
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 435 Session of
2013

INTRODUCED BY MOUL, WATSON, AUMENT, GINGRICH, MALONEY, STEPHENS,
YOUNGBLOOD, SCHLOSSBERG, HICKERNELL, ROCK, KORTZ, SACONE,
MAJOR, CUTLER, KAUFFMAN, O'NEILL, BAKER, SWANGER, COHEN,
MILLER, FLECK, C. HARRIS, CLYMER, MILNE, BENNINGHOFF AND
MURT, FEBRUARY 11, 2013

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, FEBRUARY 11, 2013

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions, for information relating to
4 prospective child-care personnel, for information relating to
5 family day-care home residents and for information relating
6 to other persons having contact with children; and providing
7 for grounds for denying employment or participation in
8 program, activity or service and for certification
9 compliance.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definition of "child care service" in section
13 6303(a) of Title 23 of the Pennsylvania Consolidated Statutes is
14 amended to read:

15 § 6303. Definitions.

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

19 * * *

20 "Child-care services." [Child day-care centers, group and

1 family day-care homes, foster homes, adoptive parents, boarding
2 homes for children, juvenile detention center services or
3 programs for delinquent or dependent children; mental health,
4 mental retardation, early intervention and drug and alcohol
5 services for children; and other child-care services which are
6 provided by or subject to approval, licensure, registration or
7 certification by the Department of Public Welfare or a county
8 social services agency or which are provided pursuant to a
9 contract with these departments or a county social services
10 agency. The term does not include such services or programs
11 which may be offered by public and private schools, intermediate
12 units or area vocational-technical schools.] Includes any of the
13 following:

- 14 (1) Child day-care centers.
- 15 (2) Group day-care homes.
- 16 (3) Family day-care homes.
- 17 (4) Foster homes.
- 18 (5) Adoptive parents.
- 19 (6) Boarding homes for children.
- 20 (7) Juvenile detention center services or programs for
21 delinquent or dependent children.
- 22 (8) Mental health services for children.
- 23 (9) Services for children with intellectual
24 disabilities.
- 25 (10) Early intervention services for children.
- 26 (11) Drug and alcohol services for children.
- 27 (12) Day-care services or programs that are offered by a
28 school.
- 29 (13) Other comparable services that are provided by or
30 subject to approval, licensure, registration or certification

1 by the department or a county social services agency or that
2 are provided pursuant to a contract with the Department of
3 Public Welfare or a county social services agency.

4 * * *

5 Section 2. Section 6344(a), (b), (c), (d)(3), (4) and (6),
6 (i), (k), (l), (m), (n), (o) and (p) of Title 23 are amended and
7 subsection (d) is amended by adding a paragraph 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 also applies to individuals 14 years of
16 age or older who reside in the home of a prospective foster
17 parent for at least 30 days in a calendar year or who reside in
18 the home of a prospective adoptive parent for at least 30 days
19 in a calendar year. This section does not apply to
20 administrative or other support personnel unless their duties
21 will involve direct contact with children.] This section applies
22 to any of the following individuals:

23 (1) A prospective employee of child-care services.

24 (2) A prospective foster parent.

25 (3) A prospective adoptive parent.

26 (4) A prospective self-employed family day-care
27 provider.

28 (5) Any person seeking to provide child-care services
29 under contract with a child-care facility or program.

30 (6) An individual 18 years of age or older who resides

1 in the home of a prospective foster parent for at least 30
2 days in a calendar year or who resides in the home of a
3 prospective adoptive parent for at least 30 days in a
4 calendar year.

5 (b) [Information submitted by prospective employees.--
6 Administrators of child-care services shall require applicants
7 to submit with their applications the following information
8 obtained within the preceding one-year period:] Information to
9 be submitted.--An individual identified in subsection (a)(6) at
10 the time the individual meets the description set forth in
11 subsection (a)(6) and an individual applying to serve in any
12 capacity identified in subsection (a)(1), (2), (3), (4) or (5)
13 at the time of application shall be required to submit the
14 following information obtained within the preceding one-year
15 period:

16 (1) Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal
17 history record information), a report of criminal history
18 record information from the Pennsylvania State Police or a
19 statement from the Pennsylvania State Police that the State
20 Police central repository contains no such information
21 relating to that person. The criminal history record
22 information shall be limited to that which is disseminated
23 pursuant to 18 Pa.C.S. § 9121(b)(2) (relating to general
24 regulations).

25 (2) A certification from the department as to whether
26 the applicant is named in the central register as the
27 perpetrator of a founded report of child abuse, indicated
28 report of child abuse, founded report for school employee or
29 indicated report for school employee.

