

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1961

Session of
2007

INTRODUCED BY BENNINGTON, JOSEPHS, MANN, PARKER, SWANGER, CURRY,
CAPPELLI, PALLONE, THOMAS, J. WHITE, PASHINSKI, KORTZ, LEACH,
MAHONEY, BELFANTI, SIPTROTH, HORNAMAN, PETRONE, YOUNGBLOOD,
FRANKEL AND CALTAGIRONE, OCTOBER 23, 2007

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 13, 2007

AN ACT

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

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

6 Section 1. Section 6344(b), (d)(1), (2), (3), (4) and (5),
7 (e), (f) and (k) of Title 23 of the Pennsylvania Consolidated
8 Statutes are amended AND THE SECTION IS AMENDED BY ADDING A <—
9 SUBSECTION to read:

10 § 6344. Information relating to prospective child-care
11 personnel.

12 * * *

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

17 (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 central register as the perpetrator of a founded report of child abuse, indicated report of child abuse, founded report for school employee or indicated report for school employee.

(3) [Where the applicant is not a resident of this Commonwealth, administrators shall require the applicant to submit with the application for employment a] A report of Federal criminal history record information. The applicant shall submit a full set of fingerprints [to] in a manner prescribed by the department. The [department] Commonwealth shall submit the fingerprints to the Federal Bureau of Investigation in order to obtain a report of Federal criminal history record information and serve as intermediary for the purposes of this section.

For the purposes of this subsection, an applicant may submit a copy of the [required] information required under paragraphs (1) and (2) 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.

(B.1) INFORMATION SUBMITTED BY CERTAIN PROSPECTIVE

EMPLOYEES.--

←

1 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER,
2 THIS SUBSECTION SHALL APPLY TO PERSONS WHO APPLY FOR
3 EMPLOYMENT UNDER SUBSECTION (C) ON OR AFTER THE EFFECTIVE
4 DATE OF THIS SUBSECTION AND BEFORE JULY 1, 2008. THE
5 PROVISIONS OF SUBSECTION (B) SHALL NOT APPLY TO PERSONS WHO
6 APPLY FOR EMPLOYMENT UNDER SUBSECTION (C) ON OR AFTER THE
7 EFFECTIVE DATE OF THIS SUBSECTION AND BEFORE JULY 1, 2008.

8 (2) ADMINISTRATORS OF CHILD-CARE SERVICES SHALL REQUIRE
9 APPLICANTS TO SUBMIT WITH THEIR APPLICATIONS THE FOLLOWING
10 INFORMATION OBTAINED WITHIN THE PRECEDING ONE-YEAR PERIOD:

11 (I) PURSUANT TO 18 PA.C.S. CH. 91, A REPORT OF
12 CRIMINAL HISTORY RECORD INFORMATION FROM THE PENNSYLVANIA
13 STATE POLICE OR A STATEMENT FROM THE PENNSYLVANIA STATE
14 POLICE THAT THE STATE POLICE CENTRAL REPOSITORY CONTAINS
15 NO SUCH INFORMATION RELATING TO THAT PERSON. THE CRIMINAL
16 HISTORY RECORD INFORMATION SHALL BE LIMITED TO THAT WHICH
17 IS DISSEMINATED PURSUANT TO 18 PA.C.S. § 9121(B)(2).

18 (II) A CERTIFICATION FROM THE DEPARTMENT AS TO
19 WHETHER THE APPLICANT IS NAMED IN THE CENTRAL REGISTER AS
20 THE PERPETRATOR OF A FOUNDED REPORT OF CHILD ABUSE,
21 INDICATED REPORT OF CHILD ABUSE, FOUNDED REPORT FOR
22 SCHOOL EMPLOYEE OR INDICATED REPORT FOR SCHOOL EMPLOYEE.

