

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, KAUFFMAN AND HOHENSTEIN, MARCH 3, 2021

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JANUARY 24, 2022

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 SECTION 1. SECTION 6344(M) OF TITLE 23 OF THE PENNSYLVANIA <--
11 CONSOLIDATED STATUTES IS AMENDED TO READ:

12 § 6344. Employees having contact with children; adoptive and
13 foster parents.

14 \* \* \*

15 (b.1) Required documentation to be maintained and <--
16 produced. The employer, administrator, supervisor or other
17 person responsible for employment decisions or acceptance of the
18 individual to serve in any capacity identified in subsection (a)

1 ~~(1), (2), (3), (4), (5) (i) or (6), (a.1) or (a.2) shall maintain~~  
2 ~~a copy of the required information and require the individual to~~  
3 ~~submit the required documents prior to employment or acceptance~~  
4 ~~to serve in any such capacity or as required in section 6344.4,~~  
5 ~~except as allowed under subsection [(m)] (m.1).~~

6 \* \* \*

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

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

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

26 ~~(3) The applicant swears or affirms in writing that he~~  
27 ~~is not disqualified from employment pursuant to subsection~~  
28 ~~(c) or has not been convicted of an offense similar in nature~~  
29 ~~to those crimes listed in subsection (c) under the laws or~~  
30 ~~former laws of the United States or one of its territories or~~

1 ~~possessions, another state, the District of Columbia, the~~  
2 ~~Commonwealth of Puerto Rico or a foreign nation, or under a~~  
3 ~~former law of this Commonwealth.~~

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

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

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

19 ~~(m.1) Conditions for provisional employees.—~~

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

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

29 ~~(ii) The employer, administrator, supervisor or~~  
30 ~~other person responsible for employment decisions has no~~

1 ~~knowledge of information that would disqualify the~~  
2 ~~applicant from employment under subsection (c).~~

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

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

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

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

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

26 (M) PROVISIONAL EMPLOYEES FOR LIMITED PERIODS.--THE  
27 FOLLOWING SHALL APPLY TO PROVISIONAL EMPLOYEES:

28 (1) EMPLOYERS, ADMINISTRATORS, SUPERVISORS OR OTHER  
29 PERSONS RESPONSIBLE FOR EMPLOYMENT DECISIONS, EXCEPT FOR A  
30 CHILD-CARE INSTITUTION, A PROSPECTIVE ADOPTIVE PARENT OR A

<--

1 PROSPECTIVE FOSTER PARENT MAY [NOT] EMPLOY [APPLICANTS] AN  
2 APPLICANT ON A PROVISIONAL BASIS[, EXCEPT THAT THE DEPARTMENT  
3 IS AUTHORIZED TO GRANT A WAIVER OF THIS PROVISION UPON  
4 REQUEST FROM A CHILD DAY-CARE CENTER, GROUP DAY-CARE HOME OR  
5 FAMILY CHILD-CARE HOME. IF A CHILD DAY-CARE CENTER, GROUP  
6 DAY-CARE HOME OR FAMILY CHILD-CARE HOME IS GRANTED A WAIVER,  
7 AN APPLICANT MAY BE EMPLOYED ON A PROVISIONAL BASIS] FOR A  
8 SINGLE PERIOD NOT TO EXCEED 45 DAYS, IF ALL OF THE FOLLOWING  
9 CONDITIONS ARE MET:

10 [(1)] (I) THE APPLICANT HAS APPLIED FOR THE  
11 INFORMATION REQUIRED UNDER SUBSECTION (B) AND THE  
12 APPLICANT PROVIDES A COPY OF THE APPROPRIATE COMPLETED  
13 REQUEST FORMS TO THE EMPLOYER, ADMINISTRATOR, SUPERVISOR  
14 OR OTHER PERSON RESPONSIBLE FOR EMPLOYMENT DECISIONS.

15 [(2)] (II) THE EMPLOYER, ADMINISTRATOR, SUPERVISOR  
16 OR OTHER PERSON RESPONSIBLE FOR EMPLOYMENT DECISIONS HAS  
17 NO KNOWLEDGE OF INFORMATION PERTAINING TO THE APPLICANT  
18 WHICH WOULD DISQUALIFY HIM FROM EMPLOYMENT PURSUANT TO  
19 SUBSECTION (C).

20 [(3)] (III) THE APPLICANT SWEARS OR AFFIRMS IN  
21 WRITING THAT HE IS NOT DISQUALIFIED FROM EMPLOYMENT  
22 PURSUANT TO SUBSECTION (C) OR HAS NOT BEEN CONVICTED OF  
23 AN OFFENSE SIMILAR IN NATURE TO THOSE CRIMES LISTED IN  
24 SUBSECTION (C) UNDER THE LAWS OR FORMER LAWS OF THE  
25 UNITED STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS,  
26 ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH  
27 OF PUERTO RICO OR A FOREIGN NATION, OR UNDER A FORMER LAW  
28 OF THIS COMMONWEALTH.

29 [(3.1) A CHILD DAY-CARE CENTER, GROUP DAY-CARE HOME OR  
30 FAMILY CHILD-CARE HOME RECEIVED THE RESULT OF THE REPORT OF

1 THE CRIMINAL HISTORY RECORD INFORMATION UNDER SUBSECTION (B)

2 (1) OR (3).

3 (4)] (IV) IF THE INFORMATION OBTAINED PURSUANT TO  
4 SUBSECTION (B) REVEALS THAT THE APPLICANT IS DISQUALIFIED  
5 FROM EMPLOYMENT PURSUANT TO SUBSECTION (C), THE APPLICANT  
6 SHALL BE IMMEDIATELY DISMISSED BY THE EMPLOYER,  
7 ADMINISTRATOR, SUPERVISOR OR OTHER PERSON RESPONSIBLE FOR  
8 EMPLOYMENT DECISIONS.

9 [(5)] (V) THE EMPLOYER, ADMINISTRATOR, SUPERVISOR OR  
10 OTHER PERSON RESPONSIBLE FOR EMPLOYMENT DECISIONS  
11 REQUIRES THAT THE APPLICANT NOT BE PERMITTED TO WORK  
12 ALONE WITH CHILDREN AND THAT THE APPLICANT WORK IN THE  
13 IMMEDIATE VICINITY OF A PERMANENT EMPLOYEE.

14 (VI) THE APPLICANT RECEIVED THE RESULTS OF THE  
15 INFORMATION REQUIRED UNDER SUBSECTION (B) (2) AND EITHER  
16 SUBSECTION (B) (1) OR (B) (3) AND SUBMITTED THE RESULTS TO  
17 THE EMPLOYER, ADMINISTRATOR, SUPERVISOR OR OTHER PERSON  
18 RESPONSIBLE FOR EMPLOYMENT DECISIONS.

19 (2) FOR THE PURPOSES OF THIS SUBSECTION, THE TERM  
20 "CHILD-CARE INSTITUTION" SHALL MEAN A CHILD-CARE INSTITUTION  
21 AS DEFINED IN 42 U.S.C. § 672(C) (2) (A) (RELATING TO FOSTER  
22 CARE MAINTENANCE PAYMENTS PROGRAM) ON THE EFFECTIVE DATE OF  
23 THIS PARAGRAPH.

24 \* \* \*

25 Section 2. This act shall take effect immediately.