

DOMESTIC RELATIONS (23 PA.C.S.) - CONSENTS NECESSARY TO
ADOPTION, COSTS AND FEES, STATE DISBURSEMENT UNIT, EMPLOYEES
HAVING CONTACT WITH CHILDREN, ADOPTIVE AND FOSTER PARENTS AND
VOLUNTEERS HAVING CONTACT WITH CHILDREN

Act of Jul. 2, 2019, P.L. 336, No. 47

Cl. 23

Session of 2019

No. 2019-47

HB 235

AN ACT

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in petition for adoption, further providing for consents necessary to adoption; in support matters generally, further providing for costs and fees and for State disbursement unit; and, in child protective services, further providing for employees having contact with children, adoptive and foster parents and for volunteers having contact with children.

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

Section 1. Section 2711(d)(2) of Title 23 of the Pennsylvania Consolidated Statutes is amended and the subsection is amended by adding a paragraph to read:

§ 2711. Consents necessary to adoption.

* * *

(d) Contents of consent.--

* * *

(2) The consent shall include the date and place of its execution and names and addresses and signatures of at least two persons who witnessed its execution and their relationship to the consenter. **The consent of an incarcerated parent of an adoptee may be witnessed by a correctional facility employee designated by the correctional facility. Any consent witnessed by a correctional facility employee shall list the address of the correctional facility on the consent.**

(3) In lieu of two witnesses a consent may be acknowledged before a notary public.

Section 2. Sections 4351(a.1) and 4374(c)(3) and (d)(2) of Title 23 are amended to read:

§ 4351. Costs and fees.

* * *

(a.1) Annual fee.--The Commonwealth shall impose a fee of [\$25] **\$35** in each case in which an individual has never received assistance under Title IV-A of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) and for whom the Commonwealth has collected at least [\$500] **\$550** of support in a Federal fiscal year. The Commonwealth shall pay the [\$25] **\$35** fee for those cases in which the annual collection is between [\$500] **\$550** and \$1,999.99. The [\$25] **\$35** fee shall be collected from the custodial parent in cases where annual collections equal \$2,000 or more. **This subsection shall expire July 15, 2023.**

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§ 4374. State disbursement unit.

* * *

(c) Allocation of collections.--Subject to subsections (d), (e), (f) and (f.1), support collected on behalf of a family shall be distributed as follows:

* * *

(3) In the case of a family that never received cash assistance from the Commonwealth, all support collections shall be paid to the family with the exception of the federally mandated [\$25] **\$35** annual fee collected from the custodial parent as required under section 4351(a.1) (relating to costs and fees). **This paragraph shall expire July 15, 2023.**

(d) Retention by Commonwealth.--

* * *

(2) Notwithstanding any other provision of law, the federally mandated [\$25] **\$35** annual fee collected from the custodial parent as required under section 4351(a.1) shall be retained by the department. **This paragraph shall expire July 15, 2023.**

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Section 2.1. Section 6344(a.2) introductory paragraph, (a.3) introductory paragraph, (b) introductory paragraph, (c)(1) and (2) and (m) introductory paragraph of Title 23, amended June 28, 2018 (P.L.375, No.54), are amended, subsections (c) and (m) are amended by adding paragraphs and the section is amended by adding a subsection to read:

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

* * *

(a.2) Minors.--[An] **Unless applying for or holding a position in a child day-care center, group day-care home or family child-care home,** an individual between 14 and 17 years of age who applies for or holds a paid position as an employee who is a person responsible for the child's welfare or a person with direct contact with children through a program, activity or service prior to the commencement of employment or under section 6344.4 (relating to recertification) shall be required to submit only the information under subsection (b)(1) and (2) to an employer, administrator, supervisor or other person responsible for employment decisions, if the following apply:

* * *

(a.3) Exchange visitor.--[An] **Unless applying for or holding a position in a child day-care center, group day-care home or family child-care home,** an individual in possession of a nonimmigrant visa issued pursuant to 8 U.S.C. § 1101(a)(15)(J) (relating to definitions) to an exchange visitor, commonly referred to as a "J-1" Visa, shall not be required to submit information under subsection (b) if all of the following apply:

* * *

(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) **or (a.3)** 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:

* * *

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

(1) In no case shall an **employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers** hire or approve an applicant where the department has verified that the applicant is named in the Statewide database as the perpetrator of a founded report committed within the five-year period immediately preceding verification pursuant to this section.

