

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1633 Session of 2019

INTRODUCED BY BOBACK, JUNE 14, 2019

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, JUNE 14, 2019

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;  
 4 adoptive and foster parents and for volunteers having contact  
 5 with children.

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

8 Section 1. Section 6344(a)(1), (4) and (5)(i) and (8)  
 9 introductory paragraph, (a.2) subsection heading and (2), (a.3)  
 10 subsection heading, (b)(1), (2) and (3), (c)(1) and (2), (d.3)  
 11 (1) introductory paragraph and (m) introductory paragraph of  
 12 Title 23 of the Pennsylvania Consolidated Statutes are amended  
 13 and subsections (b) and (m) are amended by adding paragraphs to  
 14 read:

15 § 6344. Employees having contact with children; adoptive and  
 16 foster parents.

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

19 (1) An employee of child-care services. This paragraph  
 20 includes administrative and other support personnel,

1 regardless of whether the administrative or other support  
2 personnel have direct contact with children.

3 \* \* \*

4 (4) A self-employed provider of child-care services [in  
5 a family child-care home].

6 (5) (i) Except as provided under subparagraph (ii), an  
7 individual 14 years of age or older who is applying for  
8 or holding a paid position as an employee with a program,  
9 activity or service[, as a person responsible for the  
10 child's welfare or having direct contact with children].

11 \* \* \*

12 (8) An individual 18 years of age or older who resides  
13 for at least 30 days in a calendar year in the following  
14 homes which are subject to supervision or licensure by the  
15 department under Articles IX and X of the act of June 13,  
16 1967 (P.L.31, No.21), known as the [Public Welfare Code]  
17 Human Services Code:

18 \* \* \*

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

29 \* \* \*

30 (2) The individual and the individual's parent or legal

1 guardian swear or affirm in writing that the individual is  
2 not disqualified from service under subsection (c) or has not  
3 been adjudicated delinquent or convicted of an offense  
4 similar in nature to those crimes listed in subsection (c)  
5 under the laws or former laws of the United States or one of  
6 its territories or possessions, another state, the District  
7 of Columbia, the Commonwealth of Puerto Rico or a foreign  
8 nation, or under a former law of this Commonwealth.

9 (a.3) Exchange visitor employed through program, activity or  
10 service.--\* \* \*

11 (b) Information to be submitted.--An individual identified  
12 in subsection (a) (7) or (8) at the time the individual meets the  
13 description set forth in subsection (a) (7) or (8) and an  
14 individual identified in subsection (a) (1), (2), (3), (4), (5)  
15 (i) or (6), (a.1) or (a.2) prior to the commencement of  
16 employment or service or in accordance with section 6344.4 shall  
17 be required to submit the following information to an employer,  
18 administrator, supervisor or other person responsible for  
19 employment decisions [or involved in the selection of  
20 volunteers]:

21 (1) [Pursuant to 18 Pa.C.S. Ch. 91 (relating to criminal  
22 history record information), a] A report of criminal history  
23 record information from the Pennsylvania State Police [or a  
24 statement from the Pennsylvania State Police that the State  
25 Police central repository contains no such information  
26 relating to that person.] and from each state in which the  
27 individual resided within the previous five-year period. The  
28 criminal history record information shall be limited to that  
29 which is disseminated pursuant to 18 Pa.C.S. § 9121(b) (2)  
30 (relating to general regulations).

1           (2) A certification from the department as to whether  
2 the applicant is named in the Statewide database or its  
3 equivalent in each state in which the individual resided  
4 within the previous five-year period as the alleged  
5 perpetrator in a pending child abuse investigation or as the  
6 perpetrator of a founded report or an indicated report.

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

15           (4) Notification from the department stating whether the  
16 individual appears on the Statewide registry of sexual  
17 offenders established in 42 Pa.C.S. § 9799.16(a) (relating to  
18 registry), the sex offender registry or repository each state  
19 where the individual resided during the preceding five years,  
20 and the National Sex Offender Registry established under the  
21 Adam Walsh Child Protection and Safety Act of 2006 (Public  
22 Law 109-248, 120 Stat. 587).

23           \* \* \*

24           (c) Grounds for denying employment or participation [in  
25 program, activity or service].--

26           (1) In no case shall an employer, administrator,  
27 supervisor or other person responsible for employment  
28 decisions hire or approve an applicant where the department  
29 has verified that the applicant is named in the Statewide  
30 database as the perpetrator of a founded report committed

1 within the five-year period immediately preceding  
2 verification pursuant to this section.

