

## AN ACT

1 Amending the act of October 24, 2012 (P.L.1209, No.151),  
2 entitled, "An act regulating child labor; conferring powers  
3 and duties on the Department of Labor and Industry and the  
4 Department of Education; imposing penalties; and making a  
5 repeal," further providing for employment of minors in a  
6 performance.

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

9 Section 1. Section 5(1) of the act of October 24, 2012  
10 (P.L.1209, No.151), known as the Child Labor Act, is amended and  
11 the section is amended by adding a subsection to read:

12 Section 5. Employment of minors in a performance.

13 \* \* \*

14 (k.1) Background checks for individuals working with minors  
15 in a performance.--The following shall apply:

16 (1) Prior to the commencement of employment or volunteer  
17 service in a performance in which a minor is employed, an  
18 individual who is 18 years of age or older shall be required  
19 to submit the following information to an employer,

administrator, supervisor or other person responsible for  
employment decisions or involved in the selection of  
volunteers:

(i) 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 individual. 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).

(ii) A certification from the department as to  
whether the individual 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.

(iii) A report of Federal criminal history record  
information. The individual 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 individual  
and obtaining a current record of any criminal arrests  
and convictions.

(2) The employer, administrator, supervisor or other  
person responsible for employment decisions or involved in  
the selection of volunteers shall maintain a copy of the  
required information and require the individual to produce

1 the original documents prior to the commencement of  
2 employment or service.

3 (3) An employer, administrator, supervisor or other  
4 person responsible for employment decisions or involved in  
5 the selection of volunteers that intentionally fails to  
6 require an individual to submit the required documentation  
7 prior to the individual commencing employment or service  
8 commits a misdemeanor of the third degree.

9 (4) The following shall apply:

10 (i) In no case shall an employer, administrator,  
11 supervisor or other person responsible for employment  
12 decisions or involved in the selection of volunteers hire  
13 or select an individual where the department has verified  
14 that the individual is named in the Statewide database as  
15 the perpetrator of a founded report committed within the  
16 five-year period immediately preceding verification  
17 pursuant to this subsection.

18 (ii) In no case shall an employer, administrator,  
19 supervisor or other person responsible for employment  
20 decisions or involved in the selection of volunteers hire  
21 or select an individual if the individual's criminal  
22 history record information indicates the individual has  
23 been convicted of one or more of the following offenses  
24 under 18 Pa.C.S. (relating to crimes and offenses) or an  
25 equivalent crime under Federal law or the law of another  
26 state:

27 (A) An offense under Chapter 25 (relating to  
28 criminal homicide).

29 (B) An offense under section 2702 (relating to  
30 aggravated assault).

1           (C) An offense under section 2709.1 (relating to  
2           stalking).

3           (D) An offense under section 2901 (relating to  
4           kidnapping).

5           (E) An offense under section 2902 (relating to  
6           unlawful restraint).

7           (F) An offense under section 3121 (relating to  
8           rape).

9           (G) An offense under section 3122.1 (relating to  
10           statutory sexual assault).

11           (H) An offense under section 3123 (relating to  
12           involuntary deviate sexual intercourse).

13           (I) An offense under section 3124.1 (relating to  
14           sexual assault).

15           (J) An offense under section 3125 (relating to  
16           aggravated indecent assault).

17           (K) An offense under section 3126 (relating to  
18           indecent assault).

19           (L) An offense under section 3127 (relating to  
20           indecent exposure).

21           (M) An offense under section 4302 (relating to  
22           incest).

23           (N) An offense under section 4303 (relating to  
24           concealing death of child).

25           (O) An offense under section 4304 (relating to  
26           endangering welfare of children).

27           (P) An offense under section 4305 (relating to  
28           dealing in infant children).

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

1                   (R) An offense under section 5903(c) or (d)  
2                   (relating to obscene and other sexual materials and  
3                   performances).

4                   (S) An offense under section 6301 (relating to  
5                   corruption of minors).

6                   (T) An offense under section 6312 (relating to  
7                   sexual abuse of children).

8                   (U) The attempt, solicitation or conspiracy to  
9                   commit any of the offenses set forth under this  
10                   subparagraph.