30 (3) A report of Federal criminal history record

1 information. The applicant shall submit a full set of
2 fingerprints in a manner prescribed by the department. The
3 Commonwealth shall submit the fingerprints to the Federal
4 Bureau of Investigation in order to obtain a report of
5 Federal criminal history record information and serve as
6 intermediary for the purposes of this section.

7 For the purposes of this subsection, [an applicant may submit a
8 copy of the information required under paragraphs (1) and (2)
9 with an application for employment. Administrators shall
10 maintain a copy of the required information and shall require
11 applicants to produce the original document prior to
12 employment.] an individual may submit a copy of the information
13 required under paragraphs (1) and (2) when applying to serve in
14 any capacity identified in subsection (a) (1), (2), (3), (4) or
15 (5). The person responsible for determining the employment or
16 acceptance of the individual to serve in such a capacity shall
17 maintain a copy of the required information and require the
18 individual to produce the original document prior to employment
19 or acceptance to serve in such capacity.

20 * * *

21 [(c) Grounds for denying employment.--

22 (1) In no case shall an administrator hire an applicant
23 where the department has verified that the applicant is named
24 in the central register as the perpetrator of a founded
25 report of child abuse committed within the five-year period
26 immediately preceding verification pursuant to this section
27 or is named in the central register as the perpetrator of a
28 founded report for a school employee committed within the
29 five-year period immediately preceding verification pursuant
30 to this section.

1 (2) In no case shall an administrator hire an applicant
2 if the applicant's criminal history record information
3 indicates the applicant has been convicted of one or more of
4 the following offenses under Title 18 (relating to crimes and
5 offenses) or an equivalent crime under Federal law or the law
6 of another state:

7 Chapter 25 (relating to criminal homicide).

8 Section 2702 (relating to aggravated assault).

9 Section 2709.1 (relating to stalking).

10 Section 2901 (relating to kidnapping).

11 Section 2902 (relating to unlawful restraint).

12 Section 3121 (relating to rape).

13 Section 3122.1 (relating to statutory sexual assault).

14 Section 3123 (relating to involuntary deviate sexual
15 intercourse).

16 Section 3124.1 (relating to sexual assault).

17 Section 3125 (relating to aggravated indecent assault).

18 Section 3126 (relating to indecent assault).

19 Section 3127 (relating to indecent exposure).

20 Section 4302 (relating to incest).

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

22 Section 4304 (relating to endangering welfare of
23 children).

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

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

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

29 Section 6301 (relating to corruption of minors).

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

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

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

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

13 * * *

14 [(3) Foster parents and any individual over 18 years of
15 age residing in the home shall be required to submit the
16 information set forth in subsection (b) every 24 months
17 following approval for review by the foster family care
18 agency in accordance with subsection (c).]

19 (4) Foster parents shall be required to report, within
20 48 hours, any change in information required pursuant to
21 subsection (b) about themselves and any individuals over the
22 age of 18 years residing in the home for review by the foster
23 family care agency in accordance with subsection (c).]

24 (4.1) Foster parents shall be required to report an
25 arrest or conviction for violation of an offense described in
26 section 6344.3 (relating to grounds for denying employment or
27 participation in program, activity or service) pursuant to
28 section 6344.3.

29 * * *

30 (6) In cases where foster parents knowingly fail to

1 submit the material information required in [paragraphs (3),
2 (4) and (5)] paragraph (5) and section 6344.4 (relating to
3 certification compliance) such that it would disqualify them
4 as foster parents, the child shall immediately be removed
5 from the home without a hearing.

6 * * *

7 (i) Time limit for certification.--The department shall
8 comply with certification requests no later than [14] 28 days
9 from the receipt of the request[.] and develop procedures to
10 comply with expedited certification requests. The department is
11 authorized to charge a fee of no more than \$5, in addition to
12 the fee authorized in subsection (h), in order to expedite a
13 certification request. The department shall comply with
14 expedited certification requests no later than 14 days from the
15 receipt of the request.

16 * * *

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

25 (l) Temporary employees under special programs.--The
26 requirements of this section do not apply to employees of child-
27 care services who meet all the following requirements:

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

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

30 (3) They are a part of a job development or job training

1 program funded, in whole or in part, by public or private
2 sources.

3 Once employment of a person who meets these conditions extends
4 beyond 90 days, all requirements of this section shall take
5 effect.]

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

7 Notwithstanding subsection (b), [administrators] employers may
8 employ applicants on a provisional basis for a single period not
9 to exceed 30 days or, for out-of-State applicants, a period of
10 90 days, if all of the following conditions are met:

11 (1) The applicant has applied for the information
12 required under subsection (b) and the applicant provides a
13 copy of the appropriate completed request forms to the
14 [administrator] employer.

