

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1558 Session of 2015

INTRODUCED BY MURT, DRISCOLL, McNEILL, ROZZI, SCHWEYER,  
YOUNGBLOOD AND COHEN, SEPTEMBER 29, 2015

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, SEPTEMBER 29, 2015

AN ACT

1 Amending the act of October 24, 2012 (P.L.1209, No.151),  
2 entitled, "An act regulating child labor; conferring powers  
3 and duties on the Department of Labor and Industry and the  
4 Department of Education; imposing penalties; and making a  
5 repeal," further providing for employment of minors in a  
6 performance.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 5(1) of the act of October 24, 2012  
10 (P.L.1209, No.151), known as the Child Labor Act, is amended and  
11 the section is amended by adding a subsection to read:

12 Section 5. Employment of minors in a performance.

13 \* \* \*

14 (k.1) Background checks for individuals working with minors  
15 in a performance.--The following shall apply:

16 (1) Prior to the commencement of employment or volunteer  
17 service in a performance in which a minor is employed, an  
18 individual who is 18 years of age or older shall be required  
19 to submit the following information to an employer,  
20 administrator, supervisor or other person responsible for

1 employment decisions or involved in the selection of  
2 volunteers:

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

12 (ii) A certification from the department as to  
13 whether the individual is named in the Statewide database  
14 as the alleged perpetrator in a pending child abuse  
15 investigation or as the perpetrator of a founded report  
16 or an indicated report.

17 (iii) A report of Federal criminal history record  
18 information. The individual shall submit a full set of  
19 fingerprints to the Pennsylvania State Police for the  
20 purpose of a record check, and the Pennsylvania State  
21 Police or its authorized agent shall submit the  
22 fingerprints to the Federal Bureau of Investigation for  
23 the purpose of verifying the identity of the individual  
24 and obtaining a current record of any criminal arrests  
25 and convictions.

26 (2) The employer, administrator, supervisor or other  
27 person responsible for employment decisions or involved in  
28 the selection of volunteers shall maintain a copy of the  
29 required information and require the individual to produce  
30 the original documents prior to the commencement of

1 employment or service.

2 (3) An employer, administrator, supervisor or other  
3 person responsible for employment decisions or involved in  
4 the selection of volunteers that intentionally fails to  
5 require an individual to submit the required documentation  
6 prior to the individual commencing employment or service  
7 commits a misdemeanor of the third degree.

8 (4) The following shall apply:

9 (i) In no case shall an employer, administrator,  
10 supervisor or other person responsible for employment  
11 decisions or involved in the selection of volunteers hire  
12 or select an individual where the department has verified  
13 that the individual is named in the Statewide database as  
14 the perpetrator of a founded report committed within the  
15 five-year period immediately preceding verification  
16 pursuant to this subsection.

17 (ii) In no case shall an employer, administrator,  
18 supervisor or other person responsible for employment  
19 decisions or involved in the selection of volunteers hire  
20 or select an individual if the individual's criminal  
21 history record information indicates the individual has  
22 been convicted of one or more of the following offenses  
23 under 18 Pa.C.S. (relating to crimes and offenses) or an  
24 equivalent crime under Federal law or the law of another  
25 state:

26 (A) An offense under Chapter 25 (relating to  
27 criminal homicide).

28 (B) An offense under section 2702 (relating to  
29 aggravated assault).

30 (C) An offense under section 2709.1 (relating to

1           stalking).

2           (D) An offense under section 2901 (relating to  
3           kidnapping).

4           (E) An offense under section 2902 (relating to  
5           unlawful restraint).

6           (F) An offense under section 3121 (relating to  
7           rape).

8           (G) An offense under section 3122.1 (relating to  
9           statutory sexual assault).

10          (H) An offense under section 3123 (relating to  
11          involuntary deviate sexual intercourse).

12          (I) An offense under section 3124.1 (relating to  
13          sexual assault).

14          (J) An offense under section 3125 (relating to  
15          aggravated indecent assault).

16          (K) An offense under section 3126 (relating to  
17          indecent assault).

18          (L) An offense under section 3127 (relating to  
19          indecent exposure).

20          (M) An offense under section 4302 (relating to  
21          incest).

22          (N) An offense under section 4303 (relating to  
23          concealing death of child).

24          (O) An offense under section 4304 (relating to  
25          endangering welfare of children).

26          (P) An offense under section 4305 (relating to  
27          dealing in infant children).

28          (Q) A felony offense under section 5902(b)  
29          (relating to prostitution and related offenses).

30          (R) An offense under section 5903(c) or (d)

1 (relating to obscene and other sexual materials and  
2 performances).

3 (S) An offense under section 6301 (relating to  
4 corruption of minors).

5 (T) An offense under section 6312 (relating to  
6 sexual abuse of children).

