
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1276 Session of
2015

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MALONEY, MILLARD, MURT, O'NEILL, QUINN, ROZZI, SAYLOR,
STAATS, TOPPER, TRUITT AND ROSS, JUNE 2, 2015

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, JUNE 2, 2015

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in child protective services, further
3 providing for definitions, for persons required to report
4 suspected child abuse, for access to information in Statewide
5 database, for release of information in confidential reports,
6 for employees having contact with children and adoptive and
7 foster parents, for volunteers having contact with children,
8 for continued employment or participation in program,
9 activity or service, for certification compliance and for
10 mandatory reporting of children under one year of age.

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

13 Section 1. The definitions of "child-care services," "direct
14 contact with children," "independent contractor," "perpetrator,"
15 "person responsible for the child's welfare," "program, activity
16 or service" and "school employee" in section 6303(a) of Title 23
17 of the Pennsylvania Consolidated Statutes, amended October 22,
18 2014 (P.L.2529, No.153), are amended and the section is amended
19 by adding a definition to read:

20 § 6303. Definitions.

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

4 * * *

5 "Child-care services." Includes any of the following:

6 (1) Child day-care centers.

7 (2) Group day-care homes.

8 (3) Family day-care homes.

9 (4) Foster homes.

10 (5) Adoptive parents.

11 (6) Boarding homes for children.

12 (7) Juvenile detention center services or programs for
13 delinquent or dependent children.

14 (8) Mental health services for children.

15 (9) Services for children with intellectual
16 disabilities.

17 (10) Early intervention services for children.

18 (11) Drug and alcohol services for children.

19 (12) Day-care services or programs that are offered by a
20 school.

21 (13) Other child-care services that are provided by or
22 subject to approval, licensure, registration or certification
23 by the department or a county social services agency or that
24 are provided pursuant to a contract with the department or a
25 county social services agency.

26 The term does not apply to services provided by administrative
27 or other support personnel unless the administrative or other
28 support personnel's duties involve direct contact with children.

29 * * *

30 "Direct contact with children." The care, supervision,

1 guidance or control of children [or] and routine interaction
2 with children.

3 * * *

4 "Independent contractor." An individual who provides a
5 program, activity or service to an agency, institution,
6 organization or other entity, including a school or regularly
7 established religious organization, that is responsible for the
8 care, supervision, guidance or control of children. The term
9 does not [include an individual who has no] apply to
10 administrative or other support personnel unless the
11 administrative or other support personnel's duties involve
12 direct contact with children.

13 * * *

14 "Perpetrator." A person who has committed child abuse as
15 defined in this section. The following shall apply:

16 (1) The term includes only the following:

17 (i) A parent of the child.

18 (ii) A spouse or former spouse of the child's
19 parent.

20 (iii) A paramour or former paramour of the child's
21 parent.

22 (iv) A person 14 years of age or older and
23 responsible for the child's welfare or having direct
24 contact with children through a program, activity or
25 service.

26 (v) An individual 14 years of age or older who
27 resides in the same home as the child.

28 (vi) An individual 18 years of age or older who does
29 not reside in the same home as the child but is related
30 within the third degree of consanguinity or affinity by

1 birth or adoption to the child.

2 (2) Only the following may be considered a perpetrator
3 for failing to act, as provided in this section:

4 (i) A parent of the child.

5 (ii) A spouse or former spouse of the child's
6 parent.

7 (iii) A paramour or former paramour of the child's
8 parent.

9 (iv) A person 18 years of age or older and
10 responsible for the child's welfare.

11 (v) A person 18 years of age or older who resides in
12 the same home as the child.

13 * * *

14 "Person responsible for the child's welfare." A person who
15 provides permanent or temporary care, supervision, mental health
16 diagnosis or treatment, training or control of a child in lieu
17 of parental care, supervision and control. [The term includes
18 any such person who has direct or regular contact with a child
19 through any program, activity or service sponsored by a school,
20 for-profit organization or religious or other not-for-profit
21 organization.]

22 * * *

23 "Program, activity or service." [A public or private
24 educational, athletic or other pursuit in which children
25 participate. The term includes, but is not limited to, the
26 following:] Any of the following in which children participate
27 and which is sponsored by a school or a public or private
28 organization:

29 (1) A youth camp or program.

30 (2) A recreational camp or program.

