

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2308 Session of
2004

INTRODUCED BY O'NEILL, BASTIAN, BENNINGHOFF, CAWLEY, CRAHALLA,
CREIGHTON, DAILEY, EGOLF, GOOD, GRUCELA, KELLER, KOTIK, LEH,
McCALL, R. MILLER, PETRI, REICHLEY, RUBLEY, SCAVELLO,
SOLOBAY, R. STEVENSON, TIGUE, VANCE, WATSON, WEBER, YUDICHAK,
GINGRICH, MELIO, GOODMAN, HORSEY, E. Z. TAYLOR, HARHART,
TANGRETTI, YOUNGBLOOD, HARPER, THOMAS, PALLONE AND
WASHINGTON, JANUARY 28, 2004

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
NOVEMBER 9, 2004

AN ACT

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

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

6 Section 1. Section 6303(a) of Title 23 of the Pennsylvania
7 Consolidated Statutes is amended by adding a definition <—

8 DEFINITIONS to read: <—

9 § 6303. Definitions.

10 (a) General rule.--The following words and phrases when used
11 in this chapter shall have the meanings given to them in this
12 section unless the context clearly indicates otherwise:

13 * * *

14 "PRIVATE AGENCY." A CHILDREN AND YOUTH SOCIAL SERVICE AGENCY <—
15 SUBJECT TO THE REQUIREMENTS OF 55 PA. CODE CH. 3680 (RELATING TO

1 ADMINISTRATION AND OPERATION OF A CHILDREN AND YOUTH SOCIAL
2 SERVICE AGENCY).

3 * * *

4 "Resource family." A family which provides temporary foster
5 or kinship care for children who need out-of-home placement and
6 may eventually provide permanency for those children, INCLUDING <—
7 AN ADOPTIVE FAMILY.

8 * * *

9 Section 2. Section 6344(d) and (g) of Title 23 are amended
10 and the section is amended by adding subsections to read:

11 § 6344. Information relating to prospective child-care
12 personnel.

13 * * *

14 (d) Prospective adoptive or foster parents.--With regard to
15 prospective adoptive or prospective foster parents, the
16 following shall apply:

17 (1) In the course of causing an investigation to be made
18 pursuant to section 2535(a) (relating to investigation), an
19 agency or person designated by the court to conduct the
20 investigation shall require prospective adoptive parents AND <—
21 ANY INDIVIDUAL OVER THE AGE OF 18 YEARS RESIDING IN THE HOME
22 to submit the information set forth in subsection (b)(1) and
23 (2) for review in accordance with this section.

24 (2) In the course of approving a prospective foster
25 parent, a foster family care agency shall require prospective
26 foster parents AND ANY INDIVIDUAL OVER THE AGE OF 18 YEARS <—
27 RESIDING IN THE HOME to submit the information set forth in
28 subsection (b)(1) and (2) for review by the foster family
29 care agency in accordance with this section. In addition, the
30 foster family care agency shall consider the following when

1 assessing the ability of applicants for approval as foster
2 parents:

3 (i) The ability to provide care, nurturing and
4 supervision to children.

5 (ii) ~~A demonstrated stable mental~~ MENTAL and <—
6 emotional ~~adjustment~~ WELL-BEING. If there is a question <—
7 regarding the mental or emotional stability of a family
8 member which might have a negative effect on a foster
9 child, the foster family care agency shall require a
10 psychological evaluation of that person before approving
11 the foster family home.

12 (iii) Supportive community ties with family, friends
13 and neighbors.

14 (iv) Existing family relationships, attitudes and
15 expectations regarding the applicant's own children and
16 parent/child relationships, especially as they might
17 affect a foster child.

18 (v) Ability of the applicant to accept a foster
19 child's relationship with his own parents.

20 (vi) The applicant's ability to care for children
21 with special needs. ~~such as physical handicaps and~~ <—
22 ~~emotional disturbances.~~

23 (vii) Number and characteristics of foster children
24 best suited to the foster family.

25 (viii) Ability of the applicant to work in
26 partnership with a foster family care agency. THIS <—
27 SUBPARAGRAPH SHALL NOT BE CONSTRUED TO PRECLUDE AN
28 APPLICANT FROM ADVOCATING ON THE PART OF A CHILD.

29 (3) FOSTER PARENTS AND ANY INDIVIDUAL OVER 18 YEARS OF
30 AGE RESIDING IN THE HOME SHALL BE REQUIRED TO SUBMIT THE

1 INFORMATION SET FORTH IN SUBSECTION (B)(1) AND (2) EVERY 24
2 MONTHS FOLLOWING APPROVAL FOR REVIEW BY THE FOSTER FAMILY
3 CARE AGENCY IN ACCORDANCE WITH SUBSECTION (C).