15 (2) The [administrator] employer has no knowledge of
16 information pertaining to the applicant which would
17 disqualify him from employment pursuant to [subsection (c)]
18 section 6344.3.

19 (3) The applicant swears or affirms in writing that he
20 is not disqualified from employment pursuant to [subsection
21 (c)] section 6344.3.

22 (4) If the information obtained pursuant to subsection
23 (b) reveals that the applicant is disqualified from
24 employment pursuant to [subsection (c)] section 6344.3, the
25 applicant shall be immediately dismissed by the
26 [administrator] employer.

27 (5) The [administrator] employer requires that the
28 applicant not be permitted to work alone with children and
29 that the applicant work in the immediate vicinity of a
30 permanent employee.

1 (n) Confidentiality.--The information provided and compiled
2 under this section, including, but not limited to, the names,
3 addresses and telephone numbers of applicants and foster and
4 adoptive parents, shall be confidential and shall not be subject
5 to the act of [June 21, 1957 (P.L.390, No.212), referred to]
6 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
7 This information shall not be released except as permitted by
8 the department through regulation.

9 (o) Use of information.--A foster family care agency may not
10 approve a prospective foster parent if the prospective foster
11 parent or an individual [14] 18 years of age or older who
12 resides for at least 30 days in a calendar year with the
13 prospective foster parent meets either of the following:

14 (1) Is named in the central register as the perpetrator
15 of a founded report of child abuse committed within the five-
16 year period immediately preceding verification pursuant to
17 this section or is named in the central register as the
18 perpetrator of a founded report for a school employee
19 committed within the five-year period immediately preceding
20 verification pursuant to this section.

21 (2) Has been found guilty of an offense listed in
22 [subsection (c) (2)] section 6344.3.

23 (p) Use of information.--A prospective adoptive parent may
24 not be approved if the prospective adoptive parent or an
25 individual [14] 18 years of age or older who resides for at
26 least 30 days in a calendar year with the prospective adoptive
27 parent meets either of the following:

28 (1) Is named in the central register as the perpetrator
29 of a founded report of child abuse committed within the five-
30 year period immediately preceding verification pursuant to

1 this section or is named in the central register as the
2 perpetrator of a founded report for a school employee
3 committed within the five-year period immediately preceding
4 verification pursuant to this section.

5 (2) Has been found guilty of an offense listed in
6 [subsection (c)(2)] section 6344.3.

7 Section 3. Sections 6344.1(c) and 6344.2 of Title 23 are
8 amended to read:

9 § 6344.1. Information relating to family day-care home
10 residents.

11 * * *

12 (c) Effect on registration.--The department shall refuse to
13 issue or renew a registration certificate or shall revoke a
14 registration certificate if the family day-care home provider or
15 individual 18 years of age or older who has resided in the home
16 for at least 30 days in a calendar year:

17 (1) is named in the central register on child abuse
18 established under [Chapter 63 (relating to child protective
19 services)] this chapter as the perpetrator of a founded
20 report committed within the immediately preceding five-year
21 period; or

22 (2) has been convicted of an offense enumerated in
23 section [6344(c)] 6344.3(a) (relating to grounds for denying
24 employment or participation in program, activity or service).

25 * * *

26 § 6344.2. Information relating to other persons having contact
27 with children.

28 (a) Applicability.--[This section applies to prospective
29 employees applying to engage in occupations with a significant
30 likelihood of regular contact with children, in the form of

1 care, guidance, supervision or training. Such persons include
2 social service workers, hospital personnel, mental health
3 professionals, members of the clergy, counselors, librarians and
4 doctors.] This section applies to a person applying for a paid
5 or unpaid position as a person responsible for the welfare of a
6 child.

7 (b) Investigation.--Employers, administrators or supervisors
8 or other person responsible for employment decisions or
9 selection of volunteers shall require an applicant to submit to
10 all requirements set forth in section 6344(b) (relating to
11 information relating to prospective child-care personnel). An
12 employer, administrator, supervisor or other person responsible
13 for employment decisions or selection of volunteers regarding an
14 applicable prospective employee or volunteer under this section
15 that intentionally fails to require the submissions before
16 hiring that individual commits a misdemeanor of the third
17 degree.

18 (b.1) Exception.--A person responsible for the selection of
19 volunteers shall require an applicable prospective volunteer to
20 submit only the information required by section 6344(b) (1) and
21 (2), if both of the following apply:

22 (1) The position the prospective volunteer is applying
23 for is unpaid.

