
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1138

Session of
1985

INTRODUCED BY SWEET, PICCOLA, PRATT, HAGARTY, MOEHLMANN,
KUKOVICH, GREENWOOD, CORDISCO, PRESSMANN, BALDWIN, McVERRY,
GALLAGHER, HAYES, FREIND, REBER, FOX AND MAYERNIK,
MAY 1, 1985

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
JUNE 25, 1985

AN ACT

1 Amending the act of November 26, 1975 (P.L.438, No.124),
2 entitled, as amended, "An act establishing child protective
3 services; providing procedures for reporting and
4 investigating the abuse of children; establishing and
5 providing access to a Statewide central register and pending
6 complaint file on child abuse; investigating such reports;
7 providing for taking protective action including taking a
8 child into protective custody; placing duties on the
9 Department of Public Welfare and county children and youth
10 social service agencies; establishing child protective
11 services in each county children and youth social service
12 agency; and providing penalties," further providing for the
13 provision and regulation of child care services and
14 recordkeeping duties and immunity from liability; and
15 requiring certain persons to furnish information of criminal
16 history.

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

19 Section 1. The definition of "child care" in section 3 of
20 the act of November 26, 1975 (P.L.438, No.124), known as the
21 Child Protective Services Law, is repealed.

22 Section 2. Section 3 of the act is amended by adding

1 definitions to read:

2 Section 3. Definitions.--As used in this act:

3 * * *

4 "Child care services" means child day care centers, group and
5 family day care homes, foster homes, adoptive parents, boarding
6 homes for children, juvenile detention center services or
7 programs for delinquent or dependent children; mental health,
8 mental retardation and drug and alcohol services for children;
9 and any other child CARE services which are provided by or <—
10 subject to approval, licensure, registration or certification by
11 the Department of Public Welfare or the Department of Health or <—
12 a county social services agency or which are provided pursuant
13 to a contract with these departments or a county social services
14 agency. The term shall not include such services or programs
15 which may be offered by public and private schools, intermediate
16 units or area vocational-technical schools.

17 * * *

18 "Cooperation with an investigation" shall include, but shall
19 not be limited to, a school or school district which permits
20 authorized personnel from the department or child protection
21 services to interview a student while the student is in
22 attendance at school.

23 * * *

24 Section 3. Sections 11 and ~~14(i)~~ 14(H) AND (I) of the act, <—
25 amended June 10, 1982 (P.L.460, No.136), are amended to read:

26 Section 11. Immunity from Liability.--Any person, hospital,
27 institution, school, facility or agency participating in good
28 faith in the making of a report, cooperating with an
29 investigation or testifying in any proceeding arising out of an
30 instance of suspected child abuse, the taking of photographs, or

1 the removal or keeping of a child pursuant to section 8, shall
2 have immunity from any liability, civil or criminal, that might
3 otherwise result by reason of such actions. For the purpose of
4 any proceeding, civil or criminal, the good faith of any person
5 required to report pursuant to section 4 shall be presumed.