4 (4) FOSTER PARENTS SHALL BE REQUIRED TO REPORT, WITHIN
5 48 HOURS, ANY CHANGE IN INFORMATION REQUIRED PURSUANT TO
6 SUBSECTION (B)(1) AND (2) ABOUT THEMSELVES AND ANY
7 INDIVIDUALS OVER THE AGE OF 18 YEARS RESIDING IN THE HOME FOR
8 REVIEW BY THE FOSTER FAMILY CARE AGENCY IN ACCORDANCE WITH
9 SUBSECTION (C).

10 (5) FOSTER PARENTS SHALL BE REQUIRED TO REPORT ANY OTHER
11 CHANGE IN THE FOSTER FAMILY HOUSEHOLD COMPOSITION WITHIN 30
12 DAYS OF THE CHANGE FOR REVIEW BY THE FOSTER FAMILY CARE
13 AGENCY.

14 (6) IN CASES WHERE FOSTER PARENTS KNOWINGLY FAIL TO
15 SUBMIT THE MATERIAL INFORMATION REQUIRED IN SUBSECTION
16 (D)(3), (4) AND (5), SUCH THAT IT WOULD DISQUALIFY THEM AS
17 FOSTER PARENTS, THE CHILD SHALL IMMEDIATELY BE REMOVED FROM
18 THE HOME WITHOUT A HEARING.

19 (7) AN APPROVED FOSTER PARENT SHALL BE CONSIDERED AN
20 AGENT OF THE COUNTY AGENCY AND SHALL NOT BE CONSIDERED AN
21 EMPLOYEE FOR ANY PURPOSE, INCLUDING, BUT NOT LIMITED TO,
22 LIABILITY, UNEMPLOYMENT COMPENSATION, WORKERS' COMPENSATION
23 OR OTHER EMPLOYEE BENEFITS PROVIDED BY THE COUNTY AGENCY. IN
24 NO EVENT SHALL A COUNTY OR COUNTY AGENCY BE HELD LIABLE FOR
25 TORTS COMMITTED BY FOSTER PARENTS.

26 (d.1) Establishment of a resource family registry.--

27 (1) The department shall establish a registry of
28 resource family applicants.

29 (2) The foster family care agency or adoption agency
30 shall register all resource family applicants on the resource

1 family registry in accordance with subsection (d.2).

2 (3) The foster family care agency or adoption agency
3 shall register all resource families that are approved on the
4 effective date of this subsection within six months of the
5 effective date of this subsection.

6 (4) Any resource family that is voluntarily registered
7 on the foster parent registry shall be maintained on the
8 resource family registry mandated under this section.

9 (d.2) Information in the resource family registry.--

10 (1) The resource family registry shall include, but not
11 be limited to, the following:

12 (i) The name, Social Security number, date of birth,
13 sex, marital status, race and ethnicity of the
14 applicants.

15 (ii) The date or dates of the resource family
16 application.

17 (iii) The current and previous home addresses of the
18 applicants.

19 (iv) The county of residence of the applicants.

20 (v) The name, date of birth, Social Security number
21 and relationship of all household members.

22 (vi) The name, address and telephone number of all
23 current and previous foster family care agency or
24 adoption agency affiliations.

25 (vii) The foster family care agency or adoption
26 agency disposition related to the approval or disapproval
27 of the applicants and the date and basis for the
28 disposition.

29 (viii) The type of care the resource family will
30 provide.

1 (ix) The number of children that may be placed in
2 the resource family home.

3 (x) The age, race, gender and level of special need
4 of children that may be placed in the resource family
5 home.

6 (xi) The ability of the resource family to provide
7 care for sibling groups.

8 (xii) The date and reason for ANY closure of the <—
9 resource family home.

10 (xiii) The appeal activity initiated by a resource
11 family applicant or an approved resource family and the
12 basis for the appeal. THIS SUBPARAGRAPH SHALL NOT BE <—
13 CONSTRUED TO LIMIT LEGITIMATE APPEALS.

14 (xiv) The status and disposition of all appeal-
15 related activities. THIS SUBPARAGRAPH SHALL NOT BE <—
16 CONSTRUED TO LIMIT LEGITIMATE APPEALS.

17 (2) The information maintained in the resource family
18 registry may be released to the following individuals when
19 the department has positively identified the individual
20 requesting the information and the department, EXCEPT IN THE <—
21 CASE OF SUBPARAGRAPHS (III) AND (IV), has inquired into
22 whether and if it is satisfied that the individual has a
23 legitimate need within the scope of the individual's official
24 duties to obtain the information:

25 (i) An authorized official of a county or private
26 agency, a Federal agency or an agency of another state
27 who performs resource family approvals or the department
28 in the course of the official's duties.

29 (ii) A guardian ad litem or court-designated
30 advocate for a child. The information is limited to the

1 information related to the resource family with whom the
2 child resides.

