

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1147 Session of 2007

INTRODUCED BY WASHINGTON, FONTANA, HUGHES, MELLOW, C. WILLIAMS, KITCHEN, MUSTO AND WOZNIAK, NOVEMBER 5, 2007

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, NOVEMBER 20, 2007

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 6344(b), (d)(1), (2), (3), (4) and (5),
7 (e), (f) and (k) of Title 23 of the Pennsylvania Consolidated
8 Statutes are amended AND THE SECTION IS AMENDED BY ADDING A <—
9 SUBSECTION to read:

10 § 6344. Information relating to prospective child-care
11 personnel.

12 * * *

13 (b) Information submitted by prospective employees.--
14 Administrators of child-care services shall require applicants
15 to submit with their applications the following information
16 obtained within the preceding one-year period:

17 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
18 history record information), a report of criminal history

1 record information from the Pennsylvania State Police or a
2 statement from the Pennsylvania State Police that the State
3 Police central repository contains no such information
4 relating to that person. The criminal history record
5 information shall be limited to that which is disseminated
6 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general
7 regulations).

8 (2) A certification from the department as to whether
9 the applicant is named in the central register as the
10 perpetrator of a founded report of child abuse, indicated
11 report of child abuse, founded report for school employee or
12 indicated report for school employee.

13 (3) [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] A report of
16 Federal criminal history record information. The applicant
17 shall submit a full set of fingerprints [to] in a manner
18 prescribed by the department. The [department] Commonwealth
19 shall submit the fingerprints to the Federal Bureau of
20 Investigation in order to obtain a report of Federal criminal
21 history record information and serve as intermediary for the
22 purposes of this section.

23 For the purposes of this subsection, an applicant may submit a
24 copy of the [required] information required under paragraphs (1)
25 and (2) with an application for employment. Administrators shall
26 maintain a copy of the required information and shall require
27 applicants to produce the original document prior to employment.

28 (B.1) INFORMATION SUBMITTED BY CERTAIN PROSPECTIVE
29 EMPLOYEES.--

30 (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER,

1 THIS SUBSECTION SHALL APPLY TO PERSONS WHO APPLY FOR
2 EMPLOYMENT UNDER SUBSECTION (C) ON OR AFTER THE EFFECTIVE
3 DATE OF THIS SUBSECTION AND BEFORE JULY 1, 2008. THE
4 PROVISIONS OF SUBSECTION (B) SHALL NOT APPLY TO PERSONS WHO
5 APPLY FOR EMPLOYMENT UNDER SUBSECTION (C) ON OR AFTER THE
6 EFFECTIVE DATE OF THIS SUBSECTION AND BEFORE JULY 1, 2008.

7 (2) ADMINISTRATORS OF CHILD-CARE SERVICES SHALL REQUIRE
8 APPLICANTS TO SUBMIT WITH THEIR APPLICATIONS THE FOLLOWING
9 INFORMATION OBTAINED WITHIN THE PRECEDING ONE-YEAR PERIOD:

10 (I) PURSUANT TO 18 PA.C.S. CH. 91, A REPORT OF
11 CRIMINAL HISTORY RECORD INFORMATION FROM THE PENNSYLVANIA
12 STATE POLICE OR A STATEMENT FROM THE PENNSYLVANIA STATE
13 POLICE THAT THE STATE POLICE CENTRAL REPOSITORY CONTAINS
14 NO SUCH INFORMATION RELATING TO THAT PERSON. THE CRIMINAL
15 HISTORY RECORD INFORMATION SHALL BE LIMITED TO THAT WHICH
16 IS DISSEMINATED PURSUANT TO 18 PA.C.S. § 9121(B)(2).

17 (II) A CERTIFICATION FROM THE DEPARTMENT AS TO
18 WHETHER THE APPLICANT IS NAMED IN THE CENTRAL REGISTER AS
19 THE PERPETRATOR OF A FOUNDED REPORT OF CHILD ABUSE,
20 INDICATED REPORT OF CHILD ABUSE, FOUNDED REPORT FOR
21 SCHOOL EMPLOYEE OR INDICATED REPORT FOR SCHOOL EMPLOYEE.

