

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2320 Session of  
1993

INTRODUCED BY E. Z. TAYLOR, RICHARDSON, VANCE, KAISER, ACOSTA,  
SAURMAN, RITTER, CLYMER, TIGUE, FLEAGLE, WASHINGTON, KING,  
WAUGH, PLATTS, GRUPPO, RUBLEY, GERLACH, HERSHEY, HENNESSEY,  
PITTS, CESSAR, NAILOR, CLARK, SATHER, TRELLO, FLICK AND COY,  
DECEMBER 7, 1993

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 7, 1993

AN ACT

1 Requiring administrators of certain residential care facilities  
2 to require applicants for employment to submit criminal  
3 history record information.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Residential  
8 Care Facility Employee Background Evaluation Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Department." The Department of Health of the Commonwealth.

14 Section 3. Information relating to prospective residential care  
15 facility personnel.

16 Administrators of nursing homes, extended care facilities,  
17 group homes and other nonhospital residential care facilities

1 shall require all applicants to submit with their applications  
2 the following information obtained within the preceding one-year  
3 period:

4 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal  
5 history record information), a report of criminal history  
6 record information from the Pennsylvania State Police or a  
7 statement from the Pennsylvania State Police that the  
8 Pennsylvania State Police central repository contains no such  
9 information relating to that person. The criminal history  
10 record information shall be limited to that which is  
11 disseminated pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to  
12 general regulations).

13 (2) Where the applicant is not a resident of this  
14 Commonwealth, administrators shall require the applicant to  
15 submit with the application for employment a report of  
16 Federal criminal history record information pursuant to the  
17 Federal Bureau of Investigation appropriation of the  
18 Department of Justice Appropriation Act of 1973 (Public Law  
19 92-544, 86 Stat. 1116), and the department shall be the  
20 intermediary for the purposes of this section.

21 For the purposes of this section, an applicant may submit a copy  
22 of the required information with an application for employment.  
23 Administrators shall maintain a copy of the required information  
24 and shall require applicants to produce the original document  
25 prior to employment.

26 Section 4. Grounds for denying employment.

27 In no case shall an administrator hire an applicant if the  
28 applicant's criminal history record information indicates the  
29 applicant has been convicted, within five years immediately  
30 preceding the date of the report, of any of the following

1 offenses:

2 (1) An offense under one or more of the following  
3 provisions of 18 Pa.C.S. (relating to crimes and offenses):

4 Chapter 25 (relating to criminal homicide).

5 Section 2702 (relating to aggravated assault).

6 Section 2901 (relating to kidnapping).

7 Section 2902 (relating to unlawful restraint).

8 Section 3121 (relating to rape).

9 Section 3122 (relating to statutory rape).

10 Section 3123 (relating to involuntary deviate sexual  
11 intercourse).

12 Section 3126 (relating to indecent assault).

13 Section 3127 (relating to indecent exposure).

14 Section 4303 (relating to concealing death of child  
15 born out of wedlock).

16 Section 4304 (relating to endangering welfare of  
17 children).

18 Section 4305 (relating to dealing in infant  
19 children).

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

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

24 Section 6301 (relating to corruption of minors).

25 Section 6312 (relating to sexual abuse of children).

26 (2) An offense designated as a felony under the act of  
27 April 14, 1972 (P.L.233, No.64), known as The Controlled  
28 Substance, Drug, Device and Cosmetic Act.

29 (3) An out-of-State or Federal offense similar in nature  
30 to those crimes listed in paragraphs (1) and (2).

1 Section 5. Regulations.

2 The department shall promulgate the regulations necessary to  
3 carry out this act. These regulations shall:

4 (1) Set forth criteria for unsuitability for employment  
5 in a residential care facility in relation to criminal  
6 history record information which may include criminal history  
7 record information in addition to that set forth under  
8 section 4.

9 (2) Provide for the confidentiality of information  
10 obtained under section 3.

11 Section 6. Violations.

12 An administrator who willfully fails to comply with the  
13 provisions of this act commits a violation of this act and shall  
14 be subject to civil penalty as provided in this section. The  
15 department shall have jurisdiction to determine violators of  
16 this act and may, following a hearing, assess a civil penalty  
17 not to exceed \$2,500.

18 Section 7. Existing or transferred employees.

19 No person employed in a residential care facility under this  
20 act on the effective date of this act shall be required to  
21 obtain the information required as a condition of continued  
22 employment. Any person who has once obtained the information  
23 required under this act may transfer to another residential care  
24 facility established and supervised by the same organization and  
25 shall not be required to obtain additional reports before making  
26 such transfer.

27 Section 8. Provisional employees for limited periods.

28 Notwithstanding section 3, administrators may employ  
29 applicants on a provisional basis for a single period not to  
30 exceed 30 days or, for out-of-State applicants, a period of 90

1 days, if all of the following conditions are met:

2 (1) The applicant has applied for the information  
3 required under section 3 and the applicant provides a copy of  
4 the appropriate completed request forms to the administrator.

5 (2) The administrator has no knowledge of information  
6 pertaining to the applicant which would disqualify him from  
7 employment pursuant to section 4.

8 (3) The applicant swears or affirms in writing that he  
9 is not disqualified from employment under section 4.

10 (4) If the information obtained under section 3 reveals  
11 that the applicant is disqualified from employment under  
12 section 4, the applicant shall be immediately dismissed by  
13 the administrator.

14 (5) The administrator requires that the applicant work  
15 in the immediate vicinity of a permanent employee.

16 Section 9. Effective date.

17 This act shall take effect in 60 days.