

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 629 Session of 2017

INTRODUCED BY MURT, DRISCOLL, McNEILL AND READSHAW,
FEBRUARY 24, 2017

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, FEBRUARY 24, 2017

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.--

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 under paragraph (1)
21 reveals that the individual is disqualified from employment
22 or volunteering under paragraph (4), the individual shall be
23 immediately dismissed.

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

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

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

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

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

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

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

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

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

30 (ii) The employer, administrator, supervisor or

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

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

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

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

28 (11) The information provided and compiled under this
29 subsection, including, but not limited to, the names,
30 addresses and telephone numbers of individuals, shall be

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

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

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

14 (ii) has been found guilty of an offense listed
15 under paragraph (4).

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

18 (1) is a high school graduate; or

19 (2) is exempt from compulsory school attendance

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

22 Section 2. This act shall take effect immediately.