22 (III) WHERE THE APPLICANT IS NOT A RESIDENT OF THIS
23 COMMONWEALTH, ADMINISTRATORS SHALL REQUIRE THE APPLICANT
24 TO SUBMIT WITH THE APPLICATION FOR EMPLOYMENT A REPORT OF
25 FEDERAL CRIMINAL HISTORY RECORD INFORMATION. THE
26 APPLICANT SHALL SUBMIT A FULL SET OF FINGERPRINTS TO THE
27 DEPARTMENT. THE DEPARTMENT SHALL SUBMIT THE FINGERPRINTS
28 TO THE FEDERAL BUREAU OF INVESTIGATION IN ORDER TO OBTAIN
29 A REPORT OF FEDERAL CRIMINAL HISTORY RECORD INFORMATION
30 AND SERVE AS INTERMEDIARY FOR THE PURPOSES OF THIS

1 SECTION.

2 (3) FOR THE PURPOSES OF THIS SUBSECTION, AN APPLICANT
3 MAY SUBMIT A COPY OF THE REQUIRED INFORMATION WITH AN
4 APPLICATION FOR EMPLOYMENT. ADMINISTRATORS SHALL MAINTAIN A
5 COPY OF THE REQUIRED INFORMATION AND SHALL REQUIRE APPLICANTS
6 TO PRODUCE THE ORIGINAL DOCUMENT PRIOR TO EMPLOYMENT.

7 (4) THIS SUBSECTION SHALL EXPIRE JULY 1, 2008.

8 * * *

9 (d) Prospective adoptive or foster parents.--With regard to
10 prospective adoptive or prospective foster parents, the
11 following shall apply:

12 (1) In the course of causing an investigation to be made
13 pursuant to section 2535(a) (relating to investigation), an
14 agency or person designated by the court to conduct the
15 investigation shall require prospective adoptive parents and
16 any individual over the age of 18 years residing in the home
17 to submit the information set forth in subsection [(b)(1) and
18 (2)] (b) for review in accordance with this section. If a
19 prospective adoptive parent or any individual over 18 years
20 of age residing in the home has resided outside this
21 Commonwealth at any time within the previous five-year
22 period, the agency or person designated by the court shall
23 require that person to submit a certification obtained within
24 the previous one-year period from the Statewide central
25 registry or its equivalent in each state in which the person
26 has resided within the previous five-year period as to
27 whether the person is named as a perpetrator of child abuse.
28 If the certification shows that the person is named as a
29 perpetrator of child abuse within the previous five-year
30 period, the agency or person designated by the court shall

1 forward the certification to the department for review. The
2 agency or person designated by the court shall not approve
3 the prospective adoptive parent if the department determines
4 that the person is named as the equivalent of a perpetrator
5 of a founded report of child abuse within the previous five-
6 year period.

7 (2) In the course of approving a prospective foster
8 parent, a foster family care agency shall require prospective
9 foster parents and any individual over the age of 18 years
10 residing in the home to submit the information set forth in
11 subsection [(b)(1) and (2)] (b) for review by the foster
12 family care agency in accordance with this section. If a
13 prospective foster parent or any individual over 18 years of
14 age residing in the home has resided outside this
15 Commonwealth at any time within the previous five-year
16 period, the foster family care agency shall require that
17 person to submit a certification obtained within the previous
18 one-year period from the Statewide central registry or its
19 equivalent in each state in which the person has resided
20 within the previous five-year period as to whether the person
21 is named as a perpetrator of child abuse. If the
22 certification shows that the person is named as a perpetrator
23 of child abuse within the previous five-year period, the
24 foster family care agency shall forward the certification to
25 the department for review. The foster family care agency
26 shall not approve the prospective foster parent if the
27 department determines that the person is named as the
28 equivalent of a perpetrator of a founded report of child
29 abuse within the previous five-year period. 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) Mental and emotional well-being. If there is a
6 question regarding the mental or emotional stability of a
7 family member which might have a negative effect on a
8 foster child, the foster family care agency shall require
9 a psychological evaluation of that person before
10 approving the foster family home.