11                   (iii) In no case shall an employer, administrator,  
12                   supervisor or other person responsible for employment  
13                   decisions or involved in the selection of volunteers hire  
14                   or select an individual if the individual's criminal  
15                   history record information indicates the individual has  
16                   been convicted of a felony offense under the act of April  
17                   14, 1972 (P.L.233, No.64), known as The Controlled  
18                   Substance, Drug, Device and Cosmetic Act, committed  
19                   within the five-year period immediately preceding  
20                   verification under this subsection.

21                   (5) If the information obtained pursuant to paragraph  
22                   (1) reveals that the individual is disqualified from  
23                   employment or volunteering pursuant to paragraph (4), the  
24                   individual shall be immediately dismissed.

25                   (6) The department shall promulgate the regulations  
26                   necessary to carry out this subsection. These regulations  
27                   shall:

28                   (i) Set forth criteria for unsuitability for  
29                   employment or service working directly with a minor in a  
30                   performance in relation to criminal history record

information which may include criminal history record  
information in addition to that set forth in this  
subsection. The criteria shall be reasonably related to  
the prevention of child abuse.

(ii) Set forth sanctions for employers,  
administrators, supervisors or other persons responsible  
for employment decisions or involved in the selection of  
volunteers that willfully hire or select individuals in  
violation of this subsection or in violation of the  
regulations promulgated under this subsection.

(7) The department may charge a fee not to exceed \$8 in  
order to conduct the certification as required in paragraph  
(1)(ii).

(8) Payment of the fee authorized under paragraph (7)  
may be made by an individual or organization by check, money  
order, credit card or debit card.

(9) The department shall comply with certification  
requests no later than 14 days from the receipt of the  
request.

(10) Notwithstanding paragraph (1), employers,  
administrators, supervisors or other persons responsible for  
employment decisions or involved in the selection of  
volunteers may employ or select individuals on a provisional  
basis for a single period not to exceed 90 days, if all of  
the following conditions are met:

(i) The individual has applied for the information  
required under paragraph (1) and the individual provides  
a copy of the appropriate completed request forms to the  
employer, administrator, supervisor or other person  
responsible for employment decisions or involved in the

1       selection of volunteers.

2       (ii) The employer, administrator, supervisor or  
3       other person responsible for employment decisions or  
4       involved in the selection of volunteers has no knowledge  
5       of information pertaining to the individual which would  
6       disqualify the individual from employment pursuant to  
7       paragraph (4).

8       (iii) The individual swears or affirms in writing  
9       that the individual is not disqualified from employment  
10       or volunteering pursuant to paragraph (4) or has not been  
11       convicted of an offense similar in nature to those crimes  
12       listed in paragraph (4) under the laws or former laws of  
13       the United States or one of its territories or  
14       possessions, another state, the District of Columbia, the  
15       Commonwealth of Puerto Rico or a foreign nation, or under  
16       a former law of this Commonwealth.

17       (iv) If the information obtained pursuant to  
18       paragraph (1) reveals that the individual is disqualified  
19       from employment or volunteering pursuant to paragraph  
20       (4), the individual shall be immediately dismissed by the  
21       employer, administrator, supervisor or other person  
22       responsible for employment decisions or involved in the  
23       selection of volunteers.

24       (v) The employer, administrator, supervisor or other  
25       person responsible for employment decisions or involved  
26       in the selection of volunteers requires that the  
27       individual not be permitted to work alone with children  
28       and that the individual work in the immediate vicinity of  
29       a permanent employee.

30       (11) The information provided and compiled under this

1 subsection, including, but not limited to, the names,  
2 addresses and telephone numbers of individuals, shall be  
3 confidential and shall not be subject to the act of February  
4 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This  
5 information shall not be released except as permitted by the  
6 department through regulation.

7 (12) An employer, administrator, supervisor or other  
8 person responsible for employment decisions or involved in  
9 the selection of volunteers may not hire or select an  
10 individual if the individual is 18 years of age or older and  
11 meets either of the following:

12 (i) Is named in the Statewide database as the  
13 perpetrator of a founded report committed within the  
14 five-year period immediately preceding verification  
15 pursuant to this subsection.

16 (ii) Has been found guilty of an offense listed  
17 under paragraph (4).

18 (1) Applicability.--This section, except for subsection  
19 (k.1), does not apply to a minor who:

20 (1) is a high school graduate; or

21 (2) is exempt from compulsory school attendance  
22 requirements under section 1330(1) of the Public School Code  
23 of 1949.

24 Section 2. This act shall take effect January 1, 2016, or  
25 immediately, whichever is later.