23 (III) WHERE THE APPLICANT IS NOT A RESIDENT OF THIS
24 COMMONWEALTH, ADMINISTRATORS SHALL REQUIRE THE APPLICANT
25 TO SUBMIT WITH THE APPLICATION FOR EMPLOYMENT A REPORT OF
26 FEDERAL CRIMINAL HISTORY RECORD INFORMATION. THE
27 APPLICANT SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE
28 DEPARTMENT. THE DEPARTMENT SHALL SUBMIT THE FINGERPRINTS
29 TO THE FEDERAL BUREAU OF INVESTIGATION IN ORDER TO OBTAIN
30 A REPORT OF FEDERAL CRIMINAL HISTORY RECORD INFORMATION

1 AND SERVE AS INTERMEDIARY FOR THE PURPOSES OF THIS
2 SECTION.

3 (3) FOR THE PURPOSES OF THIS SUBSECTION, AN APPLICANT
4 MAY SUBMIT A COPY OF THE REQUIRED INFORMATION WITH AN
5 APPLICATION FOR EMPLOYMENT. ADMINISTRATORS SHALL MAINTAIN A
6 COPY OF THE REQUIRED INFORMATION AND SHALL REQUIRE APPLICANTS
7 TO PRODUCE THE ORIGINAL DOCUMENT PRIOR TO EMPLOYMENT.

8 (4) THIS SUBSECTION SHALL EXPIRE JULY 1, 2008.

9 * * *

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

13 (1) In the course of causing an investigation to be made
14 pursuant to section 2535(a) (relating to investigation), an
15 agency or person designated by the court to conduct the
16 investigation shall require prospective adoptive parents and
17 any individual over the age of 18 years residing in the home
18 to submit the information set forth in subsection [(b)(1) and
19 (2)] (b) for review in accordance with this section. If a
20 prospective adoptive parent or any individual over 18 years
21 of age residing in the home has resided outside this
22 Commonwealth at any time within the previous five-year
23 period, the agency or person designated by the court shall
24 require that person to submit a certification obtained within
25 the previous one-year period from the Statewide central
26 registry or its equivalent in each state in which the person
27 has resided within the previous five-year period as to
28 whether the person is named as a perpetrator of child abuse.
29 If the certification shows that the person is named as a
30 perpetrator of child abuse within the previous five-year

1 period, the agency or person designated by the court shall
2 forward the certification to the department for review. The
3 agency or person designated by the court shall not approve
4 the prospective adoptive parent if the department determines
5 that the person is named as the equivalent of a perpetrator
6 of a founded report of child abuse within the previous five-
7 year period.

8 (2) In the course of approving a prospective foster
9 parent, a foster family care agency shall require prospective
10 foster parents and any individual over the age of 18 years
11 residing in the home to submit the information set forth in
12 subsection [(b)(1) and (2)] (b) for review by the foster
13 family care agency in accordance with this section. If a
14 prospective foster parent or any individual over 18 years of
15 age residing in the home has resided outside this
16 Commonwealth at any time within the previous five-year
17 period, the foster family care agency shall require that
18 person to submit a certification obtained within the previous
19 one-year period from the Statewide central registry or its
20 equivalent in each state in which the person has resided
21 within the previous five-year period as to whether the person
22 is named as a perpetrator of child abuse. If the
23 certification shows that the person is named as a perpetrator
24 of child abuse within the previous five-year period, the
25 foster family care agency shall forward the certification to
26 the department for review. The foster family care agency
27 shall not approve the prospective foster parent if the
28 department determines that the person is named as the
29 equivalent of a perpetrator of a founded report of child
30 abuse within the previous five-year period. In addition, the

1 foster family care agency shall consider the following when
2 assessing the ability of applicants for approval as foster
3 parents:

4 (i) The ability to provide care, nurturing and
5 supervision to children.

6 (ii) Mental and emotional well-being. If there is a
7 question regarding the mental or emotional stability of a
8 family member which might have a negative effect on a
9 foster child, the foster family care agency shall require
10 a psychological evaluation of that person before
11 approving the foster family home.