6 Section 14. Record Keeping Duties of the Department.--* * *

7 (H) WHEN A REPORT OF SUSPECTED CHILD ABUSE IS DETERMINED BY <—
8 THE APPROPRIATE CHILD PROTECTIVE SERVICE TO BE A FOUNDED REPORT
9 OR AN INDICATED REPORT, THE INFORMATION CONCERNING SUCH REPORT
10 OF SUSPECTED CHILD ABUSE SHALL BE EXPUNGED FORTHWITH FROM THE
11 PENDING COMPLAINT FILE AND AN APPROPRIATE ENTRY SHALL BE MADE IN
12 THE STATEWIDE CENTRAL REGISTER. NOTICE OF SUCH DETERMINATION
13 MUST BE GIVEN TO THE SUBJECTS OF THE REPORT OTHER THAN THE
14 ABUSED CHILD ALONG WITH AN EXPLANATION OF THE IMPLICATIONS OF
15 SUCH A FINDING AND, UPON REQUEST, TO A PERSON REQUIRED TO REPORT
16 SUSPECTED ABUSE WHO HAS A CURRENT AND ONGOING RELATIONSHIP WITH
17 THE CHILD OR WITH A SIBLING OF THE CHILD. NOTICE GIVEN TO
18 SUBJECTS OF THE REPORT SHALL INCLUDE NOTICE THAT THEIR ABILITY
19 TO OBTAIN EMPLOYMENT IN A CHILD CARE FACILITY OR PROGRAM MAY BE
20 ADVERSELY AFFECTED BY ENTRY OF THE REPORT IN THE STATEWIDE
21 CENTRAL REGISTER. THE NOTICE SHALL ALSO INFORM THE SUBJECT OF
22 THE REPORT OF HIS RIGHT, AT ANY TIME, TO REQUEST THE SECRETARY
23 TO AMEND, SEAL OR EXPUNGE INFORMATION CONTAINED IN THE STATEWIDE
24 CENTRAL REGISTER AND HIS RIGHT TO A HEARING IF THE REQUEST IS
25 DENIED. WHEN A REPORT OF SUSPECTED CHILD ABUSE IS DETERMINED BY
26 THE APPROPRIATE CHILD PROTECTIVE SERVICE TO BE AN UNFOUNDED
27 REPORT, THE INFORMATION CONCERNING SUCH REPORT OF SUSPECTED
28 CHILD ABUSE SHALL BE EXPUNGED FROM THE PENDING COMPLAINT FILE
29 WITHIN 12 MONTHS OF THE DATE THE REPORT WAS RECEIVED BY THE
30 DEPARTMENT AND NO INFORMATION OTHER THAN THAT AUTHORIZED BY

1 SUBSECTION (K), WHICH SHALL NOT INCLUDE ANY IDENTIFYING
2 INFORMATION ON ANY SUBJECT OF SUCH REPORT, SHALL BE RETAINED BY
3 THE DEPARTMENT.

4 (i) The Statewide central register shall include and shall
5 be limited to the following information: the names, social
6 security numbers, age and sex of the subjects of the reports;
7 the date or dates and the nature and extent of the alleged
8 instances of suspected child abuse; the home addresses of
9 subjects of the report; the county in which the suspected abuse
10 occurred; family composition; the name and relationship to the
11 abused child of the person or persons responsible for causing
12 the abuse; the source of the report; services planned or
13 provided; whether the report is a founded report, an indicated
14 report; and the progress of any legal proceedings brought on the
15 basis of the report of suspected child abuse.

16 * * *

17 Section 4. Section 14.1 of the act is repealed.

18 SECTION 5. SECTION 19 OF THE ACT IS AMENDED TO READ:

<—

19 SECTION 19. ANNUAL REPORTS; CIVIL PENALTIES.--(A) NO LATER
20 THAN APRIL 15 OF EVERY YEAR, THE SECRETARY SHALL PREPARE AND
21 TRANSMIT TO THE GOVERNOR AND THE GENERAL ASSEMBLY A REPORT ON
22 THE OPERATIONS OF THE CENTRAL REGISTER OF CHILD ABUSE AND THE
23 VARIOUS CHILD PROTECTIVE SERVICES. THE REPORT SHALL INCLUDE A
24 FULL STATISTICAL ANALYSIS OF THE REPORTS OF SUSPECTED CHILD
25 ABUSE MADE TO THE DEPARTMENT TOGETHER WITH A REPORT ON THE
26 IMPLEMENTATION OF THIS ACT AND ITS TOTAL COST TO THE
27 COMMONWEALTH, THE SECRETARY'S EVALUATION OF SERVICES OFFERED
28 UNDER THIS ACT AND RECOMMENDATIONS FOR REPEAL OR FOR ADDITIONAL
29 LEGISLATION TO FULFILL THE PURPOSES OF THIS ACT. ALL SUCH
30 RECOMMENDATIONS SHOULD CONTAIN AN ESTIMATE OF INCREASED OR

1 DECREASED COSTS RESULTING THEREFROM. THE REPORT SHALL ALSO
2 INCLUDE AN EXPLANATION OF SERVICES PROVIDED TO CHILDREN WHO WERE
3 THE SUBJECTS OF FOUNDED OR INDICATED REPORTS OF CHILD ABUSE
4 WHILE RECEIVING CHILD CARE SERVICES AS DEFINED IN SECTION 3 OF
5 THIS ACT. THE DEPARTMENT SHALL ALSO DESCRIBE ITS ACTIONS IN
6 RESPECT TO THE PERPETRATORS OF THE ABUSE.