3 (2) In no case shall an employer, administrator,  
4 supervisor or other person responsible for employment  
5 decisions hire or approve an applicant [if the applicant's  
6 criminal history record information indicates the applicant  
7 has been convicted of one or more of the following offenses  
8 under Title 18 (relating to crimes and offenses) or an  
9 equivalent crime under Federal law or the law of another  
10 state] who:

11 (i) Has been convicted of one or more of the following  
12 offenses under Title 18 (relating to crimes and offenses):

13 Chapter 25 (relating to criminal homicide).

14 Section 2702 (relating to aggravated assault).

15 Section 2709.1 (relating to stalking).

16 A felony offense under section 2718 (relating to  
17 strangulation).

18 Section 2901 (relating to kidnapping).

19 Section 2902 (relating to unlawful restraint).

20 Section 3121 (relating to rape).

21 Section 3122.1 (relating to statutory sexual assault).

22 Section 3123 (relating to involuntary deviate sexual  
23 intercourse).

24 Section 3124.1 (relating to sexual assault).

25 Section 3125 (relating to aggravated indecent assault).

26 Section 3126 (relating to indecent assault).

27 Section 3127 (relating to indecent exposure).

28 A felony offense under section 3301 (relating to arson  
29 and related offenses).

30 Section 4302 (relating to incest).

1 Section 4303 (relating to concealing death of child).

2 Section 4304 (relating to endangering welfare of  
3 children).

4 Section 4305 (relating to dealing in infant children).

5 A felony offense under section 5902(b) (relating to  
6 prostitution and related offenses).

7 Section 5903(c) or (d) (relating to obscene and other  
8 sexual materials and performances).

9 Section 6301 (relating to corruption of minors).

10 Section 6312 (relating to sexual abuse of children).

11 The attempt, solicitation or conspiracy to commit any of the  
12 offenses set forth in this [paragraph.

13 (3) In no case shall an employer, administrator,  
14 supervisor or other person responsible for employment  
15 decisions hire or approve an applicant if the applicant's  
16 criminal history record information indicates the applicant  
17 has been convicted of a felony offense under the act of April  
18 14, 1972 (P.L.233, No.64), known as The Controlled Substance,  
19 Drug, Device and Cosmetic Act, committed within the five-year  
20 period immediately preceding verification under this  
21 section.] subparagraph.

22 (ii) Has been convicted of an offense equivalent to  
23 an offense listed under subparagraph (i) under Federal  
24 law or the law of another state.

25 (iii) Has been convicted of a felony offense under  
26 the act of April 14, 1972 (P.L.233, No.64), known as The  
27 Controlled Substance, Drug, Device and Cosmetic Act,  
28 committed within the five-year period immediately  
29 preceding verification under this section.

30 (iv) Has been convicted of an offense under 18

1 U.S.C. § 2261 (relating to interstate domestic violence)  
2 or 18 U.S.C. § 2262 (relating to interstate violation of  
3 protection order).

4 (v) Is registered, or is required to be registered,  
5 on the National Crime Information Center National Sex  
6 Offender Registry or on a state's sex offender registry.

7 (vi) Appears on a Statewide database or its  
8 equivalent as a perpetrator of child abuse.

9 \* \* \*

10 (d.3) Family living homes, community homes for individuals  
11 with an intellectual disability and host homes.--

12 (1) The following shall apply to an individual over 18  
13 years of age residing in a family living home, a community  
14 home for individuals with an intellectual disability or a  
15 host home for children, which are subject to supervision or  
16 licensure by the department under Articles IX and X of the  
17 [Public Welfare Code] Human Services Code:

18 \* \* \*

19 (m) Provisional employees for limited periods.--  
20 Notwithstanding subsection (b), employers, administrators,  
21 supervisors or other persons responsible for employment  
22 decisions may employ applicants for employment with a child day-  
23 care center, group day-care home or family child-care home on a  
24 provisional basis upon approval by the department for a single  
25 period not to exceed [90] 45 days, if all of the following  
26 conditions are met:

27 \* \* \*

28 (3.1) The employer, administrator, supervisor or other  
29 person responsible for employment decisions has received the  
30 result of the report of the criminal history record

1 information under subsection (b)(1) or (3).

2 \* \* \*

3 Section 2. Section 6344.2(a) of Title 23, amended June 28,  
4 2018 (P.L.375, No.54), is amended to read:

5 § 6344.2. Volunteers having contact with children.

6 (a) Applicability.--This section applies to an adult  
7 applying for or holding an unpaid position as a volunteer with a  
8 child-care service, a school or a program, activity or service,  
9 as a person responsible for the child's welfare or having direct  
10 volunteer contact with children or who will not be under the  
11 supervision of a paid employee and an individual identified  
12 under section 6344(a)(5)(ii) (relating to employees having  
13 contact with children; adoptive and foster parents).

14 \* \* \*

15 Section 3. This act shall take effect as follows:

16 (1) This section shall take effect immediately.

17 (2) The amendment of 23 Pa.C.S. § 6344(m) shall take  
18 effect December 31, 2019.

19 (3) The remainder of this act shall take effect  
20 September 30, 2019.