- 1 (3) A sports or athletic program.
2 (4) [An] A community or social outreach program.
3 (5) An enrichment or educational program.
4 (6) A troop, club or similar organization.

5 * * *

6 "Routine interaction." Regular, repeated and continual
7 contact that is integral to a person's employment or volunteer
8 responsibilities.

9 * * *

10 "School employee." An individual who is employed by a school
11 or who provides a program, activity or service sponsored by a
12 school. The term [excludes an individual who has no] does not
13 apply to administrative or other support personnel unless the
14 administrative or other support personnel's duties involve
15 direct contact with children.

16 * * *

17 Section 2. Section 6311(a)(7) of Title 23 is amended to
18 read:

19 § 6311. Persons required to report suspected child abuse.

20 (a) Mandated reporters.--The following adults shall make a
21 report of suspected child abuse, subject to subsection (b), if
22 the person has reasonable cause to suspect that a child is a
23 victim of child abuse:

24 * * *

25 (7) An individual paid or unpaid, who, on the basis of
26 the individual's role as an integral part of a regularly
27 scheduled program, activity or service, [accepts
28 responsibility for a child] is a person responsible for the
29 child's welfare.

30 * * *

1 Section 3. Section 6335(e) of Title 23, amended October 22,
2 2014 (P.L.2529, No.153), is amended to read:

3 § 6335. Access to information in Statewide database.

4 * * *

5 (e) [Clearances] Certifications.--Information provided in
6 response to inquiries under section 6344 (relating to employees
7 having contact with children; adoptive and foster parents),
8 6344.1 (relating to information relating to certified or
9 registered day-care home residents) or 6344.2 (relating to
10 volunteers having contact with children) shall not include
11 unfounded reports of child abuse or reports related to general
12 protective services and shall be limited to the following:

13 (1) Whether the person was named as a perpetrator of
14 child abuse in a founded or indicated report.

15 (2) Whether there is an investigation pending in which
16 the individual is an alleged perpetrator.

17 (3) The number, date of the incidents upon which the
18 report is based and the type of abuse or neglect involved in
19 any reports identified under paragraph (1).

20 * * *

21 Section 4. Section 6340(a) of Title 23 is amended by adding
22 a paragraph to read:

23 § 6340. Release of information in confidential reports.

24 (a) General rule.--Reports specified in section 6339
25 (relating to confidentiality of reports) shall only be made
26 available to:

27 * * *

28 (18) The Department of the Auditor General in
29 conjunction with the performances of the duties designated to
30 the Office of Auditor General, except that the Auditor

1 General may not remove identifiable reports or copies thereof
2 from the department or county agency.

3 * * *

4 Section 5. Section 6344(a), (a.1), (b), (b.1), (b.2) and (d)
5 (6) and (8) of Title 23, amended October 22, 2014 (P.L.2529,
6 No.153), are amended and the section is amended by adding a
7 subsection to read:

8 § 6344. Employees having contact with children; adoptive and
9 foster parents.

10 (a) Applicability.--Beginning December 31, 2014, this
11 section applies to the following individuals:

12 (1) An employee of child-care services.

13 (2) A foster parent.

14 (3) A prospective adoptive parent.

15 (4) A self-employed family day-care provider.

16 (5) [An] (i) Except as provided under subparagraph
17 (ii), an individual 14 years of age or older who is
18 applying for or holding a paid position as an employee
19 and who is a person responsible for the [welfare of a
20 child] child's welfare or having direct contact with
21 children through a program, activity or service.

22 (ii) An adult applying for or holding a paid
23 position with an employer that participates in an
24 internship, externship, work-study, co-op or similar
25 program with a school and is identified by the employer
26 as the child's supervisor and the person responsible for
27 the child's welfare while the child participates in the
28 program with the employer.

29 (6) Any individual seeking to provide child-care
30 services under contract with a child-care facility or

1 program.

2 (7) An individual 18 years of age or older who resides
3 in the home of a foster parent for at least 30 days in a
4 calendar year or who resides in the home of a prospective
5 adoptive parent for at least 30 days in a calendar year.

6 (a.1) School employees.--This section shall apply to school
7 employees as follows:

8 (1) School employees governed by the provisions of the
9 act of March 10, 1949 (P.L.30, No.14), known as the Public
10 School Code of 1949, shall be subject to the provisions of
11 section 111 of the Public School Code of 1949, except that
12 this section shall apply with regard to the information
13 required under [subsection (b) (2)] subsections (b) (2) and (c)
14 (1).