7 (B) AN ADMINISTRATOR, OR OTHER PERSON RESPONSIBLE FOR
8 EMPLOYMENT DECISIONS IN A CHILD CARE FACILITY OR PROGRAM, WHO
9 FAILS TO COMPLY WITH THE PROVISIONS OS SECTION 23.1 COMMITS A
10 VIOLATION OF THIS ACT AND SHALL BE SUBJECT TO CIVIL PENALTY AS
11 PROVIDED IN THIS SECTION.

12 (1) THE DEPARTMENT SHALL HAVE JURISDICTION TO DETERMINE
13 VIOLATIONS OF SECTION 23.1 AND MAY, FOLLOWING A HEARING, ASSESS
14 A CIVIL PENALTY NOT TO EXCEED \$2,500.

15 (2) THE CIVIL PENALTY SHALL BE PAYABLE TO THE COMMONWEALTH.

16 Section 5 6. The act is amended by adding a section to read: <—

17 ~~Section 23.1. Background Checks of Prospective Employees.~~ <—

18 ~~(a) This section shall apply to all prospective employees of~~
19 ~~child care services, including independent contractors and their~~
20 ~~employees and foster parents except those employees and~~
21 ~~independent contractors and their employees who have no direct~~
22 ~~contact with children and prospective self employed family day~~
23 ~~care providers.~~

24 ~~(b) Administrators of child care services shall require~~
25 ~~prospective employees to submit with their applications for~~
26 ~~employment, the following information, which shall be no more~~
27 ~~than one year old:~~

28 SECTION 23.1. INFORMATION RELATING TO PROSPECTIVE CHILD CARE <—
29 PERSONNEL.--(A) THIS SECTION SHALL APPLY TO ALL PROSPECTIVE
30 EMPLOYEES OF CHILD CARE SERVICES, PROSPECTIVE FOSTER PARENTS,

PROSPECTIVE ADOPTIVE PARENTS AND OTHER PERSONS SEEKING TO
PROVIDE CHILD CARE SERVICES AS REGULAR VOLUNTEERS OR UNDER
CONTRACT WITH A CHILD CARE FACILITY OR PROGRAM. THIS SECTION
SHALL NOT APPLY TO ADMINISTRATIVE OR OTHER SUPPORT PERSONNEL
UNLESS THEIR DUTIES WILL INVOLVE DIRECT CONTACT WITH CHILDREN.

(B) ADMINISTRATORS OF CHILD CARE SERVICES SHALL REQUIRE
APPLICANTS TO SUBMIT WITH THEIR APPLICATIONS THE FOLLOWING
INFORMATION OBTAINED WITHIN THE PRECEDING SIX-MONTH PERIOD:

(1) A 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.
Such 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 or indicated report of child abuse: Provided, That an
indicated report shall not be included until the department
adopts regulations specifying the manner in which the
investigation required by section 17 of this act is to be
conducted.

(3) Where the applicant is not a resident of this
Commonwealth, administrators shall require the applicant to
submit with the application for employment a report of Federal
criminal history record information pursuant to the Federal
Bureau of Investigation appropriation of Title II of Public Law
92-544, 86 Stat. 1115, and the department shall be the
intermediary for the purposes of this section.

1 (c) For the purposes of this section, an applicant may
2 submit a copy of the required information with his or her
3 application for employment. Administrators SHALL MAINTAIN A COPY <—
4 OF THE REQUIRED INFORMATION AND shall require applicants to
5 produce the original document prior to employment.

6 (d) In determining suitability of an applicant for
7 employment based on criminal history record information,
8 administrators shall comply with regulations promulgated by the
9 department. Such regulations shall be promulgated prior to the
10 effective date of this act.

11 (e) In no case shall an administrator hire an applicant
12 where the department has verified that the applicant is named in
13 the central register as the perpetrator of a founded report of
14 child abuse COMMITTED WITHIN THE FIVE-YEAR PERIOD IMMEDIATELY <—
15 PRECEDING VERIFICATION PURSUANT TO THIS SECTION.