24 (2) The prospective volunteer has been a resident of
25 Pennsylvania during the entirety of the previous ten-year
26 period.

27 This subsection shall not be construed to prohibit any
28 organization from requiring prospective volunteers to submit the
29 information required by section 6344(b) (3).

30 (c) Grounds for denial.--Each applicant shall be subject to

1 the requirements of section [6344(c)] 6344.3 (relating to
2 grounds for denial of employment or participation in program,
3 service or activity).

4 (d) Departmental treatment of information.--Information
5 provided and compiled under this section by the department shall
6 be confidential and shall not be subject to the act of [June 21,
7 1957 (P.L.390, No.212), referred to] February 14, 2008 (P.L.6,
8 No.3), known as the Right-to-Know Law. This information shall
9 not be released except as permitted by the department through
10 regulation. The department may charge a fee to conduct a
11 certification as required by section 6344(b)(2) in accordance
12 with the provisions of section 6344(h). The department shall
13 promulgate regulations necessary to carry out this subsection.

14 Section 4. Title 23 is amended by adding sections to read:
15 § 6344.3. Grounds for denying employment or participation in
16 program, activity or service.

17 (a) Permanent ban.--No person subject to section 6344
18 (relating to information relating to prospective child-care
19 personnel) or 6344.2 (relating to information relating to other
20 persons having contact with children) shall be employed or serve
21 as a volunteer where the information under section 6344(b)
22 indicates that the person has been identified as follows:

23 (1) Convicted of an offense under one or more of the
24 following provisions of 18 Pa.C.S. (relating to crimes and
25 offenses):

26 Chapter 25 (relating to criminal homicide).

27 Section 2702 (relating to aggravated assault).

28 Section 2709.1 (relating to stalking).

29 Section 2901 (relating to kidnapping).

30 Section 2902 (relating to unlawful restraint).

1 Section 2910 (relating to luring a child into a motor
2 vehicle or structure).

3 Section 3121 (relating to rape).

4 Section 3122.1 (relating to statutory sexual
5 assault).

6 Section 3123 (relating to involuntary deviate sexual
7 intercourse).

8 Section 3124.1 (relating to sexual assault).

9 Section 3124.2 (relating to institutional sexual
10 assault).

11 Section 3125 (relating to aggravated indecent
12 assault).

13 Section 3126 (relating to indecent assault).

14 Section 3127 (relating to indecent exposure).

15 Section 3129 (relating to sexual intercourse with
16 animal).

17 Section 4302 (relating to incest).

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

19 Section 4304 (relating to endangering welfare of
20 children).

21 Section 4305 (relating to dealing in infant
22 children).

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

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

27 Section 6301(a)(1)(ii) (relating to corruption of
28 minors).

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

30 Section 6318 (relating to unlawful contact with

1 minor).

2 Section 6319 (relating to solicitation of minors to
3 traffic drugs).

4 Section 6320 (relating to sexual exploitation of
5 children).

6 (2) Convicted of an offense similar in nature to those
7 crimes listed in paragraph (1) under the laws or former laws
8 of the United States or one of its territories or
9 possessions, another state, the District of Columbia, the
10 Commonwealth of Puerto Rico or a foreign nation, or under a
11 former law of this Commonwealth.

12 (3) Identified in the central register as the
13 perpetrator of a founded or indicated report of child abuse
14 that involved the sexual abuse or exploitation of a child, or
15 founded report for school employee or indicated report for
16 school employee that involved sexual abuse or exploitation of
17 a child.

18 (b) Temporary ten-year ban.--

19 (1) Subject to paragraph (2), no person subject to
20 section 6344 or 6344.2 shall be employed or serve as a
21 volunteer where the information under section 6344(b)
22 indicates that the person has been convicted of a felony
23 offense of the first, second or third degree for a crime
24 other than those enumerated under subsection (a), where the
25 victim is a child, or a felony offense under the act of April
26 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
27 Drug, Device and Cosmetic Act.

28 (2) The person under paragraph (1) shall be eligible for
29 prospective employment or service as a volunteer only if a
30 period of ten years has elapsed from the date of expiration

1 of the sentence for the offense.

2 (c) Temporary five-year ban.--

3 (1) Subject to paragraph (2), no person subject to
4 section 6344 or 6344.2 shall be employed or serve as a
5 volunteer where the information under section 6344(b)
6 indicates that the person has been:

7 (i) convicted of a misdemeanor of the first degree
8 for a crime, other than those enumerated under subsection
9 (a), where the victim is a child; or

10 (ii) identified in the central register as a
11 perpetrator of a founded report of child abuse other than
12 sexual abuse or exploitation or a founded report for
13 school employee other than sexual abuse or exploitation.