15 (2) School employees not governed by the provisions of
16 the Public School Code of 1949 shall be governed by this
17 section.

18 (a.2) Minors.--An individual between 14 and 17 years of age
19 who applies for or holds a paid position as an employee who is a
20 person responsible for the child's welfare or a person with
21 direct contact with children through a program, activity or
22 service prior to the commencement of employment or under section
23 6344.4 (relating to recertification) shall be required to submit
24 only the information under subsection (b) (1) and (2) to an
25 employer, administrator, supervisor or other person responsible
26 for employment decisions, if the following apply:

27 (1) The individual has been a resident of this
28 Commonwealth during the entirety of the previous 10-year
29 period or, if not a resident of this Commonwealth during the
30 entirety of the previous 10-year period, has received

1 certification under subsection (b) (3) at any time since
2 establishing residency in this Commonwealth and provides a
3 copy of the certification to the employer.

4 (2) The individual and the individual's parent or legal
5 guardian swears or affirms in writing that the individual is
6 not disqualified from service under subsection (c) or has not
7 been convicted of an offense similar in nature to those
8 crimes listed in subsection (c) under the laws or former laws
9 of the United States or one of its territories or
10 possessions, another state, the District of Columbia, the
11 Commonwealth of Puerto Rico or a foreign nation, or under a
12 former law of this Commonwealth.

13 (b) Information to be submitted.--An individual identified
14 in subsection (a) (7) at the time the individual meets the
15 description set forth in subsection (a) (7) and an individual
16 identified in subsection (a) (1), (2), (3), (4), (5) or (6) [or],
17 (a.1) or (a.2) prior to the commencement of employment or
18 service or in accordance with section 6344.4 shall be required
19 to submit the following information to an employer,
20 administrator, supervisor or other person responsible for
21 employment decisions or involved in the selection of volunteers:

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

1 (2) A certification from the department as to whether
2 the applicant is named in the Statewide database as the
3 alleged perpetrator in a pending child abuse investigation or
4 as the perpetrator of a founded report or an indicated
5 report.

6 (3) A report of Federal criminal history record
7 information. The applicant shall submit a full set of
8 fingerprints to the Pennsylvania State Police for the purpose
9 of a record check, and the Pennsylvania State Police or its
10 authorized agent shall submit the fingerprints to the Federal
11 Bureau of Investigation for the purpose of verifying the
12 identity of the applicant and obtaining a current record of
13 any criminal arrests and convictions.

14 (b.1) Required documentation to be maintained and
15 produced.--The employer, administrator, supervisor or other
16 person responsible for employment decisions or acceptance of the
17 individual to serve in any capacity identified in subsection (a)
18 (1), (2), (3), (4), (5) or (6) [or], (a.1) or (a.2) shall
19 maintain a copy of the required information and require the
20 individual to [produce] submit the [original document] required
21 documents prior to employment or acceptance to serve in any such
22 capacity or as required in section 6344.4, except as allowed
23 under subsection (m).

24 (b.2) Investigation.--An employer, administrator, supervisor
25 or other person responsible for employment decisions shall
26 require an applicant to submit the required documentation set
27 forth in this chapter or as required in section 6344.4. An
28 employer, administrator, supervisor or other person responsible
29 for employment decisions that intentionally fails to require an
30 applicant to submit the required documentation before the

1 applicant's hiring or upon recertification commits a misdemeanor
2 of the third degree.

3 * * *

4 (d) Prospective adoptive or foster parents.--With regard to
5 prospective adoptive or prospective foster parents, the
6 following shall apply:

7 * * *

8 (6) In cases where foster parents knowingly fail to
9 submit the material information required in paragraphs (4.1)
10 and (5) and section 6344.4 [(relating to certification
11 compliance)] such that it would disqualify them as foster
12 parents, the county agency shall immediately seek court
13 authorization to remove the foster child or children from the
14 home. In emergency situations when a judge cannot be reached,
15 the county agency shall proceed in accordance with the
16 Pennsylvania Rules of Juvenile Court Procedure.

17 * * *

18 (8) The department shall require information based upon
19 certain criteria for foster and adoptive parent applications.
20 The criteria shall include, but not be limited to,
21 information provided by the applicant or other sources in the
22 following areas:

23 (i) Previous addresses within the last [ten] 10
24 years.

