

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1633 Session of  
2019

INTRODUCED BY BOBACK, JUNE 14, 2019

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 18, 2019

## AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, in child protective services, further  
3 providing for employees having contact with children;  
4 adoptive and foster parents ~~and for volunteers having contact~~ <--  
5 ~~with children.~~

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

8 Section 1. Section 6344(a)(1), (4) and (5)(i) and (8)  
9 introductory paragraph, (a.2) subsection heading ~~and (2)~~, (a.3) <--  
10 subsection heading, (b)(1), (2) and (3), ~~(c)(1)~~ (C) SUBSECTION <--  
11 HEADING, (1) and (2), (d.3)(1) introductory paragraph and (m)  
12 introductory paragraph AND (5) of Title 23 of the Pennsylvania <--  
13 Consolidated Statutes are amended and subsections (b) and (m)  
14 are amended by adding paragraphs to read:

15 § 6344. Employees having contact with children; adoptive and  
16 foster parents.

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

19 (1) An employee of child-care services. This paragraph

1 includes administrative and other support personnel,  
2 regardless of whether the administrative or other support  
3 personnel have direct contact with children.

4 \* \* \*

5 (4) A self-employed provider of child-care services [in  
6 a family child-care home].

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

12 \* \* \*

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

19 \* \* \*

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

30 \* \* \*

~~(2) The individual and the individual's parent or legal guardian swear or affirm in writing that the individual is not disqualified from service under subsection (c) or has not been adjudicated delinquent or 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.~~

(a.3) Exchange visitor employed through program, activity or service.--\* \* \*

(b) Information to be submitted.--An individual identified in subsection (a)(7) or (8) at the time the individual meets the description set forth in subsection (a)(7) or (8) and an individual identified in subsection (a)(1), (2), (3), (4), (5) (i) or (6), (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] 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.] and from each state in which the individual resided within the previous five-year period. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. § 9121(b)(2)

1 (relating to general regulations).

2 (2) A certification from the department as to whether  
3 the applicant is named in the Statewide database or its  
4 equivalent in each state in which the individual resided  
5 within the previous five-year period as the alleged  
6 perpetrator in a pending child abuse investigation or as the  
7 perpetrator of a founded report or an indicated report.

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

16 (4) Notification from the department stating whether the  
17 individual appears on the Statewide registry of sexual  
18 offenders established in 42 Pa.C.S. § 9799.16(a) (relating to  
19 registry), the sex offender registry or repository each state  
20 where the individual resided during the preceding five years,  
21 and the National Sex Offender Registry established under the  
22 Adam Walsh Child Protection and Safety Act of 2006 (Public  
23 Law 109-248, 120 Stat. 587).

24 \* \* \*

25 (c) Grounds for denying employment or participation [in  
26 program, activity or service].--

27 (1) In no case shall an employer, administrator,  
28 supervisor or other person responsible for employment  
29 decisions hire or approve an applicant where the department  
30 has verified that the applicant is named in the Statewide

1 database as the perpetrator of a founded report committed  
2 within the five-year period immediately preceding  
3 verification pursuant to this section.

4 (2) In no case shall an employer, administrator,  
5 supervisor or other person responsible for employment  
6 decisions hire or approve an applicant [if the applicant's  
7 criminal history record information indicates the applicant  
8 has been convicted of one or more of the following offenses  
9 under Title 18 (relating to crimes and offenses) or an  
10 equivalent crime under Federal law or the law of another  
11 state] who:

12 (i) Has been convicted of one or more of the following  
13 offenses under Title 18 (relating to crimes and offenses):

14 Chapter 25 (relating to criminal homicide).

15 Section 2702 (relating to aggravated assault).

16 Section 2709.1 (relating to stalking).

17 A felony offense under section 2718 (relating to  
18 strangulation).

19 Section 2901 (relating to kidnapping).

20 Section 2902 (relating to unlawful restraint).

21 Section 3121 (relating to rape).

22 Section 3122.1 (relating to statutory sexual assault).

23 Section 3123 (relating to involuntary deviate sexual  
24 intercourse).

25 Section 3124.1 (relating to sexual assault).

26 Section 3125 (relating to aggravated indecent assault).

27 Section 3126 (relating to indecent assault).

28 Section 3127 (relating to indecent exposure).

29 A felony offense under section 3301 (relating to arson  
30 and related offenses).

Section 4302 (relating to incest).

Section 4303 (relating to concealing death of child).

Section 4304 (relating to endangering welfare of children).

Section 4305 (relating to dealing in infant children).

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

Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

The attempt, solicitation or conspiracy to commit any of the offenses set forth in this [paragraph.

(3) In no case shall an employer, administrator, supervisor or other person responsible for employment decisions hire or approve an applicant if the applicant's criminal history record information indicates the applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.] subparagraph.

(ii) Has been convicted of an offense equivalent to an offense listed under subparagraph (i) under Federal law or the law of another state.

(iii) Has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification under this section.

1           (iv) Has been convicted of an offense under 18  
2           U.S.C. § 2261 (relating to interstate domestic violence)  
3           or 18 U.S.C. § 2262 (relating to interstate violation of  
4           protection order).

5           (v) Is registered, or is required to be registered,  
6           on the National Crime Information Center National Sex  
7           Offender Registry or on a state's sex offender registry.

8           (vi) Appears on a Statewide database or its  
9           equivalent as a perpetrator of child abuse.

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 for children, which are subject to supervision or  
17 licensure by the department under Articles IX and X of the  
18 [Public Welfare Code] Human Services Code:

19       \* \* \*

20       (m) Provisional employees for limited periods.--  
21 Notwithstanding subsection (b), employers, administrators,  
22 supervisors or other persons responsible for employment  
23 decisions may employ applicants for employment with a child day-  
24 care center, group day-care home or family child-care home on a  
25 provisional basis upon approval by the department for a single  
26 period not to exceed [90] 45 days, if all of the following  
27 conditions are met:

28       \* \* \*

29       (3.1) The employer, administrator, supervisor or other  
30       person responsible for employment decisions has received the

result of the report of the criminal history record  
information under subsection (b)(1) or (3).

\* \* \*

~~Section 2. Section 6344.2(a) of Title 23, amended June 28, 2018 (P.L.375, No.54), is 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 child's welfare or having direct volunteer contact with children or who will not be under the supervision of a paid employee and an individual identified under section 6344(a)(5)(ii) (relating to employees having contact with children; adoptive and foster parents).~~

~~\* \* \*~~

(5) THE EMPLOYER, ADMINISTRATOR, SUPERVISOR OR OTHER PERSON RESPONSIBLE FOR EMPLOYMENT DECISIONS REQUIRES THAT THE APPLICANT NOT BE PERMITTED TO WORK ALONE WITH CHILDREN AND [THAT THE APPLICANT WORK IN THE IMMEDIATE VICINITY OF A PERMANENT EMPLOYEE.] MUST BE SUPERVISED AT ALL TIMES BY AN INDIVIDUAL WHO RECEIVED A QUALIFYING RESULT IN A BACKGROUND CHECK DESCRIBED IN SUBSECTION (B) WITHIN THE PAST FIVE YEARS. <--

~~Section 3 2.~~ This act shall take effect as follows: <--

(1) This section shall take effect immediately.

(2) The amendment of 23 Pa.C.S. § 6344(m) shall take effect December 31, 2019.

(3) The remainder of this act shall take effect September 30, 2019.