(2) In no case shall an **employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers** hire or approve an applicant if the applicant's criminal history record information indicates the applicant has been convicted of one or more of the following offenses under Title 18 (relating to crimes and offenses) or an equivalent crime under Federal law or the law of another state:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 2709.1 (relating to stalking).

Section 2901 (relating to kidnapping).

Section 2902 (relating to unlawful restraint).

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

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.

* * *

(4) In addition to paragraphs (1), (2) and (3), in no case shall an **employer, administrator, supervisor or other person responsible for employment decisions or involved in the selection of volunteers at a child day-care center, group day-care home or family child-care home** hire or approve an applicant under any of the following circumstances:

(i) The applicant's criminal history record information indicates the applicant has been convicted of any of the following:

(A) One or more of the following offenses under Title 18 or an equivalent crime under Federal law or the law of another state:

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

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

(B) An offense under 18 U.S.C. § 2261 (relating to interstate domestic violence) or 2262 (relating to interstate violation of protection order).

(ii) The applicant's name appears on the National Crime Information Center National Sex Offender Registry or on a state's sex offender registry.

(iii) The applicant's name appears on a Statewide database or its equivalent as a perpetrator of child abuse.

* * *

(f.1) Additional information for child day-care centers, group day-care homes and family child-care homes.--

(1) In addition to the required information under subsection (b), employees and volunteers of a child day-care center, group day-care home or family child-care home shall submit the following in accordance with paragraph (2):

(i) The following certifications from an out-of-state database or its equivalent in each state in which the individual resided within the previous five-year period as to whether the individual:

(A) Is named in the database as a perpetrator of child abuse.

(B) Is named on the out-of-state criminal history repository with a conviction of an offense listed in subsection (c) (2) or (4).

(C) Is named on the State's sex offender registry.

(ii) Notification from the department stating whether the individual's name appears on the National Crime Information Center National Sex Offender Registry.

(2) An applicant for employment or a prospective volunteer at a child day-care center, group day-care home or family child-care home shall submit the information required under paragraph (1) prior to the commencement of employment or service. An employee or a volunteer at a child day-care center, group day-care home or family child-care home as of the date of enactment of this subsection shall submit the information required under paragraph (1) no later than the effective date of this subsection.

* * *

(m) Provisional employees for limited periods.--[Notwithstanding subsection (b), employers,] **Employers**, administrators, supervisors or other persons responsible for employment decisions may **not** employ applicants on a provisional basis, **except that the department is authorized to grant a waiver of this provision upon request from a child day-care center, group day-care home or family child-care home. If a child day-care center, group day-care home or family child-care home is granted a waiver, an applicant may be employed on a provisional basis for a single period not to exceed [90] 45 days, if all of the following conditions are met:**

* * *

(3.1) A child day-care center, group day-care home or family child-care home received the result of the report of the criminal history record information under subsection (b) (1) or (3).

* * *

Section 3. Section 6344.2(b.1) of Title 23 is amended by adding a paragraph to read:

§ 6344.2. Volunteers having contact with children.

* * *

(b.1) Exception.--

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(4) The exceptions under this subsection do not apply to volunteers in a child day-care center, group day-care home or family child-care home.

* * *

Section 4. This act shall take effect as follows:

- (1) This section shall take effect immediately.
- (2) The amendment of 23 Pa.C.S. §§ 4351(a.1) and 4374(c)(3) and (d)(2) shall take effect immediately.
- (3) The amendment or addition of 23 Pa.C.S. § 2711(d)(2) and (3) shall take effect in 60 days.
- (4) The amendment or addition of 23 Pa.C.S. § 6344(m) introductory paragraph and (3.1) shall take effect December 31, 2019.
- (5) The remainder of this act shall take effect September 30, 2019.

APPROVED--The 2nd day of July, A.D. 2019.

TOM WOLF