25 (ii) Criminal history background [clearance]
26 certification generated by the process outlined in this
27 section.

28 (iii) Child abuse [clearance] certification
29 generated by the process outlined in this section.

30 (iv) Composition of the resident family unit.

1 (v) Protection from abuse orders filed by or against
2 either parent, provided that such orders are accessible
3 to the county or private agency.

4 (vi) Details of any proceedings brought in family
5 court, provided that such records in such proceedings are
6 accessible to the county or private agency.

7 (vii) Drug-related or alcohol-related arrests, if
8 criminal charges or judicial proceedings are pending, and
9 any convictions or hospitalizations within the last five
10 years. If the applicant provides information regarding
11 convictions or hospitalizations in that five-year period,
12 then information on the prior five years shall be
13 requested related to any additional convictions or
14 hospitalizations.

15 (viii) Evidence of financial stability, including
16 income verification, employment history, current liens
17 and bankruptcy findings within the last [ten] 10 years.

18 (ix) Number of and ages of foster children and other
19 dependents currently placed in the home.

20 (x) Detailed information regarding children with
21 special needs currently living in the home.

22 (xi) Previous history as a foster parent, including
23 number and types of children served.

24 (xii) Related education, training or personal
25 experience working with foster children or the child
26 welfare system.

27 * * *

28 Section 6. Sections 6344.2(a), (b.1) and (f), 6344.3(e) and
29 (f) and 6344.4 of Title 23, amended or added October 22, 2014
30 (P.L.2529, No.153), are amended to read:

1 § 6344.2. Volunteers having contact with children.

2 (a) Applicability.--This section applies to an adult
3 applying for or holding an unpaid position as a volunteer with a
4 child-care service, a school or a program, activity or service,
5 as a person responsible for the welfare of a child or having
6 direct contact with children.

7 * * *

8 (b.1) Exception.--

9 (1) A person responsible for the selection of volunteers
10 under this chapter shall require an applicable prospective
11 volunteer prior to the commencement of service to submit only
12 the information under section 6344(b)(1) and (2), if the
13 following apply:

14 (i) The position the prospective volunteer is
15 applying for is unpaid.

16 (ii) The prospective volunteer has been a resident
17 of this Commonwealth during the entirety of the previous
18 [ten-year period.] 10-year period or, if not a resident
19 of this Commonwealth during the entirety of the previous
20 10-year period, has received certification under section
21 6344(b)(3) at any time since establishing residency in
22 this Commonwealth and provides a copy of the
23 certification to the person responsible for the selection
24 of volunteers.

25 (iii) The prospective volunteer swears or affirms in
26 writing that the prospective volunteer is not
27 disqualified from service pursuant to section 6344(c) or
28 has not been convicted of an offense similar in nature to
29 those crimes listed in section 6344(c) under the laws or
30 former laws of the United States or one of its

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

4 (2) If the information obtained pursuant to section
5 6344(b) reveals that the prospective volunteer applicant is
6 disqualified from service pursuant to section 6344(c), the
7 applicant shall not be approved for service.

8 * * *

9 (f) [Provisional clearances for volunteers] Nonresident
10 volunteer certification.--Employers, administrators, supervisors
11 or other persons responsible for selection of volunteers may
12 allow a volunteer to serve on a provisional basis [for a single
13 period] not to exceed a total of 30 days in a calendar year if
14 the volunteer is in compliance with the clearance standards
15 under the law of the jurisdiction where the volunteer is
16 domiciled. The nonresident volunteer must provide the employer,
17 administrator, supervisor or other person responsible for
18 selection of volunteers with documentation of certifications.

19 § 6344.3. Continued employment or participation in program,
20 activity or service.

21 * * *

22 (e) Noninterference with decisions.--Nothing in this chapter
23 shall be construed to otherwise interfere with the ability of an
24 employer or program, activity or service to make employment,
25 discipline or termination decisions or establishing additional
26 [clearance] certification standards.

27 (f) [Transfer] Portability of certification.--

28 [(1) Any person who has obtained the information
29 required under this chapter may transfer or provide services
30 to another subsidiary or branch established and supervised by

1 the same organization, or serve in a volunteer capacity for
2 any program, service or activity, during the length of time
3 the person's certification is current pursuant to section
4 6344.4 (relating to certification compliance).