16 (F) IN NO CASE SHALL AN ADMINISTRATOR HIRE AN APPLICANT IF
17 THE APPLICANT'S CRIMINAL HISTORY RECORD INFORMATION INDICATES
18 THE APPLICANT HAS BEEN CONVICTED, WITHIN FIVE YEARS IMMEDIATELY
19 PRECEDING THE DATE OF THE REPORT, OF ONE OR MORE OF THE
20 FOLLOWING OFFENSES UNDER TITLE 18 OF THE PENNSYLVANIA
21 CONSOLIDATED STATUTES:

22 CHAPTER 25 (RELATING TO CRIMINAL HOMICIDE).

23 SECTION 2702 (RELATING TO AGGRAVATED ASSAULT).

24 SECTION 2901 (RELATING TO KIDNAPPING).

25 SECTION 2902 (RELATING TO UNLAWFUL RESTRAINT).

26 SECTION 3121 (RELATING TO RAPE).

27 SECTION 3122 (RELATING TO STATUTORY RAPE).

28 SECTION 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
29 INTERCOURSE).

30 SECTION 3126 (RELATING TO INDECENT ASSAULT).

1 SECTION 3127 (RELATING TO INDECENT EXPOSURE).

2 SECTION 4303 (RELATING TO CONCEALING DEATH OF CHILD BORN
3 OUT OF WEDLOCK).

4 SECTION 4304 (RELATING TO ENDANGERING WELFARE OF
5 CHILDREN).

6 SECTION 4305 (RELATING TO DEALING IN INFANT CHILDREN).

7 A FELONY OFFENSE UNDER SECTION 5902(B) (RELATING TO
8 PROSTITUTION AND RELATED OFFENSES).

9 SECTION 5903(C) OR (D) (RELATING TO OBSCENE AND OTHER
10 SEXUAL MATERIALS).

11 SECTION 6301 (RELATING TO CORRUPTION OF MINORS).

12 SECTION 6312 (RELATING TO SEXUAL ABUSE OF CHILDREN).

13 THE DEPARTMENT MAY PROMULGATE SUITABILITY REGULATIONS RELATING
14 TO ADDITIONAL CRIMES DIRECTLY RELATED TO ABUSE OF CHILDREN.

15 (G) WITH REGARD TO PROSPECTIVE ADOPTIVE OR PROSPECTIVE
16 FOSTER PARENTS, THE FOLLOWING SHALL APPLY:

17 (1) IN THE COURSE OF CAUSING AN INVESTIGATION TO BE MADE
18 PURSUANT TO 23 PA.C.S. § 2535(A) (RELATING TO INVESTIGATION), AN
19 AGENCY OR PERSON DESIGNATED BY THE COURT TO CONDUCT SUCH
20 INVESTIGATION SHALL REQUIRE PROSPECTIVE ADOPTIVE PARENTS TO
21 SUBMIT THE INFORMATION SET FORTH IN SUBSECTION (B)(1) AND (2)
22 FOR REVIEW BY THE FOSTER FAMILY CARE AGENCY IN ACCORDANCE WITH
23 THIS SECTION.

24 (2) IN THE COURSE OF APPROVING A PROSPECTIVE FOSTER PARENT,
25 A FOSTER FAMILY CARE AGENCY SHALL REQUIRE PROSPECTIVE FOSTER
26 PARENTS TO SUBMIT THE INFORMATION SET FORTH IN SUBSECTION (B)(1)
27 AND (2) FOR REVIEW BY THE FOSTER FAMILY CARE AGENCY IN
28 ACCORDANCE WITH THIS SECTION.

29 ~~(f)~~ (H) The department shall, in the manner provided by law, <—
30 promulgate the regulations necessary to carry out this section.

1 These regulations shall:

2 (1) Set forth criteria for unsuitability for employment in a
3 child care service in relation to criminal history record
4 information WHICH MAY INCLUDE CRIMINAL HISTORY RECORD <—
5 INFORMATION IN ADDITION TO THAT SET FORTH ABOVE. Such criteria
6 shall be reasonably related to the prevention of child abuse.

7 (2) Set forth sanctions for administrators who wilfully hire
8 applicants in violation of subsection (d) or in violation of the
9 regulations promulgated hereunder.

10 (3) Provide for the confidentiality of information obtained
11 pursuant to subsection (b).

