit a copy of the required information with his or her
24 application for employment. Administrators shall require
25 applicants to produce the original document prior to employment.

26 (d) In determining suitability of an applicant for
27 employment based on criminal history record information,
28 administrators shall comply with regulations promulgated by the
29 department. SUCH REGULATIONS SHALL BE PROMULGATED PRIOR TO THE <—
30 EFFECTIVE DATE OF THIS ACT.

1 (e) In no case shall an administrator hire an applicant
2 where the department has verified that the applicant is named in
3 the central register as the perpetrator of a founded report of
4 child abuse.

5 (f) The department shall, in the manner provided by law,
6 promulgate the regulations necessary to carry out this section.
7 These regulations shall:

8 (1) Set forth criteria for unsuitability for employment in a
9 child care service in relation to criminal history record
10 information. Such criteria shall be reasonably related to the
11 prevention of child abuse.

12 (2) Set forth sanctions for administrators who wilfully hire
13 applicants in violation of subsection (d) or in violation of the
14 regulations promulgated hereunder.

15 (3) Provide for the confidentiality of information obtained
16 pursuant to subsection (b).

17 (g) The department shall require persons seeking to operate
18 child care services to comply with subsection (b).

19 (h) The department may charge a fee not to exceed \$10 in
20 order to conduct the certification as required in subsection
21 (b)(2).

22 (i) The department shall comply with certification requests
23 no later than ten days from the receipt of the request.

24 (j) The department shall develop a procedure for the
25 voluntary certification of child caretakers, to allow persons to
26 apply to the department for a certificate indicating the person
27 has met the requirements of subsection (b). The department shall
28 also provide for the annual recertification of such persons.

29 (k) The Department of Health shall promulgate regulations
30 setting forth sanctions for administrators of services approved,

1 certified or licensed by that department who wilfully hire
2 applicants in violation of subsection (e) or in violation of the
3 regulations promulgated under subsection (f).

4 (1) The requirements of this section shall not apply to
5 employees of child care services who meet all the following
6 requirements:

7 (1) The employees are under 21 years of age.

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

9 (3) They are a part of a job development and/or job training
10 program funded in whole or in part by public or private sources.
11 Once employment of a person who meets these conditions extends
12 beyond 90 days, all requirements of this section shall take
13 effect.

14 (M) SELF-EMPLOYED FAMILY DAY CARE PROVIDERS WHO APPLY FOR A <—
15 CERTIFICATE OF REGISTRATION WITH THE DEPARTMENT AFTER THE
16 EFFECTIVE DATE OF THIS ACT SHALL SUBMIT WITH THEIR REGISTRATION
17 APPLICATION A REPORT OF CRIMINAL HISTORY RECORD INFORMATION AND
18 SHALL ALSO OBTAIN CERTIFICATION FROM THE DEPARTMENT AS TO
19 WHETHER THE APPLICANT IS NAMED IN THE CENTRAL REGISTER AS THE
20 PERPETRATOR OF A FOUNDED REPORT OF CHILD ABUSE.

21 SECTION 6. SECTION 19 OF THE ACT IS AMENDED TO READ:

22 SECTION 19. ANNUAL REPORTS.--NO LATER THAN APRIL 15 OF EVERY
23 YEAR, THE SECRETARY SHALL PREPARE AND TRANSMIT TO THE GOVERNOR
24 AND THE GENERAL ASSEMBLY A REPORT ON THE OPERATIONS OF THE
25 CENTRAL REGISTER OF CHILD ABUSE AND THE VARIOUS CHILD PROTECTIVE
26 SERVICES. THE REPORT SHALL INCLUDE A FULL STATISTICAL ANALYSIS
27 OF THE REPORTS OF SUSPECTED CHILD ABUSE MADE TO THE DEPARTMENT
28 TOGETHER WITH A REPORT ON THE IMPLEMENTATION OF THIS ACT AND ITS
29 TOTAL COST TO THE COMMONWEALTH, THE SECRETARY'S EVALUATION OF
30 SERVICES OFFERED UNDER THIS ACT AND RECOMMENDATIONS FOR REPEAL

1 OR FOR ADDITIONAL LEGISLATION TO FULFILL THE PURPOSES OF THIS
2 ACT. ALL SUCH RECOMMENDATIONS SHOULD CONTAIN AN ESTIMATE OF
3 INCREASED OR DECREASED COSTS RESULTING THEREFROM. THE REPORT
4 SHALL ALSO INCLUDE AN EXPLANATION OF SERVICES PROVIDED TO
5 CHILDREN WHO WERE THE SUBJECTS OF FOUNDED OR INDICATED REPORTS
6 OF CHILD ABUSE WHILE RECEIVING CHILD CARE SERVICES AS DEFINED IN
7 SECTION 3 OF THIS ACT. THE DEPARTMENT SHALL ALSO DESCRIBE ITS
8 ACTIONS IN RESPECT TO THE PERPETRATORS OF THE ABUSE.

9 Section ~~6~~ 7. (a) Sections 1 and 4 of this act shall take <—
10 effect immediately.

11 (b) The remainder of this act shall take effect January 1,
12 1986, or immediately, whichever is later.