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

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

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

19 (vi) The applicant's ability to care for children
20 with special needs.

21 (vii) Number and characteristics of foster children
22 best suited to the foster family.

23 (viii) Ability of the applicant to work in
24 partnership with a foster family care agency. This
25 subparagraph shall not be construed to preclude an
26 applicant from advocating on the part of a child.

27 (3) Foster parents and any individual over 18 years of
28 age residing in the home shall be required to submit the
29 information set forth in subsection [(b)(1) and (2)] (b)
30 every 24 months following approval for review by the foster

1 family care agency in accordance with subsection (c).

2 (4) Foster parents shall be required to report, within
3 48 hours, any change in information required pursuant to
4 subsection [(b)(1) and (2)] (b) about themselves and any
5 individuals over the age of 18 years residing in the home for
6 review by the foster family care agency in accordance with
7 subsection (c).

8 (5) Foster parents shall be required to report any other
9 change in the foster family household composition within 30
10 days of the change for review by the foster family care
11 agency. If any individual over 18 years of age, who has
12 resided outside this Commonwealth at any time within the
13 previous five-year period, begins residing in the home of an
14 approved foster family, that individual shall, within 30 days
15 of beginning residence, submit to the foster family care
16 agency, a certification obtained within the previous one-year
17 period from the Statewide central registry or its equivalent
18 in each state in which the person has resided within the
19 previous five-year period as to whether the person is named
20 as a perpetrator of child abuse. If the certification shows
21 that the person is named as a perpetrator of child abuse
22 within the previous five-year period, the foster family care
23 agency shall forward the certification to the department for
24 review. If the department determines that the person is named
25 as the equivalent of a perpetrator of a founded report of
26 child abuse within the previous five-year period, and the
27 person does not cease residing in the home immediately, the
28 foster child or children shall immediately be removed from
29 the home without a hearing.

30 * * *

1 (e) Self-employed family day-care providers.--Self-employed
2 family day-care providers who apply for a certificate of
3 registration with the department shall submit with their
4 registration application [a report of criminal history record
5 information and shall also obtain certification from the
6 department as to whether the applicant is named in the central
7 register as the perpetrator of a founded report of child abuse.]
8 the information set forth under subsection (b) for review in
9 accordance with this section.

10 (f) Submissions by operators of child-care services.--The
11 department shall require persons seeking to operate child-care
12 services to submit the information set forth in subsection
13 [(b)(1) and (2)] (b) for review in accordance with this section.

14 * * *

15 (k) Existing or transferred employees.--A person employed in
16 child-care services on [January 1, 1986] July 1, 2008, shall not
17 be required to obtain the information required in subsection
18 [(b)(1) and (2)] (b) as a condition of continued employment. A
19 person who has once obtained the information required under
20 subsection [(b)(1) and (2)] (b) may transfer to another child-
21 care service established and supervised by the same organization
22 and shall not be required to obtain additional reports before
23 making the transfer.

24 * * *

25 Section 2. This act shall take effect as follows:

26 (1) This section shall take effect immediately.

27 (2) THE ADDITION OF 23 PA.C.S. § 6344(B.1) SHALL TAKE <—
28 EFFECT IMMEDIATELY.

29 ~~(2)~~ (3) The amendment of 23 Pa.C.S. § 6344(b) and <—
30 (d)(1), (2), (3), (4) and (5) shall take effect January 1,

1 2008.

2 ~~(3)~~ (4) The amendment of 23 Pa.C.S. § 6344 (e), (f) and ←
3 (k) shall take effect July 1, 2008.