12 (iii) Supportive community ties with family, friends
13 and neighbors.

14 (iv) Existing family relationships, attitudes and
15 expectations regarding the applicant's own children and
16 parent/child relationships, especially as they might
17 affect a foster child.

18 (v) Ability of the applicant to accept a foster
19 child's relationship with his own parents.

20 (vi) The applicant's ability to care for children
21 with special needs.

22 (vii) Number and characteristics of foster children
23 best suited to the foster family.

24 (viii) Ability of the applicant to work in
25 partnership with a foster family care agency. This
26 subparagraph shall not be construed to preclude an
27 applicant from advocating on the part of a child.

28 (3) Foster parents and any individual over 18 years of
29 age residing in the home shall be required to submit the
30 information set forth in subsection [(b)(1) and (2)] (b)

1 every 24 months following approval for review by the foster
2 family care agency in accordance with subsection (c).

3 (4) Foster parents shall be required to report, within
4 48 hours, any change in information required pursuant to
5 subsection [(b)(1) and (2)] (b) about themselves and any
6 individuals over the age of 18 years residing in the home for
7 review by the foster family care agency in accordance with
8 subsection (c).

9 (5) Foster parents shall be required to report any other
10 change in the foster family household composition within 30
11 days of the change for review by the foster family care
12 agency. If any individual over 18 years of age, who has
13 resided outside this Commonwealth at any time within the
14 previous five-year period, begins residing in the home of an
15 approved foster family, that individual shall, within 30 days
16 of beginning residence, submit to the foster family care
17 agency, a certification obtained within the previous one-year
18 period from the Statewide central registry or its equivalent
19 in each state in which the person has resided within the
20 previous five-year period as to whether the person is named
21 as a perpetrator of child abuse. If the certification shows
22 that the person is named as a perpetrator of child abuse
23 within the previous five-year period, the foster family care
24 agency shall forward the certification to the department for
25 review. If the department determines that the person is named
26 as the equivalent of a perpetrator of a founded report of
27 child abuse within the previous five-year period, and the
28 person does not cease residing in the home immediately, the
29 foster child or children shall immediately be removed from
30 the home without a hearing.

1 * * *

2 (e) Self-employed family day-care providers.--Self-employed
3 family day-care providers who apply for a certificate of
4 registration with the department shall submit with their
5 registration application [a report of criminal history record
6 information and shall also obtain certification from the
7 department as to whether the applicant is named in the central
8 register as the perpetrator of a founded report of child abuse.]
9 the information set forth under subsection (b) for review in
10 accordance with this section.

11 (f) Submissions by operators of child-care services.--The
12 department shall require persons seeking to operate child-care
13 services to submit the information set forth in subsection
14 [(b)(1) and (2)] (b) for review in accordance with this section.

15 * * *

16 (k) Existing or transferred employees.--A person employed in
17 child-care services on [January 1, 1986] July 1, 2008, shall not
18 be required to obtain the information required in subsection
19 [(b)(1) and (2)] (b) as a condition of continued employment. A
20 person who has once obtained the information required under
21 subsection [(b)(1) and (2)] (b) may transfer to another child-
22 care service established and supervised by the same organization
23 and shall not be required to obtain additional reports before
24 making the transfer.

25 * * *

26 Section 2. This act shall take effect as follows:

27 (1) This section shall take effect immediately.

28 (2) THE ADDITION OF 23 PA.C.S. § 6344(B.1) SHALL TAKE
29 EFFECT IMMEDIATELY.

30 ~~(2)~~ (3) The amendment of 23 Pa.C.S. § 6344(b) and

1 (d)(1), (2), (3), (4) and (5) shall take effect January 1,
2 2008.

3 ~~(3)~~ (4) The amendment of 23 Pa.C.S. § 6344 (e), (f) and <—
4 (k) shall take effect July 1, 2008.