3 (iii) A court of competent jurisdiction, including a
4 district justice, a judge of the Municipal Court of
5 Philadelphia or a judge of the Pittsburgh Magistrates
6 Court, pursuant to court order or subpoena in a criminal
7 matter involving a charge of child abuse under Chapter 63
8 (relating to child protective services).

9 (iv) A court of ~~common pleas~~ COMPETENT JURISDICTION <—
10 in connection with any matter involving custody of a
11 child. The department shall provide to the court any
12 files that the court considers relevant.

13 (v) The Attorney General.

14 (vi) Federal auditors, if required for Federal
15 financial participation in funding of agencies, except
16 that Federal auditors may not remove identifiable
17 information or copies thereof from the department or
18 county or private agencies.

19 (vii) Law enforcement agents of any jurisdiction, as
20 long as the information is relevant in the course of
21 investigating crimes involving the resource family.

22 (viii) Appropriate officials of a private agency or
23 another county or state regarding a resource family that
24 has applied to become a resource family for that agency,
25 county or state.

26 (3) At any time and upon written request, a resource
27 family may receive a copy of all information PERTAINING TO <—
28 THAT RESOURCE FAMILY contained in the resource family
29 registry.

30 ~~(d.3) Annual reports to Governor and General Assembly. The~~ <—

1 ~~secretary shall prepare and transmit to the Governor, a~~
2 ~~committee of the Senate designated by the President pro tempore~~
3 ~~of the Senate and a committee of the House of Representatives~~
4 ~~designated by the Speaker of the House of Representatives an~~
5 ~~annual report concerning the functions of the resource family~~
6 ~~registry, resource family applicants and approved resource~~
7 ~~families listed with the registry.~~

8 * * *

9 [(g) Regulations.--The department shall promulgate the <—
10 regulations necessary to carry out this section. These
11 regulations shall:] <—

12 (G) CRITERIA.--THE DEPARTMENT SHALL REQUIRE INFORMATION FOR <—
13 APPLICATION FOR FOSTER AND ADOPTIVE PARENT APPLICATIONS.

14 (1) [Set forth criteria for unsuitability for employment <—
15 in a child-care service in relation to criminal history
16 record information which may include criminal history record
17 information in addition to that set forth above. The criteria
18 shall be reasonably related to the prevention of child
19 abuse.] <—

20 ~~(1.1) Set forth criteria for suitability as prospective <—~~
21 ~~fooster or adoptive parents. The criteria shall include, but~~
22 ~~not be limited to, information provided by the applicant or~~
23 ~~other sources in the following areas:~~

24 (i) Previous addresses within the last ten years.

25 (ii) Criminal HISTORY background clearance generated <—
26 by the process outlined in this section.

27 (iii) Child abuse clearance generated by the process
28 outlined in this section.

29 (iv) Composition of the resident family unit.

30 (v) Protection from abuse orders filed by or against

1 either parent, PROVIDED THAT SUCH ORDERS ARE ACCESSIBLE <—
2 TO THE COUNTY OR PRIVATE AGENCY.

3 (vi) Details of any proceedings brought in family
4 court, PROVIDED THAT SUCH RECORDS IN SUCH PROCEEDINGS ARE <—
5 ACCESSIBLE TO THE COUNTY OR PRIVATE AGENCY.

6 (vii) Drug-related or alcohol-related arrests, if
7 criminal charges or JUDICIAL proceedings are pending and <—
8 any convictions or hospitalizations within the last ten <—
9 FIVE years. IF THE APPLICANT PROVIDES INFORMATION <—
10 REGARDING CONVICTIONS OR HOSPITALIZATIONS IN THAT FIVE-
11 YEAR PERIOD, THEN INFORMATION ON THE PRIOR FIVE YEARS
12 SHALL BE REQUESTED RELATED TO ANY ADDITIONAL CONVICTIONS
13 OR HOSPITALIZATIONS.

14 (viii) Evidence of financial stability, including
15 income verification, employment history, current liens
16 and bankruptcy findings within the last ten years.

17 (ix) Number of and ages of foster children and other
18 dependents currently placed in the home.

19 (x) Detailed information regarding children with
20 special needs currently living in the home.

21 (xi) Previous history as a foster parent, including
22 number and types of children served.

23 (xii) Related education, training or personal
24 experience working with foster children or the child
25 welfare system.

26 (2) **[Set]** THE DEPARTMENT SHALL SET forth sanctions for <—
27 administrators who willfully hire applicants in violation of
28 this section or in violation of the regulations promulgated
29 under this section.

30 [(3) Provide for the confidentiality of information

obtained pursuant to subsection (b).]

* * *

(n) Confidentiality.--The information provided and compiled under this section, including, but not limited to, the names, addresses and telephone numbers of applicants and foster and adoptive parents, shall be confidential and shall not be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law. This information shall not be released except as permitted by the department through regulation.

Section 3. This act shall take effect in 60 days.