5 (2) Any employee who begins employment with a new
6 agency, institution, organization or other entity that is
7 responsible for the care, supervision, guidance or control of
8 children shall be required to obtain a new certification of
9 compliance as required by this chapter.]

10 (1) If an individual's certification is current under
11 section 6344.4 (relating to recertification) and the
12 individual completes an affirmation under paragraph (2), the
13 individual may use the certification as follows:

14 (i) to apply for employment as identified in section
15 6344 (relating to employees having contact with children;
16 adoptive and foster parents);

17 (ii) to serve as an employee as identified in
18 section 6344;

19 (iii) to apply as a volunteer under section 6344.2
20 (relating to volunteers having contact with children);
21 and

22 (iv) to serve as a volunteer under section 6344.2.

23 (2) Prior to commencing employment or service, an
24 individual must swear or affirm in writing that the
25 individual has not been disqualified from employment or
26 service under section 6344(c) or has not been convicted of an
27 offense similar in nature to a crime listed in section
28 6344(c) under the laws or former laws of the United States or
29 one of its territories or possessions, another state, the
30 District of Columbia, the Commonwealth of Puerto Rico or a

1 foreign nation, or under a former law of this Commonwealth.

2 (3) An employer, administrator, supervisor, other person
3 responsible for employment decisions or other person
4 responsible for the selection of volunteers shall make a
5 determination of employment or volunteer matters based on a
6 review of the information required under section 6344(b)
7 prior to employment or acceptance to service in any such
8 capacity and must maintain a copy of the required
9 information.

10 (4) Nothing in this section shall be construed to
11 prohibit an employer or organization from requiring
12 additional information as part of the certification process
13 for employees or volunteers.

14 * * *

15 § 6344.4. [Certification compliance] Recertification.

16 New certifications shall be obtained in accordance with the
17 following:

18 (1) Effective December 31, 2014:

19 (i) A person identified in section 6344 (relating to
20 employees having contact with children; adoptive and
21 foster parents) shall be required to obtain the
22 certifications required by this chapter every 36 months.

23 (ii) School employees identified in section
24 6344(a.1)(1) shall be required to obtain reports under
25 section 111 of the act of March 10, 1949 (P.L.30, No.14),
26 known as the Public School Code of 1949, and under
27 section 6344(b)(2) every 36 months.

28 (iii) Any person identified in section 6344 with a
29 current certification issued prior to the effective date
30 of this section shall be required to obtain the

1 certifications required by this chapter within 36 months
2 from the date of [their most recent] the person's oldest
3 certification or, if the current certification is older
4 than 36 months, within one year of the effective date of
5 this section.

6 (iv) A person identified in section 6344 without a
7 certification or who was previously not required to have
8 a certification shall be required to obtain the
9 certifications required by this chapter no later than
10 December 31, 2015.

11 (2) (i) Effective July 1, 2015, a person identified in
12 section 6344.2 (relating to volunteers having contact
13 with children) shall be required to obtain the
14 certifications required by this chapter every 36
15 months[.] from the date of the person's most recent
16 certification or, if the current certification is older
17 than 36 months, within one year of the effective date of
18 this section.

19 (ii) A person identified under section 6344.2
20 without a certification or who was previously not
21 required to have a certification shall be required to
22 obtain the certifications required by this chapter no
23 later than July 1, 2016.

24 (3) For renewals of certification required under this
25 chapter, the date for required renewal under this section
26 shall be from the date of the oldest certification under
27 section 6344(b).

28 Section 7. Section 6386(a) of Title 23 is amended to read:
29 § 6386. Mandatory reporting of children under one year of age.

30 (a) When report to be made.--A health care provider shall

1 immediately make a report or cause a report to be made to the
2 appropriate county agency if the provider is involved in the
3 delivery or care of a child under one year of age who is born
4 and identified as being affected by any of the following:

5 (1) Illegal substance abuse by the child's mother.

6 (2) Withdrawal symptoms resulting from prenatal drug
7 exposure[.] unless the child's mother, during the pregnancy,
8 was:

9 (i) under the care of a prescribing medical
10 professional; and

11 (ii) in compliance with the directions for the
12 administration of a prescription drug as directed by the
13 prescribing medical professional.

14 (3) A Fetal Alcohol Spectrum Disorder.

15 * * *

16 Section 8. This act shall take effect immediately.