

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 764 Session of 2021

INTRODUCED BY B. MILLER, GREINER, ZIMMERMAN, RYAN, GLEIM, DRISCOLL, KEEFER, RADER, R. MACKENZIE, STURLA, D. WILLIAMS, MENTZER, THOMAS AND KAUFFMAN, MARCH 3, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 26, 2021

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for employees having contact with children and
4 adoptive and foster parents.

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

7 Section 1. Section 6344(b.1) and (m) of Title 23 of the
8 Pennsylvania Consolidated Statutes are amended and the section
9 is amended by adding a subsection to read:

10 § 6344. Employees having contact with children; adoptive and
11 foster parents.

12 * * *

13 (b.1) Required documentation to be maintained and
14 produced.--The employer, administrator, supervisor or other
15 person responsible for employment decisions or acceptance of the
16 individual to serve in any capacity identified in subsection (a)
17 (1), (2), (3), (4), (5)(i) or (6), (a.1) or (a.2) shall maintain
18 a copy of the required information and require the individual to

1 submit the required documents prior to employment or acceptance
2 to serve in any such capacity or as required in section 6344.4,
3 except as allowed under subsection [(m)] (m.1).

4 * * *

5 [(m) Provisional employees for limited periods.--Employers,
6 administrators, supervisors or other persons responsible for
7 employment decisions may not employ applicants on a provisional
8 basis, except that the department is authorized to grant a
9 waiver of this provision upon request from a child day-care
10 center, group day-care home or family child-care home. If a
11 child day-care center, group day-care home or family child-care
12 home is granted a waiver, an applicant may be employed on a
13 provisional basis for a single period not to exceed 45 days, if
14 all of the following conditions are met:

15 (1) The applicant has applied for the information
16 required under subsection (b) and the applicant provides a
17 copy of the appropriate completed request forms to the
18 employer, administrator, supervisor or other person
19 responsible for employment decisions.

20 (2) The employer, administrator, supervisor or other
21 person responsible for employment decisions has no knowledge
22 of information pertaining to the applicant which would
23 disqualify him from employment pursuant to subsection (c).

24 (3) The applicant swears or affirms in writing that he
25 is not disqualified from employment pursuant to subsection
26 (c) or has not been convicted of an offense similar in nature
27 to those crimes listed in subsection (c) under the laws or
28 former laws of the United States or one of its territories or
29 possessions, another state, the District of Columbia, the
30 Commonwealth of Puerto Rico or a foreign nation, or under a

1 former law of this Commonwealth.

2 (3.1) A child day-care center, group day-care home or
3 family child-care home received the result of the report of
4 the criminal history record information under subsection (b)
5 (1) or (3).

6 (4) If the information obtained pursuant to subsection
7 (b) reveals that the applicant is disqualified from
8 employment pursuant to subsection (c), the applicant shall be
9 immediately dismissed by the employer, administrator,
10 supervisor or other person responsible for employment
11 decisions.

12 (5) The employer, administrator, supervisor or other
13 person responsible for employment decisions requires that the
14 applicant not be permitted to work alone with children and
15 that the applicant work in the immediate vicinity of a
16 permanent employee.]

17 (m.1) Conditions for provisional employees.--

18 (1) An employer, administrator, supervisor or other
19 person responsible for employment decisions may employ an
20 applicant on a provisional basis for a single period not to
21 exceed 45 days if the following conditions are met:

22 (i) The applicant has applied for the information
23 required under subsection (b) and provided a copy of the
24 appropriate completed request forms to the employer,
25 administrator, supervisor or other person responsible for
26 employment decisions.

27 (ii) The employer, administrator, supervisor or
28 other person responsible for employment decisions has no
29 knowledge of information that would disqualify the
30 applicant from employment under subsection (c).

1 (iii) The applicant swears or affirms in writing
2 that the applicant is not disqualified from employment
3 under subsection (c) and has not been convicted of an
4 offense similar in nature to those crimes listed in
5 subsection (c) under the laws or former laws of this
6 Commonwealth or any other jurisdiction.

7 (iv) The employer, administrator, supervisor or
8 other person responsible for employment decisions has
9 received the result of the report of the criminal history
10 record information under subsection (b)(1) or (3).

11 (2) An employee hired on a provisional basis under this
12 subsection must work in the immediate vicinity of a permanent
13 employee and may not be alone with children.

14 (3) If the information obtained in accordance with
15 subsection (b) reveals that the applicant is disqualified
16 from employment pursuant to subsection (c), the applicant
17 shall be dismissed immediately.

18 (4) This subsection does not apply to a child-care
19 institution within the meaning of 42 U.S.C. § 672 (relating
20 to foster care maintenance payments program) or facility that
21 serves children and is licensed by the Department of Human
22 Services, other than a child day-care center, group day-care
23 home or family child-care home.

24 * * *

25 Section 2. This act shall take effect ~~January 1, 2022~~ <--
26 IMMEDIATELY. <--