7 (U) The attempt, solicitation or conspiracy to  
8 commit any of the offenses set forth under this  
9 subparagraph.

10 (iii) In no case shall an employer, administrator,  
11 supervisor or other person responsible for employment  
12 decisions or involved in the selection of volunteers hire  
13 or select an individual if the individual's criminal  
14 history record information indicates the individual has  
15 been convicted of a felony offense under the act of April  
16 14, 1972 (P.L.233, No.64), known as The Controlled  
17 Substance, Drug, Device and Cosmetic Act, committed  
18 within the five-year period immediately preceding  
19 verification under this subsection.

20 (5) If the information obtained pursuant to paragraph  
21 (1) reveals that the individual is disqualified from  
22 employment or volunteering pursuant to paragraph (4), the  
23 individual shall be immediately dismissed.

24 (6) The department shall promulgate the regulations  
25 necessary to carry out this subsection. These regulations  
26 shall:

27 (i) Set forth criteria for unsuitability for  
28 employment or service working directly with a minor in a  
29 performance in relation to criminal history record  
30 information which may include criminal history record

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

4 (ii) Set forth sanctions for employers,  
5 administrators, supervisors or other persons responsible  
6 for employment decisions or involved in the selection of  
7 volunteers that willfully hire or select individuals in  
8 violation of this subsection or in violation of the  
9 regulations promulgated under this subsection.

10 (7) The department may charge a fee not to exceed \$8 in  
11 order to conduct the certification as required in paragraph  
12 (1)(ii).

13 (8) Payment of the fee authorized under paragraph (7)  
14 may be made by an individual or organization by check, money  
15 order, credit card or debit card.

16 (9) The department shall comply with certification  
17 requests no later than 14 days from the receipt of the  
18 request.

19 (10) Notwithstanding paragraph (1), employers,  
20 administrators, supervisors or other persons responsible for  
21 employment decisions or involved in the selection of  
22 volunteers may employ or select individuals on a provisional  
23 basis for a single period not to exceed 90 days, if all of  
24 the following conditions are met:

25 (i) The individual has applied for the information  
26 required under paragraph (1) and the individual provides  
27 a copy of the appropriate completed request forms to the  
28 employer, administrator, supervisor or other person  
29 responsible for employment decisions or involved in the  
30 selection of volunteers.

1           (ii) The employer, administrator, supervisor or  
2 other person responsible for employment decisions or  
3 involved in the selection of volunteers has no knowledge  
4 of information pertaining to the individual which would  
5 disqualify the individual from employment pursuant to  
6 paragraph (4).

7           (iii) The individual swears or affirms in writing  
8 that the individual is not disqualified from employment  
9 or volunteering pursuant to paragraph (4) or has not been  
10 convicted of an offense similar in nature to those crimes  
11 listed in paragraph (4) under the laws or former laws of  
12 the United States or one of its territories or  
13 possessions, another state, the District of Columbia, the  
14 Commonwealth of Puerto Rico or a foreign nation, or under  
15 a former law of this Commonwealth.

16           (iv) If the information obtained pursuant to  
17 paragraph (1) reveals that the individual is disqualified  
18 from employment or volunteering pursuant to paragraph  
19 (4), the individual shall be immediately dismissed by the  
20 employer, administrator, supervisor or other person  
21 responsible for employment decisions or involved in the  
22 selection of volunteers.

23           (v) The employer, administrator, supervisor or other  
24 person responsible for employment decisions or involved  
25 in the selection of volunteers requires that the  
26 individual not be permitted to work alone with children  
27 and that the individual work in the immediate vicinity of  
28 a permanent employee.

29           (11) The information provided and compiled under this  
30 subsection, including, but not limited to, the names,

1 addresses and telephone numbers of individuals, shall be  
2 confidential and shall not be subject to the act of February  
3 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. This  
4 information shall not be released except as permitted by the  
5 department through regulation.

6 (12) An employer, administrator, supervisor or other  
7 person responsible for employment decisions or involved in  
8 the selection of volunteers may not hire or select an  
9 individual if the individual is 18 years of age or older and  
10 meets either of the following:

11 (i) Is named in the Statewide database as the  
12 perpetrator of a founded report committed within the  
13 five-year period immediately preceding verification  
14 pursuant to this subsection.

15 (ii) Has been found guilty of an offense listed  
16 under paragraph (4).

17 (1) Applicability.--This section, except for subsection  
18 (k.1), does not apply to a minor who:

19 (1) is a high school graduate; or

20 (2) is exempt from compulsory school attendance

21 requirements under section 1330(1) of the Public School Code  
22 of 1949.

23 Section 2. This act shall take effect January 1, 2016, or  
24 immediately, whichever is later.