
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2843 Session of
2000

INTRODUCED BY GRUCELA, WILLIAMS, McCALL, SOLOBAY, YUDICHAK,
WANSACZ, EACHUS AND STURLA, OCTOBER 17, 2000

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 17, 2000

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for child-care
3 personnel background checks.

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

6 Section 1. Section 6344 of Title 23 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 6344. Information relating to prospective child-care
9 personnel.

10 (a) Applicability.--This section applies to all prospective
11 employees of child-care services, prospective foster parents,
12 prospective adoptive parents, prospective self-employed family
13 day-care providers and other persons seeking to provide child-
14 care services under contract with a child-care facility or
15 program. This section does not apply to administrative or other
16 support personnel unless their duties will involve direct
17 contact with children.

18 (b) Information submitted by prospective employees.--

1 Administrators of child-care services shall require applicants
2 and all nonemployee persons 18 years of age or older who reside
3 in a family day-care home affected by this section for at least
4 30 days in a calendar year to submit with their applications the
5 following information obtained within the preceding [one-year]
6 six-month period:

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

16 (2) A certification from the department as to whether
17 the applicant is named in the central register as the
18 perpetrator of a founded report of child abuse, indicated
19 report of child abuse, founded report for school employee or
20 indicated report for school employee.

21 (3) Where the applicant is not a resident of this
22 Commonwealth, administrators shall require the applicant to
23 submit with the application for employment a report of
24 Federal criminal history record information. The applicant
25 shall submit a full set of fingerprints to the department.
26 The department shall submit the fingerprints to the Federal
27 Bureau of Investigation in order to obtain a report of
28 Federal criminal history record information and serve as
29 intermediary for the purposes of this section.

30 For the purposes of this subsection, an applicant may submit a

1 copy of the required information with an application for
2 employment. Administrators shall maintain a copy of the required
3 information and shall require applicants to produce the original
4 document prior to employment.

5 (c) Grounds for denying employment.--

6 (1) In no case shall an administrator hire an applicant
7 where the department has verified that the applicant is named
8 in the central register as the perpetrator of a founded
9 report of child abuse [committed within the five-year period
10 immediately preceding verification pursuant to this section]
11 or as the perpetrator of a founded report for school
12 employee.

13 (2) In no case shall an administrator hire an applicant
14 if the applicant's criminal history record information
15 indicates the applicant has been convicted of or entered a
16 plea of nolo contendere to one or more of the following
17 offenses under Title 18 (relating to crimes and offenses) or
18 an equivalent crime under Federal law or the law of another
19 state:

20 Chapter 25 (relating to criminal homicide).

21 Section 2702 (relating to aggravated assault).

22 Section 2709 (relating to harassment and stalking).

23 Section 2901 (relating to kidnapping).

24 Section 2902 (relating to unlawful restraint).

25 Section 2904 (relating to interference with custody of
26 children) where the offense is graded as a felony.

27 Section 2909 (relating to concealment of whereabouts of a
28 child).

29 Section 3121 (relating to rape).

30 Section 3122.1 (relating to statutory sexual assault).

1 Section 3123 (relating to involuntary deviate sexual
2 intercourse).

3 Section 3124.1 (relating to sexual assault).

4 Section 3125 (relating to aggravated indecent assault).

5 Section 3126 (relating to indecent assault).

6 Section 3127 (relating to indecent exposure).

7 Section 4302 (relating to incest).

8 Section 4303 (relating to concealing death of child).

9 Section 4304 (relating to endangering welfare of
10 children).

11 Section 4305 (relating to dealing in infant children).

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

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

16 Section 6301 (relating to corruption of minors).

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

18 The attempt, solicitation or conspiracy to commit any of
19 the offenses set forth in this paragraph.

20 (3) In no case shall an administrator hire an applicant
21 if the applicant's criminal history record information
22 indicates the applicant has been convicted of a felony
23 offense under the act of April 14, 1972 (P.L.233, No.64),
24 known as The Controlled Substance, Drug, Device and Cosmetic
25 Act, committed within the [five-year] ten-year period
26 immediately preceding verification under this section.

27 (d) Prospective adoptive or foster parents.--With regard to
28 prospective adoptive or prospective foster parents, the
29 following shall apply:

30 (1) In the course of causing an investigation to be made

1 pursuant to section 2535(a) (relating to investigation), an
2 agency or person designated by the court to conduct the
3 investigation shall require prospective adoptive parents to
4 submit the information set forth in subsection (b)(1) and (2)
5 for review in accordance with this section.

6 (2) In the course of approving a prospective foster
7 parent, a foster family care agency shall require prospective
8 foster parents to submit the information set forth in
9 subsection (b)(1) and (2) for review by the foster family
10 care agency in accordance with this section.

11 (e) Self-employed family day-care providers.--Self-employed
12 family day-care providers who apply for a certificate of
13 registration with the department shall submit with their
14 registration application a report of criminal history record
15 information and shall also obtain certification from the
16 department as to whether the applicant and any nonemployee
17 person 18 years of age or older who resides in the home for at
18 least 30 days in a calendar year is named in the central
19 register as the perpetrator of a founded report of child abuse
20 or as the perpetrator of a founded report for school employee.

21 (f) Submissions by operators of child-care services.--The
22 department shall require persons seeking to operate child-care
23 services to submit the information set forth in subsection
24 (b)(1) and (2) for review in accordance with this section.

25 (g) Regulations.--The department shall promulgate the
26 regulations necessary to carry out this section. These
27 regulations shall:

28 (1) Set forth criteria for unsuitability for employment
29 in a child-care service in relation to criminal history
30 record information which may include criminal history record

1 information in addition to that set forth above. The criteria
2 shall be reasonably related to the prevention of child abuse.