14 (2) The person under paragraph (1) shall be eligible for
15 prospective employment or service as a volunteer only if a
16 period of five years has elapsed from the date of:

17 (i) the expiration of the sentence for the offense
18 under paragraph (1)(i); or

19 (ii) identification under paragraph (1)(ii).

20 (d) Noninterference with decisions.--Nothing in this section
21 shall be construed to otherwise interfere with the ability of an
22 employer or program, activity or service to make employment,
23 discipline or termination decisions.

24 (e) Transfer.--Any person who has once obtained the
25 information required under this section may transfer or provide
26 services to another subsidiary or branch established and
27 supervised by the same organization and shall not be required to
28 obtain additional reports before making the transfer.

29 (f) Departmental form.--

30 (1) The department shall develop a standardized form to

1 be used by current and prospective employees and volunteers
2 for the written reporting by current and prospective
3 employees or volunteers of any arrest or conviction for an
4 offense enumerated under subsection (a)(1) or (2).

5 (2) The form shall provide a space in which a current or
6 prospective employee or volunteer who has not been convicted
7 of or arrested for any such offense will respond "no
8 conviction" and "no arrest."

9 (3) The form shall provide that failure to accurately
10 report any arrest or conviction for an offense enumerated
11 under subsection (a) shall subject the current or prospective
12 employee or volunteer to criminal prosecution under 18
13 Pa.C.S. § 4904 (relating to unsworn falsification to
14 authorities).

15 (4) The department shall publish the form on its
16 publicly accessible Internet website and in the Pennsylvania
17 Bulletin.

18 (g) Compliance by certain persons employed or serving.--

19 (1) By (the Legislative Reference Bureau shall insert
20 here, in lieu of this statement, the date that is 90 days
21 after the effective date of this subsection), all current
22 employees and volunteers shall complete the form described in
23 subsection (f), indicating whether or not they have been
24 arrested or convicted of an offense enumerated under
25 subsection (a)(1) or (2).

26 (2) If, as required in paragraph (1), an employee or
27 volunteer refuses to submit the form described in subsection
28 (f), the person responsible for employment decisions or the
29 administrator of a program, activity or service shall
30 immediately require the employee or volunteer to submit the

1 information set forth in section 6344(b).

2 (h) Effect of new arrest or conviction.--

3 (1) If an arrest or conviction for an offense enumerated
4 under subsection (a)(1) or (2) occurs after the effective
5 date of this subsection, the employee or volunteer shall
6 provide the administrator or designee with written notice
7 utilizing the form provided for in subsection (f) not later
8 than 72 hours after an arrest or conviction.

9 (2) If the person responsible for employment decisions
10 or the administrator of a program, activity or service has a
11 reasonable belief that an employee or volunteer was arrested
12 or has a conviction for an offense required to be reported
13 under paragraph (1) or subsection (g)(1) and the employee or
14 volunteer or prospective employee or volunteer has provided
15 notice as required under this section, the person responsible
16 for employment decisions or administrator of a program,
17 activity or service shall immediately require the employee or
18 volunteer to submit current information as required under
19 subsection 6344(b). The cost of the information set forth in
20 subsection 6344(b) be borne by the employing entity or
21 program, activity or service.

22 (i) Effect of noncompliance.--

23 (1) An employee or volunteer who willfully fails to
24 disclose a conviction or an arrest for an offense enumerated
25 under subsection (a)(1) or (2) shall be subject to discipline
26 up to and including termination or denial of employment or
27 volunteer position and may be subject to criminal prosecution
28 under 18 Pa.C.S. § 4904.

29 (2) An employee or volunteer who willfully fails to
30 disclose a conviction of any other offense required to be

1 reported by this section may be subject to discipline and may
2 be subject to criminal prosecution under 18 Pa.C.S. § 4904.
3 § 6344.4. Certification compliance.

4 (a) Obtaining new certifications.--A person identified in
5 section 6344(a)(1) (relating to information relating to
6 prospective child-care personnel) or 6344.2(a) (relating to
7 information relating to other persons having contact with
8 children) shall be required to obtain the certifications
9 required in subsection 6344(b) every 24 months.

10 (b) Reports of changes.--Within 48 hours, foster parents
11 shall report any change in information required pursuant to
12 section 6344(b) about themselves and any individuals over 18
13 years of age residing in their home for review by the foster
14 family care agency in accordance with section 6344.

15 Section 5. This act shall take effect in 60 days.