12 ~~(g) (I) The department shall require persons seeking to~~ <—
13 ~~operate child care services to comply with subsection (b).~~

14 ~~(h) (J) The department may charge a fee not to exceed \$10 in~~ <—
15 ~~order to conduct the certification as required in subsection~~
16 ~~(b)(2).~~

17 ~~(i) (K) The department shall comply with certification~~ <—
18 ~~requests no later than ten days from the receipt of the request.~~

19 ~~(j) (L) The department shall develop a procedure for the~~ <—
20 ~~voluntary certification of child caretakers, to allow persons to~~
21 ~~apply to the department for a certificate indicating the person~~
22 ~~has met the requirements of subsection (b). The department shall~~
23 ~~also provide for the annual BIENNIAL recertification of such~~ <—
24 ~~persons.~~

25 ~~(k) The Department of Health shall promulgate regulations~~ <—
26 ~~setting forth sanctions for administrators of services approved,~~
27 ~~certified or licensed by that department who wilfully hire~~
28 ~~applicants in violation of subsection (c) or in violation of the~~
29 ~~regulations promulgated under subsection (f).~~

30 (M) THE DEPARTMENT SHALL SET FORTH CRITERIA FOR IDENTIFYING <—

1 THOSE REGULAR CHILD CARE VOLUNTEERS WHO ARE SUBJECT TO THIS
2 SECTION.

3 (N) NO PERSON EMPLOYED IN CHILD CARE SERVICES ON THE
4 EFFECTIVE DATE OF THIS SECTION SHALL BE REQUIRED TO OBTAIN THE
5 INFORMATION REQUIRED IN SUBSECTION (B)(1) AND (2) AS A CONDITION
6 OF CONTINUED EMPLOYMENT. ANY PERSON WHO HAS ONCE OBTAINED THE
7 INFORMATION REQUIRED UNDER SUBSECTION (B)(1) AND (2) MAY
8 TRANSFER TO ANOTHER CHILD CARE SERVICE ESTABLISHED AND
9 SUPERVISED BY THE SAME ORGANIZATION AND SHALL NOT BE REQUIRED TO
10 OBTAIN ADDITIONAL REPORTS BEFORE MAKING SUCH TRANSFER.

11 ~~(1)~~ (O) The requirements of this section shall not apply to <—
12 employees of child care services who meet all the following
13 requirements:

14 (1) The employees are under 21 years of age.

15 (2) They are employed for periods of 90 days or less.

16 (3) They are a part of a job development and/or job training
17 program funded in whole or in part by public or private sources.
18 Once employment of a person who meets these conditions extends
19 beyond 90 days, all requirements of this section shall take
20 effect.

21 ~~(m)~~ (P) Self-employed family day care providers who apply <—
22 for a certificate of registration with the department after the
23 effective date of this act shall submit with their registration
24 application a report of criminal history record information and
25 shall also obtain certification from the department as to
26 whether the applicant is named in the central register as the
27 perpetrator of a founded report of child abuse.

28 Section 6. Section 19 of the act is amended to read: <—

29 Section 19. Annual Reports. No later than April 15 of every
30 year, the secretary shall prepare and transmit to the Governor

1 ~~and the General Assembly a report on the operations of the~~
2 ~~central register of child abuse and the various child protective~~
3 ~~services. The report shall include a full statistical analysis~~
4 ~~of the reports of suspected child abuse made to the department~~
5 ~~together with a report on the implementation of this act and its~~
6 ~~total cost to the Commonwealth, the secretary's evaluation of~~
7 ~~services offered under this act and recommendations for repeal~~
8 ~~or for additional legislation to fulfill the purposes of this~~
9 ~~act. All such recommendations should contain an estimate of~~
10 ~~increased or decreased costs resulting therefrom. The report~~
11 ~~shall also include an explanation of services provided to~~
12 ~~children who were the subjects of founded or indicated reports~~
13 ~~of child abuse while receiving child care services as defined in~~
14 ~~section 3 of this act. The department shall also describe its~~
15 ~~actions in respect to the perpetrators of the abuse.~~

16 Section 7. (a) Sections 1 and 4 of this act shall take
17 effect immediately.

18 (b) The remainder of this act shall take effect January 1,
19 1986, or immediately, whichever is later.