



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 435

PRINTERS NO. 4225

PRIME SPONSOR: Moul

### COST / (SAVINGS)

FUND	FY 2014/15	FY 2015/16
General Fund	See Fiscal Impact	See Fiscal Impact

**SUMMARY:** House Bill 435, Printer's Number 4225, amends Title 23 (Domestic Relations) to add foster parents to the list of mandated reporters of suspected child abuse and to provide for the requirements for background check clearances for employees having contact with children, adoptive and foster parents and for volunteers having contact with children. This bill will take effect 60 days after enactment.

**ANALYSIS:** This legislation modifies the term "Child-care services" to include other child-care services that are provided by or subject to approval, licensure, registration or certification by the Department of Public Welfare (DPW) or a county social services agency or that are provided pursuant to a contract with DPW or a county social services agency.

Section 6344 of House Bill 435 provides that beginning December 31, 2014, the following individuals must comply with requirements for background clearances (FBI, State Police, DPW's child abuse registry) prior to employment: an employee of child-care services; a foster parent; a prospective adoptive parent; a self-employed family day-care provider; an individual 14 years of age or older applying for a paid position as an employee responsible for the welfare of a child or having direct contact with children; any person seeking to provide child-care services under contract with a child-care facility or program; and 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 the calendar year; and school employees not governed by the provisions of the Public School Code of 1949.

Adults applying for an unpaid position as a volunteer responsible for the welfare of a child or having direct contact with children will be required to submit the FBI, State Police and DPW clearances unless the person has been a PA resident for the entirety of the previous ten-year period and swears or affirms in writing that the prospective volunteer is not disqualified from service or has not been convicted of a similar offense in another jurisdiction, then only the State Police and DPW clearances are required. Employers, administrators, supervisors or other persons responsible for the selection of volunteers may allow a volunteer to serve on a

provisional basis for a single period not to exceed 30 days, if the volunteer is in compliance with the clearance standards under the law of the jurisdiction where the volunteer is domiciled.

If the applicant's criminal history record indicates conviction of a felony offense under the Controlled Substance, Drug, Device and Cosmetic Act within the five-year period immediately preceding verification, in no case shall an employer, administrator, supervisor or other person responsible for employment decisions hire or approve the applicant.

An employee or volunteer will be required to report new arrests or convictions for an offense that would create a ban on employment or volunteer work with children to the administrator in writing within 72 hours.

A foster parent, arrested for or convicted of an offense that would constitute grounds for denying approval, or is named as a perpetrator in a founded or indicated report, must provide the foster family care agency with written notice not later than 72 hours after the arrest, conviction or notification that the foster parent was named as a perpetrator in the statewide database. County agencies shall immediately seek court authorization to remove the foster child or children from the home in cases where the foster parents knowingly fail to submit required background material.

If the person responsible for employment decisions or an administrator has a reasonable belief that an employee or volunteer was arrested or convicted for an offense that would constitute grounds for denying employment, or was named as a perpetrator in a founded or indicated report of child abuse, or the employee or volunteer has provided notice as required under the bill, the employer or administrator must immediately require that individual to submit current FBI, State Police and DPW clearances.

If an employee or volunteer does not disclose arrests or convictions as required, that person commits a misdemeanor of the third degree and will also be subject to discipline, including possible termination.

New certifications shall be obtained in accordance with the following:

1. Effective December 31, 2014:
  - a. Persons identified in Section 6344 (relating to employees having contact with children; adoptive and foster parents) are required to obtain certifications every 36 months.
  - b. School employees governed by the Public School Code of 1949, every 36 months.
  - c. Any person identified in Section 6344 with a current certification issued prior to the December 31, 2014 shall obtain the required certifications within 36 months of their most recent certification, or, if the current certification is older than 36 months, no later than December 31, 2015.
2. Effective July 1, 2015, volunteers having contact with children are required to obtain the certifications every 36 months.

DPW, in conjunction with the Department of Education and the Pennsylvania Commission on Crime and Delinquency, must conduct a study to analyze and make recommendations on

employment bans for those having contact with children. The study must include recommendations on all of the following: changes in permanent and temporary employment bans, which realign and make uniform the provisions of Section 111 of the Public School Code of 1949 and Chapter 63 of Title 23 (Domestic Relations) with regard to employment bans, including the offenses relating to the welfare of a child to be included in any ban; and an appeals process. The study is due December 31, 2015 and this section of the legislation is effective immediately.

**FISCAL IMPACT:** This legislation includes recommendations of the Task Force on Child Protection. The bill will require DPW to process clearances for persons not currently required to obtain them. DPW has indicated they may have difficulty accommodating the increased volume of clearances that will occur with the clearance requirement for volunteers without additional staff support. However, the number of volunteers that will need to comply is undeterminable. There is a \$10 charge for each clearance, which will help to offset the additional administrative costs incurred. However, DPW's implementation of an automated clearance process within the updates for the child welfare system will reduce the amount of administrative support needed to process clearances. This upgrade is part of the child welfare IT upgrade which is already underway and part of existing budgets. The cost of the study can be absorbed within current funding.

School entities may incur additional costs from the requirement to recertify school employees every 36 months. However, the extent of this impact will vary based on the circumstances of each school district.

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**DATE:** October 14, 2014

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*