3 (2) Set forth sanctions, in addition to subsection (o),
4 for administrators who willfully hire applicants in violation
5 of this section or in violation of the regulations
6 promulgated under this section.

7 (3) Provide for the confidentiality of information
8 obtained pursuant to subsection (b).

9 (h) Fees.--The department may charge a fee not to exceed \$10
10 in order to conduct the certification as required in subsection
11 (b)(2), except that no fee shall be charged to an individual who
12 makes the request in order to apply to become a volunteer with
13 an affiliate of Big Brothers of America or Big Sisters of
14 America.

15 (i) Time limit for certification.--The department shall
16 comply with certification requests no later than 14 days from
17 the receipt of the request.

18 (j) Voluntary certification of child caretakers.--The
19 department shall develop a procedure for the voluntary
20 certification of child caretakers to allow persons to apply to
21 the department for a certificate indicating the person has met
22 the requirements of subsection (b). The department shall also
23 provide for the biennial recertification of child caretakers.

24 (k) Existing or transferred employees.--A person employed in
25 child-care services on January 1, 1986, shall not be required to
26 obtain the information required in subsection (b)(1) and (2) as
27 a condition of continued employment. A person who has once
28 obtained the information required under subsection (b)(1) and
29 (2) may transfer to another child-care service established and
30 supervised by the same organization and shall not be required to

1 obtain additional reports before making the transfer.

2 (1) Temporary employees [under special programs].--The
3 requirements of this section [do not apply to employees of
4 child-care services who meet all the following requirements:

5 (1) They are under 21 years of age.

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

7 (3) They are a part of a job development or job training
8 program funded, in whole or in part, by public or private
9 sources.

10 Once employment of a person who meets these conditions extends
11 beyond 90 days, all requirements of this section shall take
12 effect] shall apply to all temporary employees of child-care
13 services.

14 (m) Provisional employees for limited periods.--

15 Notwithstanding subsection (b), administrators may employ
16 applicants on a provisional basis for a single period not to
17 exceed 30 days or, for out-of-State applicants, a period of 90
18 days, if all of the following conditions are met:

19 (1) The applicant has applied for the information
20 required under subsection (b) and the applicant provides a
21 copy of the appropriate completed request forms to the
22 administrator.

23 (2) The administrator has no knowledge of information
24 pertaining to the applicant which would disqualify him from
25 employment pursuant to subsection (c).

26 (3) The applicant swears or affirms in writing that he
27 is not disqualified from employment pursuant to subsection
28 (c).

29 (4) If the information obtained pursuant to subsection
30 (b) reveals that the applicant is disqualified from

1 employment pursuant to subsection (c), the applicant shall be
2 immediately dismissed by the administrator.

3 (5) The administrator requires that the applicant not be
4 permitted to work alone with children and that the applicant
5 work in the immediate vicinity of a permanent employee.

6 (n) Criminal and child abuse history.--

7 (1) An individual who directly provides child-care
8 services which are subsidized by Federal or State funds but
9 who is not otherwise subject to Article IX or X of the act of
10 June 13, 1967 (P.L.31, No.21), known as the Public Welfare
11 Code, and every individual 18 years of age or older who
12 resides in the home of such an individual for at least 30
13 days in a calendar year when the child care is provided in
14 such individual's home shall submit to the department
15 criminal and child abuse history information under subsection
16 (b). The department shall refuse to authorize the use of
17 Federal or State funds for child care if the department
18 verifies that any of the following apply to an individual
19 providing the child care or any individual 18 years of age or
20 older who resides in the home of such an individual for at
21 least 30 days in a calendar year when the child care is
22 provided in such individual's home:

23 (i) The individual is named in the Statewide central
24 register of child abuse as the perpetrator of a founded
25 report, a founded report for school employee, an
26 indicated report or an indicated report for school
27 employee.

28 (ii) The individual has been convicted of an offense
29 under subsection (c).

30 (2) The department may authorize the use of Federal or

1 State funds for child care under this subsection on a
2 provisional basis for a single period not to exceed 30 days
3 if all of the following conditions are met:

4 (i) The individual who is subject to the
5 requirements of this subsection has applied for the
6 information required under this subsection and provides a
7 copy of the appropriate request forms to the department
8 or its designated agent.

9 (ii) The individual who is subject to the
10 requirements of this subsection swears or affirms in
11 writing that the individual:

12 (A) is not named in the Statewide central
13 register of child abuse as the perpetrator of a
14 founded report, a founded report for school employee,
15 an indicated report or an indicated report for school
16 employee; and

17 (B) has not been convicted of an offense under
18 subsection (c).

19 (o) Denial, refusal to renew and revocation of
20 registration.--The department shall refuse to issue or renew a
21 certificate of registration and shall revoke a certificate of
22 registration if the child-care services provider, an employee of
23 the provider or a nonemployee person 18 years of age or older
24 who resides in a family day-care home affected by this section
25 for at least 30 days in a calendar year:

26 (1) Is named in the central register as the perpetrator
27 of a founded report of child abuse.

28 (2) Is named as the perpetrator of a founded report for
29 school employee.

30 (3) Has been convicted of an offense set forth in

1 subsection (c).

2 (p) Penalties.--Notwithstanding any sanctions promulgated by
3 the department, any administrator of child-care services who
4 hires or continues to employ an individual known to be
5 ineligible as an employee under this section, may be prosecuted
6 under 18 Pa.C.S. § 4304 (relating to endangering welfare of
7 children).

8 Section 2. This act shall take effect in 60 days.